

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **April 26, 2012**  
Time: **7:00 P.M.**  
Place: **Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802**

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

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

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

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (March 29, 2012)
5. Continued Public Hearings

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

**Note: MEETING TIME AT 7:00 P.M.**

**Case 699-AM-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren Murray and landowner John Murray**

**Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2, Agriculture Zoning District in order to operate the proposed Special Use in related zoning case 700-S-11.**

**Location: A 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign.**

**\* Case 700-S-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren Murray and landowner John Murray**

**Request: Authorize the construction and use of an Event Center as a “Private Indoor Recreational Development” as a Special Use on land that is proposed to be rezoned to the AG-2, Agriculture Zoning District from the current AG-1, Agriculture District in related Case 699-AM-11.**

**Location: A 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign.**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
**NOTICE OF REGULAR MEETING**  
*April 26, 2012*

6. New Public Hearings

**\* Case 697-V-11** Petitioner: **Ronald and Susan Bryant**

Request: **Authorize the following in the AG-1 Agriculture Zoning District:**  
**Part A. Variance for a proposed division of a lot 2.37 acres in area in lieu of the minimum required lot area of 5 acres;**  
**Part B. Variance for a proposed lot area of 35,500 square feet in lieu of the minimum required lot area of 43,560 square feet (1 acre);**  
**Part C. Variance for a proposed average lot width of 125 feet in lieu of the minimum required average lot width of 200 feet;**  
**Part D. Variance for a rear yard of an existing home of 21 feet in lieu of the minimum required rear yard of 25 feet;**  
**Part E. Variance for a proposed side yard of an existing accessory building of 8 feet in lieu of the minimum required side yard of 10 feet;**  
**Part F. Variance for a rear yard of an existing accessory structure of 8 feet in lieu of the minimum required rear yard of 10 feet.**

Location: **A 2.37 acre tract proposed to be divided into two lots in the East One-Half of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 20 of Hensley Township and commonly known as the homes at 5111 Lindsey Road, Champaign.**

**\* Case 714-V-12** Petitioner: **Lee and Myrtle Pardy**

Request: **Authorize the following in the AG-2 Agriculture Zoning District:**  
**Variance for a side yard of an existing carport of 7 feet in lieu of the minimum required side yard of 10 feet.**

Location: **A .90 acre parcel in the West One-Half of the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 27 of Somer Township and commonly known as the home at 5106 North Cunningham Avenue, Urbana.**

7. Staff Report

8. Other Business

A. Review of ZBA Docket

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

10. Adjournment

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

1 **MINUTES OF REGULAR MEETING**  
2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
3 **1776 E. Washington Street**  
4 **Urbana, IL 61801**

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5  
6  
7 **DATE:** March 29, 2012 **PLACE:** Lyle Shield's Meeting Room  
8 1776 East Washington Street  
9 **TIME:** 6:00 p.m. **Urbana, IL 61802**

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10  
11 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad  
12 Passalacqua

13  
14 **MEMBERS ABSENT :** Roger Miller

15  
16 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass

17  
18 **OTHERS PRESENT :** Judy Swartzendruber, David Swartzendruber, George R. Davis, Jack Murray,  
19 Lauren Murray-Miller, Anne Murray, Scott Sivers, Steven Khachaturian,  
20 Roger Burk, Ann Burk, Philip Kesler, Susan Kesler, Randall Green, Ben  
21 McCall, Birgit McCall, Steve Burdin, Peggy Anderson, Herb Schildt, Rick  
22 Balsbaugh, Jeff Fisher

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23  
24  
25 **1. Call to Order**

26  
27 The meeting was called to order at 6:15 p.m.

**DRAFT**

28  
29 **2. Roll Call and Declaration of Quorum**

30  
31 The roll was called and a quorum declared present with two members absent at the time of roll call and  
32 one vacant Board seat.

33  
34 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
35 sign the witness register for that public hearing.

36  
37 **3. Correspondence**

38  
39 None

40  
41 **4. Approval of Minutes**

42  
43 None

44  
45 **Mr. Passalacqua moved, seconded by Mr. Palmgren to re-arrange the agenda and hear Case 701-AT-**  
46 **11 as the last case of the meeting. The motion carried by voice vote.**

47  
48 **5. Continued Public Hearing**

1  
2 **Case 698-S-11** Petitioner: **S.J. Broadcasting, LLC, with owners Steven J. Khachaturian, Jon E.**  
3 **Khachaturian and the estate of Clinton C. Atkins. Request to authorize a radio transmission tower**  
4 **that is 346 feet in height and transmitter building as a Special Use with waivers (variance) of standard**  
5 **conditions in the AG-1 Zoning District, subject to the required variance in related Case 706-V-12.**  
6 Location: **A 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter**  
7 **of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR**  
8 **1200E and CR 700N, Tolono.**

9  
10 **Case 706-V-12** Petitioner: **S. J. Broadcasting, LLC, with owners Steven J. Khachaturian, Jon E.**  
11 **Khachaturian and the estate of Clinton C. Atkins. Request to authorize the following in the AG-1**  
12 **District: A. Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of**  
13 **3 acres on best prime farmland in the AG-1 District for the construction and use of a radio**  
14 **transmission tower and transmitter building in related Special Use Permit Case 698-S-11 (included as**  
15 **the original variance); and B. Waiver (variance) of standard conditions for a front yard setback of 70**  
16 **feet from CR 1200E in lieu of the required 100 feet and a rear yard setback of 40 feet in lieu of the**  
17 **required 50 feet. Location: A 5 acre tract in the Northeast Quarter of the northeast Quarter of the**  
18 **Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the**  
19 **west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E**  
20 **and CR 700N, Tolono.**

21  
22 Mr. Thorsland called Case 698-S-11 and Case 706-V-12 concurrently.

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

27  
28 Mr. Thorsland informed the audience that these are Administrative Cases and as such the County allows  
29 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
30 of hands for those who would like to cross examine and each person will be called upon. He requested that  
31 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
32 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
33 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
34 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
35 from cross examination.

36  
37 Mr. Thorsland asked if the Petitioner desired to make a statement outlining the nature of their request.

38  
39 Mr. Randall Green, attorney representing the petitioners, stated that S.J. Broadcasting proposes to construct a  
40 346 foot radio tower which will actually be 349 feet once the necessary FAA Beacon is added to the top of  
41 the tower. He said that the site is on the southeast side of Tolono and consists of five acres however this is a

1 tower site with three guy wires therefore the entire five acres will not be taken out of production. He said  
2 that S.J. Broadcasting is leasing the land subject to a 25-year lease and the current landowner will still be  
3 able to farm around the tower and guy wire locations to the extent possible. He said that a tower which is  
4 over 100 feet is only allowed by way of a Special Use Permit in the AG-1 zoning district. He said that they  
5 expect that the tower will provide extended broadcast range for the radio station as well as providing  
6 additional emergency broadcasting capabilities. He said that S. J. Broadcasting has been in discussions with  
7 at least one cell company because they were advised by the Village of Tolono's Planning and Zoning  
8 Commission that the reception is poor to none existent on the south side of Tolono and that they would  
9 gladly entertain a tenant to sub-lease on the tower for improved service. He said that he has been in touch  
10 with Verizon and they indicated that they are interested in the site therefore they have begun initial  
11 negotiations for a tower lease.

12  
13 Mr. Thorsland asked the Board if there were any questions for Mr. Green.

14  
15 Mr. Passalacqua asked Mr. Green if the dual use would be on the same tower or would another structure be  
16 required.

17  
18 Mr. Green stated that it would require another structure but as part of the lease agreement the cell phone  
19 company will be responsible for any zoning issues.

20  
21 Mr. Passalacqua asked Mr. Green if the Verizon equipment would co-exist on the subject tower.

22  
23 Mr. Green stated yes.

24  
25 Mr. Thorsland asked the Board if there were any additional questions for Mr. Green and there were none.

26  
27 Mr. Thorsland asked if staff had any questions for Mr. Green.

28  
29 Mr. Hall asked Mr. Green if the tower will be a new tower directly ordered from the manufacturer.

30  
31 Mr. Green stated yes. He said that the tower manufacturer will fabricate, deliver and erect the tower.

32  
33 Mr. Hall asked Mr. Green if the Village of Tolono's Planning and Zoning Commission voiced any concerns  
34 indicating that the cell phone service may experience interference by the radio frequency.

35  
36 Mr. Green stated that the Village of Tolono's Planning and Zoning Commission did not voice any concerns  
37 about any interference. He noted that this is a time sensitive nature to S. J. Broadcasting with respect to  
38 delivery time because there will be an \$18,000 savings if they are able to sign the contract to have the tower  
39 erected by the end of the month.

40  
41 Mr. Passalacqua asked if the Zoning Board is the final authority to approve this project.

1  
2 Mr. Hall stated yes. He said that before S. J. Broadcasting has final approval for construction they would  
3 need to file for a Zoning Use Permit.  
4  
5 Mr. Thorsland asked the Board and staff if there were any further questions for Mr. Green and there were  
6 none.  
7  
8 Mr. Thorsland called Scott Sivers to testify.  
9  
10 Mr. Sivers deferred to testify at this time and requested that all questions be posed to Mr. Green.  
11  
12 Mr. Thorsland called Steve Khachaturian to testify.  
13  
14 Mr. Khachaturian deferred to testify at this time and requested that all questions be posed to Mr. Green.  
15  
16 Mr. Thorsland called John Hall to testify.  
17  
18 Mr. Hall stated that there are three memorandums for Cases 698-S-11 and 706-V-12. He said that the  
19 Preliminary Memorandum is dated March 9, 2012 and the first Supplemental Memorandum is dated March  
20 23, 2012. Mr. Hall distributed the second Supplemental Memorandum dated March 29, 2012, to the Board  
21 for review.  
22  
23 Mr. Hall thanked Mr. Green for being so cooperative with these cases from the beginning. Mr. Hall stated  
24 that the ZBA should know that in the past the Board has approved radio towers at various distances from the  
25 public road. He said that since he has been the Zoning Administrator his mode of operation is that when the  
26 Zoning Ordinance requires a setback to the structure it is to the closest part of the structure and a 100 foot  
27 setback from a public street applies to the closest ground anchor. He said that there have been towers in the  
28 past approved with no concern about where the ground anchors were located and that got everyone off on the  
29 wrong foot. He said that three years ago there were two METCAD towers reviewed and approved by this  
30 Board and in those cases the setbacks went to the closest point of the structure and this was the same issue  
31 with the five acre lot size. He said that the reason why the cases had to be re-advertised was to provide for  
32 the closest point of the structure which are the ground anchors. He said that the petitioner spent a lot of time  
33 keeping the ground anchors in compliance as much as possible with the County's setbacks and this week  
34 staff realized that in the process of working with the petitioner to get the ground anchors as compact as  
35 possible something else happened which is what is included in the Supplemental Memorandum dated March  
36 29, 2012.  
37  
38 Mr. Hall requested that the Board review Attachment C., Tower and Anchor Locations, of the Supplemental  
39 Memorandum dated March 29, 2012. He said that Mr. Green mentioned that there is an FAA Beacon on the  
40 top of the tower and the tower has already received both FCC and FAA approvals which means that they are  
41 expecting a tower in this location. Mr. Hall stated that as far as he knows the tower has been engineered for

1 the guy anchors but the south guy anchor is located in the centerline of a gentle surface swale that could  
2 easily be overlooked. He said that with the help of the GIS Consortium a topographic map was developed  
3 indicating the swale that feeds to the very large box culvert which is under CR 1200E. He said that the  
4 Board should assume that there is a tile in the swale and the 1971 Champaign County General Drainage Map  
5 indicates an underground drain in the same location. He said that from staff's perspective a tile is expected  
6 to exist within the swale yet the FAA and FCC expects a tower to be in this location. He said that in order  
7 for the ZBA to take its normal care in protecting tiles as it normally does staff has proposed a condition on  
8 page 4 and 5 of the Supplemental Memorandum dated March 29, 2012. He said that staff recommends that  
9 there be an investigation required to identify the location of the underground drainage tile. He said that he  
10 does not know how the ground anchors work and he does not believe that they go straight in the ground. He  
11 said that staff is suggesting that someone needs to investigate whether or not the tile exists and determine, by  
12 use of accurate measurements, if the ground anchor poses a risk to the tile and if the tile needs to be  
13 relocated or not.

14  
15 Mr. Hall stated that the petitioner must agree to any special conditions and if the petitioner does not agree  
16 then it cannot be imposed and the ZBA must take action without the special condition. He said that staff has  
17 spoken with the petitioner about the proposed special condition and the petitioner indicated that they were  
18 not real pleased with it but the Board must determine whether or not it is necessary and then make sure that  
19 the petitioner is willing to accept it and if they do not then the Board must take action without the condition.

20  
21 Mr. Hall stated that the new supplemental memorandum discusses the surface drainage and documents the  
22 fact that the general drainage map indicates a tile in the swale. He said that when staff completed its site  
23 visit the box culvert was identified and north of the culvert is a catch basin of about 18 to 20 inches in  
24 diameter. He said that he expected to see a tile at the bottom of the catch basin but he only found large  
25 amounts of sediment which makes him wonder if the tile is plugged. He said that on the east side of the box  
26 culvert was a new surface inlet which is presumably for a new tile.

27  
28 Mr. Hall stated that attached to the Supplemental Memorandum dated March 29, 2012, is a new site plan.  
29 He said that the petitioner has had discussions with other folks who use the existing grass driveway on the  
30 north line of the property and the result of those discussions is that the petitioner is proposing to build a new  
31 driveway solely for the transmitter building and there is a new condition which makes it very clear that  
32 approval at this time would be based upon the site plan submitted on March 27, 2012. He said that the  
33 petitioner has been very cooperative and helpful during this case and has always been responsive but at this  
34 point the petitioner is telling the Board that the issues regarding the tower, ground anchor and tiles are fixed.

35  
36 Mr. Thorsland noted that ZBA Board member, Tom Courson, arrived at the meeting at 6:25 p.m.

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

39  
40 Mr. Thorsland called Mr. William Bates to testify.

1 Mr. William Bates, who resides at 631 CR 1200E, Tolono, stated that he is present tonight to object to the  
2 request by S.J. Broadcasting, LLC, also known as Stevie J. Broadcasting, for construction of a 346 foot,  
3 6,000 watt broadcast transmission tower within the extra-territorial jurisdiction of the Village of Tolono, for  
4 the following reasons: 1. On file with the Federal Communications Commission are reams of citizens'  
5 complaints about radio frequency interference after newly constructed broadcast transmitters become  
6 activated. He said that the Federal Communications Commission has listed on their website the most  
7 common cause of consumer complaints such as, communication systems that transmit signals (transmitters)  
8 are capable of generating interference; this includes radio and television stations; and 2. To date no Tolono  
9 resident and specifically those in close proximity to the proposed 346 foot transmitting tower have been  
10 notified of any potential problems this 6,000 watt transmitter may create. The documentation being  
11 presented to the Zoning Board does not include a single piece of data addressing a potential electrical  
12 interference problem. Documented lists of citizen complaints to the Federal Communications Commission  
13 are numerous whenever a new radio transmission tower is constructed or when transmission power is  
14 increased. Now is the time to anticipate, study and evaluate any transmission interference problems before  
15 any additional consideration by the Zoning Board; and 3. More recent complaints to the FCC have  
16 referenced both wired and wireless phone and data transmission interference when in close proximity to this  
17 type of 6,000 watt transmitter tower; and 4. In Tolono and the surrounding area, many residents have rooftop  
18 antennas because of poor reception issues. The FCC has received numerous interference complaints for TV  
19 reception after a transmission tower is activated. In some areas residents with satellite dishes have had their  
20 signal scrambled within close proximity of a new transmission tower; and 5. Other more recent concerns  
21 find that farmers with GPS guidance systems for planting and fertilizing cropland may not be able to use the  
22 guidance system within proximity of broadcast transmission towers; and 6. The big question is are the lessor  
23 and lessee of the proposed transmission tower prepared and able to indemnify the community against money  
24 damages which may arise from their transmitting activities. Citizens' complaints to the FCC sometimes  
25 takes years to litigate or resolve and can be very expensive for government and private homeowners.

26  
27 Mr. Bates stated that S. J. Broadcasting, LLC, in their construction application, have not addressed any of  
28 these issues and, in the public interest, these issues most definitely need to be given serious consideration  
29 before any approval is given by the Planning and Zoning Board. He said that because time is short he would  
30 like to make a brief emphatic reference to several County pre-requisites necessary for approval that he  
31 believes have not and cannot be met by the applicant at the proposed location.

