

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **December 11, 2008**  
Time: **6:30 p.m.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

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

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

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

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. ZBA selection of Meeting Chairperson
4. Introduction of new ZBA members
5. Correspondence
6. Approval of Minutes
7. Continued Public Hearings

**\*Case 631-V-08** Petitioner: **Nancy Mason**

Request: **Authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet.**

Location: **Lot 42 of Lake Park Subdivision No. 3 in Section 36 of Champaign Township and commonly known as the house at 42 Maple Court, Champaign.**

8. New Public Hearings

**Case 632-AM-08** Petitioner: **Mike Trautman**

Request: **Amend the Zoning Map to allow for the development of 1 single family Residential lot in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

Location: **A 1.66 acre tract that is in the East Half of the Southwest Quarter of the Southwest Quarter of Section 35 of Newcomb Township, and commonly known as the land east of Trautman's Section 35 Subdivision approximately at 420 CR 2425N.**

9. Staff Report
10. Other Business

A. 2009 Zoning Board of Appeals Calendar

# CASE NO. 632-AM-08

PRELIMINARY MEMORANDUM

December 5, 2008

Champaign  
County  
Department of

Petitioner: **Mike Trautman**



Site Area: **1.661 acres**

Time Schedule for Development:  
**Immediate**

Brookens

Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

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

Request: **Amend the Zoning Map to allow for the development of 1 single family residential lot in the AG-1 Agriculture Zoning District, by adding the Rural Residential Overlay (RRO) Zoning District to the subject property.**

Location: **A 1.66 acre tract that is in the East Half of the Southwest Quarter of the Southwest Quarter of Section 35 of Newcomb Township, and commonly known as the land east of Trautman's Section 35 Subdivision approximately at 420 CR 2425N, Mahomet.**

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## BACKGROUND

The Champaign County Zoning Ordinance requires that the creation of more than three lots, each of which is less than 35 acres, in the rural districts after January 1, 1998, requires rezoning to the Rural Residential Overlay (RRO) Zoning District.

The subject property was not in this same area and configuration on January 1, 1998, and so could not be further divided without RRO approval. The parent tract for the proposed RRO was also the parent tract for the Trautman Section 35 Subdivision that included three lots. The Trautman Section 35 Subdivision received Final Plat Approval on November 27, 2001, which changed the boundaries for the parent tract for the proposed RRO.

During the review of this case, staff discovered that the lake that is part of the Trautman tract development does not appear in the Supervisor of Assessment's 1972 aerial photograph, which calls into question whether construction on the lake was started before October 10, 1973, when the *Zoning Ordinance* was adopted. If construction was started after October 10, 1973, the lake would be in violation of the *Zoning Ordinance* and would require a Special Use Permit to resolve the violation.

### Purpose of the RRO District

The unique nature of the district and the specific considerations required for determination in each RRO request merit a brief review the Rural Residential Overlay (RRO) Zoning District is intended to identify those rural areas that are most suitable for residential development and whose development will not significantly interfere with agricultural pursuits in neighboring areas. The RRO Zoning District is an overlay zoning designation that is in addition to the pre-existing (underlying) rural zoning.

Rezoning to the RRO District is required for subdivisions with more than three lots (whether at one time or in separate divisions) and/or new streets in the AG-1, AG-2, and CR districts (the rural districts). Approval of the RRO district does not change any current requirement of the underlying districts. All other restrictions on use, setbacks, lot coverage, etc. remain in effect.

### **Specific Findings and Considerations Required In RRO Requests**

The RRO district is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District. The Zoning Board of Appeals must make two specific findings for RRO approval. Those findings are:

- **Suitability of the proposed site for the development of rural residences;** and
- **Impact that the proposed residential development will have on surrounding agriculture.**

The Board is required to consider the following factors in making these findings:

1. **Adequacy and safety of roads providing access to the site**
2. **Effects on nearby farmland and farm operations**
3. **Effects of nearby farm operations on the proposed residential development**
4. **The LESA (Land Evaluation and Site Assessment) score of the subject site**
5. **Effects on drainage both upstream and downstream**
6. **The suitability of the site for onsite wastewater systems**
7. **The availability of water supply to the site**
8. **The availability of emergency services to the site**
9. **The flood hazard status of the site**
10. **Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat**
11. **The presence of nearby natural or man-made hazards**
12. **The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated**

No specific standards apply to the criteria and a positive evaluation of every factor may not be necessary for approval. The Board should feel comfortable, however, that significant potential problems that are identified are not insurmountable.

### **Difference between RRO Rezoning Approval and Subdivision Approval**

The zoning approval for the RRO District is not the same thing as approval of the subdivision of the land. At this stage the County is considering only the suitability of the site for residential development and not the adequacy of a specific design. The division of the land into separate legal parcels for sale must still comply with the regulations of the relevant subdivision jurisdiction which in this case is the Village of Mahomet.

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Engineering design issues are only relevant in determining whether the development of the site is practical from a public as well as private standpoint. The RRO criteria contain a number of important issues regarding suitability of the site that are not amenable to site engineering such as traffic and land use compatibility issues. When necessary to deal with concerns of suitability and compatibility, the Board may recommend specific conditions that should be imposed on the future subdivision of the land as part of the RRO approval. Significant differences between the plan submitted for RRO designation and the Preliminary Plat required for subdivision approval would not be allowed.

For example, the Board may determine that a site has particular problems that should be addressed by some action on the part of the developer such as improving a road or ditch or with respect to the design of the subdivision

**PETITIONER SUBMITTALS**

Section 5.4.4 of the Zoning Ordinance requires several supporting documents for each petition for RRO rezoning.

**EXISTING LAND USE AND ZONING**

Table 1 summarizes the land use and zoning on the subject property and adjacent to it.

**Table 1. Land Use and Zoning In The Vicinity Of The Subject Property**

Direction	Land Use	Zoning
Onsite	Vacant	AG-1 Agriculture
North	Farmland	CR Conservation-Recreation
East	Single Family Dwellings	AG-1 Agriculture
West	Single Family Dwellings	AG-1 Agriculture
South	Artificial Lake	AG-1 Agriculture

**MUNICIPAL EXTRATERRITORIAL JURISDICTION**

The subject property is located within the one-and-a-half-mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities with zoning have protest rights in rezonings and they are notified of such cases. The subject property is also located in Newcomb Township, which has a planning commission. Townships with planning commissions have protest rights in rezonings and they are notified of such cases.

**COMPARISON WITH COMMON CHAMPAIGN COUNTY CONDITIONS**

Attachment O summarizes the comparison of the subject property with common Champaign County conditions that are in the same Attachment.

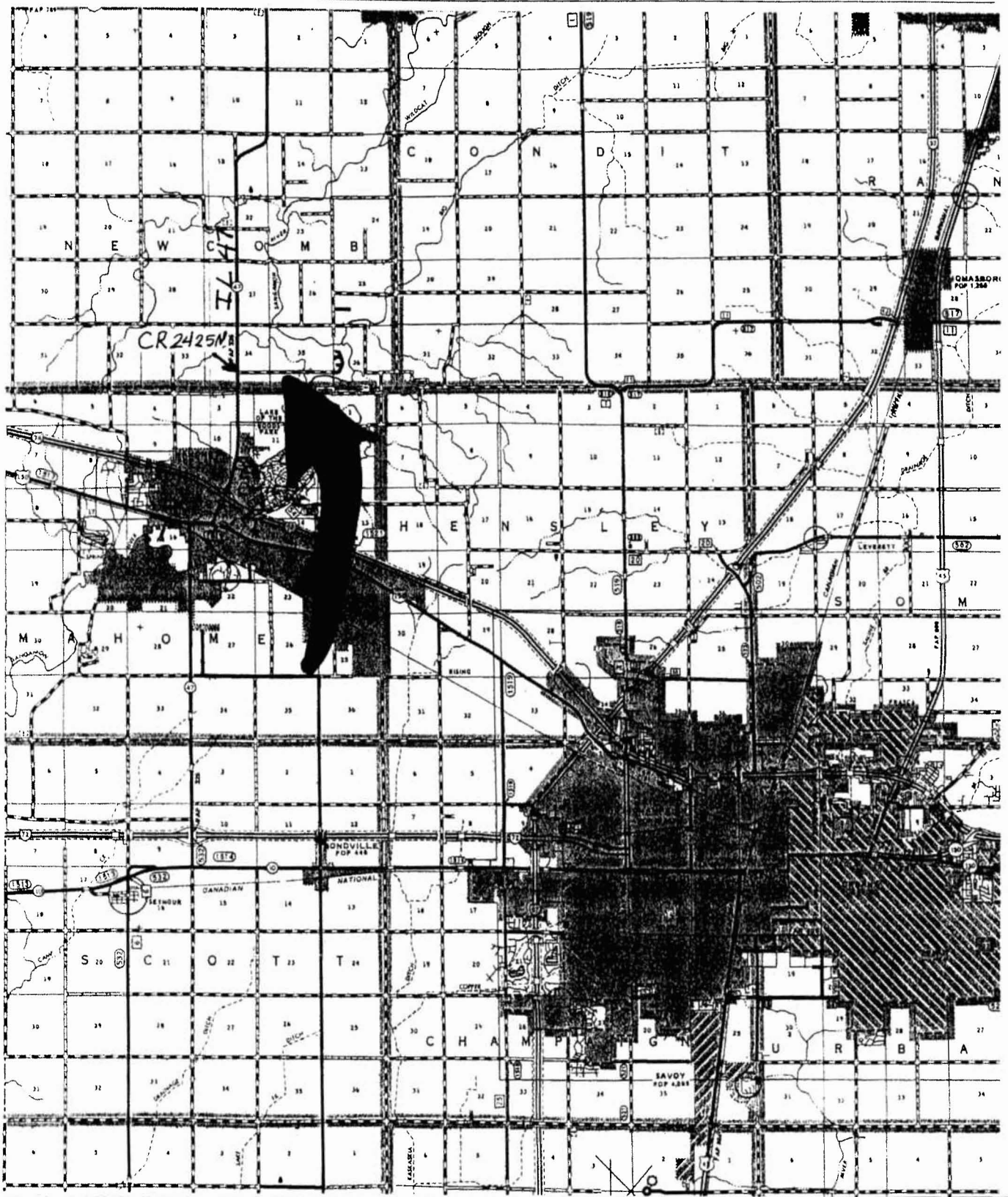
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
  - B Table of Petitioner Submittals
  - C Proposed Minor Subdivision Final Plat of Trautman Section 35 Subdivision Phase 2 received August 29, 2008
  - D Final Plat of Trautman Section 35 Subdivision recorded November 30, 2001
  - E Page 7-R of 1998 Champaign County Tax Atlas
  - F Professional Engineer's Drainage Explanation by David E. Atchley, PE, PLS, received August 29, 2008
  - G Champaign County Land Use Regulatory Policies as amended 11/20/01
  - H Excerpted worksheet from *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*
  - I Letter from Rick Pietruszka, Illinois Department of Natural Resources, received August 29, 2008
  - J Letter from Anne E. Haaker to Dave Atchley, received October 9, 2008
  - K Section 22 Natural Resource Report received on November 13, 2006
  - L IDOT maps, showing AADT, of roads surrounding subject property
  - M Commitment for Title Insurance from Chicago Title Insurance Company, received October 20, 2008
  - N Letter from Jeff Blackford to Dave Atchley, received September 23, 2008
  - O Land Evaluation and Site Assessment Worksheet
  - P Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County
  - Q Comparing the Proposed Site Conditions to Common Champaign County Conditions
  - R Summary of Site Comparison for Factors Relevant to Development Suitability
  - S Summary of Comparison for Factors Relevant to Compatibility with Agriculture
  - T Preliminary Draft Finding of Fact for Case 632-AM-08
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ATTACHMENT A. LOCATION MAP

Case 632-AM-08

DECEMBER 5, 2008



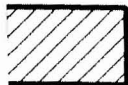
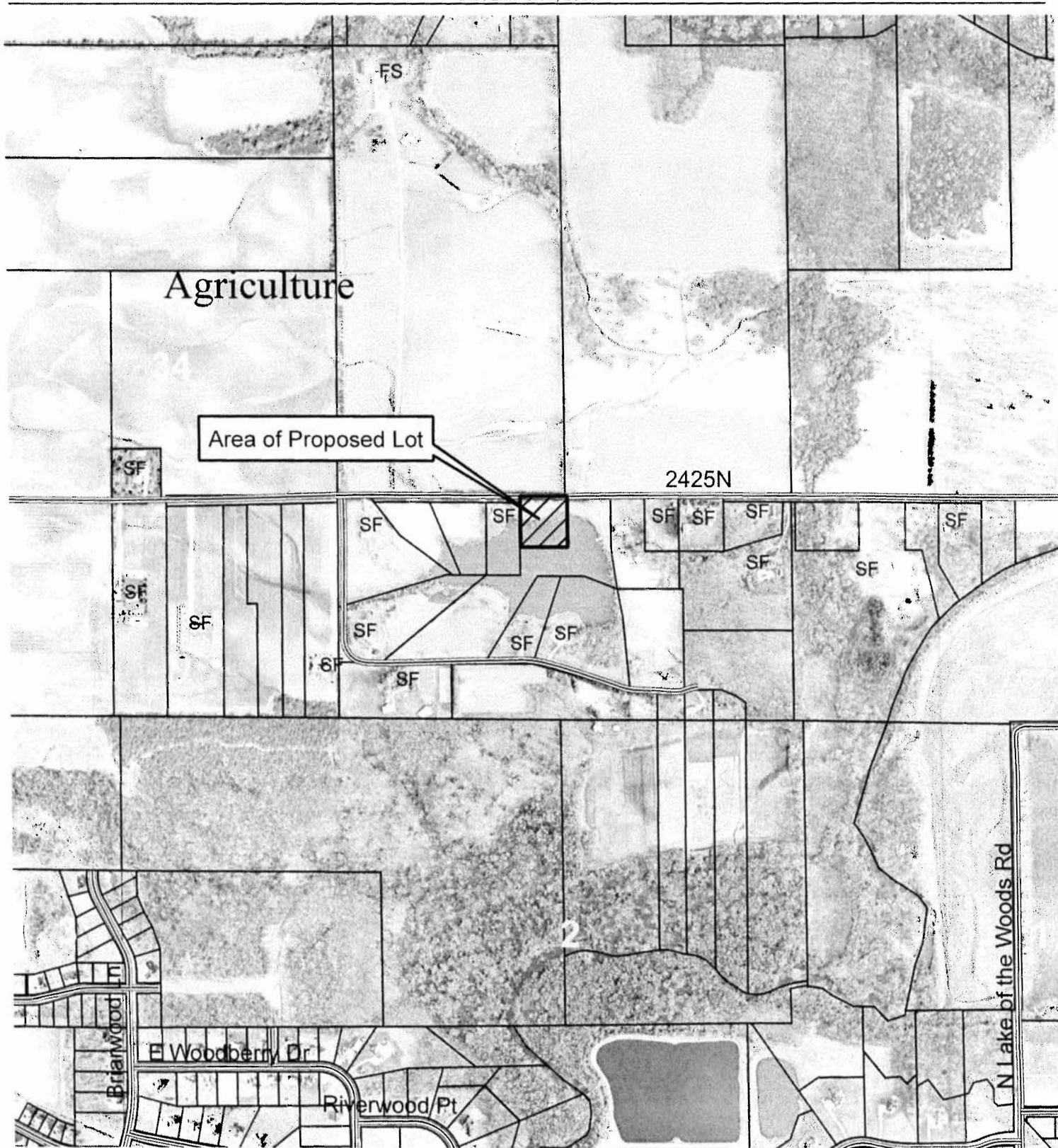
Champaign  
County  
Department of  
**PLANNING &  
ZONING**



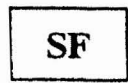
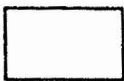
ATTACHMENT A. LAND USE MAP

Case 632-AM-08

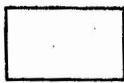
DECEMBER 5, 2008



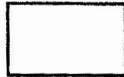
Area of Concern



Single Family



Farmstead



1 inch equals 800 feet

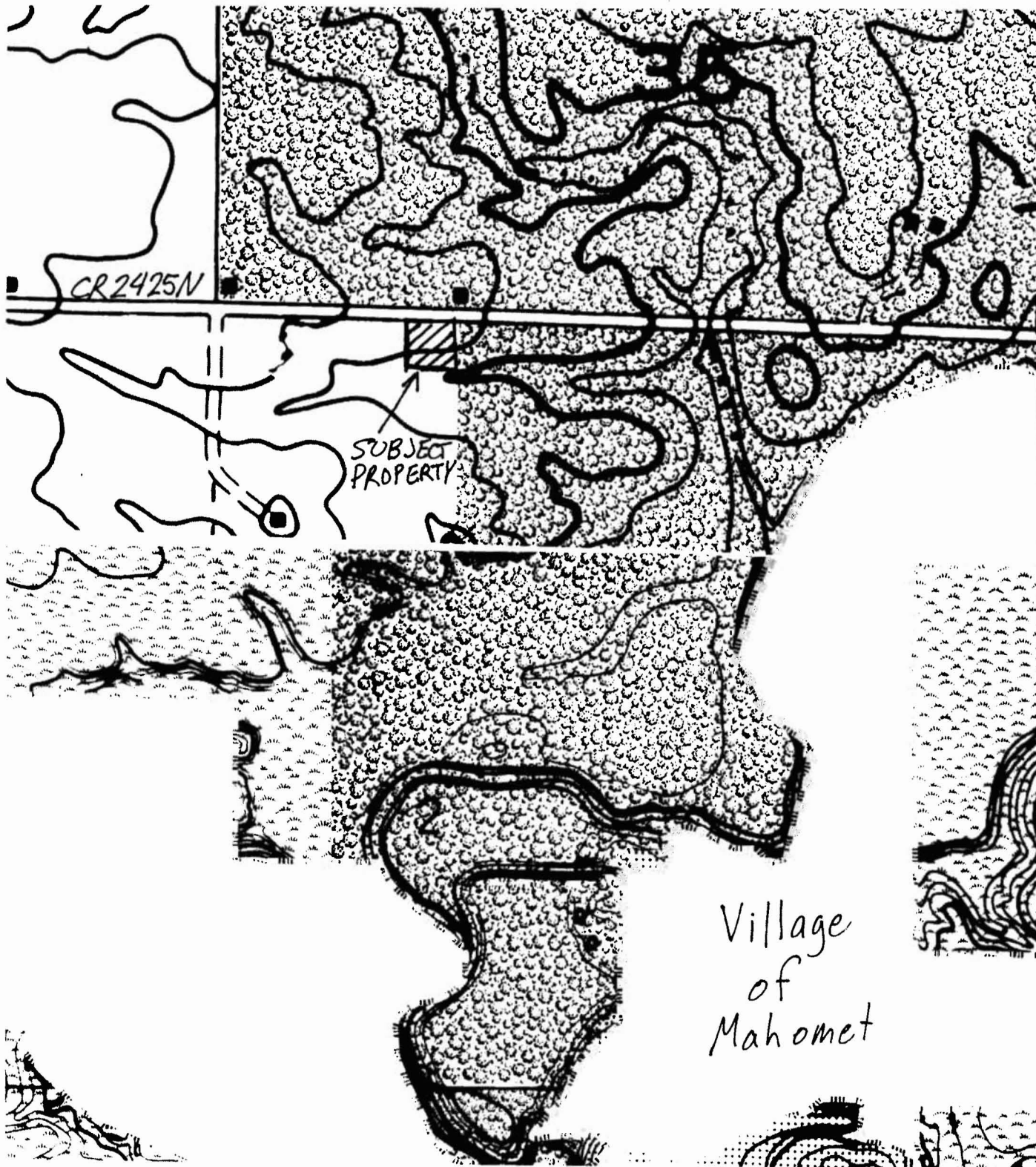
Champaign  
County  
Department of

**PLANNING &  
ZONING**

ATTACHMENT A. ZONING MAP

Case 632-AM-08

DECEMBER 5, 2008



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



Champaign  
County  
Department of  
PLANNING &  
ZONING



**Attachment B. Petitioner Submittals**  
**Case 632-AM-08**

DECEMBER 5, 2008

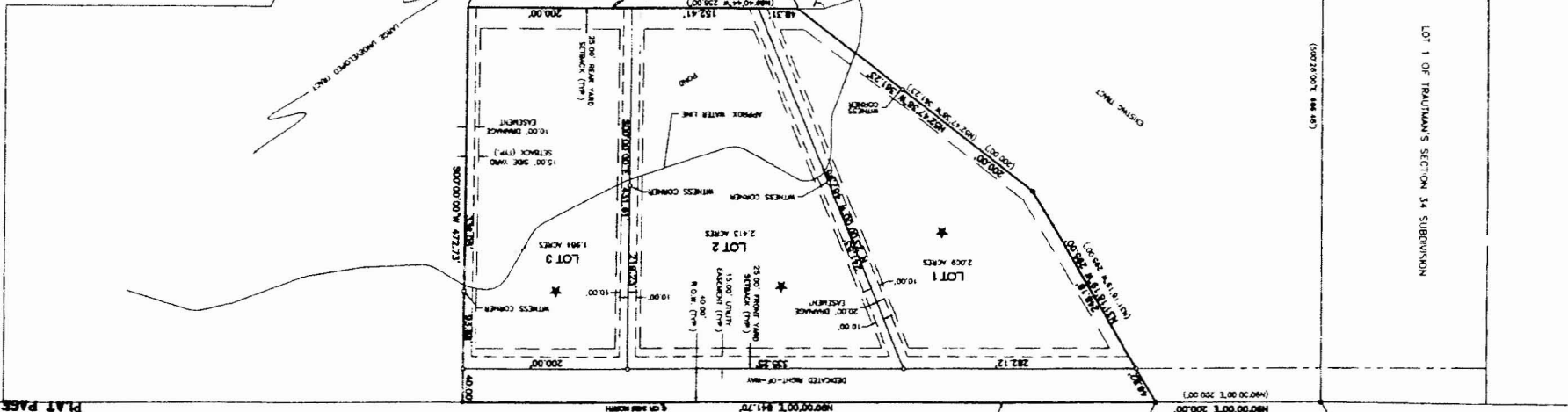
Submittals	Document Name, Date, and Notes
<b>REQUIRED SUBMITTALS<sup>1</sup></b>	
Schematic Plan	Proposed Minor Subdivision Final Plat of Trautman Section 35 Subdivision Phase 2 received August 29, 2008
Open Title Commitment or Title Policy	Commitment for Title Policy received on October 20, 2008
Section 22 (Natural Resource) Report by the Champaign County Soil and Water Conservation District	Received on October 9, 2008
Copy of Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources	Agency Action Report received on August 29, 2008
Copy of Agency Response from the Illinois State Historic Preservation	Letter from ISHP received on October 9, 2008
Excerpt from USGS 7.5 Topographic Map for Mahomet Quadrangle	Contours on site plan
Storm Water Drainage Letter	Professional Engineer report received on August 29, 2008
<b>NOTES</b> 1. Subject property is not clearly within the area of limited groundwater availability and so no submittals from the Illinois State Water Survey have been required to date.	



# TRAUTMANS SECTION 35 SUBDIVISION CHAMPAIGN COUNTY, ILLINOIS

PART OF THE SW 1/4 OF SECTION 35, T21N, R7E, 3RD PA

RECORDED ON 2007 R3487  
 11-30-2001 9:13:00  
 CHAMPAIGN COUNTY  
 RECORDS  
 BARBARA DE WASSER  
 REC. FEES: 67.00  
 PAGES: 12  
 PLAT ACT: 12  
 PLAT PAGE: 1



16-1

STATE OF ILLINOIS  
 COUNTY OF CHAMPAIGN

APPROVED: [Signature]  
 SURVEYOR'S CERTIFICATE

I, DAVID C. ARCHER, LICENSED PROFESSIONAL LAND SURVEYOR NO. 2940, HEREBY CERTIFY THAT AT THE REQUEST OF THE OWNER, JOSEPH H. TRAUTMAN, P.O. BOX 348, CHAMPAIGN, ILLINOIS 61820, THAT THE FOLLOWING DESCRIBED TRACT IS PART OF THE SOUTHWEST QUARTER OF SECTION 35, T21N, R7E, 3RD PA, CHAMPAIGN COUNTY, ILLINOIS, AS DESCRIBED AS FOLLOWS:

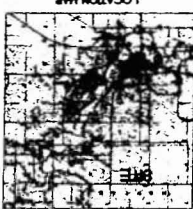
APPROVED	DATE	APPROVED	DATE
[Signature]	11/27/01	[Signature]	11/27/01
[Signature]	11/27/01	[Signature]	11/27/01
[Signature]	11/27/01	[Signature]	11/27/01

NOTES:  
 1. NO PART OF THE PROPERTY COVERED BY THIS PLAT IS SITUATED WITHIN 500 FEET OF A WATERCOURSE SERVING A TRIBUTARY AREA OF 5 ACRES OR MORE.  
 2. THE SUBDIVISION IS WITHIN 1 AND 1/2 MILES OF THE CORPORA...  
 3. ALL EASEMENTS REFER TO AN ASSAULT PERSONAL AND ARE FOR DETERMINING WELLS AND DECOMMISSION PERSONAL ONLY.  
 4. THE SUBDIVISION IS CURRENTLY ZONED "M-1", ADOPTIVE BY CHAMPAIGN COUNTY.

DATED: 10/27/01  
 OWNER'S SIGNATURE: [Signature]  
 SURVEYOR'S CERTIFICATE

PLAT NO.	2007 R3487
SECTION	35
TOWNSHIP	T21N
RANGE	R7E
COUNTY	CHAMPAIGN
STATE	ILLINOIS

- LEGEND
- \* REPRODUCTION TEST LOCATION
  - ▲ STAKE FOUND
  - NON-FIND FOUND
  - MON. PIN W/ CAP SET
  - MAG. NAIL SET
  - BOUNDARY OF EXISTING STRUCKS
  - EXISTENTS
  - DIMENSION OF STRIKE
  - DIMENSION OF CORNER OR OTHERS



CHAMPAIGN COUNTY, ILLINOIS  
 DEPT. OF RECORDS  
 11/27/01

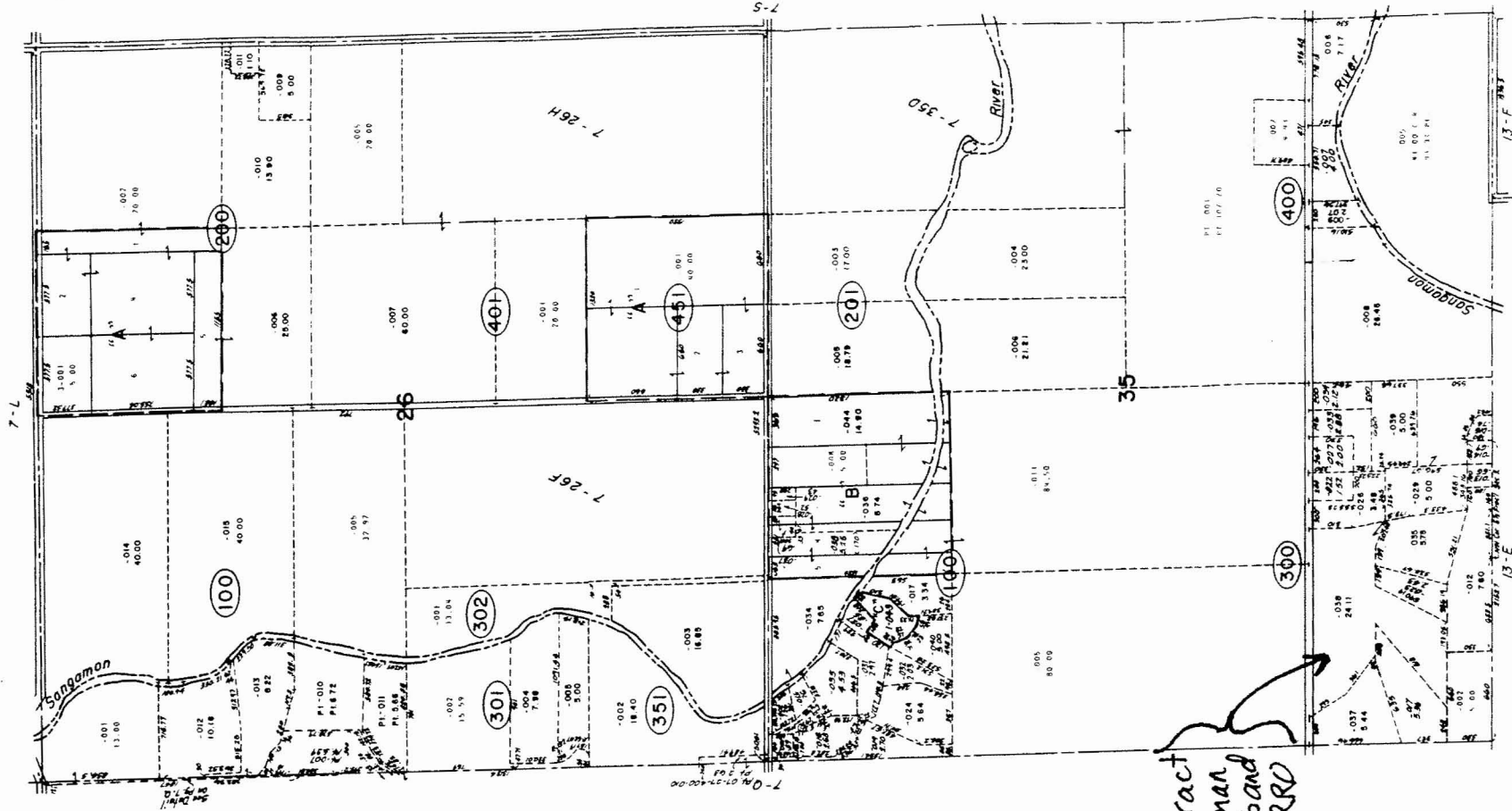
JOSEPH H. TRAUTMAN  
 11/27/01



REVISED: JAN. 1, 1998

SW 1/4 OF THE SW 1/4 OF SEC. 26  
SW 1/4 OF THE NW 1/4 OF THE  
NW 1/4 SEC. 35

RYNARD SUB



SCALE: 1" = 400'

7-R

NEWCOMB TWP.  
SECS 26 & 35 T2IN. R7E



201 West Springfield Avenue, 3rd Floor  
PO Box 140  
Champaign, Illinois 61824-0140  
BUS 217.352.6976  
FAX 217.356.0570  
www.hdc-eng.com

August 28, 2008

Champaign County Planning and Zoning  
Attention: Mr. John Hall  
1776 East Washington Street  
Urbana, IL 61802

RECEIVED

AUG 29 2008

CHAMPAIGN CO. P & Z DEPARTMENT

Re: Professional Engineers Drainage Explanation  
Trautman Section 35 Subdivision  
HDC Project No. 01112

Dear Mr. Hall:

Trautmans Section 35 Subdivision Phase 2 will consist of 1 lot in the Southwest Quarter of the Southwest Quarter of Section 35, Township 21 North, and Range 7 East of the 3<sup>rd</sup> Principal Meridian. The site is approximately 300 feet north-south by 278 feet east-west, or 1.661 acres. The site lies within one-and-a-half miles of Mahomet, Illinois.

The south half of this lot is a pond. The lot slopes 4.5% from north to south and varies in elevation from approximately 718 feet at the northwest corner to 712.5 feet at the water's edge. No part of this subdivision is located within the 100-year flood plain, as identified by FEMA.

The site is unimproved farmland. The site drains from County Road 2425N to the south by overland flow into the pond. The pond outlets to the east overland flow. It continues running east for approximately 2500 feet, emptying into the Sangamon River.

The proposed drainage pattern will be very similar to the existing drainage. The runoff coefficient for the rural lot is not increased from existing conditions; therefore, runoff excess is not expected and storm water detention will not be necessary. The subdivision will have permanent grass and vegetation, reducing long-term soil erosion.

Access to Lot 1 will be from a private driveway directly from County Road 2425N. The proposed subdivision is planned to have impervious areas less than the 16 percent limit stated in Exemption 4.3.A.1 on page 4 of the Champaign County Illinois Interim Stormwater Management Policy. There are no culverts existing on the property; however, a culvert will be required at the intersection of the proposed driveway and County Road 2425N. Runoff from the street will be directed into the drainage ditch along the south side of County Road 2425N. The proposed lots will have sufficient buildable areas for private wells and sewage disposal.

Sincerely,

HDC ENGINEERING, LLC

David E. Atchley, PE, PLS  
President, Principal

mk  
A Devonshire Group Company

Regional Offices:  
Champaign • Mattoon



## EXECUTIVE SUMMARY

Commercial agriculture is the highest and best use of the land in the rural areas of Champaign County that are suited to it<sup>(1.1)</sup> but all landowners will be guaranteed a basic development right proportionate to tract size and public health and safety and site development regulations<sup>(1.3.2)</sup>

All landowners also can undertake development beyond the basic right provided that<sup>(1.3.3)</sup>:

- all reasonable effort has been made to determine if especially sensitive and valuable environmental or cultural features are present and to minimize the disturbance of them or of wildlife, natural areas, historic or archeological resources, County Forest Preserves or other parks and preserves<sup>(1.7.1, 1.7.2)</sup>;
- sites on the best prime farmland must be well suited for any proposed development<sup>(1.5.2)</sup> and must be used in the most efficient way<sup>(1.2)</sup>; but on less productive land development will be allowed so long as the site is not "unsuited overall"<sup>(1.5.1)</sup>;
- existing public services and infrastructure and proposed improvements are adequate to support the development effectively and safely without undue public expense<sup>(1.5.3, 1.5.4)</sup>;
- agricultural activities and related infrastructure are not likely to be negatively effected<sup>(1.4.2)</sup> and agricultural activities are not likely to have negative effects on the proposed development<sup>(1.4.1)</sup>;
- non-residential development accords with other polices and is located in areas planned for such development<sup>(1.6.3)</sup> or supports agriculture, or involves a product or service that is provided better in a rural setting than in an urban one<sup>(1.6.1)</sup>;
- non-residential development on the best prime farmland accords with other policies and either is appropriate in a rural area and is on a very well suited site, or services surrounding agriculture or an important public need and cannot be located elsewhere<sup>(1.6.2)</sup>.

A second dwelling on an individual lot may be allowed but only for the limited purpose of providing housing to family members on a temporary basis<sup>(1.9)</sup>.

All farmers will be assured of the receiving the State mandated exemption from County Zoning even if some non-farmers also receive the same benefit<sup>(1.8)</sup>.

The Land-Use Regulatory Policies will be coordinated with other County plans and as much as possible with municipal plans and policies<sup>(0.1.1, 0.1.2, 0.2)</sup>.

- Note:
1. Superscript numbers<sup>(n.n.n)</sup> refer to the number of the full policy statement (see attached).
  2. The Executive Summary is not part of the official polices and is provided only for convenience.

The Land Use Regulatory Policies are adopted as general statements to guide the County staff, Zoning Board of Appeals and County Board in the review of proposed Zoning Ordinance amendments. These polices are not yet complete but have been officially adopted and are in full force. The policies may be used, on an interim basis, to evaluate zoning cases involving discretionary decisions.

The County will add policies as needed in each phase of the Comprehensive Zoning Review. In Phase 7, where all previous changes are reconciled and harmonized, the County will review and revise the policies to provide continuing guidance for future zoning cases and ordinance amendments.

# CHAMPAIGN COUNTY, ILLINOIS

## Land Use Regulatory Policies - Rural Districts

As amended through November 20, 2001

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### GENERAL POLICIES

#### 0.1 COORDINATING REGULATORY POLICIES WITH OTHER COUNTY POLICIES

**0.1.1** These regulatory policies will be coordinated with the *Champaign County Land Use Goals and Policies*. Where they conflict, the Land Use Regulatory Policies will govern and the *Land Use Goals and Policies* will be revised accordingly.

**0.1.2** These regulatory policies include and will conform to the *U.S. Rt. 150 Corridor Plan* and any other intergovernmental plan or program to which the County is a party.

The Land Use Goals and Polices are more than 20 years old. The Land Use Regulatory Policies are more in keeping with current understanding and public values and so, supersede earlier efforts.

The County will honor plans and policies adopted in other settings unless the parties agree to amend them.

#### 0.2 COORDINATING COUNTY ZONING WITH MUNICIPAL AND OTHER OFFICIAL PLANS AND POLICIES

Champaign County will endeavor to coordinate its zoning ordinance with municipal comprehensive plans, annexation agreements and the plans of other of government agencies to the greatest extent possible consistent with

these and other County policies and the adopted *Ordinance Objectives*.

Eleven municipalities in Champaign County have adopted comprehensive plans. Under Illinois law these communities have jurisdiction over land use planning and land subdivision in the unincorporated area falling within 1½ miles of their corporate limits.

Municipalities may also enter into annexation agreements in these areas that contain enforceable provisions relating to land use and development. The County, however, retains jurisdiction with respect to zoning, nuisance and floodplain regulation. Additionally, other public bodies such as the Urbana-Champaign Sanitary District, CUUATS, the Forest Preserve District, park districts, etc. have adopted plans and policies that bear, in part, on land use.

It is important that County, municipal and other land use policies be coordinated for the benefit of landowners and the general public interest.

Municipal and other plans vary in their level of detail, supporting analysis and currency. They may use dissimilar and even conflicting categories and terminology. For these reasons the County cannot automatically bind itself to every plan or policy and subsequent amendment adopted by every government entity. Within these limitations the County can and will work to harmonize the zoning ordinance with other plans and policies as much as possible, recognizing that in some instances the ordinance will not necessarily directly reflect every policy of every government

## RURAL LAND USE POLICIES

### 1.1 HIGHEST & BEST USE OF FARMLAND

Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. Other land uses can be accommodated in those areas provided that:

- a. the conversion of prime farmland is minimized;
- b. the disturbance of natural areas is minimized;
- c. the sites are suitable for the proposed use;
- d. infrastructure and public services are adequate for the proposed use; and
- e. the potential for conflicts with agriculture is minimized.

The soils, landscape, climate and location of Champaign County constitute a uniquely productive setting for producing row crops. The County takes seriously its stewardship over more than a half million acres of the most productive farmland in the world. The County places a very high value on the economic contribution of farming and on farming as a way of life.

As important as agriculture is, the County finds that accommodating other land uses in rural areas is possible. Under the proper conditions, rural development can be permitted without unduly sacrificing our soil resources or interfering with agricultural practices.

### 1.2 PRESERVING UNIQUE SOIL RESOURCES

On the best prime farmland, development will be permitted only if the land is well suited to it, and the land is used in the most efficient way consistent with other County policies.

For purposes of these policies the "best" prime farmland is that made up of soils in Agricultural Value Groups one through four. These are, generally, tracts of land with a Land Evaluation score of 85 or better on the County's *Land Evaluation and Site Assessment System*, that are large enough to be farmed economically. Small and irregular tracts are not included.