32  
33 Mr. Bates stated that Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning  
34 Board of Appeals unless the public hearing record and written application demonstrate the following:  
35 Item #1: That the Special Use is necessary for the public convenience at that location. Mr. Bates asked how  
36 this transmitting tower is necessary for the public convenience when it isn't wanted or needed by the public.  
37 He said that the radio station is already licensed to the City of Tuscola and is fully operational with the  
38 transmitter outside of Pesotum along I-57 therefore there is no advantage to Tolono citizens for a transmitter  
39 tower from Tuscola to be constructed in Tolono. Item #2: That the Special Use is so designed, located, and  
40 proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or  
41 otherwise detrimental to the public welfare. Mr. Bates asked if electrical interference pollution is injurious



1 to the surrounding community and detrimental to the public welfare. Item #3: That the Special Use  
2 conforms to the applicable regulations and standards and preserves the essential character of the DISTRICT  
3 in which it shall be located, except where such regulations and standards are modified by Section 6. Mr.  
4 Bates asked how a giant 346 foot, 6,000 watt radio transmission tower with a blinking red night light  
5 preserves the essential character of an agricultural community because it doesn't. He said that the next step  
6 will more likely be an effort to start leasing space on the tower for additional commercial transmission  
7 equipment. Item 4: That the Special Use is in harmony with the general purpose and intent of the ordinance.  
8 Mr. Bates stated that the only special use in harmony here it seems is a humming duet by the lessor and  
9 lessee on their way to the bank. He said that two business entities benefit by drawing revenue from the  
10 Champaign-Urbana listening audience for their Tuscola based station while the local community gets a  
11 lowering of its quality of life and daily viewing of a monstrosity as they see the lowering in property values  
12 and the probability of ongoing litigations from area residents. Item #5: That in the case of an existing  
13 nonconforming use, it will make such use more compatible with its surroundings. Mr. Bates stated that this  
14 nonconforming use will be an aesthetic eyesore and could not be any more incompatible with its rural  
15 surroundings and the Village of Tolono.

16  
17 Mr. Bates stated that in conclusion, he will put forth a question and answer it. Would the ZBA like to live  
18 within 220 yards of the proposed structure? He said that he does live that close and he submits that if found  
19 in a similar situation not one of the ZBA members here representing the public interest would allow this ill-  
20 advised, misplaced monstrosity to proceed. He recommended and urged that the special use permit  
21 application not be approved at this time.

22  
23 Mr. Thorsland asked the Board if there were any questions for Mr. Bates and there were none.

24  
25 Mr. Thorsland asked if staff had any questions for Mr. Bates and there were none.

26  
27 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Bates and there was no one.

28  
29 Mr. Thorsland asked if anyone else desired to sign the witness register at this time to present testimony  
30 regarding these cases.

31  
32 Mr. Thorsland called Randall Green to testify.

33  
34 Mr. Randall Green, attorney representing the petitioner, stated that the tower is anticipated to be  
35 approximately 6,000 watts and will operate a little lower than that once it is in operation. He said that the  
36 tower which is located at the corner of Windsor Road and Neil Street operates at about 50,000 watts which is  
37 around nine times the power of the proposed tower in terms of interference and there are plenty of residents  
38 in the area and no complaints of interference are reported. He said that there is a similar tower in northeast  
39 Urbana with a similar situation and is near the Myra Ridge subdivision. He said that the petitioner has been  
40 in contact with Verizon and both entities desire to increase coverage in the area. He said that in terms of  
41 radio broadcast coverage the tower will increase that coverage to the east which is important for getting

1 emergency broadcasting out to the listening area. He said that the petitioner does not desire to build the  
2 tower for the fun of it because it is an expensive tower which costs a lot of money and its purpose is only to  
3 increase broadcast range and not produce interference. He said that concerns were raised at the Village of  
4 Tolono meeting regarding interference with GPS systems for farmers therefore his clients contacted a GPS  
5 company to see if they too would be interested in leasing space on the tower to increase GPS accuracy for the  
6 local farmers.

7  
8 Mr. Thorsland asked the Board if there were any questions for Mr. Green and there were none.

9  
10 Mr. Thorsland asked if staff had any questions for Mr. Green.

11  
12 Mr. Hall asked Mr. Green if he had any other evidence to help the Board sort through his testimony versus  
13 Mr. Bates' testimony.

14  
15 Mr. Green stated that approvals have been received from the FCC and the FAA-IDOT Division of  
16 Aeronautics. He said that the placement of the proposed tower is such that it will have as little intrusion  
17 upon surrounding neighbors as possible but there are very few residences in the area. He said that there will  
18 be a few residences in any area where a radio broadcast tower is proposed because it makes no sense to  
19 locate a tower where no one lives. He said that his clients desire to be good neighbors and cooperate with  
20 everyone. He said that there were concerns by the neighbors to the north of the subject property regarding  
21 the grass driveway therefore options were discussed for improving the grass driveway for the mutual benefit  
22 of both parties. He said that the neighbors preferred that the petitioners create their own accessway to the  
23 subject property rather than utilizing the grass driveway therefore, at the petitioner's expense, a new  
24 driveway will be constructed. He said that the petitioners do not desire to disturb the residents or farmers in  
25 the area.

26  
27 Mr. Green stated that in regards to the drainage issues which came up earlier it is his understanding from the  
28 engineer that they had originally submitted a wider guy radius but it had to be cut down to minimize the  
29 setback area that they are requesting. He said that as the guy wire radius expands the setback variance  
30 becomes closer and closer to the right of way or property lines. He said that they do have leeway to make the  
31 guy wire anchors anywhere between the shortened radius and the elongated radius that they had earlier  
32 requested. He said that if it turns out that existing drainage tile is discovered the petitioners have agreed to  
33 promptly repair any damage to drainage tiles. He said that the process with the FAA is a lengthy and  
34 expensive process therefore they do not have the leeway to move the tower 20 feet to the north or south to  
35 move a guy anchor because it is economically unfeasible. He said that he has been told that it could take up  
36 to six months to amend the plans and since time is of the essence at this point his clients are willing to  
37 simply repair, restore and improve any tile that they encounter during construction.

38  
39 Mr. Hall asked Mr. Green if the radius for each anchor has to be the same as all the others or could it be  
40 asymmetrical.

1 Mr. Green stated that all of the anchors have to be symmetrical because it affects the structural integrity of  
2 the tower.

3  
4 Mr. Palmgren asked Mr. Green what the FCC certifies.

5  
6 Mr. Green stated that he is not sure what the FCC certified because he was only retained for zoning purposes  
7 and the petitioners had other representatives to address the certification process with the FCC and FAA.

8  
9 Mr. Palmgren asked Mr. Green if the FCC and the FAA addressed interference.

10  
11 Mr. Green stated that he assumes that the FCC and FAA addressed the issue of interference but he does not  
12 know as to what extent they addressed it. He said that he is relatively certain the tower will not interfere  
13 with critical communication networks and to the extent that it does the petitioner is to cease operations  
14 immediately. He said that a copy of the FCC approval letter was provided in the Board's packet.

15  
16 Mr. Thorsland asked Mr. Green if he has had time to review the special conditions for the tile.

17  
18 Mr. Green stated yes.

19  
20 Mr. Thorsland asked Mr. Green if the petitioner is comfortable with those conditions.

21  
22 Mr. Green stated that there is a pre-construction investigation required to locate the tiles on the entire  
23 property although they are not constructing on the entire five acres but on very small fraction of the five  
24 acres. He said that it would be cumbersome to the extent that if they found the tile it would fall upon their  
25 shoulders to locate the entire tile within the property therefore it would be their preference to agree to the  
26 conditions to promptly repair and reroute the tile as they encounter it during construction. He said that this  
27 would allow them to undertake the construction a little bit sooner than they would otherwise be able to and  
28 still address the drainage concerns that may exist.

29  
30 Mr. Hall stated that the conditions are drafted at a certain point and time and staff reuses those conditions  
31 without any editing necessary and sometimes staff does not. He said that given the limited disturbance of the  
32 property he would recommend that subparagraph 3 under Condition D be stricken because it is not necessary  
33 and the only concern is whether or not the tile will be disturbed by the anchor. He said that the condition  
34 was previously proposed for a project that would have a lot of development everywhere on the site. He said  
35 that he does not know how the ground anchors run and asked if Mr. Green could provide an engineering  
36 statement indicating if they did find the tile and whether the anchor poses any harm to the tile.

37  
38 Mr. Passalacqua asked Mr. Green if he is aware of the proximity of the proposed tower site to the other  
39 towers in the area.

40  
41 Mr. Green stated that there are several towers in the subject site area.

1

Mr. Thorsland requested that Scott Sivers approach the witness microphone.

3

Mr. Scott Sivers stated that broadcast towers which are similar to the proposed tower are several miles away from the subject site.

6

Mr. Passalacqua asked Mr. Sivers if he is aware of the wattage for those broadcast towers.

8

Mr. Sivers stated that he does not know the wattage of those other towers.

10

Mr. Passalacqua stated that if there are concerns regarding interference it would be nice to know such information.

13

Mr. Sivers stated that wattage for the proposed tower is not as strong as most of the other radio station's towers. He said that he did not come to the meeting tonight with comparable information for the other radio towers.

17

Mr. Thorsland stated that testimony was given tonight about a radio tower which produces 50,000 watts.

19

Mr. Sivers stated that the WHMS radio tower produces 50,000 watts and is approximately 15 miles away from the subject site.

22

Mr. Passalacqua stated that the WHMS radio tower is not a good comparison to the subject tower although it is with all of the neighboring properties across the street it is assumed that the WHMS radio tower is working fine.

26

Mr. Sivers stated yes.

28

Mr. Passalacqua asked if there is a spray of output.

30

Mr. Sivers stated that the tower itself does not radiate signal because the signal only comes from the antenna.

32

Mr. Passalacqua stated that he is only trying to get a feel of the affects to the non-participating properties to the south of the subject site. He said that he does not expect Mr. Sivers to have the information for the other towers but they are very close to residences and he is trying to get a feel for comparison to the subject tower.

36

Mr. Sivers stated that he appreciates Mr. Passalacqua's concerns.

38

Mr. Thorsland asked Mr. Sivers how the anchors are installed into the ground.

39

Mr. Sivers stated that the anchors are placed at an angle similar to the guy wire itself.

41

1

2 Mr. Thorsland stated that it is possible that the anchor will be inserted along the outside of the tile and not  
3 straight down into the tile.

4

5 Mr. Sivers stated yes.

6

7 Mr. Courson asked if the anchor is a screw type anchor.

8

9 Mr. Sivers stated that the anchors are installed into a cement foundation.

10

11 Mr. Hall asked Mr. Sivers to indicate the depth of the foundation.

12

13 Mr. Sivers stated that he does not know the actual depth of the foundation but it should be included in the  
14 submitted plans.

15

16 Mr. Thorsland asked the Board if there were any additional questions for Mr. Sivers and there were none.

17

18 Mr. Thorsland asked if staff had any additional questions for Mr. Sivers and there were none.

19

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

21

22 Mr. Thorsland asked Mr. Green if the intent is to continue past the 25 year lease.

23

24 Mr. Green stated that if the tower is useful then he would assume that the lease will continue past 25 years  
25 but it is hard to say whether or not the tower would be useful at that time. He said that in 25 years time there  
26 could be new technology that would replace what is in place today.

27

28 Mr. Thorsland asked if the leases for the cell phone companies will be on a yearly basis.

29

30 Mr. Green stated that the cell phone company leases tend to run for three to five year increments with  
31 automatic renewals. He said that generally the leases run for ten to 20 years including the extensions.

32

33 Mr. Thorsland asked Mr. Green if there is a planned policy and remedy for any interference complaint filed  
34 by a neighbor.

35

36 Mr. Green stated that it is virtually impossible to establish an agreement with surrounding landowners. He  
37 said that during negotiations with the parties involved in the leases interference is considered and  
38 immediately powered down if one party would cause interference with the other.

39

40 Mr. Thorsland stated that he is not interested in the interference between the parties but the interference with  
41 the neighbor's television signal, wireless router, wireless mouse, etc. He asked if there is a plan to remediate

1 the interference.

2  
3 Mr. Green stated that if it is proven that the interference is coming from the tower then the petitioner would  
4 do their best to remedy the situation. He said that although the WHMS tower is not comparable their  
5 broadcast signals, in general, can similarly affect such devices regardless of where the tower is located. He  
6 said that it doesn't matter where a tower is located if it is going to be used for comparison purposes as to the  
7 type of interference. He said that there are several radio broadcast towers as well as cell phone towers  
8 located in and around a lot of densely populated areas and to his knowledge interference has not been a big  
9 problem.

10  
11 Mr. Passalacqua asked Mr. Green who will be responsible for taking down the tower if its services become  
12 obsolete.

13  
14 Mr. Green stated that S.J. Broadcasting is obligated to take down the tower and restore the land to its original  
15 condition. He said that no one can guarantee that a company will be in existence at the time that such occurs  
16 but at this time it has been agreed that S. J. Broadcasting is responsible.

17  
18 Mr. Thorsland asked the audience if anyone else desires to sign the witness register to present testimony for  
19 these cases and there was no one.

20  
21 Mr. Thorsland closed the witness register for Cases 698-S-11 and 706-V-12.

22  
23 Mr. Thorsland asked the Board if there were any questions for staff and there were none.

24  
25 Mr. Thorsland stated that the Board should now review the Special Conditions for Approval. He said that  
26 previously during the hearing Special Condition D.(a)(3) was stricken. He asked Mr. Hall if there were any  
27 additional changes to the proposed special conditions.

28  
29 Mr. Hall stated that Special Condition D. does not explicitly provide for an engineering assessment of the  
30 risk posed to a tile that is found. He said that D.(a)(1) discusses subsurface investigations intended to  
31 identify if any underground tile are at risk of damage by construction. He said that the obvious thing to do  
32 would be to provide a provision that a statement is required from on Illinois Licensed Engineer certifying  
33 that a tile is present but the anchor does not pose any risk.

34  
35 Mr. Thorsland stated that he would like to remove the word "south" from D.(a)(1) and tower anchors.

36  
37 Mr. Hall stated that the south anchor is the only one where staff suspects that there will be a problem.

38  
39 Mr. Thorsland stated that staff does not believe that there may be a small problem with any of the other  
40 anchors.

41

- 1 Mr. Hall stated that subparagraph D.(b) on page 5 of the March 29, 2012, Supplemental Memorandum is  
2 intended to address that concern.  
3
- 4 Mr. Thorsland stated that D.(a)(1) should remain as written.  
5
- 6 Mr. Hall stated that he does not recall any instance like this in all of the years that he has been working with  
7 this Board where as luck would have it there is such a conflict with what staff believes is in the ground  
8 versus what needs to go on top of it. He said that this situation is very unique and he believes that it merits  
9 actual investigation.  
10
- 11 Mr. Thorsland asked Mr. Hall if he would like the new text regarding the certification by an Illinois Licensed  
12 Engineer inserted into D.(a)(1).  
13
- 14 Mr. Hall stated that the new text should actually be inserted into D.(a)(4) instead of D.(a)(1). He said that  
15 revised Special Condition D.(a)(4) should read as follows: Documentation and certification of all subsurface  
16 investigations by an Illinois Professional Engineer shall be provided to the Zoning Administrator including a  
17 statement of no risk if in the opinion in the engineer's approval the anchor will not harm the existing tile in  
18 which case the tile doesn't have to be relocated.  
19
- 20 Mr. Green stated that each anchor is currently engineered to be 11 feet in length and 3' x 3' in width and  
21 depth and 8-1/2 feet below the surface. He said that the anchor will be 11 feet in length but at an angle it  
22 would only go to a depth of 8-1/2 feet.  
23
- 24 Mr. Thorsland asked the Board if there were any questions for Mr. Green.  
25
- 26 Mr. Passalacqua asked what happens if this is an extreme wet location.  
27
- 28 Mr. Hall stated that there will have to be an excavation to form the footing and during the process of the  
29 excavation it will be discovered whether a tile exists or not.  
30
- 31 Mr. Green stated that if a tile is encountered the petitioners would like to repair or redirect that tile at the  
32 time.  
33
- 34 Mr. Hall stated that this entire time he has been assuming that the anchor would be driven into the ground.  
35
- 36 Mr. Green stated that there is a provision for soil testing therefore some boring will be performed to test the  
37 soil conditions.  
38
- 39 Mr. Passalacqua asked what kind of adjustment is available for the guy wires.  
40
- 41 Mr. Hall stated that the only way that the radius of the guy wires can be adjusted would not be in keeping

1 with the advertised waivers of standard conditions.