Champaign County recognizes the unique value of the soil found here and the need to preserve this resource for future generations. The County also recognizes that population and economic growth cannot be accommodated here without some conversion of the best prime farmland. Most farmland conversion occurs in the form of urban development, with a relatively small amount resulting from development in the County's rural zoning districts.

The conversion of best prime farmland can be minimized by ensuring that it is used efficiently. This means using few acres as possible for each dwelling or other unit of development that is provided. Inefficient large-lot or "farmette" type development will not be permitted on the best prime farmland.

The County also finds that it is not in the public interest to compromise its other policies on the best prime farmland. Standards for site suitability, adequacy of infrastructure and compatibility with agriculture will be higher for development on the best prime farmland than for less productive land (See Policies 1.5.1 and 1.5.2)

### 1.3 PROTECTION OF PROPERTY RIGHTS

1.3.1 All landowners will be guaranteed a minimum basic development right subject only to public health, safety and site development regulations.

For purposes of this policy, "development" excludes



the division of land into tracts above a certain size. This minimum size is intended to provide tracts large enough to be farmed economically. In addition this minimum size is such that permitted land uses can be assumed to generate traffic within the capacity of rural roads and to have only negligible impacts on sensitive natural areas and features. Creating tracts above this threshold may, therefore, be exempted from limits on development rights. Creating tracts below the threshold is subject to limitations on development rights. The "minimum basic development right" refers to the right to create such smaller lots and is in addition to the right to divide land into large exempt tracts.

The County recognizes that most land owners legitimately expect to be able to sell some part of their land for development. Limited development opportunities will be permitted as of right, but not necessarily in the same form in all locations. In some areas development rights may provide for commercial uses in lieu of residential development, consistent with other policies

The scope of the basic development right is limited by concerns for public health and safety. It is not intended to allow the creation of lots subject to extreme flood hazard or in locations that are otherwise hazardous or incapable of providing a reasonably healthy and safe environment. Legitimate development expectations do not necessarily apply to areas with severe health or safety concerns.

Basic development rights do not override the need for reasonable site development regulations. Development rights are not guaranteed where site development regulations cannot be met, provided that the existing tract has a reasonable economic use such as an existing home site.

**1.3.2 Landowners' minimum basic development rights are proportionate to tract size. The division of smaller tracts of land will not be permitted if it would overburden existing infrastructure or create other problems.**

The basic development right is intended to allow limited development located in such a way that the County can be reasonably certain that it will not overburden existing infrastructure or violate other County policies. The basic development right is

related to acreage in common ownership to ensure that concentrations of new lots do not create problems when the same right is accorded to all landowners.

Basic development rights will not necessarily apply to small tracts of land previously divided to create house lots or for other purposes such as small woodlots. In areas where there are concentrations of smaller tracts further development could overburden existing infrastructure or violate other County policies if similar development occurs on other tracts in the vicinity.

On larger tracts the basic development right is also subject to an overall cap. The cap defines the greatest number of lots that can be permitted as of right with reasonable assurance that the immediate impacts of the development will be acceptable. Above this cap projects require site specific reviews of drainage, traffic and other impacts to ensure that County policies are met. Special consideration will be given, however, to small irregular or isolated tracts that cannot be farmed economically.

- 1.3.3 Development beyond the basic right will be permitted if the use, design, site and location are consistent with County policy regarding:**
- a. **the efficient use of prime farmland;**
  - b. **minimizing the disturbance of natural areas;**
  - c. **suitability of the site for the proposed use;**
  - d. **adequacy of infrastructure and public services for the proposed use; and**
  - e. **minimizing conflict with agriculture.**

Development beyond the basic development right will not be automatically restricted but it will be limited to further the County's other policies.

Development beyond the basic development right is not guaranteed. Such development will be subject to site and project specific reviews to ensure that it conforms to other County policies.

## **1.4 COMPATIBILITY WITH AGRICULTURE**

**1.4.1 Non-agricultural land uses will not be permitted unless they are of a type that is not negatively affected by agricultural activities or else are located and designed to minimize exposure to any negative affect caused by agricultural activities.**

Development in rural areas can be negatively affected by agriculture. Newcomers to rural areas often fail to understand the customary side effects of agriculture and so conflicts with farmers can result. It is the duty of those proposing rural development to avoid such conflicts as much as possible by proper choice of location and good site design.

**1.4.2 Non-agricultural land uses will not be permitted if they would interfere with farm operations or would damage or negatively affect the operation of agricultural drainage systems, rural roads or other agriculture related infrastructure.**

Non-farm land uses in rural areas can have serious detrimental impacts on farming in a variety of ways. Although other land uses can be accommodated in rural areas, agriculture is the preferred land use and will be protected.

Rural developments will be scrutinized carefully for impacts they may have on agricultural operations including the impacts of additional similar development in the area. If the impacts are significant development will be limited or disallowed.

## **1.5 SITE SUITABILITY FOR DEVELOPMENT**

**1.5.1 On less productive farmland, development will not be permitted if the site is unsuited, overall, for the proposed land use.**

**1.5.2 On the best prime farmland, development will not be permitted unless the site is well suited, overall, for the proposed land use.**

Ample sites that are well suited to residential and other development are available in rural Champaign County. It is not necessary, and the County will not permit, development on sites that are not well suited to it.

A site is considered well suited if development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public. A site is well suited overall only if it is reasonably well suited in all respects and has no major defects.

A site is unsuited for development if its features or location would detract from the propose use. A site is also unsuitable if development there would create a risk to the health, safety or property of the occupants, the neighbors or the general public. A site may be unsuited overall if it is clearly inadequate in one respect even if it is acceptable in other respects.

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

A site may unsuitable even if its physical characteristics will support development if the necessary infrastructure is not in place or provided by

the development. Drainage systems, roads or other infrastructure are inadequate if they cannot meet the demands of the development without creating a risk of harm to the environment, private property or public health and safety.

Infrastructure is also inadequate if safety or the prevention of harm requires new public investments or increased maintenance expenses that are not paid for by the development itself. Developments will be expected to bear the full cost of providing infrastructure improvements to the extent that the need for them is specifically and uniquely attributable to the development. Developments will not be approved if they impose disproportionate fiscal burdens on rural taxing bodies.

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

Public services, such as police, fire protection and ambulance service, in the rural areas of the County are provided on a more limited basis and with a narrower financial base than those in municipalities. Rural taxing bodies have a tax base that is heavily dependant on farmland than those in urbanized areas. The County will carefully weigh the ability of rural public service agencies to meet the demands posed by rural development. Developments will be expected to bear the full cost of providing services to the extent that the need for them is specifically and uniquely attributable to the development. Developments will not be approved if they impose disproportionate fiscal burdens on rural taxing bodies.

## **1.6 BUSINESSES AND NONRESIDENTIAL USES**

**1.6.1 In all rural areas, businesses and other non-residential uses will be permitted if they support agriculture or involve a product or service that is provided better in a rural area than in an urban area.**

Significant demand exists to site private and public uses in rural locations where land can be obtained more cheaply. This accounts for a significant fraction of the farmland converted by rural development.

Uses can and should be accommodated in rural areas if they compliment agriculture, or supplement farm income or they involve products or services that can be provided better in a rural setting than in an urban one. Uses that have significant utility demands or which require access to urban services or which pose significant environmental or other impacts in a rural setting will be restricted to areas that have the necessary urban infrastructure and services.

**1.6.2 On the best prime farmland, businesses and other non-residential uses will not be permitted if they take any best prime farmland out of production unless:**

- they also serve surrounding agricultural uses or an important public need, and cannot be located in an urban area or on a less productive site, or
- the uses are otherwise appropriate in a rural area and the site is very well suited to them.

Accommodating non-residential land uses in rural areas can conflict with the County's policy regarding preservation of the best prime farmland. Uses that directly serve agriculture or an important public purpose may be permitted if they minimize the conversion of the best prime farmland it is not feasible

to locate them on less productive farmland. Sites may also be developed for appropriate uses if they are very well suited to non-residential land use in terms of site suitability, access, visibility, infrastructure, public services, etc..

**1.6.3 In rural areas that are expected to be developed in non-residential land use business and other uses will be permitted if they are consistent with other County policies and with the anticipated long term use in the area.**

It is inappropriate to permit residential development in areas that will ultimately be developed for business or industrial use where residences would be undesirable. These areas may be designated in plans or may otherwise be designated for business or industrial use. It is also inappropriate to permit intensive development in such areas before urban utilities and services are available. In the mean time the interests of landowners must be respected and so a wider array of non-residential land uses will be permitted in lieu of residential development rights.

## **1.7 CONSERVATION OF NATURAL AREAS**

**1.7.1 Nonagricultural land uses will be permitted in or near natural areas, sites of historic or archeological significance, County Forest Preserves, or other parks and preserves, only if they are designed and located so as to minimize disturbance of wildlife, natural features, historic or archeological resources or park and preserve resources.**

Almost all natural areas in the County have been developed for agricultural and other uses or have been seriously disturbed by past land use. The resources to acquire, develop and manage parks and preserves are limited so the public and private investment in the existing sites merits protection. The County will not

restrict development for this purpose beyond the limits that apply in agricultural areas but its location and design will be subject to special standards to minimize impacts on these resources.

**1.7.2 Development in rural areas will be permitted only if there has been reasonable effort to determine if especially sensitive and valuable features are present, and all reasonable effort has been made to prevent harm to those features.**

High quality natural areas, endangered species and historic and archeological sites are rare in Champaign County. Development that may affect them will be subject to close scrutiny and will be permitted only if appropriate measures are taken to avoid harm to these resources.

## **1.8 IMPLEMENTING THE "AGRICULTURAL PURPOSES" EXEMPTION**

**All full and part-time farmers and retired farmers will be assured of receiving the benefits of the agriculture exemption even if some non-farmers receive the same benefits.**

The State of Illinois exempts land and buildings used for agricultural purposes from County zoning jurisdiction except for certain requirements such as minimum lot size. The County's rural land use policies will not be undermined by the exemption. Champaign County concurs with the agricultural exemption policy and will ensure that all qualifying projects receive the benefits of this policy even if a small number of non-farmers also benefit incidentally.

## **1.9 ACCESSORY DWELLINGS IN RURAL AREAS**

**Accessory dwellings will be permitted for the limited purpose of providing housing to family members on a temporary basis so long as site development standards and the public health and safety are not compromised.**

A significant demand exists to provide for housing for family members on the same lot with another single family dwelling. Permitting second dwellings on lots without limits would undermine the County's other policies regarding rural development. The County wishes to assist families in providing for the needs of family members. With special controls, the potential impacts of accessory dwellings are reasonable given the public purpose served.

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Xenia silt loam, 2 to 5 percent slopes 291B

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Corrective Measures		Typical Continuing Limitations	
				Kinds	Index	Kinds	Index
Flooding	None	Slight	None	None		None	
Depth to High Water Table (Ft)	2.0-6.0 <sup>2/</sup>	Severe	System Failure	Subsurface Drainage or fill and curtain drain	12	Possible surfacing of effluent	5
Permeability (IN/HR) (24-60")	.2-2.0	Severe	Marginal Performance	Large Absorption Field 290-385 Sq.Ft./Bedroom	4	None	
Slope (PCT)	2-5	Slight	None	None		None	
Total					16	Total	5

-64-

$$\frac{100}{\text{Performance Standard Index}} - \frac{16}{\text{Measure Cost Index}} - \frac{5}{\text{Continuing Limitation Cost Index}} = \frac{79}{\text{Soil Potential Index } 1/}$$

1/ If performance exceeds the standard increase SPI by that amount.

2/ treated as 1.0-3.0' under WORKSHEET FOR PREPARING CORRECTIVE MEASURES



# Illinois Department of Natural Resources

One Natural Resources Way • Springfield, Illinois 62702-1271  
<http://dnr.state.il.us>

Rod R. Blagojevich, Governor

Sam Flood, Acting Director

# 1112

July 30, 2008

David E. Atchley  
David E. Atchley  
201 W. Springfield Ave. Suite 300  
P.O. Box 140  
Champaign, IL 61824 0140

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AUG 29 2008

CHAMPAIGN CO. P & Z DEPARTMENT

**Re: Trautmans Section 35 Subdivision Phase 2**

**Project Number(s): 0900821**

**County: Champaign**

Dear Applicant:


This letter is in reference to the project you recently submitted for consultation. The natural resource review provided by EcoCAT identified protected resources that may be in the vicinity of the proposed action. The Department has evaluated this information and concluded that adverse effects are unlikely. Therefore, consultation under 17 Ill. Adm. Code Part 1075 is terminated.

Provided all applicable State and local environmental laws and ordinances are complied with, adverse impacts to State listed resources in the vicinity do not appear likely. Given the proximity of the Sangamon River to the site, erosion controls during all phases of project implementation are strongly advised.

This consultation is valid for two years unless new information becomes available that was not previously considered; the proposed action is modified; or additional species, essential habitat, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary.

The natural resource review reflects the information existing in the Illinois Natural Heritage Database at the time of the project submittal, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, you must comply with the applicable statutes and regulations. Also, note that termination does not imply IDNR's authorization or endorsement of the proposed action.

Please contact me if you have questions regarding this review.

Rick Pietruszka   
Division of Ecosystems and Environment  
217-785-5500

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AUG 08 2008

HDC ENGINEERING



**Illinois Historic  
Preservation Agency**

1 Old State Capitol Plaza • Springfield, Illinois 62701-1512 • www.illinois-history.gov

*Logo  
8-28-08  
0112*

Champaign County  
Mahomet  
CR 2425N, Section: 35-Township: 21N-Range: 7E  
HDC-01112  
Subdivide Tract for Trautman Subdivision - Phase 2

PLEASE REFER TO: IHPA LOG #020080808

August 25, 2008

David E. Atchley  
HDC Engineering, Inc.  
201 W. Springfield Ave., Suite 300  
P.O. Box 140  
Champaign, IL 61824-0140

**RECEIVED**

OCT 09 2008

CHAMPAIGN CO. P & Z DEPARTMENT

Dear Mr. Atchley:

The Illinois Historic Preservation Agency is required by the Illinois State Agency Historic Resources Preservation Act (20 ILCS 3420, as amended, 17 IAC 4180) to review all state funded, permitted or licensed undertakings for their effect on cultural resources. Pursuant to this, we have received information regarding the referenced project for our comment.

Our staff has reviewed the specifications under the state law and assessed the impact of the project as submitted by your office. We have determined, based on the available information, that no significant historic, architectural or archaeological resources are located within the proposed project area.

According to the information you have provided concerning your proposed project, apparently there is no federal involvement in your project. However, please note that the state law is less restrictive than the federal cultural resource laws concerning archaeology. If your project will use federal loans or grants, need federal agency permits, use federal property, or involve assistance from a federal agency, then your project must be reviewed under the National Historic Preservation Act of 1966, as amended. Please notify us immediately if such is the case.

This clearance remains in effect for two (2) years from date of issuance. It does not pertain to any discovery during construction, nor is it a clearance for purposes of the IL Human Skeletal Remains Protection Act (20 ILCS 3440).

Please retain this letter in your files as evidence of compliance with the Illinois State Agency Historic Resources Preservation Act.

Sincerely,

*Anne E. Haaker*

Anne E. Haaker  
Deputy State Historic  
Preservation Officer

AEH

20

AUG 29 2008

HDC ENGINEERING



1112

**Champaign County Soil and Water Conservation District**

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

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OCT 09 2008

**NATURAL RESOURCE REPORT CHAMPAIGN CO. P & Z DEPARTMENT**

**Development Name: Trautman Subdivision phase 2**

**Date Reviewed: August 29, 2008**

**Requested By: Dave Actley, HDC Engineering**

**Address:** Mike Trautman  
PO Box 613  
Champaign, IL 61821

**Location of Property:** Part of the Southwest Quarter of Section 35, T21N, R7E, Newcomb Township, Champaign County, IL. This is on the south side of County Road 2425 North about 2/3 mile east of highway 47. The project consists of 1 lot as part of an existing subdivision.

The Resource Conservationist of the Champaign County Soil and Water Conservation District inspected this tract August 20, 2008.

**SITE SPECIFIC CONCERNS**

1. **The area that is to be developed has 1 soil type that has severe wetness characteristics. This will be especially important for the septic system that is planned.**
2. **The site is adjacent to a lake and therefore care in construction and maintenance of the site will be important to minimize any adverse affects on lake water quality from runoff into the lake.**

**SOIL RESOURCE**

**a) Prime Farmland:**

This tract is NOT considered best prime farmland for Champaign County.

This tract has an L.E. Factor of 79; no map was drawn because the entire tract is Xenia (291B) soil type. The tract is not currently in agricultural production and has large trees on it, so it has not been in production for many years. The area of the pond was not considered in the soil type calculation.

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CHAMPAIGN CO. P & Z DEPARTMENT

**b) Erosion:**

This area will be susceptible to erosion both during and after construction. Any areas left bare for more than 30 days, should be temporarily seeded or mulched and permanent vegetation established as soon as possible. The area is covered with grass and trees at this time which should minimize soil erosion until construction takes place. The tract slopes toward the lake, so extra care will be necessary during construction and until suitable vegetation is reestablished. Lawn care after establishment should take into consideration the proximity of the lake when applying fertilizer and lawn care chemicals.

**c) Sedimentation:**

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

**d) Soil Characteristics:**

There is one (1) soil type on this site; see the attached soil map. The soil present has moderate to severe limitations for development in their natural, unimproved state. The possible limitations include severe wetness that will adversely affect a septic field on the site.

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

Map Symbol	Name	Slope	Shallow Excavations	Basements	Roads	Septic Fields
291B	Xenia Silt Loam	2-5%	Severe: wetness	Severe: wetness	Severe: low strength	Severe: wetness

**WATER RESOURCE**

**a) Surface Drainage:**

The tract has a road and ditch on the north that blocks water from the north. Very little, if any water comes on to the property from outside. Virtually all the water on the tract flows into the lake on the south.

Best Management Practices that minimize the volume of stormwater flow offsite and attempt to filter it as much of possible should be considered. Rain Gardens are one

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CHAMPAIGN CO. P & Z DEPARTMENT

effective practice that could be incorporated into the development plan. They can be used to increase infiltration of runoff water for minimal cost. A booklet on rain garden design can be found at <http://clean-water.uwex.edu/pubs/home.htm#rain>. This site contains other valuable information on reducing stormwater pollution. Another source of information is <http://www.raingardennetwork.com/>

**b) Subsurface Drainage:**

This site may contain agricultural tile, if any tile found care should be taken to maintain it in working order. Due to the location and slope of the tract is quite possible no agricultural drainage tile exists on the site.

Wetness may be a limitation associated with the soils on this site. Installing a properly designed subsurface drainage system will minimize adverse effects. Reinforcing foundations helps to prevent the structural damage caused by shrinking and swelling of naturally wet soils.

**c) Water Quality:**

As long as adequate erosion and sedimentation control systems are installed as described above, the quality of water should not be significantly impacted. Extra care and planning will be necessary to minimize any negative affects on the lake's water quality.

**CULTURAL, PLANT, AND ANIMAL RESOURCE**

**a) Plant:**

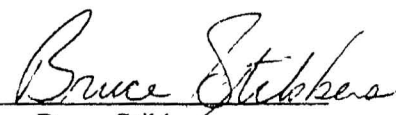
For eventual landscaping of the site, the use of native species is recommended whenever possible. Some species include White Oak, Blue Spruce, Norway Spruce, Red Oak, and Red Twig Dogwood.