2

3 Ms. Capel asked if Special Condition D(a) should be stricken.

4

5 Mr. Hall stated that he believes that Special Condition D.(a) could be stricken because Special Condition  
6 D.(b) covers the situation. He said that relocation of the tile has to be in keeping with the Stormwater  
7 Management Policy which requires some documentation from an Illinois Professional Engineer therefore if  
8 the Board is comfortable with such then Special Condition D.(a) should suffice.

9

10 Mr. Thorsland stated that he agrees with Ms. Capel and Mr. Hall. He said that in light of how the petitioners  
11 are going to put the anchor in the ground Special Condition D.(b) covers the entire situation.

12

13 Mr. Passalacqua stated that testimony has been received indicating that the intent is to be a good neighbor  
14 but does the Board need to create a condition regarding complaints.

15

16 Mr. Hall stated that if the Board does not have such a condition the Board could be accused of not bothering  
17 to have a condition even though the condition doesn't really do much. He said that the Board is aware that  
18 there is condition for wind farm interference and that requirement does not amount to a lot but on the other  
19 hand the wind farm company reports to the County Board every year and if a record of complaints is  
20 received then the wind company will have to answer to the County Board.

21

22 Mr. Passalacqua stated that he would think that the petitioners would be comfortable with a condition  
23 regarding addressing complaints.

24

25 Mr. Thorsland asked Mr. Green if a phone number is posted on the property for the public to contact.

26

27 Mr. Green stated that the petitioners are indicating that they are agreeable to posting such information.

28

29 Mr. Thorsland stated that for a wind farm a sign indicating the phone number to a complaint hotline is to be  
30 posted at each tower site. He said that the same type of information could be placed on the radio tower  
31 regardless of whether the complaint is due to fire, wind damage or that someone's television signal is being  
32 interrupted by the radio tower's frequency. He said that a Special Condition E. could read as follows: E. If  
33 after construction of the radio tower the owner or operator receives a written complaint related to  
34 interference with local broadcast or residential television the owner or operator shall take reasonable steps to  
35 respond to the complaint. He asked Mr. Green if his clients are agreeable to such a condition.

36

37 Mr. Green stated that his clients have indicated that they are agreeable to such a condition.

38

39 Mr. Hall asked Mr. Green if it is his testimony that there will be a telephone number posted on either the  
40 transmitter building or fence for people to call with questions or complaints.

41



1 Mr. Green stated no, such was not part of the existing plan but if it is posed as a condition then his clients are  
2 agreeable in complying.

3  
4 Mr. Passalacqua stated that he is addressing the neighbor's concerns and it is his understanding that the FCC  
5 is already setup for receiving these types of complaints should problems arise.

6  
7 Mr. Thorsland asked staff and the Board if there were any further questions for Mr. Green and there were  
8 none.

9  
10 Mr. Thorsland read the Special Conditions as follows:

- 11  
12 **A. The development of the site must be substantially the same as indicated in the approved**  
13 **site plan submitted on March 27, 2012, and in conformance with every special**  
14 **condition.**

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

16 **That the development of the site is the same as described in the public hearing.**

17  
18 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

- 19  
20 **B. The proposed transmitter building shall only be used for the purposes of housing**  
21 **equipment associated with operation and maintenance of the transmission tower.**

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

23 **That the proposed transmitter building is not used for purposes other than the storing**  
24 **of equipment associated with the transmitter tower.**

25  
26 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

- 27  
28 **C. The existing driveway shall not be used to gain access to the tower or transmitter**  
29 **building during construction and after completion of construction.**

30 The special condition stated above is required to ensure the following.

31 **That the existing driveway does not become in a state of disrepair.**

32  
33 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

- 34  
35 **D.(a) If any underground drain tile is encountered during construction the applicant must do**  
36 **the following:**

- 37 **1. Construction shall cease until the course of each tile across the subject property**  
38 **is established by additional investigation and construction shall not recommence**  
39 **until authorized by the Zoning Administrator except that construction does not**  
40 **implicate the tile may continue.**

1 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

2  
3 **2. The Zoning Administrator shall be notified within 48 hours or the next business**  
4 **day.**

5  
6 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

7  
8 **3. Any tile that is encountered during construction must be relocated or rerouted**  
9 **in conformance with the Champaign County Stormwater Management Policy**  
10 **unless the proposed construction is modified to avoid the tile. Any modification**  
11 **of the construction to avoid the tile shall be indicated on a revised site plan**  
12 **approved by the Zoning Administrator. Relocated tile shall be non-perforated**  
13 **conduit to prevent root blockage. Conformance of any tile relocation with the**  
14 **Stormwater Management Policy shall be certified by an Illinois Professional**  
15 **Engineer.**

16  
17 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

18  
19 **4. As-built drawings shall be provided of any relocated underground drain tile**  
20 **and shall be approved by the Zoning Administrator prior to approval of a**  
21 **Zoning Use Permit Application on the subject property. Any relocated drain**  
22 **tile must be inspected by the Zoning Administrator prior to backfilling.**

23  
24 The special condition stated above is required to ensure the following:

25  
26 **Possible field tiles on the subject property are identified prior to development**  
27 **and adequately protected and that any possible tiles that are discovered during**  
28 **construction are adequately protected.**

29  
30 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

31  
32 **Mr. Courson moved, seconded by Mr. Palmgren to approve the special conditions as amended.**

33  
34 Ms. Capel stated that Mr. Thorsland needs to read Special Condition E and suggested that the Board use the  
35 language utilized in the wind farm case.

36  
37 Mr. Hall stated that he does not have such language with him tonight but he has drafted text for Special  
38 Condition E as follows:

39  
40 **E. A minimum 2' x 2' all weather sign shall be posted on the exterior of the**  
41 **transmitter building and visible to the public that states the phone number to**

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**call with complaints about electromagnetic interference.**

Mr. Hall stated that a Special Condition F. could be added although he cannot begin to list all of the types of interference that Mr. Bates mentioned but on the condition requiring reasonable steps to respond we are talking about a lot more than broadcast residential television and he is wondering if broadcast residential television could be a written complaint related to electromagnetic interference from the radio tower, which is the language of 6.1.4.H.4. He said that special condition F. could read as follows:

**F. If after construction of the radio tower the operator receives a written complaint related to electromagnetic interference from the transmitter tower the owner/operator shall take reasonable steps to respond to the complaint.**

Ms. Capel asked if the sign could include an address for written complaints.

Mr. Hall stated that an address may be easier than a phone number because a phone number would have to be manned at some point and an address is always there. He said that the special condition would be revised as follows:

**E. A minimum 2' x 2' all weather sign shall be posted on the exterior of the transmitter building and visible to the public that states the address to which written complaints about electromagnetic interference can be sent.**

Mr. Hall stated that a proposed Special Condition A. was proposed in the Summary of Evidence dated March 15, 2012, therefore the special conditions that Mr. Thorsland previously read should be revised accordingly and Special Condition F. is the condition related to the sign and Special Condition G. is the condition regarding reasonable response.

Mr. Green asked if the sign condition only requires the address for which a complaint should be mailed because the petitioner does not want to invite complaints with a phone number and address. He said that he does not know what other towers are required to do but this would be the petitioner's preference.

Mr. Thorsland asked the Board to comment on the petitioner's request.

Ms. Capel stated that she believes that the phone number and address should be included on the sign.

Mr. Sivers suggested that the FAA registration number be included on the sign.

Mr. Hall stated that the sign should include the owner's name, phone number, address and the FAA registration number.

New Special Condition F. should be amended as follows:

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- F. **A minimum 2' x 2' all weather sign shall be posted on the exterior of the transmitter building and visible to the public that states the owner's name, phone number, address and the FAA registration # to which written complaints about electromagnetic interference can be sent.**

Mr. Thorsland requested a motion to approve the special conditions.

**Ms. Capel moved, seconded by Mr. Courson to approve Special Conditions A-G as amended. The motion carried by voice vote.**

Mr. Thorsland stated that a new item #6 should be added to the Documents of Record indicating the following: Supplemental Memorandum dated March 23, 2012. He said that a new item #7 should be added to the Documents of Record indicating the following: Supplemental Memorandum dated March 29, 2012 with attachments: A. Champaign County Drainage District Map with Legend; and B. Revised Site Plan received March 27, 2012; and C. Tower and Anchor Location Map; and D. Large LIDAR Topographic Map prepared by the Champaign County GIS Consortium (not attached, presented at the March 29, 2012, public hearing).

**Finding of Fact for Case 698-S-11:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 698-S-11 held on March 15, 2012 and March 29, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 1. **The requested Special Use Permit, subject to the special conditions imposed herein, IS necessary for the public convenience at this location.**

Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS necessary for the public convenience at this location because the tower will provide increased emergency broadcast to the east and would increase the broadcast signal for the radio station.

Mr. Thorsland stated that the tower would potentially benefit a cell phone company with better cell phone coverage.

- 2. **The requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.**
  - a. **The street has ADEQUATE traffic capacity and the entrance location has**

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**ADEQUATE visibility.**

Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

**b. Emergency services availability is ADEQUATE.**

Mr.Thorsland stated that emergency services availability is ADEQUATE.

**c. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.**

Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

**d. The Special Use WILL be compatible with adjacent uses.**

Ms. Capel stated that the Special Use WILL be compatible with adjacent uses because farming can continue to take place on the property except for the small area required for the tower.

**e. Surface and subsurface drainage will be ADEQUATE.**

Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE because a special condition is imposed requiring repair of the tile if it is damaged.

**f. Public safety will be ADEQUATE.**

Ms. Capel stated that public safety will be ADEQUATE.

**g. The provisions for parking will be ADEQUATE.**

Mr. Thorsland stated that provisions for parking will be ADEQUATE.

Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it is located or otherwise detrimental to the public health, safety and welfare.

**3a. The requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.**

1 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,  
2 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.  
3

4 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,  
5 DOES preserve the essential character of the DISTRICT in which it is located because:**  
6

7 **a. The Special Use will be designed to CONFORM to all relevant County  
8 ordinances and codes.**  
9

10 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County ordinances and  
11 codes.  
12

13 **b. The Special Use WILL be compatible with adjacent uses.**  
14

15 Mr. Palmgren stated that the Special Use WILL be compatible with adjacent uses.  
16

17 **c. Public safety will be ADEQUATE.**  
18

19 Mr. Courson stated that public safety will be ADEQUATE.  
20

21 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein,  
22 DOES preserve the essential character of the DISTRICT in which it is located.  
23

24 **4. The requested Special Use Permit, subject to the special conditions imposed herein IS  
25 in harmony with the general purpose and intent of the Ordinance.**  
26

27 **a. The Special Use is authorized in the District.**  
28

29 **b. The requested Special Use Permit IS necessary for the public convenience at this  
30 location.**  
31

32 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this  
33 location.  
34

35 **c. The requested Special Use Permit, subject to the special conditions imposed  
36 herein, is so designed, located, and proposed to be operated so that it WILL  
37 NOT be injurious to the district in which it shall be located or otherwise  
38 detrimental to the public health, safety and welfare.**  
39

40 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein is  
41 so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it

1 shall be located or otherwise detrimental to the public health, safety and welfare.

- 2
- 3 **d. The requested Special Use Permit, subject to the special conditions imposed**
- 4 **herein, DOES preserve the essential character of the DISTRICT in which it is**
- 5 **located.**
- 6

7 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,  
8 DOES preserve the essential character of the DISTRICT in which it is located.

9  
10 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS  
11 in harmony with the general purpose and intent of the Ordinance.

- 12
- 13 **5. The requested Special Use IS NOT an existing nonconforming use.**
- 14

15 Mr. Thorsland stated the requested Special Use IS NOT an existing nonconforming use.

- 16
- 17 **6. Regarding necessary waivers of standard conditions:**

- 18 **A. Regarding the requested waiver of the standard condition in Section 6.1.3 for a**
- 19 **communications tower for a setback from the centerline of CR 1200E of 70 feet**
- 20 **instead of the Standard Condition setback from the street centerline of 100 feet:**
- 21

- 22 **(1) The waiver, subject to the proposed special condition, IS in accordance**
- 23 **with the general purpose and intent of the Zoning Ordinance and WILL**
- 24 **NOT be injurious to the neighborhood or to the public health, safety,**
- 25 **and welfare.**
- 26

27 Mr. Thorsland stated that the waiver, subject to the proposed special condition, IS in accordance with the  
28 general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to  
29 the public health, safety and welfare.

- 30
- 31 **(2) Special conditions and circumstances DO exist which are peculiar to the**
- 32 **land or structure involved, which are not applicable to other similarly**
- 33 **situated land and structures elsewhere in the same district.**
- 34

35 Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or  
36 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
37 same district.

- 38
- 39 **(3) Practical difficulties or hardships created by carrying out the strict letter**
- 40 **of the regulations sought to be varied WILL prevent reasonable or**
- 41 **otherwise permitted use of the land or structure or construction.**

1  
 2 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the  
 3 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure  
 4 or construction.

5  
 6 **(4) The special conditions, circumstances, hardships or practical difficulties**  
 7 **DO NOT result from actions of the applicant.**

8  
 9 Ms. Capel stated that the special conditions, circumstances, hardships or practical difficulties DO NOT result  
 10 from actions of the applicant.

11  
 12 **(5) The requested waiver, subject to the proposed special condition, IS the**  
 13 **minimum variation that will make possible the reasonable use of the**  
 14 **land/structure.**

15  
 16 Ms. Capel stated that the requested waiver, subject to the proposed special condition, IS the minimum  
 17 variation that will make possible the reasonable use of the land/structure.

18  
 19 **B. Regarding the requested waiver of the standard condition in Section 6.1.3 for a**  
 20 **communications tower for a rear yard of 40 feet instead of the Standard**  
 21 **Condition side yard of 50 feet.**

22  
 23 **(1) The waiver, subject to the proposed special condition, IS in accordance**  
 24 **with the general purpose and intent of the Zoning Ordinance and WILL**  
 25 **NOT be injurious to the neighborhood or to the public health, safety,**  
 26 **and welfare.**

27  
 28 Ms. Capel stated that the waiver, subject to the proposed special condition, IS in accordance with the general  
 29 purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the  
 30 public health, safety and welfare.

31  
 32 **(2) Special conditions and circumstances DO exist which are peculiar to the**  
 33 **land or structure involved, which are not applicable to other similarly**  
 34 **situated land and structures elsewhere in the same district.**

35  
 36 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or  
 37 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
 38 same district.

39  
 40 **(3) Practical difficulties or hardships created by carrying out the strict letter**  
 41 **of the regulations sought to be varied WILL prevent reasonable or**



**otherwise permitted use of the land or structure or construction.**

Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.

**(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicants.**

Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicants.

**(5) The requested waiver, subject to the proposed special condition, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Mr. Courson stated that the requested waiver, subject to the proposed special condition, IS the minimum variation that will make possible the reasonable use of the land/structure.

**7. The special conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposes described below:**

**A. Regarding State of Illinois accessibility requirements:**

**(1) The Zoning Administrator shall not approve a Zoning Use Permit for the proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed transmitter building will comply with Illinois Accessibility Code and Illinois Environmental Barriers act or documentation from the Illinois Capital Development Board that no part of the proposed transmitter building has to be accessible nor does the tower;**

**(2) If documentation from the Illinois Capital Development Board does indicate that any part of the proposed Special Use must be accessible the Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.**

The special conditions stated above are required to ensure that the proposed Special Use meets applicable state codes for handicap accessibility.

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- B. The development of the site must be substantially the same as indicated in the approved site plan submitted on March 27, 2012, and in conformance with every special condition.**

The special condition is required to ensure that the development of the site is the same as described in the public hearing.

- C. The proposed transmitter building shall only be used for the purposes of housing equipment associated with operation and maintenance of the transmission tower.**

The special condition is to ensure that the proposed transmitter building is not used for purposes other than storing of equipment associated with the transmitter tower.

- D. The existing driveway shall not be used to gain access to the tower or transmitter building during construction and after completion of construction.**

The special condition is required to ensure that the existing driveway does not become in a state of disrepair.