**b) Cultural:**

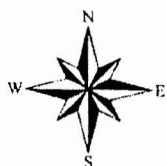
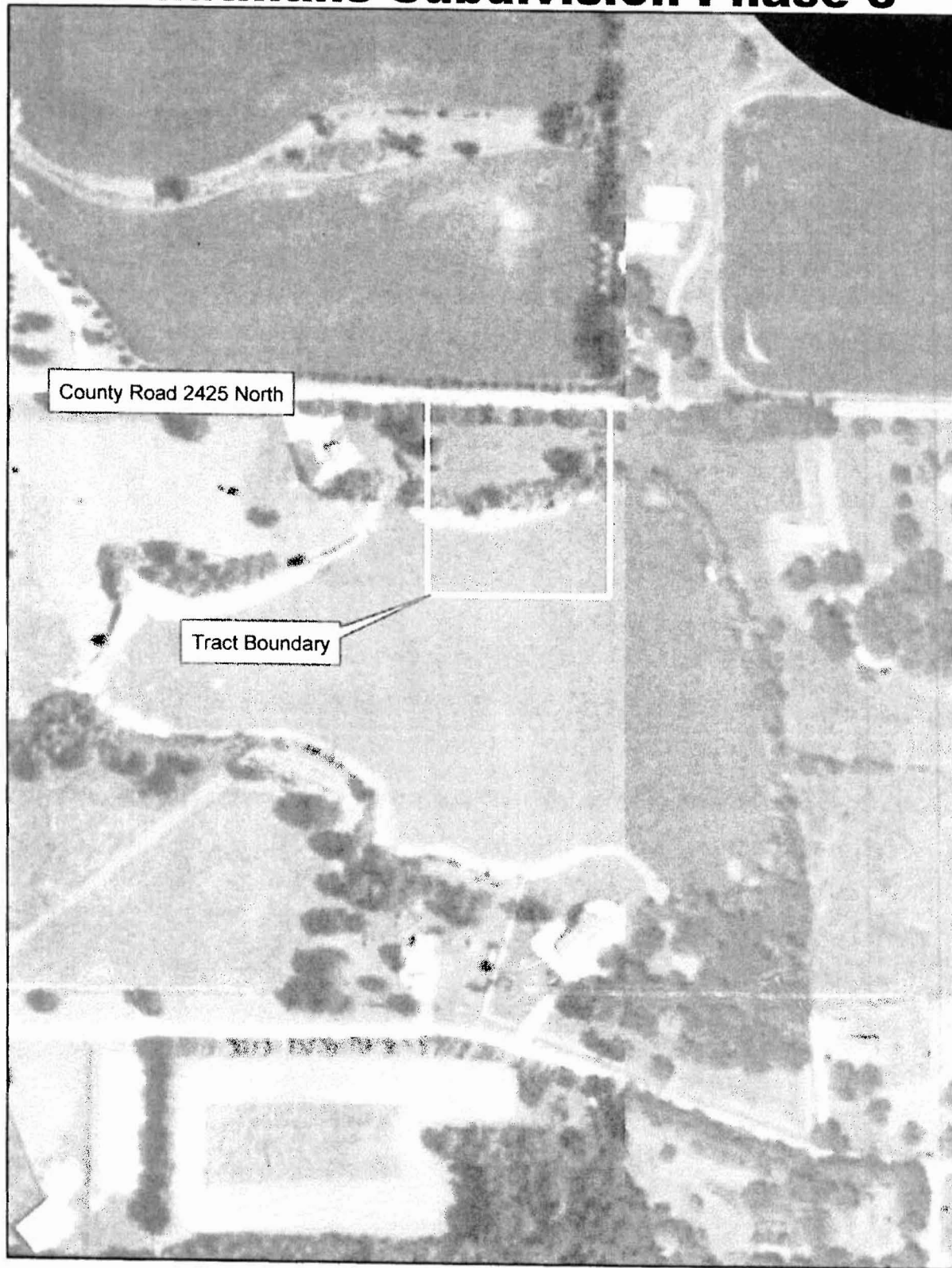
The Illinois Historic Preservation Agency may require a Phase 1 Archeological Review to identify any cultural resources that may be on the site.

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

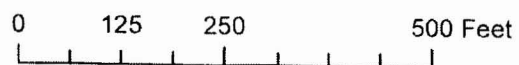
Signed by   
Steve Stierwalt  
Board Chairman

Prepared by   
Bruce Stickers  
Resource Conservationist

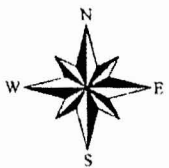
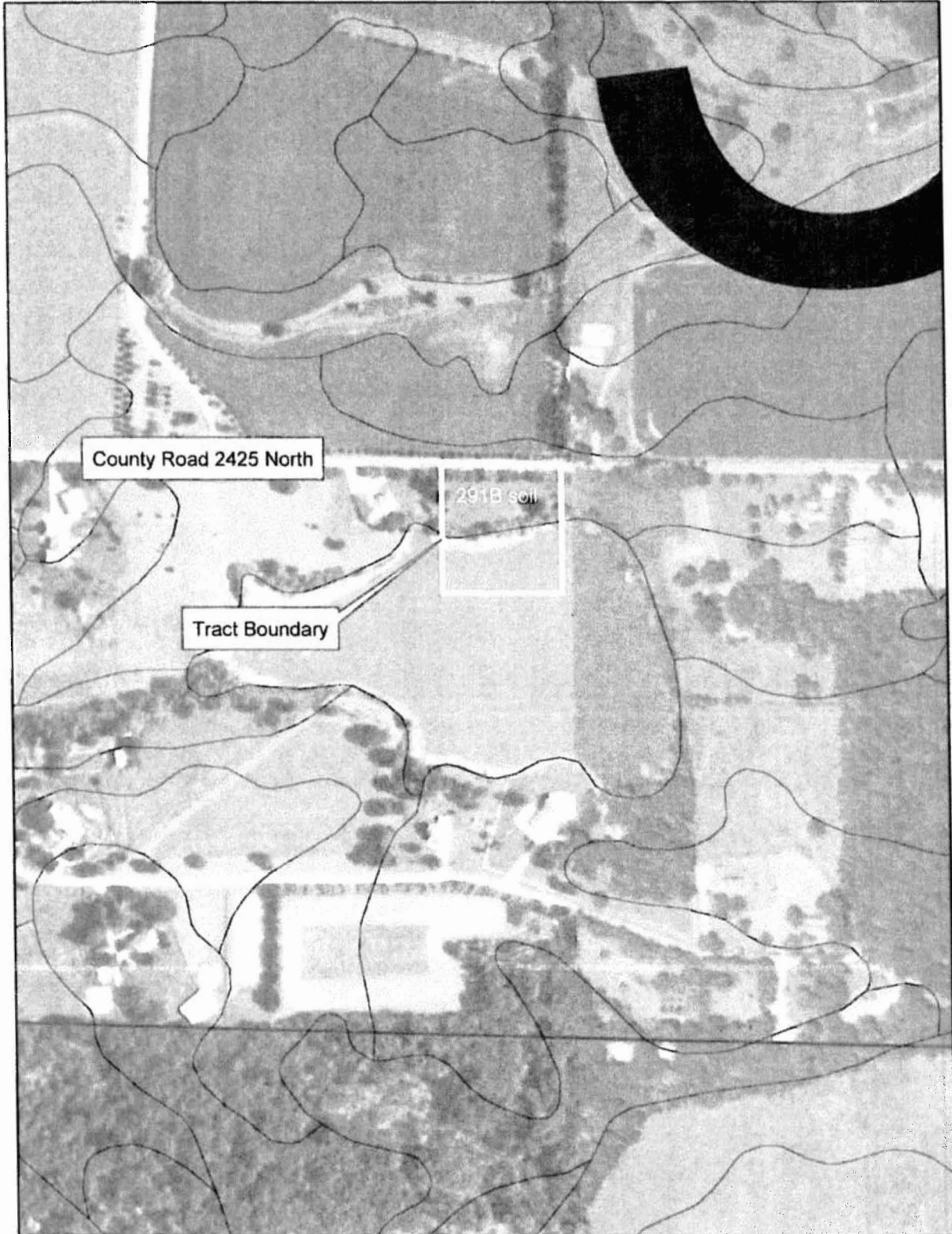
# Trautmans Subdivision Phase 3



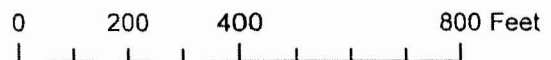
Champaign County SWCD  
8/22/2008



# Trautmans Subdivision Soils



Champaign County SWCD  
8/22/2008

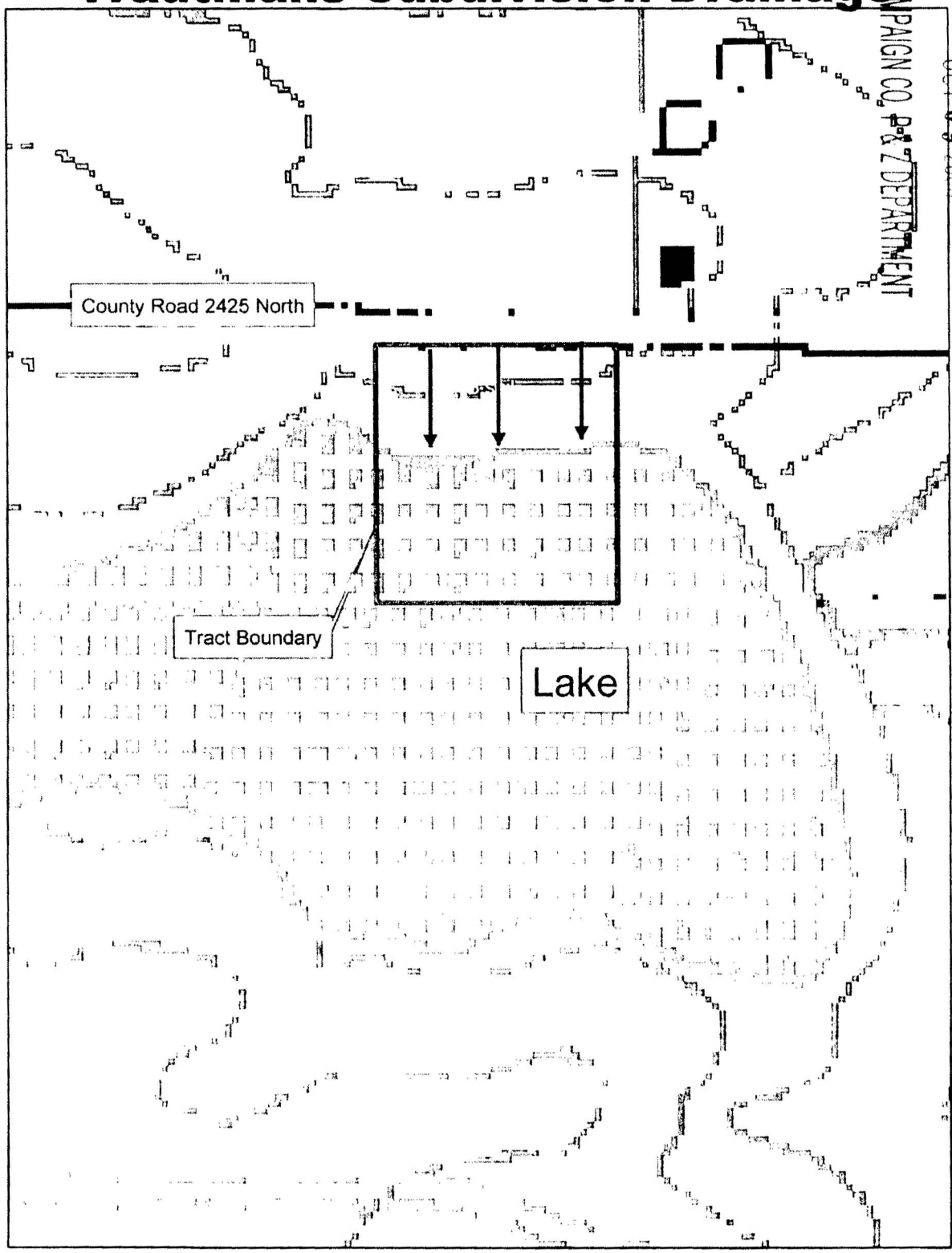


# Trautmans Subdivision Drainage

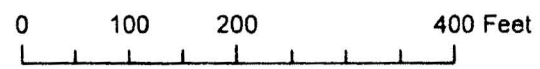
CHAMPAIGN CO. P&Z DEPARTMENT

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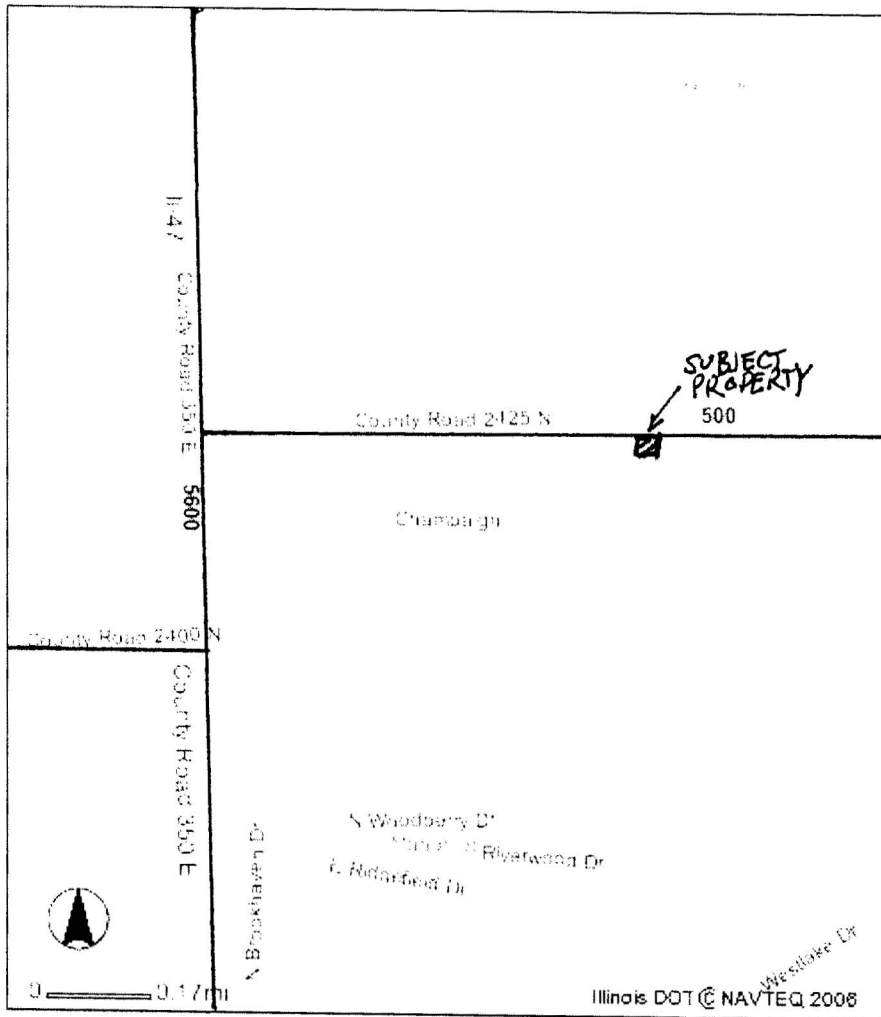
Champaign County SWCD  
8/22/2008





# Illinois Department of Transportation

Send to printer



Date: 12/4/2008

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 Illinois Department of Transportation  
 2300 S. Dirksen Pky  
 Springfield, IL 62764

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OCT 20 2008

CHAMPAIGN CO. P & Z DEPARTMENT



# Chicago Title Insurance Company

CHICAGO TITLE INSURANCE COMPANY ('Company'), for valuable consideration, commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the Proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest in the Land described or referred to in Schedule A, upon payment of the premiums and charges and compliance with the requirements; all subject to the provisions of Schedule A and B and to the Conditions of this Commitment.

This Commitment shall be effective only when the identity of the Proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A by the Company.

All liability and obligation under this Commitment shall cease and terminate 6 months after the Effective Date or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue the policy or policies is not the fault of the Company.

The Company will provide a sample of the policy form upon request.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused its corporate name and seal to be affixed by its duly authorized officers on the date shown in Schedule A.

**Issued By:**

CHICAGO TITLE INSURANCE COMPANY  
201 NORTH NEIL STREET  
CHAMPAIGN, IL 61820

Refer Inquiries To:  
(217) 356-0501

Fax Number:  
(217) 351-2982

CHICAGO TITLE INSURANCE COMPANY

By

*Henry S. Gery*  
\_\_\_\_\_  
Authorized Signatory

Commitment No.:

1253 000851243 CHA



CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE  
SCHEDULE A

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YOUR REFERENCE: Trautman Subdivision/Farchmin

ORDER NO.: 1253 000851243 CHA

OCT 20 2008

EFFECTIVE DATE: OCTOBER 3, 2008

CHAMPAIGN CO. P & Z DEPARTMENT

1. POLICY OR POLICIES TO BE ISSUED:

OWNER'S POLICY: ALTA OWNERS 2006  
AMOUNT: \$40,000.00  
PROPOSED INSURED: Walt Farchmin and June Farchmin

LOAN POLICY: ALTA LOAN 2006  
AMOUNT: TO COME  
PROPOSED INSURED: Heartland Bank and Trust Company

2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS COMMITMENT IS FEE SIMPLE, UNLESS OTHERWISE NOTED.

3. TITLE TO THE ESTATE OR INTEREST IN THE LAND IS AT THE EFFECTIVE DATE VESTED IN:  
Joseph M. Trautman

4. MORTGAGE OR TRUST DEED TO BE INSURED:  
To Come.

CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE  
SCHEDULE A (CONTINUED)

RECEIVED

OCT 20 2008

ORDER NO. 1293 000851749 0084  
CHAMPAIGN COUNTY CLERK'S DEPARTMENT

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS:

The South Half of the Southwest Quarter of Section 35, Township 21 North, Range 7 East of the Third Principal Meridian in Champaign County, Illinois,

EXCEPT a tract conveyed by deed recorded July 28, 1971 in Book 959 at Page 351 as document 71 R 9201;

AND ALSO EXCEPT a tract conveyed by deed recorded June 4, 1976 in Book 1082 at Page 531 as document 76 R 9686;

AND ALSO EXCEPT a tract conveyed by deed recorded June 4, 1976 in Book 1082 at Page 533 as document 76 R 9687;

AND ALSO EXCEPT a tract conveyed by deed recorded June 16, 1976 in Book 1083 at Page 623 as document 76 R 10549;

AND ALSO EXCEPT a tract conveyed by deed recorded July 1, 1976 in Book 1085 at Page 181 as document 76 R 11609;

AND ALSO EXCEPT a tract conveyed by deed recorded January 5, 1977 in Book 1103 at Page 532 as document 77 R 363;

AND ALSO EXCEPT a tract conveyed by deed recorded June 30, 1978 in Book 1162 at Page 138 as document 78 R 14082;

AND ALSO EXCEPT a tract conveyed by deed recorded March 1, 1985 in Book 1394 at Page 574 as document 85 R 3361;

AND ALSO EXCEPT a tract conveyed by deed recorded June 19, 1985 in Book 1408 at Page 520 as document 85 R 11037;

AND ALSO EXCEPT a tract conveyed by deed recorded October 31, 1989 in Book 1661 at Page 623 as document 89 R 21654;

AND ALSO EXCEPT a tract conveyed by deed recorded March 23, 1990 in Book 1679 at Page 557 as document 90 R 5040;

AND ALSO EXCEPT a tract conveyed by deed recorded July 7, 1993 in Book 1926 at Page 77 as document 93 R 18350;

AND ALSO EXCEPT a tract conveyed by deed recorded May 16, 1996 in Book 2403 at Page 823 as document 96 R 11852;

AND ALSO EXCEPT that part platted as Keller's Subdivision, as per plat recorded March 24, 1999 as document 99 R 8905;

AND ALSO EXCEPT a tract described as follows:  
Beginning at the Northwest Corner of the Southwest Quarter of the Southwest

CONTINUED ON NEXT PAGE

CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE  
SCHEDULE A (CONTINUED)

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OCT 20 2008

ORDER NO: 1253 000851243 CHA

CHAMPAIGN CO. P & Z DEPARTMENT

5. THE LAND REFERRED TO IN THIS COMMITMENT IS DESCRIBED AS FOLLOWS (CONTINUED):

Quarter of said Section 35, proceed on a local bearing of North 90°00'00" East 200.00 feet along the North line of the Southwest Quarter of the Southwest Quarter of said Section 35 to the True Point of Beginning; thence continue North 90°00'00" East 841.70 feet along the said North line; thence South 00°00'00" East 472.73 feet; thence North 89°40'44" West 400.72 feet; thence North 52°47'38" West 361.23 feet; thence North 31°18'19" West 295.00 feet to the True Point of Beginning, in Champaign County, Illinois;

all in Champaign County, Illinois.

CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE  
SCHEDULE B

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OCT 20 2008

ORDER NO. 1252 CHAMPAIGN CO. P & Z DEPARTMENT  
000871043

SCHEDULE B OF THE POLICY OR POLICIES TO BE ISSUED WILL CONTAIN EXCEPTIONS TO THE FOLLOWING MATTERS UNLESS THE SAME ARE DISPOSED OF TO THE SATISFACTION OF THE COMPANY.

GENERAL EXCEPTIONS

1. RIGHTS OR CLAIMS OF PARTIES IN POSSESSION NOT SHOWN BY PUBLIC RECORDS.
2. ANY ENCROACHMENT, ENCUMBRANCE, VIOLATION, VARIATION, OR ADVERSE CIRCUMSTANCE AFFECTING THE TITLE THAT WOULD BE DISCLOSED BY AN ACCURATE AND COMPLETE LAND SURVEY OF THE LAND.
3. EASEMENTS, OR CLAIMS OF EASEMENTS, NOT SHOWN BY PUBLIC RECORDS.
4. ANY LIEN, OR RIGHT TO A LIEN, FOR SERVICES, LABOR OR MATERIAL HERETOFORE OR HEREAFTER FURNISHED, IMPOSED BY LAW AND NOT SHOWN BY THE PUBLIC RECORDS.
5. TAXES OR SPECIAL ASSESSMENTS WHICH ARE NOT SHOWN AS EXISTING LIENS BY THE PUBLIC RECORDS.

SCHEDULE B OF THE POLICY OR POLICIES TO BE ISSUED WILL CONTAIN EXCEPTIONS TO THE FOLLOWING MATTERS UNLESS THE SAME ARE DISPOSED OF TO THE SATISFACTION OF THE COMPANY.

NOTE FOR INFORMATION: THE COVERAGE AFFORDED BY THIS COMMITMENT AND ANY POLICY ISSUED PURSUANT HERETO SHALL NOT COMMENCE PRIOR TO THE DATE ON WHICH ALL CHARGES PROPERLY BILLED BY THE COMPANY HAVE BEEN FULLY PAID.

1. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS, IF ANY, CREATED, FIRST APPEARING IN THE PUBLIC RECORDS OR ATTACHING SUBSEQUENT TO THE EFFECTIVE DATE HEREOF BUT PRIOR TO THE DATE THE PROPOSED INSURED ACQUIRES FOR VALUE OF RECORD THE ESTATE OR INTEREST OR MORTGAGE THEREON COVERED BY THIS COMMITMENT.
2. AN ALTA LOAN POLICY WILL BE SUBJECT TO THE FOLLOWING EXCEPTIONS (A) AND (B), IN THE ABSENCE OF THE PRODUCTION OF THE DATA AND OTHER ESSENTIAL MATTERS DESCRIBED IN OUR "STATEMENT REQUIRED FOR THE ISSUANCE OF ALTA OWNERS AND LOAN POLICIES (ALTA STATEMENT)". (A) ANY LIEN, OR RIGHT TO A LIEN, FOR SERVICES, LABOR, OR MATERIAL HERETOFORE OR HEREAFTER FURNISHED, IMPOSED BY LAW AND NOT SHOWN BY THE PUBLIC RECORDS; (B) CONSEQUENCES OF THE FAILURE OF THE LENDER TO PAY OUT PROPERLY THE WHOLE OR ANY PART OF THE LOAN SECURED BY THE MORTGAGE DESCRIBED IN SCHEDULE A, AS AFFECTING; (I) THE VALIDITY OF THE LIEN OF SAID MORTGAGE; AND (II) THE PRIORITY OF THE LIEN OVER ANY OTHER RIGHT, CLAIM, LIEN OR ENCUMBRANCE WHICH HAS OR MAY BE COME SUPERIOR TO THE LIEN OF SAID MORTGAGE BEFORE THE DISBURSEMENT OF THE ENTIRE PROCEEDS OF THE LOAN.

- A 3. Taxes for the year 2007 in the total amount of \$5.76, which are shown paid in full.

Taxes for the year 2008, which are a lien although not due and payable.

Newcomb Township, 16-07-35-300-040, Tax Code 3.  
(assessed to 16.94 acres)

- B 4. Rights of way for drainage tiles, ditches, feeders, laterals and underground pipes, if any.

- C 5. Rights of the public, the State of Illinois and the municipality in and to that part of the land, if any, taken or used for road purposes.

- D 6. Existing unrecorded leases and all rights thereunder of the lessees and of any

CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE  
SCHEDULE B (CONTINUED)

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person or party claiming by, through or under the lessee

- F 7. Easement in favor of Illinois Power Company, and its successors and assigns, and the provisions relating thereto contained in the grant recorded May 2, 1947 in book 281 at page 561 as document no. 414571, affecting the South 1/2 of the Southwest 1/4 of Section 35, Township 21 North, Range 7 East of the Third Principal Meridian in Champaign County, Illinois.
- G 8. Easement to Conduct Exploratory Operations, Option for Gas Storage Easement, Oil & Gas Lease in favor of Union Hill Gas Storage Company, and its successors and assigns, and the provisions relating thereto contained in the grant recorded April 18, 1960 in book 645 at page 632 as document no. 646318, affecting the South 1/2 of the Southwest 1/4 of Section 35, Township 21 North, Range 7 East of the Third Principal Meridian in Champaign County, Illinois.
- H 9. Easement in favor of Illinois Power Company, and its successors and assigns, and the provisions relating thereto contained in the grant recorded November 26, 1973 in book 1019 at page 751 as document no. 73R 17314, affecting a strip of land 60 feet in width over the South 1/2 of the Southwest 1/4 of Section 35, Township 21 North, Range 7 East of the Third Principal Meridian in Champaign County, Illinois.
- I 10. Easements for the purpose of ingress and egress for the benefit of owners of tracts in the South 1/2 of the Southwest 1/4 of Section 35, Township 21 North, Range 7 East of the Third Principal Meridian in Champaign County, Illinois, and their successors and assigns, as granted in the deeds recorded as follows:

76R 9686	77R 363	89R 21654
76R 9687	77R 16527	93R 18350
76R 10549	78R 14082	96R 11852
76R 11609	85R 11037	

- J 11. Note for Information: Covenants and restrictions for the benefit of the premises in question contained in the deeds recorded as follows:

71R 9201	76R 11609	92R 34022
75R 9107	77R 363	93R 18350
76R 9686	77R 16527	93R 24748
76R 9687	78R 14082	96R 11852
76R 10549	85R 11037	

- K 12. Note for Information: Easements for the benefit of the premises in question reserved in the following deeds:

77R 16527	93R 18350
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CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE  
SCHEDULE B (CONTINUED)

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78R 14082

96R 11852

Q 13. If work has been performed on the land within the last six months which may subject the land to liens under the mechanics lien laws, the Company should be furnished satisfactory evidence that those who have performed such work have been fully paid and have waived their rights to a lien and this commitment is subject to such further exceptions as may be deemed necessary. If evidence is not provided or is unsatisfactory, this commitment/policy will be subject to the following exception:

"Any lien, or right to a lien, for services, labor or material, heretofore or hereafter furnished, imposed by law, and not shown on the public records."

L 14. Copies of this commitment have been furnished to:

Phillip Trautman - Champaign County Realty

David Atchley - HDC Engineering

Aaron Johnson - Heartland Bank

Nolan Craver.

M 15. Please refer inquiries regarding this order to Kathi Hall  
(kathleen.hall@ctt.com) at (217)356-0501.

\*\*\*END\*\*\*

P 16. Informational Note - Wire Instructions for Chicago Title & Trust Company, Champaign, IL, as follows:

Receiving Bank: Bank of America  
Chicago, Illinois  
ABA Routing No.: 0260-0959-3  
Account No.: 87656 60521  
Account Name: Chicago Title & Trust Company  
Escrow No.: 851243

These wiring instructions are for this specific transaction involving the Escrow Department of the Champaign, Illinois office of Chicago Title & Trust Company. These instructions, therefore, should not be used in other transactions without first verifying the information with the office. It is imperative that the wire text be exactly as indicated. Any extraneous information may cause delays in confirming the receipt of funds.

CHICAGO TITLE INSURANCE COMPANY  
COMMITMENT FOR TITLE INSURANCE

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ORDER NO. : 1253 ~~000891243~~ OCT 20 2008 CHA

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CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 or these Conditions.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions and Conditions and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. *The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at < <http://www.alta.org/> > .*

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Effective Date: May 1, 2008  
OCT 20 2008

Fidelity National Financial, Inc.  
Privacy Statement

CHAMPAIGN CO. P & Z DEPARTMENT

Fidelity National Financial, Inc. and its subsidiaries ("FNF") respect the privacy and security of your non-public personal information ("Personal Information") and protecting your Personal Information is one of our top priorities. This Privacy Statement explain FNF's privacy practices, including how we use the Personal Information we receive from you and from other specified sources, and to whom it may be disclosed. FNF follows the privacy practices described in the Privacy Statement and, depending on the business performed, FNF companies may share information as described herein.

**Personal Information Collected**

We may collect Personal Information about you from the following sources:

Information we receive from you on applications or other forms, such as your name, address, social security number, tax identification number, asset information and income information;

Information we receive from you through our Internet websites, such as your name, address, Internet Protocol address, the website links you used to get to our websites, and your activity while using or reviewing our websites.

Information about your transactions with or services performed by us, our affiliates, or others, such as information concerning your policy, premiums, payment history, information about your home or other real property, information from lenders and other third parties involved in such transactions, account balances, and credit card information; and

Information we receive from consumer or other reporting agencies and publicly recorded.

**Disclosure of Personal Information**

We may provide your Personal Information (excluding information we receive from our consumer or other credit reporting agencies) to various individuals and companies, as permitted by law, without obtaining your prior authorization. Such laws do not allow consumers to restrict these disclosures. Disclosures may include, without limitation, the following:

To insurance agents, brokers, representatives, support organizations, or others to provide you with services you have requested, and to enable us to detect or prevent criminal activity, fraud, material misrepresentation, or nondisclosure in connections with an insurance transactions.

To third-party contractors or service providers for the purpose of determining your eligibility for an insurance benefit or payment and/or providing you with services you have requested.

To an insurance regulatory, or law enforcement or other governmental authority, in a civil action, in connection with a subpoena or a governmental investigation

To companies that perform marketing services on our behalf or to other financial institutions with which we have had joint marketing agreements and/or

To lenders, lien holders, judgement creditors, or other parties claiming an encumbrance or an interest in title whose claim or interest must be determined, settled, paid or released prior to a title or escrow closing

We may also disclose your Personal Information to others when we believe, in good faith, that such disclosure is reasonably necessary to comply with the law or to protect the safety of our customers, employees, or property and/or to comply with a judicial proceeding, court order or legal process.

Disclosure to Affiliated Companies - We are permitted by law to share your name, address and facts about your transaction with other FNF companies, such as insurance companies, agents, and other real estate service providers to provide you with services you have requested, for marketing or product development research, or to market products or services to you. We do not, however, disclose information we collect from consumer or credit reporting agencies with our affiliates or others without your consent, in conformity with applicable law, unless such disclosure is otherwise permitted by law.

Disclosure to Nonaffiliated Third Parties - We do not disclose Personal Information about our customers or former customers to nonaffiliated third parties, except as outlines herein or as otherwise permitted by law.

**Confidentiality and Security of Personal Information**

We restrict access to Personal Information about you to those employees who need to know that information to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulation to guard Personal Information.

**Access to Personal Information/**

**Requests for Correction, Amendment, or Deletion of Personal Information**

As required by applicable law, we will afford you the right to access your Personal Information, under certain circumstances to find out to whom your Personal Information has been disclosed, and request correction or deletion of your Personal Information. However, FNF's current policy is to maintain customers' Personal Information for no less than your state's required record retention requirements for the purpose of handling future coverage claims.

For your protection, all requests made under this section must be in writing and must include your notarized signature to establish your identity.

Where permitted by law we may charge a reasonable fee to cover the costs incurred in responding to such requests. Please send requests to:

Chief Privacy Officer  
Fidelity National Financial, Inc.  
601 Riverside Avenue  
Jacksonville, FL 32204

**Changes to this Privacy Statement**

This Privacy Statement may be amended from time to time consistent with applicable privacy laws. When we amend this Privacy Statement, we will post a notice of such changes on our website. The effective date of this Privacy Statement, as stated above, indicates the last time this Privacy Statement was revised or materially changed.



201 West Kenyon Road  
Champaign, IL 61820



Phone: (217) 363-3269  
Fax: (217) 373-7905

**Public Health**  
Prevent. Promote. Protect.

**Champaign County Public  
Health Department**

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CHAMPAIGN CO. P & Z DEPARTMENT

September 18, 2008

Mr. Dave Atchley  
HDC Engineering  
201 W. Springfield, Suite 300  
P.O. Box 140  
Champaign IL 61824-0140

Dear Mr. Atchley:

This letter is in regard to the Trautmans Section 35 Phase 2 Subdivision, Lot 201, located in Newcomb Township, Champaign County, Illinois. According to the *Plat Act* (765 IL.CS 205/2), we are authorized to review the plat with respect to private sewage disposal systems.

Based on the lot having a usable area of 31,000 sq. ft., it would appear that some type of private sewage disposal system could be designed for this property. This would depend on items such as: house size, location of house, location of wells, etc. An emphasis on the layout prior to construction will assist with achieving proper setback distances. Depending on the system design, certain restrictions and/or permits may apply.

I would strongly recommend that a soil evaluation be completed for the property, even though a percolation test failed. Percolation tests are restrictive compared to a soil evaluation for system suitability. I would also like to recommend the area proposed for the septic system be identified, marked off and protected, prior to construction.

Upon review of the information submitted for Trautmans Section 35 Phase 2 Subdivision, Lot 201, you may proceed as planned. Please contact me at (217) 531-2919 if you have any questions.

Sincerely,

Jeff Blackford  
Program Coordinator

SEP 22 2008

LAND EVALUATION AND SITE ASSESSMENT  
WORKSHEET

LESA - 1

Worksheet for calculating the total point value for the Land Evaluation and Site Assessment System. Refer to the Champaign County Land Evaluation and Site Assessment System manual for specific instructions and definitions.

I. Land Evaluation Value.....		<u>79</u>
II. Site Assessment		
A. Agricultural Land Uses		
1. Percentage of Area in Agricultural Uses within one and one-half (1 1/2) miles of Site.....		<u>12</u>
90% or more	18	
75% to 89%	16	
50% to 74%	12	
25% to 49%	8	
Less than 25%	0	
2. Land Use Adjacent to Site.....		<u>8</u>
All Sides in Agricultural Use	18	
1 Side in Non-Agricultural Uses	16	
2 Sides in Non-Agricultural Uses	12	
3 Sides in Non-Agricultural Uses	8	
All Sides in Non-Agricultural Uses	0	
3. Percentage of Site in or Suitable for Agricultural Uses.....		<u>0</u>
75% to 100%	10	
50% to 74%	8	
25% to 49%	6	
10% to 24%	4	
0 to 9%	0	
B. Zoning and Prior Governmental Actions		
1. Percentage of land zoned AG-1, Agriculture, AG-2, Agriculture and/or CR, Conservation-Recreation within 1.5 miles of Site.....		<u>8</u>
90% or more	10	
75% to 89%	8	
50% to 74%	6	
25% to 49%	4	
Less than 25%	0	
2. Percentage of Site zoned AG-1, Agriculture, AG-2, Agriculture or CR, Conservation-Recreation.....		<u>10</u>
90% to 100%	10	
75% to 89%	8	
50% to 74%	6	
25% to 49%	4	
24% or less	0	
3. Have prior governmental actions committed site to development.....		<u>6-10</u>
No	10	
Partially	6	
Yes	0	
C. Compatibility/Impact of Uses		
1. Distance from City or Village Corporate Limits.....		<u>6</u>
More than 1.5 miles	10	
1 to 1.49 miles	8	
.5 to .99 miles	6	
.25 to .49 miles	4	
0 to .24 miles	2	
Adjacent	0	
2. Compatibility of proposed use and zoning change with surrounding Agricultural Uses.....		<u>6</u>
Incompatible	10	
Somewhat Incompatible	6	
Compatible	0	
D. Land Use Feasibility		
1. Size of Site Feasible for Farming.....		<u>0</u>
100 Acres or More	8	
40 to 99 acres	6	
20 to 39 acres	4	
5 to 19 acres	2	
under 5 acres	0	

- 2. Soil Limitations for Proposed Use and Proposed Zoning Change.....
  - Severe 10
  - Moderate to Severe 8
  - Moderate 6
  - Slight to Moderate 4
  - Slight 0

6

- 3a. Alternative Sites proposed on less productive land.....
  - Yes 8
  - No 0

0

OR

- 3b. Need for additional land.....
  - Vacant buildable land available 8
  - Little buildable land remaining 0

8

E. Existence of Infrastructure

- 1. Availability of Central Sewage System.....
  - More than 1.5 miles 10
  - .75 to 1.49 miles 8
  - .5 to .74 miles 6
  - .25 to .49 miles 4
  - 200 feet to .24 miles 2
  - 200 feet or less or on-site 0

4

- 2. Availability of Central Water System.....
  - More than 1.5 miles 10
  - .75 to 1.49 miles 8
  - .5 to .74 miles 6
  - .25 to .49 miles 4
  - 200 feet to .24 miles 2
  - 200 feet or less or on-site 0

4

- 3. Transportation.....
  - Inadequate for Planned Use & Proposed Rezoning - site beyond 1.5 miles from City or Village Corporate Limits 10
  - Inadequate for Planned Use & Proposed Rezoning, Some minor improvements required - site beyond 1.5 miles from City/Village Corporate Limits 8
  - Adequate for Planned Use & Proposed Rezoning - site beyond 1.5 miles of City/Village Corporate Limits 6
  - Inadequate for Planned Use & Proposed Rezoning - site within 1.5 miles of City or Village Corporate Limits 4
  - Inadequate for Planned Use & Proposed Rezoning, Some minor improvements required - site within 1.5 miles of City/Village Corporate Limits 2
  - Adequate for Planned Use & Proposed Rezoning - site within 1.5 miles of City/Village Corporate Limits 0

4

- 4. Distance of site from fire protection service.....
  - Not in fire protection district (FPD) 10
  - In a FPD, but more than 5 miles from fire protection service 8
  - 2 1/2 to 5 miles - volunteer 6
  - 0 to 2.49 miles - volunteer 4
  - 2 1/2 to 5 miles - paid 2
  - 0 to 2.49 miles - paid 0

6

F. Environmental Impact of Proposed Use and Zoning Change

- 1. Impact on Flooding/Drainage.....
  - Negative impact 6
  - Some impact 4
  - Little or none with special design or protective measures provided or required 2
  - None 0

0

- 2. Impact on historic, cultural, unique or important vegetation areas, or other areas of ecological importance.....
  - Negative impact 6
  - Some impact 4
  - No impact 0

0

- 3. Impact on recreation and open spaces.....
  - Negative impact 6
  - Some impact 4
  - No impact 0

0

4. Impact on Water Quality.....	
Severe	10
Moderate to Severe	8
Moderate	6
Slight to Moderate	4
Slight	0

0

5. Impact on Water Supply.....	
Severe	10
Moderate to Severe	8
Moderate	6
Slight to Moderate	4
Slight	0

0

TOTAL LAND EVALUATION AND SITE ASSESSMENT POINT VALUE.....