- E. (a) If any underground tile is encountered during construction the applicant must do the following:**

**1. Construction shall cease until the course of each tile across the subject property is established by additional investigation and construction shall not recommence until authorized by the Zoning Administrator except that construction does not implicate the tile may continue.**

**2. The Zoning Administrator shall be notified within 48 hours or the next business day.**

**3. Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional**

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**Engineer.**

- 4. As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Use Permit Application on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.**

The special condition is required to ensure that possible field tiles on the subject property are identified prior to development and adequately protected and that any possible tiles that are discovered during construction are adequately protected.

- F. A minimum 2' x 2' all weather sign shall be posted on the exterior of the transmitter building and visible to the public that states the owner's name, phone number, address and the FAA registration # to which written complaints about electromagnetic interference can be sent.**
- G. If after construction of the radio tower the operator receives a written complain related to electromagnetic interference from the transmitter tower the owner/operator shall take reasonable steps to the respond to the complaint.**

**Finding of Fact for Case 706-V-12:**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 706-V-12 held on March 15, 2012 and March 29, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 1. Special conditions and circumstances DO 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.**

Mr. Thorsland stated that special conditions and circumstances DO 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 this particular location will improve the emergency broadcast coverage to the east and possibly provide better cell phone coverage for emergency communications.

Mr. Hall stated that five acres is the minimum amount of land required to accommodate the tower and the elimination of the variance for setback would require more land.

- 2. Practical difficulties or hardships created by carrying out the strict letter of the**

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**regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the applicants would be unable to construct the tower at that desired height and footprint.

**3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicants.**

Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicants because the applicants are using the smallest amount of land possible to locate the tower.

**4. The requested variance, subject to the special conditions imposed, IS in harmony with the general purpose and intent of the Ordinance.**

Mr. Thorsland stated that the requested variance, subject to the special conditions imposed, IS in harmony with the general purpose and intent of the Ordinance because it allows for continued agricultural operations on the majority of the lot.

**5. The requested variance, subject to the special condition imposed, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.**

Ms. Capel stated that the requested variance, subject to the special condition imposed, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because there will not be any increase in traffic and there is a safe access with adequate visibility and emergency services to the site.

Mr. Thorsland added the provisions to provide adequate drainage and the applicant’s contact information will be available to address interference concerns and complaints.

**6. The requested variance, subject to the special condition imposed, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Ms. Capel stated that the requested variance, subject to the special condition imposed, IS the minimum variation that will make possible the reasonable use of the land/structure because the requested variance is necessary due to the location of the anchors.

1 Mr. Hall asked if the Board should add evidence regarding Mr. Bates' testimony. He said that Mr. Bates'  
2 testimony will be included in the minutes of this meeting but it is obvious that his testimony changed the  
3 conditions therefore it should be apparent that Mr. Bates' testimony was heard. He said that the final  
4 determination for Special Use Permits with associated variances is a huge undertaking and the Board has  
5 done a good job. He said that it is up to the Board as to whether anything should be added to the Summary  
6 of Evidence or whether the record of the case would be adequate.

7  
8 Ms. Capel asked if Mr. Bates' testimony should be indicated under Special Condition F and G.

9  
10 Mr. Hall stated that Special Conditions F and G were constructed at tonight's meeting therefore there is no  
11 narrative. He said that the narrative could indicate the following: The special condition stated above is  
12 required to ensure the following: That any electromagnetic interference caused by the tower is dealt with in  
13 a reasonable way.

14  
15 Mr. Thorsland entertained a motion to approve the Summary of Evidence, Documents of Record and Finding  
16 of Facts as amended.

17  
18 **Mr. Courson moved, seconded by Ms. Capel to approve the Summary of Evidence, Documents of  
19 Record and Finding of Fact as amended. The motion carried by voice vote.**

20  
21 **Ms. Capel moved, seconded by Mr. Palmgren to move to the Final Determination for Cases 698-S-11  
22 and 706-V-12. The motion carried by voice vote.**

23  
24 Mr. Thorsland informed the petitioners that one Board member was absent and one Board member seat was  
25 vacant therefore it is at their discretion to either continue Cases 698-S-11 and 706-V-12 until a full Board is  
26 present or request that the present Board proceeds to the Final Determinations. He informed the petitioners  
27 that four affirmative votes are required for approval.

28  
29 Mr. Green stated that the petitioners have requested that the present Board proceed to the Final  
30 Determinations.

31  
32 **Final Determination for Case 698-S-11:**

33  
34 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals  
35 finds that, based upon the application, testimony and other evidence received in this case that the  
36 requirements for approval of Section 9.1.11B. HAVE been met and pursuant to the authority granted  
37 by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special Use  
38 requested in Case 698-S-11 is hereby GRANTED WITH SPECIAL CONDITIONS to the petitioner  
39 S.J. Broadcasting, LLC, with owners Steven J. Khachaturian, Jon E. Khachaturian and the estate of  
40 Clinton C. Atkins, to authorize the construction of a radio transmission tower and transmitter  
41 building as a Special Use in the AG-1 Zoning District, subject to the following conditions:**

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**A. Regarding State of Illinois accessibility requirements:**

**(1) The Zoning Administrator shall not approve a Zoning Use Permit for the proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed transmitter building will comply with Illinois Accessibility Code and Illinois Environmental Barriers act or documentation from the Illinois Capital Development Board that no part of the proposed transmitter building has to be accessible nor does the tower;**

**(2) If documentation from the Illinois Capital Development Board does indicate that any part of the proposed Special Use must be accessible the Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.**

The special conditions stated above are required to ensure that the proposed Special Use meets applicable state codes for handicap accessibility.

**B. The development of the site must be substantially the same as indicated in the approved site plan submitted on March 27, 2012, and in conformance with every special condition.**

The special condition is required to ensure that the development of the site is the same as described in the public hearing.

**C. The proposed transmitter building shall only be used for the purposes of housing equipment associated with operation and maintenance of the transmission tower.**

The special condition is to ensure that the proposed transmitter building is not used for purposes other than storing of equipment associated with the transmitter tower.

**D. The existing driveway shall not be used to gain access to the tower or transmitter building during construction and after completion of construction.**

The special condition is required to ensure that the existing driveway does not become in a state of disrepair.

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**E. (a) If any underground tile is encountered during construction the applicant must do the following:**

- 1. Construction shall cease until the course of each tile across the subject property is established by additional investigation and construction shall not recommence until authorized by the Zoning Administrator except that construction does not implicate the tile may continue.**
- 2. The Zoning Administrator shall be notified within 48 hours or the next business day.**
- 3. Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer.**
- 4. As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Use Permit Application on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.**

The special condition is required to ensure that possible field tiles on the subject property are identified prior to development and adequately protected and that any possible tiles that are discovered during construction are adequately protected.

**F. A minimum 2' x 2' all weather sign shall be posted on the exterior of the transmitter building and visible to the public that states the owner's name, phone number, address and the FAA registration # to which written complaints about electromagnetic interference can be sent.**

The special condition stated above is required to ensure that any electromagnetic interference caused by the tower is dealt with in a reasonable way.

1           **G. If after construction of the radio tower the operator receives a written complain**  
 2           **related to electromagnetic interference from the transmitter tower the**  
 3           **owner/operator shall take reasonable steps to the respond to the complaint.**  
 4

5           The special condition stated above is required to ensure that any electromagnetic  
 6           interference caused by the tower is dealt with in a reasonable way.  
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8           The roll was called:  
 9

10 <b>Courson-yes</b>	10 <b>Miller-absent</b>	10 <b>Passalacqua-yes</b>
11 <b>Palmgren-yes</b>	11 <b>Capel-yes</b>	11 <b>Thorsland-yes</b>

12  
 13           **Final Determination for Case 706-V-12:**  
 14

15           **Ms. Capel moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of**  
 16           **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
 17           **that the requirements for approval in Section 9.1.9.C HAVE been met and pursuant to the authority**  
 18           **granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**  
 19           **of Champaign County determines that the Variance requested in Case 706-V-12 is hereby GRANTED**  
 20           **WITH CONDITIONS to the petitioner S.J. Broadcasting, LLC, with owners Steven J. Khachaturian,**  
 21           **Jon E. Khachaturian and the estate of Clinton C. Atkins, to authorize a variance of setbacks,**  
 22           **maximum lot size, as well as waivers (variance) of standard conditions for front yard setbacks, rear**  
 23           **yard setbacks to allow for the construction of a communications tower.**  
 24

25           The roll was called:  
 26

27 <b>Palmgren-yes</b>	27 <b>Capel-yes</b>	27 <b>Courson-no</b>
28 <b>Miller-absent</b>	28 <b>Passalacqua-yes</b>	28 <b>Thorsland-yes</b>

29  
 30           Mr. Hall informed the petitioners that they have received an approval for both cases. He said that staff will  
 31           send out the appropriate paperwork within the next few weeks.  
 32

33           Mr. Thorsland called for a ten minute recess.  
 34

35           **The Board recessed at 7:50 p.m.**

36           **The Board resumed at 8:00 p.m.**  
 37

38           Mr. Thorsland stated that the Board will now hear Case 702-V-11, Roger Burk.  
 39

40           **Case 701-AT-11 Petitioner: Zoning Administrator Request: Part A. Revise paragraph 6.1.4D.1 to**  
 41           **require that documentation of design compliance with applicable industry standards be submitted**



1 prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND  
2 FARM TOWER. Part B. Revise paragraph 6.1.4 F. as follows: 1. Revise subparagraph 6.1.4 F. 1. To  
3 require that agreements between the Applicant and the County engineer shall not be forwarded to the  
4 County Board before the special use permit is forwarded and that all other agreements shall be  
5 executed prior to the close of the public hearing before the BOARD; and 2. Delete subparagraph 6.1.4  
6 F. 1.u; and 3. Add new subparagraph 6.1.4 F.3. to require at the time of decommissioning a Roadway  
7 Use and Repair Agreement with the appropriate highway authority. Part C. Revise paragraph 6.1.4  
8 J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action  
9 Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the  
10 response from IDNR. Part D. Add new subparagraph 6.1.4 E. 7. to require that a permanent soil  
11 erosion and sedimentation plan be submitted for all WIND Farm Tower sites and access roads. Part  
12 E. Revise subparagraph 6.1.4S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS  
13 from what is indicated on the site plan provided that the final locations comply with any required  
14 waivers or special conditions of approval and the applicant conducts a noise study to verify  
15 compliance with the maximum allowable noise limit if the location of WIND TOWERS differ on the  
16 site plan submitted with the zoning use permit application from the site plan submitted with the  
17 special use permit application. Part F. Strike the requirement for “reclamation agreement” for NON-  
18 ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of “site  
19 reclamation plan” and add certain other related requirements as follows: 1. Section 3 revise the  
20 definition of “NON-ADAPTABLE STRUCTURE” to include a WIND TURBINE TOWER and a  
21 WIND FARM TOWER as currently defined in Section 3.; and 2. Make the following revisions to  
22 paragraph 6.1.1A.: a. Strike references to “reclamation agreement” and replace with “site reclamation  
23 plan”; and b. Revise subparagraphs 6.1.1A.1. through 5 as follows: (1) Require a site reclamation plan  
24 for NON-ADAPTABLE STRUCTURES; and (2) Require the site reclamation plan to be binding upon  
25 all successors of title to the land and require reclamation work be performed and that a letter of credit  
26 be provided for financial assurance; and (3) Limit consideration of salvage value to be as limited by  
27 Paragraph 6.1.4P. c. Revise subparagraph 6.1.1A.6 to strike “120 days” and replace with “180 days”  
28 and insert “or applicant” after “landowner”. D. Revise paragraph 6.1.1A. to add other related  
29 requirements. 3. Revise paragraph 6.1.4P as follows: a. Revise paragraph 6.1.4P to strike references  
30 to “reclamation agreement” and replace with “site reclamation plan”; and b. Delete subparagraphs  
31 6.1.4P.3.(d), (e), and (f) and add new subparagraph to require the following: (1) At the time of  
32 decommissioning a Roadway Use and Repair Agreement; and (2) The depth of removal of foundation  
33 concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet  
34 specified minimum standards of soil quality; depth; compaction; and drainage; and c. Revise  
35 subparagraph 6.1.4P.4.(a) to require an irrevocable letter of credit and an escrow account as financial  
36 assurance to be provided for the site reclamation plan; and d. Insert new subparagraph 6.1.4P.4.(b) to  
37 require the following: (1) Authorize salvage value to be deducted from decommissioning costs, subject  
38 to meeting specified standards; and (2) Add requirements for determining estimated net salvage value  
39 based on the average salvage price of the past five years and including and deconstructions costs; and  
40 (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from  
41 estimated decommissioning costs; and (4) Require the site reclamation plan to provide for legal

1 **transfer of the STRUCTURE to the demolisher should the reclamation work be performed; and (5)**  
2 **Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more**  
3 **than the estimated decommissioning cost of removal of the above ground portions of that WIND**  
4 **FARM TOWER. e. Renumber existing subparagraph 6.1.4P.4(b)(5) to become new subparagraph**  
5 **6.1.4P.4(d) and revise to require regular adjustment to the amount of financial assurance to ensure**  
6 **that it reflects current information by requiring an Illinois Professional Engineer to provide an**  
7 **updated report of estimates of decommissioning costs and salvage values. f. Revise paragraph 6.1.4P**  
8 **to add other related requirements. Note: The description of the request has been simplified from the**  
9 **legal advertisement. See the legal advertisement included with the memorandum.**

10  
11 Mr. Thorsland called Case 701-AT-11 and in order to save time he requested that the Secretary insert the  
12 entire description of the case in the minutes.

13  
14 Mr. Thorsland called John Hall to testify.

15  
16 Mr. Hall stated that the case has been re-advertised and includes the requirement for a noise study. He said  
17 that the condition in the wind farm case was not that any different location of a turbine triggered the need for  
18 a noise study. He said that there were three levels of flexibility allowed in the wind farm conditions and the  
19 proposed condition included on page 3 of the Supplemental Memorandum dated March 29, 2012, only  
20 requires a noise study if the Board allows more than 10% flexibility in location of the turbines. He said that  
21 part of the wind farm condition was that more than 1,500 feet away the Board allowed up to 500 feet of  
22 flexibility without a noise study and there was a range where the Board limited it to 10% and then the noise  
23 study was required for anything that ended up with less than 1,500 feet and the reasoning was because the  
24 Board felt the change was so dramatic that there should be a noise study. He said that this is not that  
25 dramatic and only indicates that any time you allow more than 10% flexibility it has to be accompanied by a  
26 noise study. He said that the Board can go back to how the case was originally advertised in that any  
27 flexibility requires a noise study but that is likely to be changed because that is not what was done on the  
28 wind farm. He said that for things that start out at 2,500 feet away 10% is not enough flexibility but staff's  
29 experience with the California Ridge Wind Farm is that there have been three turbines moved and none of  
30 them were moved more than 50 feet to accommodate the site conditions. He said that he can understand  
31 why the wind farm company wanted greater flexibility because they did not know what they actually needed  
32 and they did not want to have come back for a special use and that makes sense. He said that requiring a  
33 new noise study for any flexibility doesn't make sense on the face of it but that is what was originally  
34 advertised and if the Board wants to go with that version then it is up to the Board.

35  
36 Mr. Hall stated that the Supplemental Memorandum dated March 29, 2012, includes new proposed evidence  
37 and revisions. He said that new item 17.D should be added as follows: Regarding the requirement of Part  
38 F.3.e. that the amount of financial assurance must be adjusted every year after year 13. (1) It is unlikely that  
39 the financial assurance will need adjusted every year; and (2) It is possible that turbulent economic  
40 conditions could arise that might require annual updates; and (3) Even if the update were only required more  
41 often than once every two years "as needed" some amount of review would be necessary every year in order

1 to determine if the financial assurance would need updating; and (4) therefore it is reasonable to simply  
2 require an annual update every year after year 13.

3  
4 Mr. Hall stated that proposed new item 17.D summarizes the discussion that the ZBA had regarding the  
5 financial assurance and the Board's reasoning will be clear to the County Board. He said that with this new  
6 evidence and the Board's consideration of the change to Part E. this case may be ready for final action  
7 tonight.

8  
9 Mr. Thorsland stated that the March 23, 2012, Supplemental Memorandum includes points generally  
10 regarding the LRMP Goal, Objectives, and Policies and unless the Board disagrees there are no decision  
11 points for the Board to determine.

12  
13 Mr. Thorsland stated that page 11 of 29 of the Supplemental Memorandum dated March 29, 2012, includes  
14 the Summary Finding of Fact. He said that the Board needs to make a recommendation regarding item 2.

15  
16 Mr. Thorsland asked the Board if they would like to proceed to the Finding of Fact for Case 701-AT-11 at  
17 tonight's meeting and the Board indicated yes.

18  
19 Mr. Thorsland entertained a motion to extend the meeting to 10:00 p.m.

20  
21 **Mr. Courson moved, seconded by Mr. Palmgren to extend the meeting to 10:00 p.m. The motion**  
22 **carried by voice vote.**

23  
24 Mr. Thorsland informed the audience that anyone wishing to testify for Case 701-AT-11 must sign the  
25 witness register. He reminded the audience that when they sign the witness register they are signing an  
26 oath.

27  
28 Mr. Thorsland stated that since there is no one else who desires to sign the witness register for Case 701-  
29 AT-11 he will close the witness register for that case.

30  
31 Mr. Thorsland stated that a new item 8. should be added to the Documents of Record as follows:  
32 Supplemental Memorandum dated March 29, 2012.

33  
34 **Summary Finding of Fact for Case 701-S-11:**

35  
36 From the documents of record and the testimony and exhibits received at the public hearing conducted on  
37 February 2, 2012, February 16, 2012, and March 29, 2012, the Zoning Board of Appeals of Champaign  
38 County finds that:

- 39  
40 1. **The proposed Zoning Ordinance text amendment *IS NECESSARY TO ACHIEVE***  
41 **the Land Resource Management Plan because:**

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- A. The proposed Zoning Ordinance text amendment *IS NECESSARY TO ACHIEVE* LRMP goals 8 and 9.
- B. The proposed Zoning Ordinance text amendment will also *HELP ACHIEVE* LRMP goals 2 and 4.
- C. The proposed Zoning Ordinance text amendment *WILL NOT IMPEDE* the achievement of the other LRMP goals 1, 3, 5, 6, 7, and 10.

2. The proposed text amendment *WILL* improve the Zoning Ordinance because it will:

- A. *HELP ACHIEVE* the purpose of the Zoning Ordinance.

Mr. Courson stated that the proposed text amendment *WILL* improve the Zoning Ordinance.

Mr. Hall recommended that an item 2.B. be added the Summary Finding of Fact as follows: B. *WILL* improve the text of the Zoning Ordinance (see item 17 on page 10).

Mr. Thorsland asked the Board if they were comfortable with Mr. Hall’s recommendation for new item 2.B. and the Board indicated yes.

- B. *WILL* improve the text of the Zoning Ordinance.

Mr. Thorsland entertained a motion to approve the Summary of Evidence, Documents of Record and Finding of Fact as amended.

**Mr. Courson moved, seconded by Mr. Passalacqua to approve the Summary of Evidence, Documents of Record and Finding of Fact as amended. The motion carried by voice vote.**

Mr. Thorsland informed the petitioner that one Board member was absent and one Board member seat was vacant therefore it is at his discretion to either continue Case 701-AT-11 until a full Board is present or request that the present Board proceed to the Final Determination. He informed the petitioner that four affirmative votes are required for approval.

Mr. Hall requested that the present Board proceed to the Final Determination.

**Final Determination for Case 701-AT-11:**

**Mr. Courson moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Zoning Ordinance Amendment requested in Case 701-AT-11 should BE ENACTED by the County Board in the form attached hereto.**

1  
2 The roll was called:

3  
4                      **Miller-absent**                      **Passalacqua-yes**                      **Palmgren-yes**  
5                      **Thorsland-yes**                      **Capel-yes**                      **Courson-yes**  
6

7 **702-V-11 Petitioner: Roger Burk Request to authorize the following in the I-1 Light Industry Zoning**  
8 **District: Part A. Variance for a proposed warehouse storage facility with a setback of 54 feet from the**  
9 **centerline of Paul Avenue, a local street, in lieu of the minimum required 58 feet; and Part B.**  
10 **Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet; and Part C.**  
11 **Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet; and Part D.**  
12 **Variance from the visibility triangle requirements for a corner lot; and Part E. Variance from the**  
13 **minimum required number of parking spaces for industrial uses; and Part F. Variance from the**  
14 **loading berth requirements in lieu of the required 1 loading berth; and Part G. Variance from a**  
15 **minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum**  
16 **required 5 feet. Location: Lots 299 and 300 of Wilber Heights Subdivision in the Southwest Quarter**  
17 **of Section 31 of Somer Township and commonly known as the buildings at 101 Paul Avenue,**  
18 **Champaign.**

19  
20 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
21 sign the witness register for that public hearing. He reminded the audience that when they sign the witness  
22 register they are signing an oath.

23  
24 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
25 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
26 of hands for those who would like to cross examine and each person will be called upon. He requested that  
27 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
28 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
29 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
30 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
31 from cross examination.

32  
33 Mr. Thorsland asked the petitioner if he would like to make a statement outlining the nature of his request.

34  
35 Mr. Roger Burk, who resides at 2611 Sangamon Drive, Champaign, stated that he is proposing a warehouse  
36 for storage of vehicles in one-half of the building and his personal vehicles in the other one-half of the  
37 building.

38  
39 Mr. Thorsland called John Hall to testify.

40  
41 Mr. Hall stated that there are four memorandums for Case 702-V-11. He said that the Preliminary

1 Memorandum dated March 9, 2012, had case maps and the Preliminary Summary of Evidence attached. He  
2 said that the Supplemental Memorandum dated March 15, 2012, added new evidence and modified some of  
3 the evidence and included photographs of the existing property. He said that the Supplemental  
4 Memorandum dated March 23, 2012, included a revised Summary of Evidence and incorporated everything  
5 up to that time. He said that the Supplemental Memorandum dated March 29, 2012, includes new evidence  
6 proposed to be new item 7.F. of the Summary of Evidence and the evidence is as follows: F.: Regarding the  
7 proposed side and rear yard: (1) Even though this part of Wilber Heights is zoned I-1 Light Industry there  
8 are still many nonconforming dwellings in the neighborhood and the adjacent properties are in residential  
9 use; and (2) Footnote 8 in Section 5.3 of the Zoning ordinance provides that within the one and one-half mile  
10 extraterritorial jurisdiction of a zoned home rule municipality the minimum SIDE YARD in the R-1 and R-2  
11 Districts shall equal the minimum SIDE YARD of the comparable municipal zoning district in effect on  
12 January 1, 2004, as established by the translation table of the municipal ordinance; and (3) The City of  
13 Champaign is a zoned home rule municipality and the subject property is within the one and one-half mile  
14 extraterritorial jurisdiction of the City. Thus, if the subject property were zoned R-2 Single Family the  
15 minimum side yard would be 8 feet; and (4) The minimum rear yard in the R-2 Single Family District is the  
16 same as the I-1 Light Industry District which is 20 feet; and (5) The proposed use is a warehouse and self-  
17 storage warehouses. Any business activity authorized in the I-1 district may occur inside any of the  
18 warehouse spaces unless the Board imposes (and the petitioner agrees to accept) a special condition limiting  
19 those activities. The Board has imposed such a condition prohibiting business use in one other self-storage  
20 warehouse and that condition has proved difficult to enforce. A condition limiting the hours of all activity  
21 should be easier to enforce.

22  
23 Mr. Hall stated that the Supplemental Memorandum dated March 29, 2012 also includes a new item 12.C to  
24 be added to the Summary of Evidence as follows: 12.C.: Business activities between the hours of 10PM and  
25 7AM shall be limited as follows: (1) No activity (other than storage) shall occur in any of the self storage  
26 warehouse spaces during these hours; and (2) No business activity (other than office) shall occur in the  
27 warehouse space during these hours but the owner may use the space for personal activities. The special  
28 condition stated above is required to ensure the following: That the variance for side and rear yard does not  
29 contribute to undue nuisance conditions for adjacent residential properties.

30  
31 Mr. Hall stated that this is an industrial district and the side and rear yard variances are requested from those  
32 industrial standards and at the same time all of the adjacent properties are residential. He said that literally  
33 anything that can happen in the I-1 District can happen in this building but what has been proposed is a self  
34 storage warehouse and warehouse. He said that unless the Board imposes a condition the spaces in the  
35 proposed building could be rented out for different industrial uses. He said that staff is proposing the  
36 condition because staff receives complaints all of the time about the County approving industrial use in  
37 Wilber Heights but industrial uses is what the area is zoned. He said that when this Board approves a  
38 variance for an industrial use side yard with all of the surrounding properties being residential the County  
39 has discretion about that and the Board can impose the condition or ignore it but after all of the time that  
40 staff spends discussing this with the residents of Wilber Heights staff thought that the condition would be a  
41 reasonable condition to place before the Board.

1

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

3

4 Ms. Capel asked Mr. Hall if lighting is an issue.

5

6 Mr. Hall stated that the Zoning Ordinance includes the Standard Condition that requires all exterior lighting  
7 to be full-cutoff. He said that a condition limits the hours of operation but it is unknown as to what will  
8 happen in the proposed spaces and what type of noises will be generated therefore it is his view as the  
9 Zoning Administrator that the property is located in an industrial district and during the day there will be the  
10 sounds and activities that occur in an industrial district. He said that if the condition is approved it will  
11 assure that at night time there will be some reduction in noise and activities. He said that the only reason that  
12 staff is proposing the condition is because of the requested variance and if there were no variance then there  
13 would be no condition.

14

15 Mr. Palmgren asked Mr. Hall if he is proposing limited access during these hours.

16

17 Mr. Hall stated that the intent of the condition is that there should not be anyone moving in and out of the  
18 storage spaces between the hours of 10 PM and 7AM. He said that the intent of the condition is literally that  
19 there will be no activity in the self storage spaces at all. He said that no one will be living on the property  
20 and there will be no night watchman and it is true that there is a large mall located on one side of the  
21 property and residences on the other three sides but no one will be present on the property at night unless Mr.  
22 Burk is present in his own space.

23

24 Mr. Courson stated that he drives past the property several times per day and the streets are narrow in the  
25 neighborhood and he is concerned about granting such a small setback for the streets for parking along the  
26 north side. He said that the subject property is an extremely small lot and the neighbor to the north will have  
27 a direct view of the activities that are occurring on the property. He asked if any of the neighbors have  
28 expressed concerns regarding the petitioner's request.

29

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

32

33 Mr. Hall stated that one neighbor was present at the last meeting although she is not present tonight. He said  
34 that he has not taken any calls on this case and he is not aware of any calls received by other members of the  
35 Department of Planning and Zoning staff. He said that he assumes that everyone in this small neighborhood  
36 is aware of Mr. Burk's proposal.

37

38 Mr. Kass stated that the only call that he received regarding the case was from Mike Kobel, Chief of the  
39 Eastern Prairie Fire Protection District and he basically just had questions regarding the nature of the case.

40

41 Mr. Thorsland asked the Board if there were any questions for Mr. Burk and there were none

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Mr. Thorsland asked if staff had any questions for Mr. Burk and there were none.

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

Mr. Thorsland asked staff to explain why Part A. is no longer required.

Mr. Hall stated that Part A. was reviewed in the Supplemental Memorandum dated March 15, 2012. He said that staff had worked on the case without completing the averaging process along Paul Avenue which the Zoning Ordinance allows in area such as Wilber Heights. He said that once staff had the chance to complete the averaging along Paul Avenue it was determined that the Zoning Ordinance would allow as little as a 7-1/2 foot yard along Paul Avenue. He said that the plan that Mr. Burk has proposed provides for all of the parking that is required although the parking is closer to the property line than what the Zoning Ordinance normally requires and is included as part of the variance. He said that all of the parking is off-street and the condition that the Board would normally consider regarding parking was not warranted in this case therefore it was not included. He said that a variance for the side and rear yard is included in the request because the parking is principally on the north side and there is a visibility triangle issue on Market Street. He said that there will need to be a septic system if there is ever a bathroom installed in the building which will also be along Market Street. He said that the loading berth requirement is part of the variance because Mr. Burk thought that it was a reasonable request since one parking space is provided for each unit.

Mr. Courson stated that many times with a self storage warehouse there will be an oversized truck or U-Haul which is longer than a normal parking space for a regular vehicle.

Mr. Hall stated that it is very rare to have every renter present at the same time and the only way to include a loading berth is to make the building smaller. He said that the Zoning Ordinance does not require the loading berth to be in front of the spaces although there is a lot of room along Market Street but that is not where someone is going to want to park to unload their U-Haul. He said that if this is a concern of the Board the only alternative is to require that the building be made smaller but it is at the Board's discretion.

Mr. Thorsland requested that Mr. Burk address the Board.

Mr. Thorsland stated that looking at the annotated site plan the ADA parking is located along the west side of the building. He asked Mr. Burk if the area between the ADA parking and the other parking where the sidewalk is located will be paved.

Mr. Burk stated that the ADA parking and the sidewalk will be paved.

Mr. Thorsland asked Mr. Burk about the area in between.

Mr. Burk stated that the area in between will be rock and not grass.



1  
2 Mr. Thorsland stated that to alleviate Mr. Courson's concern someone could come onto the rock area with  
3 their U-Haul to unload.  
4  
5 Mr. Courson stated that someone could but will they because most people back up to the door of the unit to  
6 unload.  
7  
8 Mr. Passalacqua asked staff if the parking areas are 16' x 21'.  
9  
10 Mr. Hall stated that he believes it is 21' x 22'.  
11  
12 Mr. Passalacqua stated that the sidewalk is four feet wide and the parking spot next to it is 20' wide.  
13  
14 Mr. Hall stated that the area is 17' x 22'.  
15  
16 Mr. Thorsland asked the Board if there were any additional questions for Mr. Burk and there were none.  
17  
18 Mr. Thorsland asked if staff had any additional questions for Mr. Burk and there were none.  
19  
20 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Burk and there was no one.  
21  
22 Mr. Thorsland stated the Board and the petitioner appear to be comfortable with Special Conditions A and B  
23 therefore proposed Special Condition C needs to be discussed.  
24  
25 Mr. Thorsland requested the Board's comments on proposed Special Condition C.  
26  
27 Mr. Courson asked if proposed Special Condition C is enforceable.  
28  
29 Mr. Thorsland stated that he would assume that proposed Special Condition C will be enforced the same way  
30 as most of the other special conditions in that someone will call staff to complain.  
31  
32 Mr. Thorsland asked the Board if a sign should be proposed as a condition of approval.  
33  
34 Mr. Courson stated that a sign would be appropriate.  
35  
36 Mr. Hall asked if a 2' x 2' sign is being proposed.  
37  
38 Mr. Courson stated that a sign could be placed on each unit although it would not need to be 2' x 2'. He said  
39 that perhaps a 12 inch sign would be appropriate so that the occupant would view it every time they pull up  
40 to their unit.  
41

1 Mr. Hall stated the sign should indicate that no activity is to take place during the hours of 10PM and 7AM.

2  
3 Mr. Passalacqua stated that the sign may stipulate where someone can and cannot park their vehicle.

4  
5 Mr. Thorsland asked if the Board would be planning for Somer Township as to their roads being blocked.  
6 He said that he is comfortable with a sign indicating the hours but not parking. He asked Mr. Courson how  
7 parking is handled at his facility.

8  
9 Mr. Courson stated that the access is off of the road and his facility is fenced therefore he has no issue with  
10 people parking along the road.

11  
12 Mr. Thorsland asked Mr. Courson to indicate how many people are normally at his storage units at one time.

13  
14 Mr. Courson stated that he only has five units but there may be three people there at the same time. He said  
15 that the amount of traffic is normally very small for a warehouse but if someone starts running a business out  
16 of the one of the units then there could be a lot of traffic movement. He said that if he is correct every one of  
17 the units could house any of the allowed uses and it is likely that some type of delivery vehicle could be up  
18 to 40 feet long and no turn-around is available.

19  
20 Mr. Thorsland stated that the only remedy is to require that the building be made smaller.

21  
22 Mr. Courson stated that he does not believe that the subject site is a good location for the proposed  
23 warehouse because it is an incredibly small lot.

24  
25 Mr. Thorsland noted that all of the lots in the area are incredibly small lots.

26  
27 Mr. Courson stated that the sale of the subject site is pending.

28  
29 Mr. Thorsland stated that the lot's current use is an abandoned building.

30  
31 Mr. Courson stated that its current use is a vacant lot.