167-170






Assessing a Site Where Proposed Agricultural Uses are to be Converted:

- 220 - 300 - Very High Rating for Protection
- 200 - 219 - High Rating for Protection
- 180 - 199 - Moderate Rating for Protection
- 179 or below - Low Rating for Protection

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005






Page 1 of 4

<b>Worst Or Nearly Worst Condition<sup>3</sup></b> 	<b>Much Worse Than Typical Condition<sup>4</sup></b> 	<b>More Or Less Typical Condition<sup>5</sup></b> 	<b>Much Better Than Typical Condition<sup>4</sup></b> 	<b>Ideal Or Nearly Ideal Conditions<sup>6</sup></b> 
<b>RRO<sup>2</sup> ZONING FACTOR: Availability of water supply</b>				
In the area with suspected problems of groundwater availability near existing wells which have experienced reliability problems and for which no investigations have proven otherwise.	An area with suspected problems of groundwater availability and for which no investigations have proven otherwise.	Reasonable confidence of water availability (area with no suspected problems of groundwater availability) and no reason to suspect impact on neighboring wells.	?	Virtual certainty of water availability (ie, located above the Mahomet-Teays Aquifer) or where anywhere that investigations indicate availability with no significant impact on existing wells.
<b>RRO<sup>2</sup> ZONING FACTOR: Suitability for onsite wastewater systems</b>				
100% of site with Low or Very Low Potential for septic tank leach fields.	More than 50% of site (but less than 95%) with Low Potential for septic tank leach fields.	No more than 50% of site with Low Potential for septic tank leach fields.	More than 50% of site with at least a Moderate Potential for septic tank leach fields.	100% of site with at least a High Potential for septic tank leach fields or positive soil analysis (regardless of soil potential).
<b>RRO<sup>2</sup> ZONING FACTOR: Flood hazard status</b>				
Every lot is entirely within the SFHA (based on actual topography) as is the road that provides access.	Some of the proposed lots and parts of the road that provide access are in the SFHA. Some lots may require fill to have adequate buildable area above the BFE.	Small portions of the site may be in the SFHA but all lots have adequate buildable area outside of the SFHA.	?	No part of the proposed site nor the roads that provide emergency access are located in the Special Flood Hazard Area (SFHA, which is the 100-year floodplain).
<b>RRO<sup>2</sup> ZONING FACTOR: The availability of emergency services<sup>7</sup></b>				
Located more than five road miles from a fire station within the district with an intervening railroad crossing with heavy rail traffic.	Located more than five road miles from a fire station within the district.	Located about five road miles from a fire station within the district.	Located between two-and-half and five road miles from a fire station within the district.	Located less than two-and-half road miles from the fire station within the district and with no intervening railroad grade crossings.
<b>RRO<sup>2</sup> ZONING FACTOR: The presence of nearby natural<sup>8</sup> or manmade hazards</b>				
More than one man-made hazard is present or adjacent to the site.  Access roads from fire protection station are prone to snow drifts.	One or more man-made hazards are present or adjacent to the site.  Access roads from fire protection station are prone to snow drifts.	It is not unusual for a site to be close to some kind of hazard such as a pipeline, high tension electrical transmission lines, or railroad tracks. Snow drifts may block access from fire protection station.	Not close to any man-made hazard although snow drifts may block access from fire protection station.	Not close to any man-made hazard and relatively close to urbanized areas.

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005

Page 2 of 4

<b>Worst Or Nearly Worst Condition<sup>3</sup></b> 	<b>Much Worse Than Typical Condition<sup>4</sup></b> 	<b>More Or Less Typical Condition<sup>5</sup></b> 	<b>Much Better Than Typical Condition<sup>4</sup></b> 	<b>Ideal Or Nearly Ideal Conditions<sup>6</sup></b> 
<b>RRO<sup>2</sup> ZONING FACTOR: Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat</b>				
Significant negative effects for more than one concern.	?	Archaeological concerns may apply to a small part of the site but in general no negative effects. <sup>6</sup>	?	Nothing present to be concerned about.
<b>RRO<sup>2</sup> ZONING FACTOR: Effects of nearby farm operations on the proposed development</b>				
Bordered by row crop agriculture on three sides and an existing livestock and/or stable operation on the fourth side.	Bordered by row crop agriculture on three sides but also close to and downwind of an existing livestock and/or stable operation.	Bordered on all sides by significant (more than a few acres) row crop agriculture so there are some incompatibilities that may lead to complaints from residences.	Bordered on no more than two sides by significant row crop agriculture	No effects because not adjacent to significant row crop agriculture nor downwind of any animal operations.
<b>RRO<sup>2</sup> ZONING FACTOR: The LESA score</b>				
<p>292 to 286 (Very high rating for protection)</p> <p>Land Evaluation part: 100 to 98 (100% of soil in Ag. Value Groups 1 &amp; 2; Flanagan &amp; Drummer soils generally)</p> <p>Site Assessment part: 192 to 188 (See hypothetical worksheet for assumptions)</p>	<p>285 to 256 (Very high rating for protection)</p> <p>Land Evaluation part: 97 to 93 (remainder between worst &amp; overall average)</p> <p>Site Assessment part: 187 to 163 (remainder between worst &amp; overall average)</p>	<p>254 to 238 (Very high rating for protection)</p> <p>Land Evaluation part: 92 (reflects overall average for entire County)</p> <p>Site Assessment part: 162 to 146 (See hypothetical worksheet for assumptions)</p>	<p>237 to 188 (Very high rating to moderate rating for protection)</p> <p>Land Evaluation part: 91-85 (remainder between overall average &amp; ideal)</p> <p>Site Assessment part: 145 to 103 (remainder between overall average &amp; ideal)</p>	<p>186 to 121 (Moderate rating to low (170) rating for protection)</p> <p>Land Evaluation part: 84 to 41<sup>4</sup> (No best prime farmland soils)</p> <p>Site Assessment part: 102 to 80 (Conditions intended to reflect a rural location within a municipal ETJ without sewer or water; typical urban subdivision at or near municipal boundary has site assessment of 82 to 54; see hypothetical worksheet for assumptions)</p>

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**






REVISED November 17, 2005

<p><b>Worst Or Nearly Worst Condition<sup>3</sup></b> ■</p>	<p><b>Much Worse Than Typical Condition<sup>4</sup></b> □</p>	<p><b>More Or Less Typical Condition<sup>5</sup></b> ○</p>	<p><b>Much Better Than Typical Condition<sup>4</sup></b> ☆</p>	<p><b>Ideal Or Nearly Ideal Conditions<sup>6</sup></b> ★</p>
<p><b>RRO<sup>2</sup> ZONING FACTOR: Adequacy and safety of roads providing access</b></p>				
<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load) in terms of both pavement width and shoulder width. There may also be other deficiencies in the roadway.</p> <p>The point of access to the Township Highway is a location with serious visibility problems.</p> <p>The site is at more than five miles from a County or State highway. The intersections are uncontrolled and have visibility problems.</p>	<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load or traffic speed) in terms of both pavement width and shoulder width between the proposed site and where the road connects to a County or State Highway <b>OR</b> there is an uncontrolled railroad crossing between the proposed site and where the road connects to a County or State Highway. The site is within five miles of a County or State highway. The road intersections are uncontrolled and have visibility problems. The point of access to the Township Highway has reasonable visibility.</p>	<p>Access from a Township Highway which does not have adequate shoulder width and may also have insufficient (based on either existing traffic load or traffic speed) pavement width for a small portion of the distance between the proposed site and where the road connects to a County or State Highway. The site is within five miles of a County or State highway. The intersections are uncontrolled and have visibility problems. The point of access to the Highway has good visibility. See discussion of Effects On Farms for farm related traffic concerns.</p>	<p>Access is from a Township Highway with no deficiencies (even including the proposed increase in ADT) between the proposed site and where the road connects to a County or State Highway.</p> <p>The intersections are uncontrolled and have visibility problems.</p> <p>Access is at a location with good visibility.</p>	<p>Access from any of the following: 1) a County Highway or 2) a Township Highway with no deficiencies (even including the proposed increase in ADT) and is less than one mile travel to a County or State Highway.</p> <p>Access is at a location with good visibility.</p> <p>Access should not be directly to a State or Federal highway because vehicle turning movements could create safety concerns.</p>
<p><b>RRO<sup>2</sup> ZONING FACTOR: Effects on drainage both upstream and downstream</b></p>				
<p>100% of site has wet soils that must be drained for development. Large parts of the site also pond. There is no natural drainage outlet for either surface or subsurface flows so offsite improvements are necessary. An alternative problem is the condition in which the site is bisected by a natural drainageway with large flows from upstream offsite areas which have significant effects on site development.</p>	<p>Between 90% and 100% of the site has wet soils that must be improved for development.</p> <p>Only about half of the site drains to existing road ditches. The rest of the site drains over adjacent land that is under different ownership which require offsite improvements. Ponding is a significant problem.</p>	<p>Approximately 90% of the site has wet soils that must be improved for development. There may be also be large areas where ponding occurs. Most of the site drains through township road ditches that do not have adequate capacity.</p>	<p>Probably less than half of the site has wet soils.</p> <p>The site drains to Township road ditches that are more or less adequate or to other natural drainage features that have adequate capacity.</p>	<p>No wet soils so no "dry weather flows" problems <b>OR</b> if wet soils are present the site drains directly to a drainage district facility with adequate capacity or to a river.</p>

**Table Of Common Conditions<sup>1</sup> Influencing The Suitability Of Locations For Rural Residential Development In Champaign County (continued)**

REVISED November 17, 2005

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Worst Or Nearly Worst Condition <sup>3</sup> 	Much Worse Than Typical Condition <sup>4</sup> 	More Or Less Typical Condition <sup>5</sup> 	Much Better Than Typical Condition <sup>4</sup> 	Ideal Or Nearly Ideal Conditions <sup>6</sup> 
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**NOTES**

1. Five different "typical" conditions are identified that are representative of the range of conditions that exist in Champaign County. The characterization of these conditions are based solely on the opinions of County Staff.
2. RRO= Rural Residential Overlay
3. The WORST conditions are based on the worst possible conditions for each factor that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine "worst" ratings on all factors.
4. MUCH WORSE THAN TYPICAL and MUCH BETTER THAN TYPICAL conditions are Staff judgements.
5. Where possible, TYPICAL Champaign County rural residential development site conditions are based on averages for the entire County. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size). Differences in water availability are localized and not averaged over the entire County.
6. The IDEAL Champaign County rural residential development site conditions are based on the best possible conditions for each factor that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine "ideal" ratings on all factors.
7. Ambulance service can presumably be further than five miles distance and be acceptable. *NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.*
8. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc.



**Table 2. Comparing The Proposed Site Condition To Common Champaign County Conditions**  
**Case 632-AM-08** **PRELIMINARY DRAFT**

RRO Rezoning Factor	Conditions At The Proposed Site Are Most Comparable To The Following Common Conditions:
1) Availability of water supply	○ <b>More or Less Typical Conditions.</b> The subject property is not in the area with limited groundwater availability; there is reasonable confidence of water availability; and there is no reason to suspect impact on neighboring wells.
2) Suitability for onsite wastewater systems	☆ <b>Much Better Than Typical Conditions.</b> 100% of the soils have a Medium suitability compared to the approximately 51% of the entire County that has a Low Potential.
3) Flood hazard status	⊕ <b>Nearly Ideal Conditions.</b> No part of the proposed site is located within the Special Flood Hazard Area.
4) The availability of emergency services <sup>4</sup>	☆ <b>Much Better Than Typical Conditions.</b> The site is approximately 3.3 road miles from the Cornbelt Fire Station.
5) The presence of nearby natural or manmade hazards <sup>5</sup>	⊕ <b>Ideal or Nearly Ideal Conditions.</b> There no natural or man-made hazards located near the subject property, and it is relatively close to an urbanized area.
6) Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat	⊕ <b>Ideal Conditions.</b> All agency reports recommend project clearance.
7) Effects of nearby farm operations on the proposed development	☆ <b>Much Better Than Typical Conditions.</b> The proposed RRO is bordered on only one side by row crop agriculture.
8) The LESA score	⊕ <b>Ideal Conditions.</b> There is no best prime farmland on the property and the LE score is 79. The Site Assessment score is 88 to 91 for a Total score of 167 to 170.
9) Adequacy and safety of roads providing access	☆ <b>Much Better Than Typical Conditions.</b> Access is from CR 2425N, a Township Highway, with minor deficiencies between access and where the road connects to IL Rt. 47, which is 1.25 miles away.
10) Effects on drainage both upstream and downstream	⊕ <b>Ideal Conditions.</b> Although all of the soils on the subject property are "wet" soils; there is good surface drainage to the large artificial lake that makes up the southern half of the subject property.

LEGEND (Also see the Descriptions of Prototypical Champaign County Conditions)

- ⊕ *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is more or less equal to the ideal Champaign County site
- ☆ *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is much better than typical but not equal to the ideal Champaign County site
- *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is equal to or somewhat better than the typical Champaign County site
- *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is worse than the typical Champaign County site
- *WITH NO CORRECTIVE IMPROVEMENTS*, the proposed site is more or less equal to the worst Champaign County site for

**Table 2. Comparing The Proposed Site Condition To Common Champaign County Conditions**  
**Case 632-AM-08**

**PRELIMINARY DRAFT**

DECEMBER 5, 2008

Page 2 of 2

RRO Rezoning Factor	Conditions At The Proposed Site Are Most Comparable To The Following Common Conditions:
<p>NOTES</p> <ol style="list-style-type: none"><li>1. Typical Champaign County rural residential development site conditions are based on averages for the entire County except for water availability. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size).</li><li>2. The ideal Champaign County rural residential development site conditions are based on the best possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine ideal ratings on all factors.</li><li>3. Typical factor is based on a review of data from major rural subdivisions in the AG-1 and CR districts and does not reflect conditions found in rural residential development that occurred under the requirements of the Illinois Plat Act and without County subdivision approval. These Plat Act Developments typically take up much more land since the minimum lot size is five acres.</li><li>4. Ambulance service can presumably be further than five miles distance and be acceptable. <i>NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.</i></li><li>5. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc.</li></ol>	

**ATTACHMENT R. Summary Of Site Comparison For Factors Relevant To Development Suitability**  
**Case 632-AM-08** **PRELIMINARY DRAFT** **DECEMBER 5, 2008**

Factors Related To Development Suitability	Proposed Site Is Most Similar To Which Common Condition:				
	Worst Or Nearly Worst Condition <sup>1</sup> ■	Much Worse Than Typical Condition <sup>1</sup> □	More or Less Typical Condition <sup>1</sup> ○	Much Better Than Typical Condition <sup>1</sup> ☆	Ideal or Nearly Ideal Condition <sup>1</sup> ⊕
Flood Hazard Status					⊕
Other Hazards					⊕
Environmental Concerns					⊕
LESA Score					⊕
Effects on Drainage <sup>2</sup>					⊕
Septic Suitability				☆	
Emergency Services				☆	
Effects <i>OF</i> Farms				☆	
Road Safety <sup>2</sup>				☆	
Availability Of Water			○		

**NOTES**

1. All comparisons are to common Champaign County conditions. Typical conditions are not necessarily suitable for development. See the text.

2. Also related to the finding on Compatibility With Surrounding Agriculture. See that discussion and rating.

**ATTACHMENT S. Summary Of Comparison For Factors Relevant To Compatibility With Agriculture**  
**Case 632-AM-08** **PRELIMINARY DRAFT** DECEMBER 5, 2008

Factors Related To Compatibility With Agriculture	Compared To The Non-RRO Alternative <sup>1</sup> , The Proposed RRO Development Would Have:		
	MORE EFFECTS	SAME EFFECTS (Or Nearly Same)	LESS EFFECTS
Land Conversion: By Ownership <sup>2</sup>		<b>NEARLY SAME</b>	
By Development <sup>3</sup>	<b>100% MORE</b>		
Road Safety <sup>4</sup>	<b>100% MORE</b>		
Effects <b>ON</b> Farms	<b>50% MORE</b>		
Drainage <sup>4</sup>		<b>NEARLY SAME</b>	
Land Evaluation Score		<b>NEARLY SAME</b>	

**NOTES**

1. The Non-RRO Alternative is a **rough estimation** by staff of the amount of development that may occur without RRO designation and includes considerations of feasibility and marketability. See the text.
2. Refers to the division of land that is suitable for farming into smaller tracts. Non-RRO Alternatives that would result in large tracts of land being divided into a number of 35 acre tracts are generally considered to have only a minor detrimental effect on production agriculture.
3. Refers to the amount of land that is (more or less) actually developed.
4. Also related to the finding on site suitability for rural residential development.

1

*PRELIMINARY DRAFT*

632-AM-08

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

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

Date: December 5, 2008

Petitioners: Mike Trautman

Request: Amend the Zoning Map to allow for the development of 1 single family residential lot in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **December 11, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Mike Trautman, owns the subject property.
2. The subject property is a 1.66 acre tract that is in the East Half of the Southwest Quarter of the Southwest Quarter of Section 35 of Newcomb Township, and commonly known as the land east of Trautman's Section 35 Subdivision approximately at 420 CR 2425N, Mahomet. The legal description for the subject property is as follows:

Beginning at the Northwest corner of the Southwest Quarter of the Southwest Quarter of said Section 35, proceed on a local bearing of North 90°00'00" East 1041.70 feet along the North line of the Southwest Quarter of the Southwest Quarter of said Section 35 to the True Point of Beginning; thence continue North 90°00'00" East 278.30 feet along the said North line; thence South 00°00'00" East 300.00 feet; thence North 90°00'00" West 278.30 feet; thence North 00°00'00" West 300.00 feet to the True Point of Beginning encompassing 1.917 acres more or less in Champaign County, Illinois.
3. The subject property is located within the one-and-a-half-mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities with zoning have protest rights in rezonings and they are notified of such cases, the Village has been notified but no comments have been received to date. The subject property is also located in Newcomb Township, which has a planning commission. Townships with planning commissions have protest rights in rezonings and they are notified of such cases, the township has been notified but no comments have been received to date.

4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner indicated they were applying for the RRO designation.
5. Land use and zoning on the subject property and in the immediate vicinity are as follows:
  - A. The subject property is zoned AG-1 Agriculture and is currently part of a large lot with a pond on it.
  - B. Land west of the subject property is zoned AG-1 Agriculture and is in use as single family dwellings.
  - C. Land east and south of the subject property is zoned AG-1 Agriculture, and is part of the same large lot with a pond as the subject property.
  - D. Land north of the subject property is zoned CR Conservation Recreation and is in use as farmland.

**GENERALLY REGARDING THE REQUIREMENTS FOR ESTABLISHING AN RRO DISTRICT**

6. Generally regarding relevant requirements from the *Zoning Ordinance* for establishing an RRO District:
  - A. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is in addition to the pre-existing (underlying) rural zoning. An RRO is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District.
  - B. Paragraph 5.4.3.C.1. of the *Zoning Ordinance* requires the Zoning Board of Appeals to make two specific findings for RRO approval which are the following:
    - (1) That the proposed site is or is not suitable for the development of the specified maximum number of residences; and
    - (2) That the proposed residential development will or will not be compatible with surrounding agriculture.
  - C. Paragraph 5.4.3 C.2. of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:
    - (1) Adequacy and safety of roads providing access to the site;
    - (2) Effects on drainage both upstream and downstream;
    - (3) The suitability of the site for onsite wastewater systems;
    - (4) The availability of water supply to the site;
    - (5) The availability of emergency services to the site;
    - (6) The flood hazard status of the site;

ITEM 6.C. CONTINUED

- (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat;
- (8) The presence of nearby natural or man-made hazards;
- (9) Effects on nearby farmland and farm operations;
- (10) Effects of nearby farm operations on the proposed residential development;
- (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated;
- (12) The Land Evaluation and Site Assessment (LESA) score of the subject site;

*GENERALLY REGARDING CHAMPAIGN COUNTY LAND USE POLICIES*

7. The Land Use Goals and Policies were adopted on November 29, 1977, and were the only guidance for County Map Amendments until the Land Use Regulatory Policies-Rural Districts (LURP's) were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR). The LURP's were amended September 22, 2005, but the amendment contradicts the current Zoning Ordinance and cannot be used in concert with the current Zoning Ordinance. The LURP's adopted on November 20, 2001, remain the relevant LURP's for discretionary approvals (such as map amendments) under the current Zoning Ordinance. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies. LURP's that are relevant to any proposed RRO District are the following:
  - A. Land Use Regulatory Policy 1.1 provides that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. Other land uses can be accommodated in those areas provided that:
    - (1) The conversion of prime farmland is minimized;
    - (2) The disturbance of natural areas is minimized;
    - (3) The sites are suitable for the proposed use;
    - (4) Infrastructure and public services are adequate for the proposed use;
    - (5) The potential for conflicts with agriculture is minimized.
  - B. Land Use Regulatory Policy 1.2 states that on the best prime farmland, development will be permitted only if the land is well suited to it, and the land is used in the most efficient way consistent with other County policies.
  - C. Land Use Regulatory Policy 1.3.3 provides that development beyond the basic development right will be permitted if the use, design, site and location are consistent with County policy regarding:



**PRELIMINARY DRAFT**

ITEM 7.C. CONTINUED

- (1) The efficient use of prime farmland;
  - (2) Minimizing the disturbance of natural areas;
  - (3) Suitability of the site for the proposed use;
  - (4) Adequacy of infrastructure and public services for the proposed use; and
  - (5) Minimizing conflict with agriculture.
- D. Land Use Regulatory Policy 1.4.2 states that non-agricultural land uses will not be permitted if they would interfere with farm operations or would damage or negatively effect the operation of agricultural drainage systems, rural roads or other agriculture related infrastructure.
- E. Land Use Regulatory Policy 1.5.3 states that development will not be permitted if existing infrastructure, together with proposed improvements, is inadequate to support the proposed development effectively and safely without undue public expense.
- F. Land Use Regulatory Policy 1.5.4 states that development will not be permitted if the available public services are inadequate to support the proposed development effectively and safely without undue public expense.

**GENERALLY REGARDING THE MAXIMUM ALTERNATIVE DEVELOPMENT WITHOUT AN RRO**

8. Regarding the maximum number of new zoning lots that could be created out of the subject property without the authorization for the RRO Zoning District:
- A. As amended on February 19, 2004, by Ordinance No. 710 (Case 431-AT-03 Part A), the *Zoning Ordinance* requires establishment of an RRO District for subdivisions of any tract that existed on January 1, 1998 with more than three lots (whether at one time or in separate divisions) less than 35 acres in area each (from a property larger than 50 acres) and/or subdivisions with new streets in the AG-1, AG-2, and CR districts (the rural districts) except that parcels between 25 and 50 acres may be divided into four parcels.
  - B. The parent tract for the subject property is a remainder from the tract from which the Trautman Section 35 Subdivision was created. Trautman Section 35 Subdivision included three lots and received Final Plat Approval on November 27, 2001, which means that the parent tract for the proposed RRO did not exist in its present configuration on January 1, 1998. This means that no lots smaller than 35 acres in area can be created from the subject property without authorization for the RRO Zoning District.

**GENERALLY REGARDING THE PROPOSED RRO DISTRICT**

9. The plan that was received on August 29, 2008, in fulfillment of the Schematic Plan requirement indicates the following:

ITEM 9. CONTINUED

- A. There is one proposed buildable lot that is 1.917 acres in gross lot area. After dedication of right-of-way to CR 2425N the net lot area is 1.661 acres.
- B. The RRO District is necessary for the proposed lot. (See Item 8B.)
- C. The subject property has access to CR 2425N and is located approximately 1.25 miles east of IL Rt. 47.
- D. The proposed lot meets or exceeds all of the minimum lot standards in the *Zoning Ordinance*.
- E. The parent tract for the proposed RRO is what remains of the large lot that the Trautman Section 35 Subdivision was created from. It also contains the majority of what appears to be an illegally nonconforming artificial lake that is greater than 3.0 acres in area, which requires a Special Use Permit.

**GENERALLY REGARDING THE SOILS ON THE PROPERTY**

- 10. A Section 22 Natural Resource Report was prepared for the proposed RRO by the Champaign County Soil and Water Conservation District and received on October 9, 2008, which discusses the types of soils and other site characteristics, as follows:
  - A. Regarding the soil on the subject property, its extent, and its relative value. The subject property consists entirely of Xenia soil type, 2-5% slopes (map unit 291B).
  - B. The subject property is not Best Prime Farmland under the Champaign County Land Use Regulatory Policies, as follows:
    - (1) Best Prime Farmland is identified by the Champaign County Land Use Regulatory Policies – Rural Districts as amended on November 20, 2001, as any tract on which the soil has an average Land Evaluation Factor of 85 or greater using relative values and procedures specified in the *Champaign County, Illinois Land Evaluation and Site Assessment System*.
    - (2) The Natural Resource Report indicates the overall Land Evaluation factor for the soil on the subject property is only 79.
  - C. Site specific concerns stated in the Section 22 report are the following:
    - (1) The area that is to be developed has one soil type that has severe wetness characteristics. This will be especially important for the septic system that is planned.
    - (2) The site is adjacent to a lake and therefore care in construction and maintenance of the site will be important to minimize any adverse effects on lake water quality from runoff into the lake.

GENERALLY REGARDING THE ADEQUACY AND SAFETY OF ROADS

11. Regarding the adequacy and safety of roads providing access to the proposed RRO District:
  - A. The Institute of Transportation Engineers publishes guidelines for estimating of trip generation from various types of land uses in the reference handbook *Trip Generation*. Various statistical averages are reported for single family detached housing in *Trip Generation* and the average “weekday” traffic generation rate per dwelling unit is 9.55 average vehicle trip ends per dwelling unit. *Trip Generation* does not report any trip generation results for rural residential development.
  - B. The Staff report *Locational Considerations for Rural Residential Development in Champaign County, Illinois* that led to the development of the RRO Amendment, incorporated an assumed rate of 10 average daily vehicle trip ends (ADT) per dwelling unit for rural residences. The assumption that each proposed dwelling is the source of 10 ADT is a standard assumption in the analysis of any proposed RRO.
  - C. Based on the standard assumption that each proposed dwelling is the source of 10 ADT, the single residence in the requested RRO District is estimated to account for an increase of approximately 10 ADT in total, which is a 100% increase over the non-RRO alternative.
  - D. The Illinois Department of Transportation’s *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
    - (1) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
    - (2) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
    - (3) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
    - (4) A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
  - E. The Illinois Department of Transportation’s *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet.
  - F. The subject property is located on CR 2425N approximately 1.25 miles east of IL Rt. 47. At this point 2425N is 20 feet wide.

ITEM 11. CONTINUED

- G. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The most recent (2006) AADT data in the vicinity of the subject property indicates that CR 2425N has 500 AADT where it passes the subject property.
- H. The relevant geometric standards for visibility are found in the *Manual of Administrative Policies of the Bureau of Local Roads and Streets* prepared by the Bureau of Local Roads and Streets of the Illinois Department of Transportation. Concerns are principally related to “minimum stopping sight distance”. Design speed determines what the recommended distance is. There appear to be no visibility concerns related to the placement of a new driveway.
- I. Overall, the subject property and proposed RRO are comparable to “more or less typical” conditions for Champaign County in terms of common conditions for the adequacy and safety of roads providing access because the subject property is located approximately 1.25 miles from IL 47, but CR 2425N may be deficient regarding traffic capacity.

**GENERALLY REGARDING DRAINAGE**

- 12. Regarding the effects of the proposed RRO District on drainage both upstream and downstream:
  - A. The Professional Engineer’s Drainage Explanation was received on August 29, 2008, and describes the topography of the subject property and how that relates to downstream properties and the installation of septic systems, as follows:
    - (1) The south half of the proposed lot is a pond.
    - (2) The site varies in elevation from approximately 718 feet at the northwest corner to 712.5 feet at the water’s edge which is an average slope of approximately 4.5% north to south.
    - (3) The site is current unimproved, and drains from CR 2425N to the south by overland flow into the pond. The pond outlets to the east by overland flow for 2500 feet before flowing into the Sangamon River.
    - (4) The proposed drainage pattern will be very similar to the existing pattern. Runoff will not be increased from existing conditions, and the subdivision will have permanent grass and vegetation, reducing long-term soil erosion.
    - (5) The subdivision will have less than 16% impervious area. A culvert will have to be installed to accommodate the driveway.
    - (6) The proposed lot will have adequate area for a private well and onsite wastewater disposal. Stormwater management facilities should not be required since less than 16% of this site will be made impervious by the proposed RRO.

ITEM 12. CONTINUED

- B. Staff evidence relevant to the drainage conditions on the subject property is as follows:
- (1) The topographic contours do not indicate any areas of significant storm water ponding on the subject property.
  - (2) The Champaign County Zoning Ordinance does not contain a minimum required ground slope but 1% is normally considered a minimum desirable ground slope for residential development.
- C. Overall, the proposed RRO District is comparable to “ideal or nearly ideal” conditions for Champaign County in terms of common conditions for the drainage effects on properties located both upstream and downstream because of the following:
- (1) The site has an overall slope of 4.5%.
  - (2) Although most of the soils on the subject property would be considered wet soils, the site drains directly to a large artificial lake with adequate capacity, which then drains to the Sangamon River.

**GENERALLY REGARDING SUITABILITY OF THE SITE FOR ONSITE WASTEWATER SYSTEMS**

13. Regarding the suitability of the site for onsite wastewater systems:
- A. The pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). The worksheet for the relevant soil type on the subject property can be summarized as follows:
- Xenia silt loam, 2-5% slopes, (map unit 291B) has Medium suitability for septic tank leach fields with a soil potential index of 79. Xenia has severe wetness problems due to a high water table (2 to 6 feet deep) and severely permeability. The typical corrective measure is a curtain drain to lower groundwater levels and/or a large absorption field. Xenia soil makes up all of the subject property.
- B. The petitioner submitted a letter from Jeff Blackford of the Public Health Department, dated September 18, 2008, which indicated the following:
- (1) The subject property has a usable area of 31,000 square feet, therefore some type of private sewage disposal system could be designed for the property. An emphasis on the layout of the lot prior to construction will assist with achieving proper setback distances.
  - (2) Jeff would strongly recommend a soil evaluation be completed for the property, even though a percolation test failed because percolation tests are restrictive compared to soil evaluations.

ITEM 13. CONTINUED

- C. The land area of 31,000 square feet would meet the standard of Subsection 4.3.4 in the *Zoning Ordinance*, which requires lots created after September 21, 1993, to be 30,000 square feet in area if they have neither public water nor a public sanitary sewer.
- D. The subject property is comparable to “much better than typical” conditions for Champaign County because 100% of the soils on the subject property have Medium suitability, as compared to the approximately 51% of the entire County that has a Low Potential, and the property appears to have adequate area for an onsite wastewater disposal system.

**GENERALLY REGARDING THE AVAILABILITY OF GROUNDWATER AT THE SITE**

- 14. Regarding the availability of water supply to the site;
  - A. The Staff report *Locational Considerations and Issues for Rural Residential Development in Champaign County, Illinois* included a map generally indicating the composite thickness of water bearing sand deposits in Champaign County. The map was an adaptation of a figure prepared by the Illinois State Geological Survey for the Landfill Site Identification Study for Champaign County. A copy of the map from the Staff report was included as an attachment to the Preliminary Memorandum and indicates that the subject property is not within the area of limited groundwater availability.
  - B. The subject property and proposed RRO are comparable to “more or less typical” conditions for Champaign County in terms of common conditions for the availability of water supply.

**GENERALLY REGARDING THE AVAILABILITY OF EMERGENCY SERVICES TO THE SITE**

- 15. Regarding the availability of emergency services to the site:
  - A. The subject property is located approximately 3.3 road miles from the Cornbelt Fire Protection District station in Mahomet; the approximate travel time is 8 minutes. The Fire District Chief has been notified of this request for rezoning.
  - B. Overall, the subject property and proposed RRO are comparable to “much better than typical” conditions for Champaign County in terms of common conditions for the availability of emergency services because the site is approximately 3.3 road miles from the Cornbelt fire station in Mahomet.

**GENERALLY REGARDING FLOOD HAZARD AND OTHER NATURAL OR MANMADE HAZARDS**

- 16. Regarding the flood hazard status of the site; pursuant to Federal Emergency Management Agency Panel No. 170894-0100 some of subject property is located within the Special Flood Hazard Area, as follows:
    - A. No part of the subject property appears to be in the mapped floodplain
    - B. Overall, the proposed RRO District is comparable to “ideal or nearly ideal” conditions for Champaign County in terms of flood hazard status because no part of the subject property is in the mapped floodplain.
-

**PRELIMINARY DRAFT**

17. Regarding the presence of nearby natural or man-made hazards:
- A. Tom Purrachio, Manager of Gas Storage at People's Gas, in an email to staff on December 3, 2008, reported that there are no People's Gas pipelines in Section 35 of Newcomb Township.
  - B. Overall, the subject property and proposed RRO are comparable to "ideal or nearly ideal" conditions for Champaign County in terms of common conditions for the presence of nearby natural or manmade hazards because there are no man-made hazards nearby, and the property is relatively close to an urbanized area.

**GENERALLY REGARDING COMPATIBILITY WITH SURROUNDING AGRICULTURE AND THE EFFECTS OF NEARBY FARM OPERATIONS ON THE DEVELOPMENT**

18. Regarding the likely effects of nearby farm operations on the proposed development:
- A. Rough analysis of land use within a one-half mile radius of the subject property indicates the following:
    - (1) Row crop production agriculture occupies a portion of the land area within the immediate vicinity of the proposed RRO District, but occurs on only one side of the proposed RRO.
    - (2) Row crop production produces noise, dust and odors that homeowners sometimes find objectionable. Farm operations may begin early and continue until well after dark exacerbating the impact of noise related to field work.
    - (3) Staff is currently investigating the presence of any livestock management facilities within one mile of the subject property.
  - B. Overall, the subject property and proposed RRO are comparable to "much better than typical" conditions for Champaign County in terms of common conditions for the effects of nearby farmland operations on the proposed development because the subject property is bordered on one side by row crop agriculture.

**GENERALLY REGARDING THE (LESA) SCORE**

19. Regarding the LESA score of the proposed RRO District:
- A. The Champaign County, Illinois LESA system is a method of evaluating the viability of farmland for agricultural uses. The LESA system results in a score consisting of a Land Evaluation portion and a Site Assessment portion. The score indicates the degree of protection for agricultural uses on that particular site and the degrees of protection are as follows:
    - (1) An overall score of 220 to 300 indicates a very high rating for protection of agriculture.
    - (2) An overall score of 200 to 219 indicates a high rating for protection of agriculture.
    - (3) An overall score of 180 to 199 indicates a moderate rating for protection of agriculture.
    - (4) An overall score of 179 or lower indicates a low rating for protection of agriculture.
-

ITEM 19. CONTINUED

- (5) For comparison purposes, development on prime farmland soils but in close proximity to built up areas and urban services typically has scores between 180 and 200.
- B. The LESA worksheets are an attachment to the Preliminary Memorandum. The component and total scores are as follows:
  - (1) The Land Evaluation component rating for the proposed RRO District is 79.
  - (2) The Site Assessment component rating for the proposed RRO District is 88 to 92.
  - (3) The total LESA score is 167 to 171 and indicates a Low rating for protection of agriculture.
- C. Overall, the subject property and proposed RRO are comparable to “ideal or nearly ideal” conditions for Champaign County in terms of common conditions for the LESA score because there is no best prime farmland and the total score of 163 to 167 indicates a Low rating for protection of agriculture.

**GENERALLY REGARDING THE EFFICIENT USE OF BEST PRIME FARMLAND**

- 20. The subject property is not best prime farmland overall, and does not contain any best prime farmland.

**GENERALLY REGARDING THE EFFECTS ON WETLANDS, ARCHAEOLOGICAL SITES, AND NATURAL AREAS**

- 21. Regarding the effects on wetlands, endangered species, and natural areas:
  - A. The petitioner submitted an application to the Illinois Department of Natural Resources (IDNR) for endangered species consultation. The report received from IDNR on August 29, 2008, indicated that there are no endangered species in the vicinity of the subject property.
  - B. Regarding the effects on archaeological resources, a letter reply from the Illinois Historic Preservation Agency was received on October 9, 2008, and indicated that the subject property contains no significant historic, architectural, or archaeological resources, and project clearance was recommended.
  - C. Overall, the subject property and proposed RRO are comparable to “ideal or nearly ideal” conditions for Champaign County in terms of effects on wetlands, archaeological sites, and natural areas because reports from the appropriate agencies showed there were no effects.

**GENERALLY REGARDING OVERALL SUITABILITY OF THE SITE FOR RURAL RESIDENTIAL DEVELOPMENT**

- 22. Compared to “common conditions” found at rural sites in Champaign County, the subject property is similar to the following:
  - A. “Ideal or Nearly Ideal” conditions for five factors (flood hazard status, other hazards, effects on natural resources, LESA score, and effects on drainage)



**PRELIMINARY DRAFT**

ITEM 22. CONTINUED

- B. "Much Better Than Typical" conditions for four factors (septic suitability, availability of emergency services, effects of farms, and adequacy of roads)
- C. "More or Less Typical" conditions for one factor (availability of groundwater)
- D. "Much Worse Than Typical" conditions for no factors.
- E. "Worst or Nearly Worst" conditions for no factors.

**GENERALLY REGARDING COMPATIBILITY WITH SURROUNDING AGRICULTURE AND THE EFFECTS OF THE DEVELOPMENT ON NEARBY FARM OPERATIONS**

23. Regarding the likely effects of the proposed development on nearby farm operations:
- A. The surrounding land use on only one side of the subject property is agriculture. Direct interactions between the proposed development and nearby farmland are likely to include the following:
    - (1) The added traffic from the proposed development will increase the conflicts with movement of farm vehicles. See the concerns related to adequacy and safety of roads.  
  