32  
33 Mr. Hall stated that if the Board cannot find a way to authorize such a simple building on these lots in  
34 Wilber Heights then the Board is telling the property owners that their properties cannot be used which goes  
35 against everything in the Zoning Ordinance. He said that there has to be a way that the land can be used  
36 which will be consistent with what the Zoning Ordinance is about and perhaps the only way is to reduce the  
37 number of self storage units and if that is the case then that is what the Board should do. He said that Mr.  
38 Burk's intended use is one thing and the Board always has to approve a case assuming a worst case scenario.  
39 He said that if someone puts a business in the number of units that the Board is willing to approve he could  
40 see increased activity and a vehicle consistently present with no indication of who owns the vehicle. He said  
41 that Mr. Courson's concern about having all of the activity on the property, which is what the Zoning

1 Ordinance requires, could require more of a front yard along Paul Avenue to literally provide more length for  
2 vehicles. He said that perhaps after listening to the concerns from the Board it may be necessary for staff to  
3 work with Mr. Burk some more before the Board takes action.  
4

5 Mr. Passalacqua stated that an auto business is located north of the subject property and it appears that all of  
6 their parking is paved. He said that he understands that the property to the north is larger but is that possible  
7 for Mr. Burk's proposed use. He asked if the front yard indicated on the March 2, 2012, site plan is a certain  
8 size for a reason.  
9

10 Mr. Hall stated that there is a visibility triangle which takes up one-half of the front yard.  
11

12 Mr. Passalacqua asked if someone could park in the visibility triangle.  
13

14 Mr. Hall stated no.  
15

16 Mr. Passalacqua asked if that requirement applies to the lot to the north.  
17

18 Mr. Hall stated that it appears that the lot to the north may well comply with the visibility triangle. He said  
19 that Mr. Burk has the plumbing stubbed in for a bathroom and if he is going to have a bathroom a septic  
20 system will be required because there is no sewer available. Mr. Hall stated that a septic system will take up  
21 a lot of the lot's square footage.  
22

23 Mr. Passalacqua stated that he has worked in this area a little bit and it is tough to get around. He said that  
24 he agrees that people will probably pull up to this building and stop wherever they decide to stop. He said  
25 that the subject property is probably in a busier location than the property to the north therefore it is very  
26 important that the Board approve this project correctly.  
27

28 Mr. Hall stated that the only way to not have the issues which the Board is voicing concerns about is to  
29 reduce the number of units so that the full 50 feet of the lot is available for vehicles with trailers.  
30

31 Mr. Courson stated that even a crew cab truck with a trailer attached would be an issue.  
32

33 Mr. Hall stated that this is a problem with properties such as these because staff does not have good guidance  
34 to advise the petitioner's about what they should request.  
35

36 Mr. Courson stated that he agrees that the building would be a vast improvement to the area but not at the  
37 risk of safety. He said that not having a loading berth for a warehouse seems odd.  
38

39 Mr. Hall stated that the Board sees loading berths all of the time which are not more than an area that is  
40 being called a loading berth. He said that Mr. Courson's concern is the actual use of the lot given the  
41 constraints of the property. He said that staff may need to work with Mr. Burk more regarding his request.

1

2 Mr. Passalacqua asked Mr. Hall if there is a generic size requirement for a loading berth.

3

4 Mr. Hall stated the minimum size requirement for a loading berth is 12' x 40'. He said that the property is  
5 only 50 feet deep and a loading berth is required to be 40 feet long.

6

7 Mr. Thorsland stated that at best one of the units would have to be removed along the east side for a loading  
8 berth and he does not believe that it would be functional. He said that the Board may have to weigh the  
9 balance of taking what is effectively a very difficult lot and allowing an industrial use on it which is certainly  
10 much better than what currently exists.

11

12 Mr. Passalacqua asked if ADA is required for the use.

13

14 Mr. Hall stated yes.

15

16 Mr. Thorsland stated that the space between the parking spots and the ADA area will be stone.

17

18 Mr. Thorsland asked if the Board would prefer that staff continue working with the petitioner to address the  
19 Board's concerns.

20

21 Ms. Capel stated that she would prefer to have staff continue working with Mr. Burk.

22

23 Mr. Hall stated that given his understanding of the Board's concerns the building would have to be made  
24 smaller by one unit which would give room for a loading berth eliminating the need for Part F. He asked the  
25 Board if they desired to have a condition regarding no parking in the street. He said that such a condition is  
26 difficult to enforce but it makes the Board's intention very clear.

27

28 Mr. Courson stated that such a condition is not necessary if it cannot be enforced.

29

30 Mr. Thorsland stated that rather than trying to patch this all together tonight he believes that it would be  
31 better for Mr. Burk and staff to work on a modified site plan. He asked Mr. Burk if he would be comfortable  
32 with a continuance date.

33

34 Mr. Burk indicated yes.

35

36 Mr. Hall stated that the case could be continued to the April 12, 2012, meeting and the only cases which  
37 would be heard at that meeting would be Case 685-AT-11 and 702-V-11.

38

39 Mr. Thorsland asked Mr. Burk if he feels that he would have enough time to work with staff on a revised  
40 plan if his case was continued to the April 12, 2012, meeting.

41

1 Mr. Burk stated yes.  
2  
3 Mr. Thorsland asked if staff would have enough time to work with Mr. Burk on a revised plan for Case 702-  
4 V-11.  
5  
6 Mr. Hall stated yes.  
7  
8 Mr. Thorsland entertained a motion to continue Case 702-V-11 to the April 12, 2012, meeting.  
9  
10 **Mr. Passalacqua moved, seconded by Ms. Capel to continue Case 702-V-11 to the April 12, 2012,**  
11 **meeting. The motion carried by voice vote.**  
12

13 **6. New Public Hearings**

14  
15 **Case 699-AM-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren**  
16 **Murray and landowner John Murray Request to amend the Zoning Map to change the zoning**  
17 **district designation from the AG-1 Agriculture Zoning District to the AG-2, Agriculture Zoning**  
18 **District in order to operate the proposed Special Use in related zoning case 700-S-11. Location: A 10**  
19 **acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and**  
20 **commonly known as the home at 2150 CR 1000E, Champaign.**  
21

22 **Case 700-S-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren**  
23 **Murray and landowner John Murray Request to authorize the construction and use of an Event**  
24 **Center as a “Private Indoor Recreational Development” as a Special Use on land that is proposed to**  
25 **be rezoned to the AG-2, Agriculture Zoning District from the current AG-1, Agriculture District in**  
26 **related Case 699-AM-11. Location: A 10 acre tract in the Southwest Quarter of the Northwest**  
27 **Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E,**  
28 **Champaign.**  
29

30 Mr. Thorsland called Cases 699-AM-11 and 700-S-11 concurrently.  
31

32 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
33 sign the witness register for that public hearing. He reminded the audience that when they sign the witness  
34 register they are signing an oath.  
35

36 Mr. Thorsland informed the audience that Case 700-S-11 is an Administrative Case and as such the County  
37 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a  
38 show of hands for those who would like to cross examine and each person will be called upon. He requested  
39 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said  
40 that those who desire to cross examine are not required to sign the witness register but are requested to  
41 clearly state their name before asking any questions. He noted that no new testimony is to be given during

1 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are  
2 exempt from cross examination.

3  
4 Mr. Thorsland asked the petitioners if they would like to make a statement outlining the nature of their  
5 request.

6  
7 Ms. Anne Murray and Mrs. Lauren Murray-Miller stated that they are before the Board tonight requesting a  
8 zoning change and a special use permit for L.A. Gourmet Catering. They said that the change will allow  
9 them to provide Champaign County and surrounding communities a unique setting for their special events  
10 which is not available now. They said that the atmosphere that they are looking for cannot be obtained in  
11 town or even on the edge of town and they have searched the Champaign-Urbana area for two years for their  
12 five year catering business' needs and they have completed extensive market research regarding this type of  
13 service in the area. They said that they are excited about the outdoor atmosphere and the seclusion on the  
14 property.

15  
16 Mr. Thorsland called John Hall to testify.

17  
18 Mr. John Hall distributed a Supplemental Memorandum dated March 29, 2012, for Case 700-S-11 to the  
19 Board for review. He said that the new memorandum includes new evidence summarizing the comments  
20 from Berns, Clancy and Associates on the engineering review and that the letter from Berns, Clancy and  
21 Associates is attached to the memorandum. He noted that Berns, Clancy and Associates only reviewed it for  
22 feasibility so this is not an approval of the exact engineering.

23  
24 Mr. Hall stated that the subject property is not located in the mapped floodplain but it is located next to a  
25 swale that carries a large amount a water during a 50 year event. He said that the engineer obtained the  
26 elevation of the floodwaters in the swale from the bridge design and some part of the subject property is  
27 occupied by floodwater during a 50 year event. He said that the petitioner is proposing a compensatory  
28 detention area on the western end of the lot and that is an area that will be shaped to hold more stormwater  
29 than it holds right now and that is because at the east end of the property where the event center, parking and  
30 detention basin and septic system are proposed is pushing out into the area where the 50 year flow currently  
31 goes therefore the compensatory storage is to provide a makeup area.

32  
33 Mr. Hall stated that new item 8.B.(2)(f) addresses the proposed tree screening. He said that the site plan  
34 depicts a row of evergreen trees along the north property line and the trees are proposed as a fulfillment of  
35 the required screening for the parking area. He said that BCA reminds us that if those trees are literally at  
36 the north property line they will be blocking the drainage and catching debris and making the debris pile up  
37 on the adjacent property. He recommended that the trees be moved back from the property line as far as  
38 possible so that they are not contributing to the blocking of the stormwater and the debris that they catch will  
39 remain on the subject property and not flow over onto the adjacent property. He said that the Zoning  
40 Ordinance can have the screening that it needs for the surrounding neighbors and it won't impact the attempt  
41 in creating a very nice environment because it is such a small change.

1

2 Mr. Hall stated that the subject property is located two miles outside of the City of Champaign and it is not  
3 within the one and one-half extra-territorial jurisdiction of the City of Champaign. He said that the AG-2  
4 District generally occurs within the one and one-half mile area but it doesn't stay within the one and one-half  
5 mile area and to illustrate such he brought the zoning maps for Somer and Hensley Townships for the  
6 Board's review.

7

8 Mr. Hall indicated that northeast of Urbana in Somer township there are areas of AG-2 located two and one-  
9 half miles beyond the ETJ of Urbana. He said that this area has been zoned AG-2 since 1973 and he can  
10 guarantee the Board that in 1973 it was more than two and one-half miles from Urbana. He said that in  
11 Hensley township, which is northwest of the City of Champaign, it is apparent that there are only a few areas  
12 remaining which are zoned AG-2. He said that for some reason the drafters of the zoning map allowed a lot  
13 of AG-2 northeast of Urbana but they did not place much northwest of Champaign and none west of  
14 Champaign. He said that the drafters of the zoning map did not bother to indicate why the zoning map was  
15 created in the manner that it was created. He said that he is not suggesting that these issues are justification  
16 for the requested rezoning but AG-2 occurs in a lot more areas than just within the one and one-half ETJ of a  
17 municipality. He said that on the Map Amendment Finding of Fact staff did not find where the rezoning  
18 poses any problem with any of our policies because most of the policies that are relevant have to do with the  
19 actual physical relationship of the use as it relates to the agricultural area. He said that since the subject  
20 property fronts a County Highway that can handle the traffic staff does not see that many issues other than  
21 the possible issue of AG-2 being further than one and one-half miles from a municipality.

22

23 Mr. Hall stated that staff has proposed a lot of conditions for the special use and not because of problems  
24 that staff foresees. He said that the stormwater drainage plan looks good thus far and the accessibility  
25 requirements are always required and the new state building code is required for all commercial buildings  
26 such as the one proposed. He said that the health department has to approve and license the food service,  
27 and the owners have already complied with the liquor license requirements. He said that the septic system  
28 has already been approved by the health department. He said that he wonders how many drainage tiles go  
29 under the subject property. He said that staff is not proposing a specific investigation and staff is not  
30 proposing an actual investigation to locate them but any tile that is encountered will have to be dealt with  
31 accordingly and either relocated or if there is parking spaces to be placed over it the tile will have to be  
32 replaced with ductile iron. He said that drainage tiles are going to be a big part of the construction of this  
33 project and all that we can do is make sure that the petitioner knows how to deal with those once they are  
34 encountered. He said that the screening has to be a certain size within a certain number of years and  
35 hopefully moved back from the property line. He said that the petitioners plan to redo the driveway, which  
36 is a good thing, and where it connects to County Highway 1 it needs to be approved by the County Engineer.  
37 He said that there is a lot of evidence on a special use like this and staff does not see any big problems at this  
38 point and it isn't ready for final action tonight because there is so much information to review. He said that  
39 with a case like this where the map amendment goes on to the County Board but the ZBA is the final say on  
40 the special use permit there is always the question about whether to take action on both cases and see what  
41 happens with the map amendment. He said that at times the Board desires to do such so that the County

1 Board knows that the ZBA is completely comfortable with the special use permit. He said that the Board  
2 could take action on one of the cases or both of the cases.

3  
4 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

5  
6 Mr. Courson stated that he has worked on the property in the past for the previous owner and not the  
7 petitioners. He said that the evergreens located on the north edge will provide shade on the crops and the  
8 adjacent landowner may not appreciate having the trees located on the property line.

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

11  
12 Mr. Thorsland called Ms. Swartzendruber to testify.

13  
14 Ms. Judy Swartzendruber, who resides at 2129 CR 1000E, Champaign stated that she is speaking as a  
15 resident of the community and she would like to draw attention to several features which concern the  
16 neighbors. She said that she and her husband are concerned about the water runoff from the subject property  
17 and how it will affect the neighbors. She said that the swale, which was previously mentioned, has in the  
18 past created a lot of flood problems on downstream properties as it empties out along I-57. She said that  
19 they are concerned about the added noise because the area is not a serene and quiet neighborhood and the  
20 road, which is known as the Dewey-Fisher Road, is heavily traveled. She said that the traffic on this road  
21 begins around 4:30 a.m. and does not let up until mid-day and begins again until late in the evening with  
22 truck traffic going all night long. She said that the proposed entrance to the property, proposed as Pear Tree  
23 Lane, is at a very low point and not visible to oncoming traffic from either direction and is a site which  
24 experiences a maximum amount of snow drifts during the winter storms.

25  
26 Ms. Swartzendruber stated that approximately five years ago she was before the Board defending the  
27 neighborhood and its culture of the neighborhood when the Hindu Temple project was proposed. She said  
28 that the Hindu Temple project is in close proximity to the subject property for this case and if the Hindu  
29 Temple and the proposed event center have events at the same time they could create quite a traffic jam in  
30 the neighborhood especially if there are approximately 400 people attending an event at the proposed event  
31 center and the Hindu Temple has approximately 500 people attending their event.

32  
33 Ms. Swartzendruber stated that the area's community is concerned about the widening of the road because  
34 there have been discussions indicating that the Dewey-Fisher Road needs to be widened. She said that if  
35 there are trucks delivering supplies to the Hindu Temple and food items to the event center the road will  
36 only deteriorate even more. She said that she and her husband are not in favor of the road being widened  
37 because it would place the traffic closer to their home.