The single-family dwelling that will result from the proposed RRO would generate 100% more traffic than the non-RRO alternative development of no additional lots.
    - (2) Trespassing onto adjacent fields possibly resulting in damage to crops or to the land itself.  
  
The single-family dwelling that will result from the proposed RRO could generate 100% more trespass than the non-RRO alternative development no additional lots.
    - (3) Blowing litter into the adjacent crops making agricultural operations more difficult.  
  
The single-family dwelling that will result from the proposed RRO could generate 100% more litter than the non-RRO alternative development of no additional lots.
    - (4) Discharge of "dry weather flows" of stormwater or ground water (such as from a sump pump) that may make agricultural operations more difficult.  
  
Because the subject property is adjacent to an artificial lake, there should be no problems with dry weather flows, which means there would be no difference between the proposed RRO and the non-RRO alternative.
    - (5) If trees are planted close to the property lines, they can be expected to interfere with some farming operations (such as harvesting) and may contribute to blockage of underground tiles (if any exist). Perimeter fencing, if installed, could also interfere with farming operations.

ITEM 23.A.(5) CONTINUED

The subject property is separated from the adjacent agriculture by CR 2425N, which will prevent any encroachment by trees or fences. There should be no difference between the proposed RRO and the non-RRO alternative.

B. The indirect effects are not as evident as the direct effects:

- (1) A potential primary indirect effect of non-farm development on adjacent farmers (as identified in *Locational Considerations and Issues for Rural Subdivisions in Champaign County*) is that potential nuisance complaints from non-farm neighbors about farming activities can create a hostile environment for farmers particularly for livestock management operations.
- (2) Champaign County has passed a “right to farm” resolution that addresses public nuisance complaints against farm activities. The resolution exempts agricultural operations from the Public Nuisance Ordinance (except for junk equipment) but does not prevent private lawsuits from being filed.
- (3) The State of Illinois Livestock Management Facilities Act (510ILCS 77) governs where larger livestock facilities (those with more than 50 or more animal units) can be located in relation to non-farm residences and public assembly uses (churches, for example). The separation distances between larger livestock facilities and non-farm residences is based on the number of animal units occupying the livestock facility and the number of non-farm residences in the vicinity. The *Illinois Livestock Management Facilities Act* was adopted on May 21, 1996, and facilities in existence on the date of adoption are exempt from the requirements of that act so long as the fixed capital cost of the new components constructed within a 2-year period does not exceed 50% of the fixed capital cost of a comparable entirely new facility.

Staff is currently investigating whether there are any livestock management facilities within a mile of the proposed RRO.

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**PRELIMINARY DRAFT**

**DOCUMENTS OF RECORD**

1. Application, received August 29, 2008, with attachments:
    - A Proposed Minor Subdivision Final Plat of Trautman Section 35 Subdivision Phase 2
    - B Professional Engineer's Drainage Explanation by David E. Atchley, PE, PLS
    - C Letter from Rick Pietruszka, Illinois Department of Natural Resources
  2. Letter from Jeff Blackford to Dave Atchley, received September 23, 2008
  3. Letter from Anne E. Haaker to Dave Atchley, received October 9, 2008
  4. Section 22 Natural Resource Report received October 9, 2008
  5. Commitment for Title Insurance from Chicago Title Insurance Company, received October 20, 2008
  6. Preliminary Memorandum for Case 632-AM-08, with attachments:
    - A Case Maps (Location, Land Use, Zoning)
    - B Table of Petitioner Submittals
    - C Proposed Minor Subdivision Final Plat of Trautman Section 35 Subdivision Phase 2 received August 29, 2008
    - D Final Plat of Trautman Section 35 Subdivision recorded November 30, 2001
    - E Page 7-R of 1998 Champaign County Tax Atlas
    - F Professional Engineer's Drainage Explanation by David E. Atchley, PE, PLS, received August 29, 2008
    - G Champaign County Land Use Regulatory Policies as amended 11/20/01
    - H Excerpted worksheet from *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*
    - I Letter from Rick Pietruszka, Illinois Department of Natural Resources, received August 29, 2008
    - J Letter from Anne E. Haaker to Dave Atchley, received October 9, 2008
    - K Section 22 Natural Resource Report received on November 13, 2006
    - L IDOT maps, showing AADT, of roads surrounding subject property
    - M Commitment for Title Insurance from Chicago Title Insurance Company, received October 20, 2008
    - N Letter from Jeff Blackford to Dave Atchley, received September 23, 2008
    - O Land Evaluation and Site Assessment Worksheet
    - P Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County
    - Q Comparing the Proposed Site Conditions to Common Champaign County Conditions
    - R Summary of Site Comparison for Factors Relevant to Development Suitability
    - S Summary of Comparison for Factors Relevant to Compatibility with Agriculture
    - T Preliminary Draft Finding of Fact for Case 632-AM-08
-

**FINDING OF FACT**

From the Documents of Record and the testimony and exhibits received at the public hearing conducted on **December 11, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The Proposed Site *{IS SUITED/IS NOT SUITED}* overall for the development of **1** residence because:

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and despite:

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2. Development of the Proposed Site under the proposed Rural Residential Overlay development *{WILL BE COMPATIBLE/WILL NOT BE COMPATIBLE}* with surrounding agriculture because:

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and despite:

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**FINAL DETERMINATION**

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

The Map Amendment requested in Case 632-AM-08 should *{BE ENACTED/NOT BE ENACTED}* by the County Board.

*{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS}*:

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

SIGNED:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

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# CASE NO. 631-V-08

## SUPPLEMENTAL MEMORANDUM

December 5, 2008

Petitioner: **Nancy Mason**

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Site Area: **approx. 10,270 square feet**

Time Schedule for Development:  
**Immediate**

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

Request: **Authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet**

Location: **Lot 42 of Lake Park Subdivision No. 3 in Section 36 of Champaign Township and commonly known as the house at 42 Maple Court, Champaign**

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

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

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### *STATUS*

This is the second meeting for this case. At the first meeting the Board opened the case, but was unable to hear testimony or discuss the case.

New evidence has been added to the Summary of Evidence. Please see the Revised Draft for all changes.

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### ATTACHMENTS

- A Proposed site plan received November 6, 2008
- B Staff Illustration of Proposed Variance
- C Revised Draft Summary of Evidence for Case 631-V-08

41 Maple Court

42 Maple Court

37 1/2 FT

12 FT

SHORT

10380

15 FT

15 FT

45 FOOT

RECEIVED

NOV 06 2008

CHAMPAIGN CO. P & Z DEPARTMENT

# Staff Illustration of Proposed Variance

Case 631-V-08

DECEMBER 5, 2008

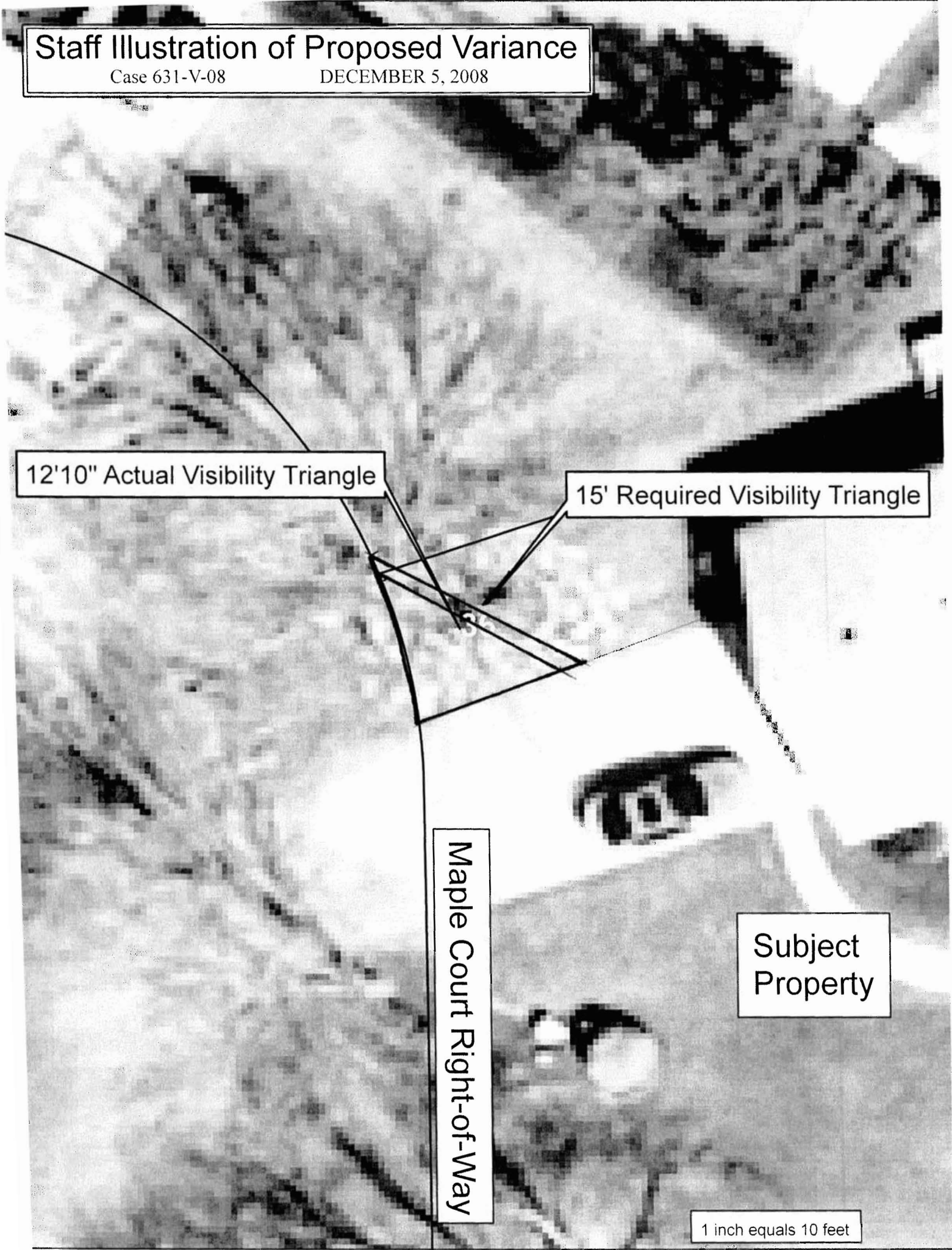
12'10" Actual Visibility Triangle

15' Required Visibility Triangle

Maple Court Right-of-Way

Subject Property

1 inch equals 10 feet





*REVISED DRAFT for December 5, 2008*

631-V-08

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

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

Date: December 5, 2008

Petitioner: Nancy Mason

Request: Authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **November 13, 2008, and December 11, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner, Nancy Mason, owns the subject property.
2. The subject property is Lot 42 of Lake Park Subdivision No. 3 in Section 36 of Champaign Township and commonly known as the house at 42 Maple Court, Champaign.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign. Municipalities do not have protest rights in variance cases and are not notified of such cases.

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

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property and all the property surrounding it is zoned R-1 Single Family Residence.
  - B. The subject property and all the property surrounding it is in use as single family dwellings.

***GENERALLY REGARDING THE PROPOSED SITE PLAN***

5. Generally regarding the proposed site plan:
  - A. The proposed site plan indicates the home and driveway of the subject property (42 Maple Court) located near the north property line.

Underline text denotes evidence to be added.

~~Strikeout text~~ denotes evidence to be removed.

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ITEM 5. CONTINUED

- B. It also shows the location of the home and driveway at the property to the north (41 Maple Court). However, the drawing is unclear with regard to how the driveway on that property accesses the street.
- C. The proposed site plan does not correctly represent illustrate the actual driveway visibility triangle nor the actual geometry of the right of way. However, staff John Hall, Zoning Administrator, and James R. Knight, Associate Planner, visited the subject property and determined that the actual visibility triangle is 12 feet 10 inches by making the following measurements:
- (1) The assumed right of way line for Maple Court was determined by measuring 25 feet from the center of the pavement towards the subject property. The right of way line was marked at the edge of the driveway with a survey flag and at a point more or less 15 feet north of the driveway and marked with a survey flag. Thus, the measured right of way line is based on the actual curve of the pavement which may or may not parallel the actual right of way.
  - (2) The right-of-way-only corner of the driveway visibility triangle was located by measuring a distance of 15 feet from the driveway along the assumed right of way line and marked with a survey flag.
  - (3) The driveway-only corner of the driveway visibility triangle was located by measuring a distance of 15 feet from the assumed right of way line along the edge of the driveway and marked with a survey flag.
  - (4) A string was stretched between the right-of-way-only corner of the driveway visibility triangle and the driveway-only corner of the driveway visibility triangle. The string between the two corners was not a straight line because of the encroachment of the fence into the visibility triangle.
  - (5) The dimension of the actual driveway visibility triangle was determined by maintaining a straight string and identifying points along both the driveway and the assumed right of way line that were equal distance from the flag that marked the intersection of the driveway and the assumed right of way line. The dimension was determined to be 12 feet 10 inches.

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

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance):
- (1) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.

Underline text denotes evidence to be added.

~~Strikeout text~~ denotes evidence to be removed.

ITEM 6.A. CONTINUED

- (2) "LOT LINES" are the lines bounding a LOT.
  - (3) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
  - (4) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
  - (5) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
    - (a) MAJOR STREET: Federal or State highways
    - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
    - (c) MINOR STREET: Township roads and other local roads.
  - (6) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
- B. Paragraph 4.3.3 F. of the Zoning Ordinance requires a visibility triangle on corner lots and on either side of driveways on all lots as follows (capitalized words are defined in the Ordinance):
- (1) On a CORNER LOT nothing shall be CONSTRUCTED, erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between the HEIGHT of two and one-half feet and 6 feet above the centerline grades of intersecting STREETS in an area bounded by the STREET RIGHT OF WAY lines of CORNER LOTS and a straight line joining points along said STREET RIGHT OF WAY lines 50 feet from the nearest point of intersection (capitalized words are defined in the Ordinance).
  - (2) On all other LOTS, in order to prevent obstruction of sight lines, nothing shall be CONSTRUCTED, erected, placed, planted, or allowed to grow in such a manner as to materially impede vision in the driveway visibility triangle defined as an area bounded by the FRONT or SIDE LOT LINE, each side of any driveway, and a straight line joining points on the lot line measured 15 feet from the driveway and points along the driveway measured from the lot line. Trees within this visibility triangle shall be trimmed so that the lower foliage line is maintained at least six feet above the crown of the adjoining pavement, except trees need not be trimmed in excess of one-third of their total HEIGHT. Fences may consist of a chain link, wire mesh, or split rail type fence, or other design which does not materially impede vision in the visibility triangle.

Underline text denotes evidence to be added.

~~Strikeout text~~ denotes evidence to be removed.

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ITEM 6. CONTINUED

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

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

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“Driveway is located on a curve, giving greater visual clearance to all residents.”**

Underline text denotes evidence to be added.

~~Strikethrough text~~ denotes evidence to be removed.

ITEM 7. CONTINUED

- B. The driveway visibility triangle is intended to ensure pedestrian and automobile safety, however, there are no sidewalks in the neighborhood of the subject property.
- C. The subject property is the smallest lot on Maple Court by approximately 2000 square feet, but the house on the subject property is of comparable size with the rest of the houses.
- D. The subject property is one of only four lots that front on the Maple Court cul-de-sac. Because there are only four lots on the cul-de-sac, the volume of traffic is much smaller than the volume of traffic that would occur on a typical through street.

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

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application that, **“The fence was designed specifically because of a nuisance neighbor that continuously places her yard rubbish on our property. Lowering the fence would make it easier for her to blow items into our yard. See pictures.”**
  - B. The purpose of the fence is to screen the subject property from the neighboring property and if it were modified to provide a 15 feet visibility triangle it would not provide as much screening. The curve of the cul-de-sac causes adjacent properties to be more visible to each other at the front property line than would otherwise occur if the lots fronted a typical through street.
  - C. The house and driveway on the subject property were constructed by a previous owner and the driveway was placed 12 feet from the north property line.

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

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, **“Also her property is in disrepair if we go to sell our home we want the highest fence possible so her home is [not] visible. See pictures.”**
  - B. The house and driveway were constructed in their present location on the subject property by a previous owner.

Underline text denotes evidence to be added.

~~Strikeout text~~ denotes evidence to be removed.

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

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
  - A. The Petitioner has testified on the application that, **“The intent of the law is for visibility between driveways. The location of the two driveways gives more visibility than the law requires.”**
  - B. The driveway visibility triangle is intended to provide safety for pedestrians and automobiles, however, there are no sidewalks in this neighborhood so the presence of pedestrians is not anticipated, and the volume of traffic is very low because only four lots front the Maple Court cul-de-sac.
  - E. The proposed driveway visibility triangle of 12 feet, 10 inches is 85.6% of the required 15 feet visibility triangle for a variance of 14.4%.
  - F. The requested variance is not prohibited by the *Zoning Ordinance*.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioner has testified on the application that, **“There is no visibility issue. My husband and are both disabled we can’t continue to afford to clean up after our neighbor because now she can only throw things at us over a fence.”**
  - B. The Fire Protection District has received notice of this variance, but no comments have been received.
  - C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.

**GENERALLY REGARDING ANY SPECIAL CONDITIONS OF APPROVAL**

12. There are currently no sidewalks in the neighborhood of the subject property, if sidewalks are ever constructed the visibility triangle for the neighbor’s driveway will be necessary. The following condition requires a visibility triangle to be provided in that case:

**The solid, opaque fence running along the north lot line of the subject property must be modified to provide a 15 feet driveway visibility triangle if sidewalks are ever constructed along Maple Court;**

Underline text denotes evidence to be added.

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ITEM 12. CONTINUED

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

**Pedestrian safety when there is a sidewalk.**

Underline text denotes evidence to be added.  
~~Strikeout text~~ denotes evidence to be removed.

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**DOCUMENTS OF RECORD**

1. Variance application from Nancy Mason, received on November 6, 2008, with attachments:
  - A Proposed site plan
  - B Petitioner excerpt of tax map of subject property
  - C Petitioner Photographs of subject and neighboring property
  
2. Preliminary Memorandum for Case 631-V-08, with attachments:
  - A Zoning Case Maps for Case 631-V-08 (Location, Land Use, and Zoning)
  - B Site Plan received on November 6, 2008
  - C Petitioner's photographs of subject property and neighboring property
  - D Draft Summary of Evidence for Case 631-V-08
  
3. Letter from the Residents of 36 – 41 and 43 – 45 Maple Court received on November 12, 2008, with attachments:
  - A Petition of opposition from the Residents of 36 – 41 and 43 – 45 Maple Court
  - B Letter from Nancy Mason to Dick Foley, dated June 24, 2008
  
4. Supplemental Memorandum for Case 631-V-08, dated December 5, 2008, with attachments:
  - A Proposed site plan received November 6, 2008
  - B Staff Illustration of Proposed Variance
  - C Revised Draft Summary of Evidence for Case 631-V-08

Underline text denotes evidence to be added.

~~Strikeout text~~ denotes evidence to be removed.

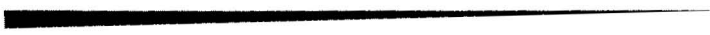


**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **631-V-08** held on **November 13, 2008, and December 11, 2008**, the Zoning Board of Appeals of Champaign County finds that:

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

Underline text denotes evidence to be added.  
~~Strikeout text~~ denotes evidence to be removed.



**FINAL DETERMINATION**

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

The Variance requested in Case 631-V-08 is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioner, Nancy Mason, to authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet.

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

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

SIGNED:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

Underline text denotes evidence to be added.  
~~Strikeout text~~ denotes evidence to be removed.

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