38  
39 Ms. Swartzendruber stated that when she and her husband moved to their residence the area was a farming  
40 community which provided a lot of space to enjoy the sunset and the sunrise but now the proposed Hindu  
41 Temple will be located outside of her front window and she will not be able to view the sunrise in the



1 morning. She said that the proposed event center will be located just down the road which will cause  
2 another change in the culture of their neighborhood and she asked that the ZBA allow the neighbors the  
3 opportunity to reflect their feelings regarding keeping their neighborhood as a quiet farming area. She said  
4 that the petitioners believe that the subject property is an ideal location which will provide them with the  
5 flexibility and atmosphere that could not be obtained in the city and Ms. Swartzendruber agrees but she and  
6 her husband and the other neighbors were there first and they do not want more noise and traffic brought to  
7 their community. She said that allowing the proposed use will rob the community of the things that they  
8 have enjoyed for over twenty years therefore they opposed the petitioner's requests.  
9

10 Ms. Swartzendruber stated that there was an article in the *News Gazette* regarding the special use and  
11 rezoning requests by the ABC Learning Center to the Village of Savoy. She said that she applauds the  
12 Village of Savoy Plan Commission because they recommended a denial to the special use and rezoning  
13 requests. She said that the Village of Savoy Plan Commission listened to the community when the  
14 residents indicated their opposition to the proposal because they did not feel that that the proposed use was  
15 a good fit for the neighborhood and they expressed their concerns regarding the noise that would be  
16 generated by the play area. She said that she considers her backyard to be an extension of her home and she  
17 likes it to be reasonable quiet.  
18

19 Ms. Swartzendruber stated that the ZBA may believe that the proposed use is progress but she and her  
20 husband do not agree because they believe that the proposed use is disgusting.  
21

22 Mr. Thorsland asked the Board if there were any questions for Ms. Swartzendruber regarding Case 700-S-11  
23 and there were none.  
24

25 Mr. Thorsland asked if staff had any questions for Ms. Swartzendruber regarding Case 700-S-11 and there  
26 were none.  
27

28 Mr. Thorsland called Mr. Jack Murray to testify.  
29

30 Mr. Jack Murray who resides at 2607 CR 1000E, Champaign stated that he and his family desire to build the  
31 event center. He said that his family has been farming in Hensley Township for over 100 years and the  
32 watershed that goes across the subject property also goes across their properties in several places. He said  
33 that he serves on two separate drainage commissions and he contacted Joe Irle, Beaver Lake Drainage  
34 District Commissioner, to obtain his approval for the construction of the proposed event center on the  
35 subject property. He said that he and Mr. Irle reviewed the plans and located and mapped all of the existing  
36 drainage tiles.  
37

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

40 Mr. Thorsland asked if staff had any questions for Mr. Murray.  
41

1 Mr. Hall asked Mr. Murray if the existing tiles presented any real big problems with the way that the retreat,  
2 parking and the ponds are designed.

3  
4 Mr. Murray stated that there are some tiles which will require some relocation because of the ponds but if  
5 you are familiar with how the water comes off of the adjacent properties the retention pond and the other  
6 pond will slow down that flow. He said that Mr. Irle indicated that the ponds will do nothing but help the  
7 watershed on that area because all of the water runs from the south to north and the ponds will help slow  
8 down the water that is coming off of the subject property currently. He said that moving the lane to the north  
9 and getting it off of the property line will help the drainage situation because, as the neighbors are aware, the  
10 property has not been very well maintained in the last 25 years. He said that being a farmer and knowing a  
11 lot about drainage he knows that the drainage situation has not been ideal in how it has been handled over  
12 the past 25 years.

13  
14 Mr. Thorsland asked the audience if anyone desires to cross examine Mr. Murray regarding Case 700-S-11  
15 and there was no one.

16  
17 Mr. Thorsland called Mr. Ben McCall to testify.

18  
19 Mr. Ben McCall, who resides at 1085 CR 2200N, Champaign, stated that he desires to separate his testimony  
20 into two parts. He said that the first part will be as a representative of the Hensley Township Plan  
21 Commission and the second part will be his own concerns as a neighboring landowner.

22  
23 Mr. McCall distributed a Special Report from Hensley Township Plan Commission to the Board for review  
24 and submitted the report as a Document of Record. He read the report as follows:

25 The Hensley Township Plan Commission held a Special Meeting on March 28, 2012, to review  
26 Cases 699-AM-11 and 700-S-11. After reviewing the preliminary memoranda from Planning and  
27 Zoning dated March 23, 2012, the Commission voted unanimously to object to the proposed map  
28 amendment in Case 699-AM-11 as well as the proposed special use permit Case 700-S-11. We  
29 hereby recommend that the Hensley Township Board of Trustees submit our written objections to the  
30 County Board within 30 days after the Zoning Board of Appeals hearing, in order to force a  $\frac{3}{4}$   
31 supermajority vote of the County Board pursuant to 55ILCS5/5-12014(c). We voted to transmit this  
32 document to the Township Board, and also present this document to the Zoning Board of Appeals at  
33 its March 29, 2012, meeting. The foremost concerns of the Hensley Township Plan Commission are  
34 to preserve best prime farmland for agricultural use, and to preserve the agricultural character of rural  
35 Hensley Township from the encroachment of urban uses and other uses that are injurious to the  
36 character of the district. We therefore object to the proposed map amendment in Case 699-AM-11 in  
37 the strongest possible terms. It is clear that this rezoning is not intended to reflect an actual change  
38 in the character or use of the surrounding area, but rather is intended only to enable a special use that  
39 is specifically forbidden in the AG-1 district.

40  
41 The Plan Commission objects to this rezoning for the following reasons:

1 1. We are concerned that the impacts of the proposed special use on drainage are understated. The  
2 proposed 15" storm sewer outlet will unreasonably concentrate the drainage flow from the  
3 impervious surfaces on the subject property onto the farm ground to the north. This, combined with  
4 the consistent flow of water resulting from the proposed septic system, is certain to negatively impact  
5 field operations on the adjoining land. This is in violation of the principle of Illinois drainage law  
6 articulated in the Case of Templeton v. Huss: "the court held that the developer was liable for  
7 damages to the lower land if the development interfered so much with the natural seepage that the  
8 amount and velocity of water running off the developer's land were unreasonably increased."

9 2. We are also concerned that the impacts of the proposed special use on traffic and public safety are  
10 understated. County Road 1000E is a busy, high-speed thoroughfare with a 55 mph speed limit, and  
11 there are already a considerable number of accidents caused by vehicles turning onto or off of this  
12 road into single-family homes or cross streets such as CR 2100N. Having eighty vehicles in a short  
13 period of time going from 55 mph to 5 mph to turn off at the same location is likely to lead to even  
14 more accidents.

15 3. There is no justification for rezoning the subject property from AG-1 to AG-2 other than the  
16 desire of the owner to use the property for a purpose that is not allowed in AG-1. This is not a  
17 compelling justification.

18 4. The rezoning of this parcel from AG-1 to AG-2 seems inappropriate considering the general  
19 intent of these zoning districts as described in the Ordinance and the draft finding of fact.  
20 Specifically:

21 a. The AG-1 district is "intended to protect the areas of the COUNTY where soil and topographic  
22 conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture  
23 of urban and rural USES which would contribute to the premature termination of AGRICULTURE  
24 pursuits"; this description is entirely appropriate for the area in question, and in fact rezoning the  
25 parcel out of AG-1 would facilitate the admixture of urban and rural uses that the zoning ordinance  
26 intends to prevent; and

27 b. The AG-2 District is "intended to prevent scattered indiscriminate urban development" but  
28 rezoning a single parcel to AG-2 to enable an urban development such as the proposed use would in  
29 fact encourage scattered indiscriminate urban development; and

30 c. The AG-2 District is "generally located in areas close to urban areas" but the parcel in question is  
31 certainly not close to an urban area; and

32 d. The AG-2 District is "intended generally for application to areas within one and one-half miles of  
33 existing communities in the COUNTY" but the parcel in question is not within 1.5 miles of  
34 Champaign.

35 5. The proposed rezoning is incompatible with the stated purposes of Section 2.0 of the Zoning  
36 Ordinance, Specifically:

37 a. Subsection (l) "prohibiting USES, BUILDINGS or STRUCTURES incompatible with the  
38 character of such DISTRICTS," the proposed special use is clearly incompatible with the character  
39 of the surrounding AG-1 district, as it is not allowed in AG-1; and

40 b. Subsection (n) "protecting the most productive AGRICULTURAL lands from haphazard and  
41 unplanned intrusions of urban USES," rezoning this parcel of land would enable a haphazard and

- 1 unplanned intrusion of urban uses into rural Hensley township; and
- 2 c. Subsection (c) “encouraging the compact development of urban areas...” rezoning this parcel
- 3 would in fact encourage non-contiguous development in an otherwise rural area; and
- 4 d. Subsection (q) “encouraging the preservation of AGRICULTURAL belts surrounding urban areas,
- 5 to retain the AGRICULTURAL nature of the COUNTY...”, rezoning the parcel in question would
- 6 discourage the preservation of the agricultural belt surround the urban Champaign-Urbana area by
- 7 encouraging an urban use in an agricultural area.
- 8 6. We strongly object to Section 13.A. of the draft finding of fact, which suggests that “the proposed
- 9 development supports agriculture or involves a product or service that is better provided in a rural
- 10 area than an urban area.” An event center for wedding receptions and corporate retreats does not
- 11 support agriculture, even if some of the corporate retreats are for agricultural businesses.
- 12 Furthermore, the desire of the owner to construct an event center in a rural setting does not mean that
- 13 event centers are intrinsically better provided in rural areas.
- 14 7. We also object to Section 15 of the draft finding of fact, which suggests that the proposed
- 15 amendment would “help achieve”: the goal of “protection of the public health and public safety.”
- 16 The fact that the proposed special use involves a septic system and will comply with building codes
- 17 does not protect public health when compared with the present agricultural use.
- 18 8. The proposed lighting plan for the property is not only in direct violation of the full cutoff
- 19 requirements, which indicates that the lighting fixture shall not emit light above the horizontal plan,
- 20 but is also injurious to the rural character of the district. A conference center that is brightly lit late
- 21 into the night for wedding receptions is not compatible with the character of agricultural land.
- 22 9. The proposed special use involves an outdoor patio area as well as walking trails and sculptures,
- 23 and we are concerned about noise pollution from evening and weekend crowds at wedding
- 24 receptions and similar events.

25  
 26 In summary, it is our opinion that the proposed rezoning and special use are completely incompatible  
 27 with the specific language of the Zoning Ordinance, and also incompatible with its general intent.  
 28 The draft finding of fact reflects a clear bias towards enabling the development of urban uses in rural  
 29 settings, which the Hensley Township Plan Commission objects in the strongest possible terms. The  
 30 simple fact that a landowner wishes to use a piece of AG-1 property for purposes that are clearly  
 31 incompatible with the AG-1 district cannot possibly justify a rezoning to another district to enable  
 32 that use. More generally, the Plan Commission is extremely opposed to this type of haphazard and  
 33 noncontiguous development in rural Hensley township. If requests of this sort are approved, the very  
 34 qualities the petitioner is seeking, a country setting, will be permanently destroyed for all of the  
 35 residents of rural Hensley township.

36  
 37 Mr. Thorsland requested a motion to grant a 30 minutes extension to the meeting.

38  
 39 **Ms. Capel moved, seconded by Mr. Courson to grant a 30 minutes extension to the meeting. The**  
 40 **motion carried by voice vote.**

41

1 Mr. Thorsland asked the Board if there were questions for Mr. McCall regarding the Special Report from the  
2 Hensley Township Plan Commission and there were none.

3  
4 Mr. Thorsland asked if staff had any questions for Mr. McCall regarding the Special Report from the  
5 Hensley Township Plan Commission and there were none.

6  
7 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. McCall regarding Case 700-S-11  
8 and there was no one.

9  
10 Mr. McCall stated that he will now present his personal testimony. He said that he resides at 1085 CR  
11 2200N, Champaign which is located in the same section and  $\frac{3}{4}$  of one mile from the subject property. He  
12 said that the subject property is in direct view of his backyard, rear deck and the rear windows of his home  
13 therefore the requests before the Board personally impacts his family. He said that the petitioner indicated  
14 that there are no alternative locations available although while driving around the area it is his impression  
15 there is alternative land available that would be more contiguous to other development. He said that the  
16 areas along Olympian Drive, U.S. Route 150 and the entire Clearview Subdivision which is currently vacant  
17 yet offers the rural vista. He said that it is his personal opinion that if the requests were approved it would  
18 make a mockery of the zoning process because the ZBA would be indicating that any property can be  
19 rezoned anytime an owner wants to do something that is not allowed in the current zoning district and if that  
20 is the case why does the County bother with having zoning districts. He said that staff commented that the  
21 AG-2 district is not always located within one and one-half miles of an extra-territorial district and he  
22 acknowledges that this may be the case but he does not believe that the County needs to add a little tiny dot  
23 of AG-2 in the middle of AG-1 land because it seems to be contrary to the entire intent of the Zoning  
24 Ordinance.

25  
26 Mr. McCall stated that the proposed use will have a personal impact upon his family. He said that he chose  
27 to live in rural Hensley Township because of the character of the area. He said that the area is an agricultural  
28 area that is quiet and dark at night and those are things that he values because they are important to him as a  
29 rural resident of Hensley Township. He said that the proposed use will directly affect him and harm all of  
30 the qualities that he values as a resident of rural Hensley Township. He said that already the lights from the  
31 subject property are shining all night long casting shadows in his backyard therefore he is sure that the  
32 proposed use will result in additional light pollution especially if the light plan that is currently proposed will  
33 not include full cut-off light fixtures. He said that it is very likely that the proposed use will result in  
34 additional noise.

35  
36 Mr. McCall stated that he realizes that the ZBA members are here to interpret the Zoning Ordinance but  
37 there is also a compelling moral argument to the case which is that the petitioner desires to make money by  
38 selling the country experience to people who do not live in the country and the act of doing that will actually  
39 mean that the experience of living in the country will be diminished for the residents of rural Hensley  
40 Township. He said that in regards to Case 700-S-11 he would ask the ZBA to think carefully about the three  
41 criteria that are listed. He said that the does not believe that the special use is necessary for the public

1 convenience at this location. He said that he believes that the special use will be injurious to the district due  
2 to the drainage, traffic, noise pollution, etc. He said that he does not believe that the special use will  
3 preserve the essential character of the district.  
4

5 Mr. Thorsland asked the Board if there were any questions for Mr. McCall and there were none.  
6

7 Mr. Thorsland asked if staff had any questions for Mr. McCall and there were none.  
8

9 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. McCall regarding Case 700-S-11  
10 and there was no one.  
11

12 Mr. Thorsland called Mr. Philip Kesler to testify.  
13

14 Mr. Philip Kesler, who resides at 1402 E. Woodberry, Mahomet, stated that Mr. McCall made a lot of good  
15 points and as an adjacent landowner he believes that the proposed use is a misuse of rural agricultural land.  
16

17 Mr. Thorsland asked the Board if there were any questions for Mr. Kesler and there were none.  
18

19 Mr. Thorsland asked if staff had any questions for Mr. Kesler and there were none.  
20

21 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kesler regarding Case 700-S-11  
22 and there was no one.  
23

24 Mr. Thorsland asked the audience if anyone else desired to sign the witness register at this time to present  
25 testimony regarding Case 699-AM-11 and 700-S-11.  
26

27 Mr. Thorsland called Ms. Peggy Anderson.  
28

29 Ms. Peggy Anderson, who resides at 2172 CR 1000E, Champaign, stated that her property is located to the  
30 north of the Murray parcel. She said that the Murray land slopes down towards her land therefore her  
31 concern is any additional water runoff that would occur if the proposed use is granted. She said that she  
32 understands that there are 84 parking spaces proposed but if they are to accommodate 400 people she is  
33 concerned that additional parking spaces will be required which also add additional water runoff onto her  
34 property. She said that the petitioner indicated that the rural setting appeals to them for their business  
35 although she too enjoys the country. She said that her son has decided to move back from the city and  
36 obtained an engineering position in the Champaign-Urbana area. She said that her son will be the fifth  
37 generation of her family that will live on the farm and he would like to be able to enjoy the current country  
38 atmosphere and not be distracted by lighting, noise pollution, and septic issues with the subject property.  
39

40 Mr. Thorsland asked the Board if there were any questions for Ms. Anderson and there were none.  
41

1 Mr. Thorsland asked if staff had any questions for Ms. Anderson and there were none.  
2

3 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Anderson and there was no one.  
4

5 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony  
6 regarding Cases 699-AM-11 and 700-S-11 and there was no one.  
7

8 Mr. Thorsland asked the Board if they had any questions for staff regarding any of the testimony that has  
9 been presented tonight. He said that these cases will not be completed tonight therefore staff requires  
10 direction from the Board. He asked the Board if they desired to submit a recommendation on the map  
11 amendment to the County Board and await their determination and then move on the special use or would  
12 the Board desire to complete both cases at the same time.  
13

14 Ms. Capel requested staff's opinion regarding the Board's next step. She said that she would prefer to work  
15 on the map amendment first.  
16

17 Mr. Hall stated that he has no idea what the inclination of this Board is on the requested map amendment.  
18 He said that staff tried to make the petitioners aware of comments like what was received at tonight's  
19 meeting. He said that the staff does its best to prepare the petitioners for those comments but at the same  
20 time, as the Zoning Administrator, he is at a complete loss to explain why there is so much AG-2 in Somer  
21 Township and so little in Hensley. He said that if the Board believes that the requested special use will not  
22 harm the district then that would also mean that the rezoning is reasonable. He said that as soon as the  
23 Board has an idea on how it would like to vote on the map amendment then forwarding it to the County  
24 Board may resolve the issue very quickly but if the Board is ready to take action on the special use permit at  
25 the same time then the ZBA will be sending a message to the County Board.  
26

27 Mr. Thorsland encouraged the Board to work on both cases.  
28

29 Mr. Hall stated that when a project is clearly within the jurisdiction of the CUUATS, Champaign- Urbana  
30 Urbanized Area Transportation Study, and staff regularly requests a transportation impact analysis. He said  
31 that staff did not request a transportation impact analysis for the Hindu Temple because the property was not  
32 located in the jurisdiction of CUUATS and he does not believe that the subject project is within their  
33 jurisdiction either. He said that some people would use that as evidence that the proposed use is not in a  
34 good location. He asked the Board if they desired to have staff attempt to have a transportation impact  
35 analysis completed by CUUATS. He said that comments regarding the possibility of events being held at the  
36 Hindu Temple and the events center at the same time seems unlikely but it could happen. He said that there  
37 may be an extra fee for CUUATS to complete a transportation impact analysis because they are not paid to  
38 do studies anywhere in the County and they are only staffed and resourced to be concerned about the area of  
39 the urbanized area of the transportation study. He said that if CUUATS has time to complete a study the  
40 Board has to allow them time to do it therefore if the Board wants staff to investigate obtaining a study it  
41 will take more than one month to do so.

1

2 Mr. Thorsland asked if the ADT for the road has been received.

3

4 Mr. Kass stated that the ADT for the road is included in the Summary of Evidence.

5

6 Mr. Hall stated that the some of the basic comments that are received relates to a small use on a heavily  
7 traveled road is not normally a problem but a big use on a road that does not get a lot of traffic is generally  
8 not a problem but a big use where there is already a lot of traffic can be a problem. He said that generally  
9 there are no turn lanes on county highways and it is a difficult thing to do. He said that the County Engineer  
10 has not raised any concerns to date and staff can make sure that the County Engineer is giving this issue  
11 enough attention and Mr. Hall does not know if an impact analysis can be obtained but if the Board needs  
12 such to be comfortable then staff will see what they can do about getting one. He said that staff cannot do a  
13 traffic impact analysis that would be meaningful because it should be done by people who are used to  
14 creating those types of specialized analysis.

15

16 Mr. Courson stated that the number of sirens that travel past his house, which is also located near the  
17 Dewey-Fisher Road, there are several accidents along this particular stretch of road. He said that with the  
18 proposed construction of the Hindu Temple and the proposed event center he could see a huge increase in  
19 traffic in this rural area. He said that he is concerned with the safety issues with the two uses on a 55 mph  
20 County Highway. He said that he would appreciate Mr. Blue reviewing the area and presenting comments  
21 regarding the increased traffic created by the two uses and whether he believes that a transportation analysis  
22 by CUUATS is necessary.

23

24 Mr. Passalacqua stated that he agrees with Mr. Courson. He said that the events center and the Hindu  
25 Temple will create a concentrated amount of traffic at certain times on an already heavily traveled road.

26

27 Mr. Courson stated that if alcohol is being served at the events center then it is likely that people will be  
28 driving drunk when they leave the property.

29

30 Mr. Passalacqua asked Mr. Hall if the subject property is considered best prime farmland.

31

32 Mr. Hall stated yes.

33

34 Mr. Thorsland requested a continuance date for Cases 699-AM-11 and 700-S-11.

35

36 Mr. Hall stated that April 26<sup>th</sup> would only give staff enough time to find out what Mr. Blue thinks about  
37 requiring a traffic impact analysis but it would not allow enough time to obtain it. He said that he doesn't  
38 believe that May 17<sup>th</sup> would even be enough time to have a traffic impact analysis completed but the Board  
39 may able to receive comments from Jeff Blue and a start of a traffic impact analysis but a complete analysis  
40 by May 17<sup>th</sup> is probably not possible. He said that perhaps obtaining Jeff Blue's comments and finding out  
41 what the next step is could be done by April 26<sup>th</sup>.



1

2 Mr. Thorsland entertained a motion to continue Cases 699-AM-11 and 700-S-11 to the April 26<sup>th</sup> meeting.

3

4 **Ms. Capel moved, seconded by Mr. Palmgren to continue Cases 699-AM-11 and 700-S-11 to the April**  
5 **26<sup>th</sup> meeting. The motion carried by voice vote.**

6

7 Mr. Thorsland stated that the Board will now hear Case 701-AT-01.

8

9 **7. Staff Report**

10

11 None

12

13 **8. Other Business**

14 **A. Review of ZBA Docket**

15

16 Mr. Thorsland asked Mr. Hall if desired to review the ZBA Docket with the Board.

17

18 Mr. Hall stated that the string of difficult cases continues through the month of May.

19

20

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

22

23 None

24

25 **10. Adjournment**

26

27 **Mr. Courson moved, seconded by Mr. Palmgren to adjourn the meeting. The motion carried by voice**  
28 **vote.**

29

30 The meeting adjourned at 9:50 p.m.

31

32

33

34

35 Respectfully submitted

36

37

38

39

40 Secretary of Zoning Board of Appeals

41

# CASE NO. 697-V-11

PRELIMINARY MEMORANDUM  
APRIL 20, 2012

Champaign  
County  
Department of

PLANNING &  
ZONING

**Petitioner:** Ronald and Susan Bryant

**Request:** Authorize the following in the AG-1 Agricultural Zoning District:

- Part A. Variance for a proposed division of a lot 2.37 acres in area in lieu of the minimum required lot area of 5 acres;
- Part B. Variance for a proposed lot area of 35,500 square feet in lieu of the minimum required lot area 43,560 square feet (1 acre) **\*Note: The lot area is anticipated to be 29,975 square feet after dedication of right-of-way during the subdivision process;**
- Part C. Variance for a proposed average lot width of 125 feet in lieu of the minimum required average lot width of 200 feet;
- Part D. Variance for a rear yard of an existing home of 21 feet in lieu of the minimum required rear yard of 25 feet;
- Part E. Variance for a proposed side yard of an existing accessory building of 8 feet in lieu of the minimum required side yard of 10 feet;
- Part F. Variance for a rear yard of an existing accessory structure of 8 feet in lieu of the minimum required rear yard of 10 feet, on the following property:

**Location:** A 2.37 acre tract proposed to be divided into two lots in the East One-Half of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter Section 20 of Hensley Township and commonly known as the homes at 5111 Lindsey Road, Champaign.

**Site Area:** 2.37 acres

**Time Schedule for Development:**

**Prepared by:** **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

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## BACKGROUND

The Petitioner's own a 2.37 acre lot that has two existing homes occupying the lot. One home on the property existed prior to zoning and the other was moved onto the property in the 1980s by a previous owner when it was still part of a 40 acre parcel. The Petitioner's live in one home and the Petitioner's daughter lives in the other home occupying the property. The Petitioner's would like to

divide the lot because Fannie Mae will no longer provide mortgages on properties with two homes on the property.

## EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet. Municipalities do not have protest rights in variance cases and are not notified of such cases. Pending approval of the variance the Petitioner's will have to subdivide with the Village of Mahomet.

## EXISTING LAND USE AND ZONING

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

Direction	Land Use	Zoning
Onsite	Residential	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Residential	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

## SPECIAL CONDITION OF APPROVAL

A Special Condition of Approval is proposed for Lot 101 to ensure that adequate lot area remains available for future replacement of the septic system:

Regarding new construction on the subject property and septic systems:

- A. Proposed Lot 101 is less than an acre in area and thus the amount of land area available for a septic system is less than would be available if the lot were the minimum required lot area of one acre. And beginning January 1, 2013, the public health laws will be much more restrictive regarding septic systems and lot owners with septic systems will have to be much more aware of the importance of reserving lot area for an active septic system and a reserve area for a future replacement septic system. The following special condition will ensure that the property owner considers the need for lot area for a septic system before undertaking any construction:

**Until such time as proposed Lot 101 is connected to a connected public sanitary sewer any construction on Proposed Lot 101 shall be limited as follows:**

- (1) Construction may only occur on the west 70 feet of the property which corresponds to that area that is west of the east line of the existing house.**
- (2) No construction (including rebuilding of the existing garage/ shed) shall occur in the east 214 feet of proposed Lot 101 unless a variance is granted by the Zoning Board of Appeals.**

The above special condition is required to ensure the following:

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**To ensure that there will be adequate area for a septic system before undertaking any construction.**

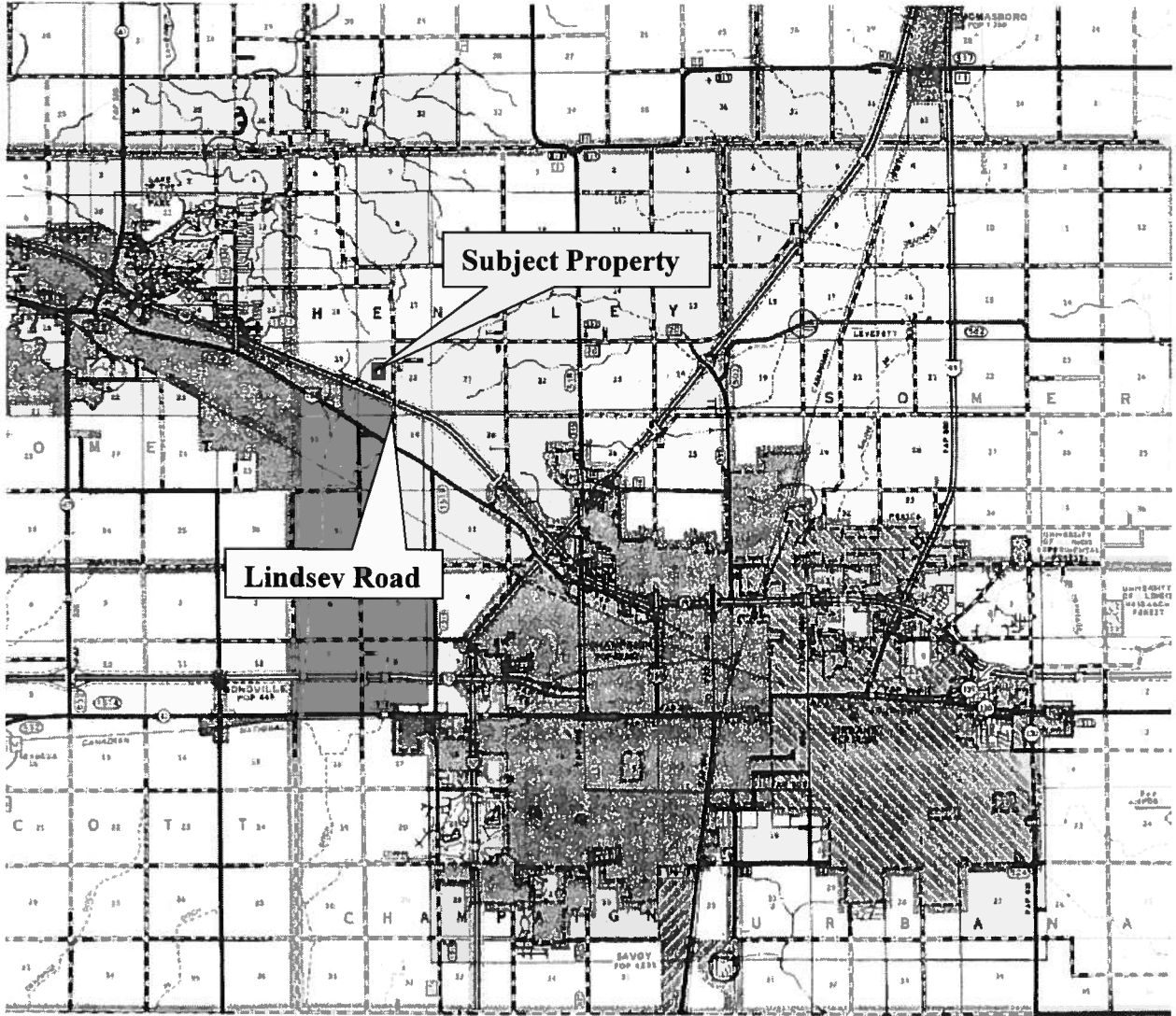
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Aerial Photo with site plan
- C Site Plan received November 29, 2011, amended April 18, 2012 (attached separately)
- D Annotated Site Plan (attached separately)
- E Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)

**ATTACHMENT A. LOCATION MAP**

Case 697-V-11

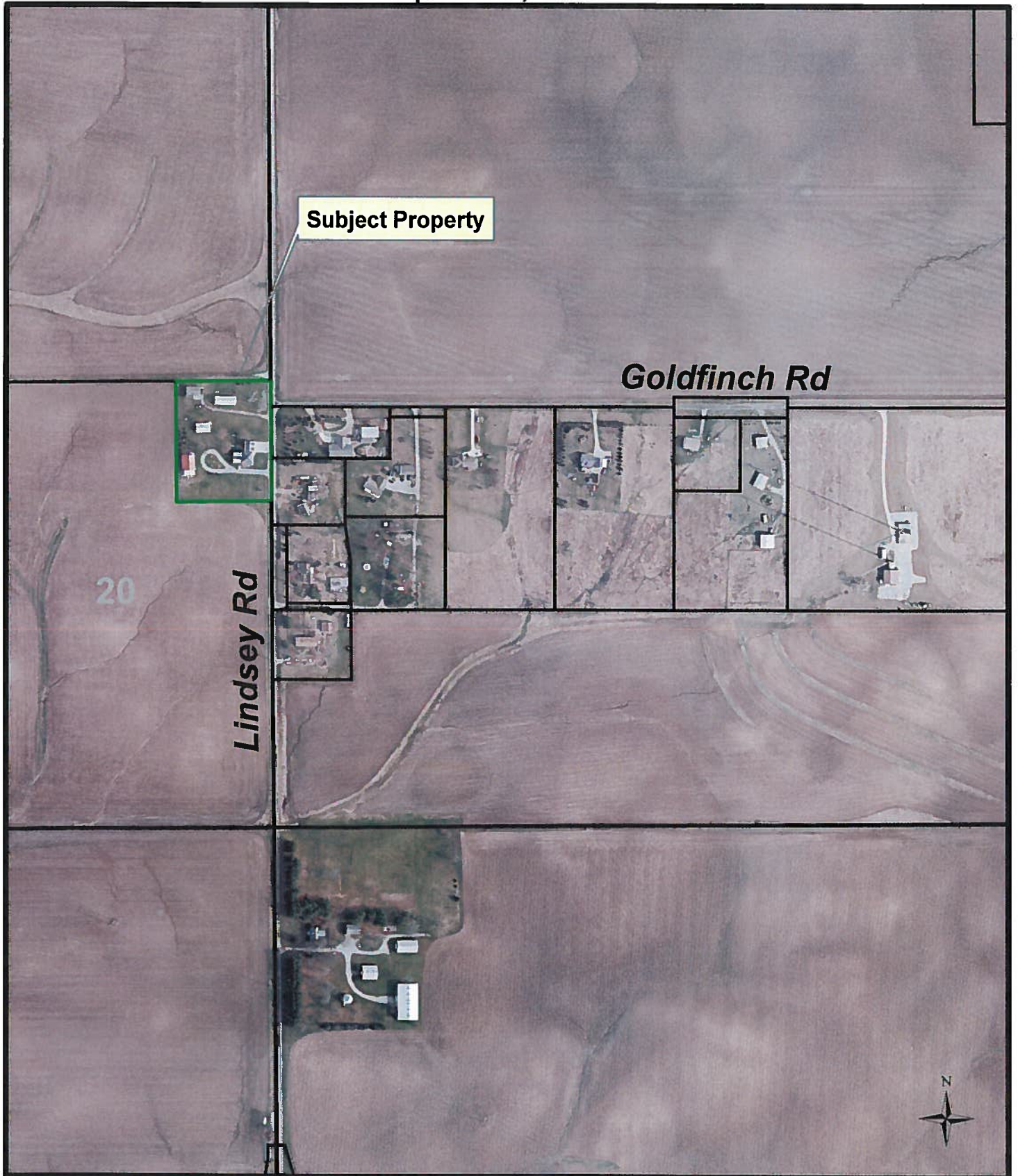
April 20, 2012



Champaign  
County  
Department of  
**PLANNING &  
ZONING**



Attachment A: Land Use Map  
Case 697-V-11  
April 20, 2012

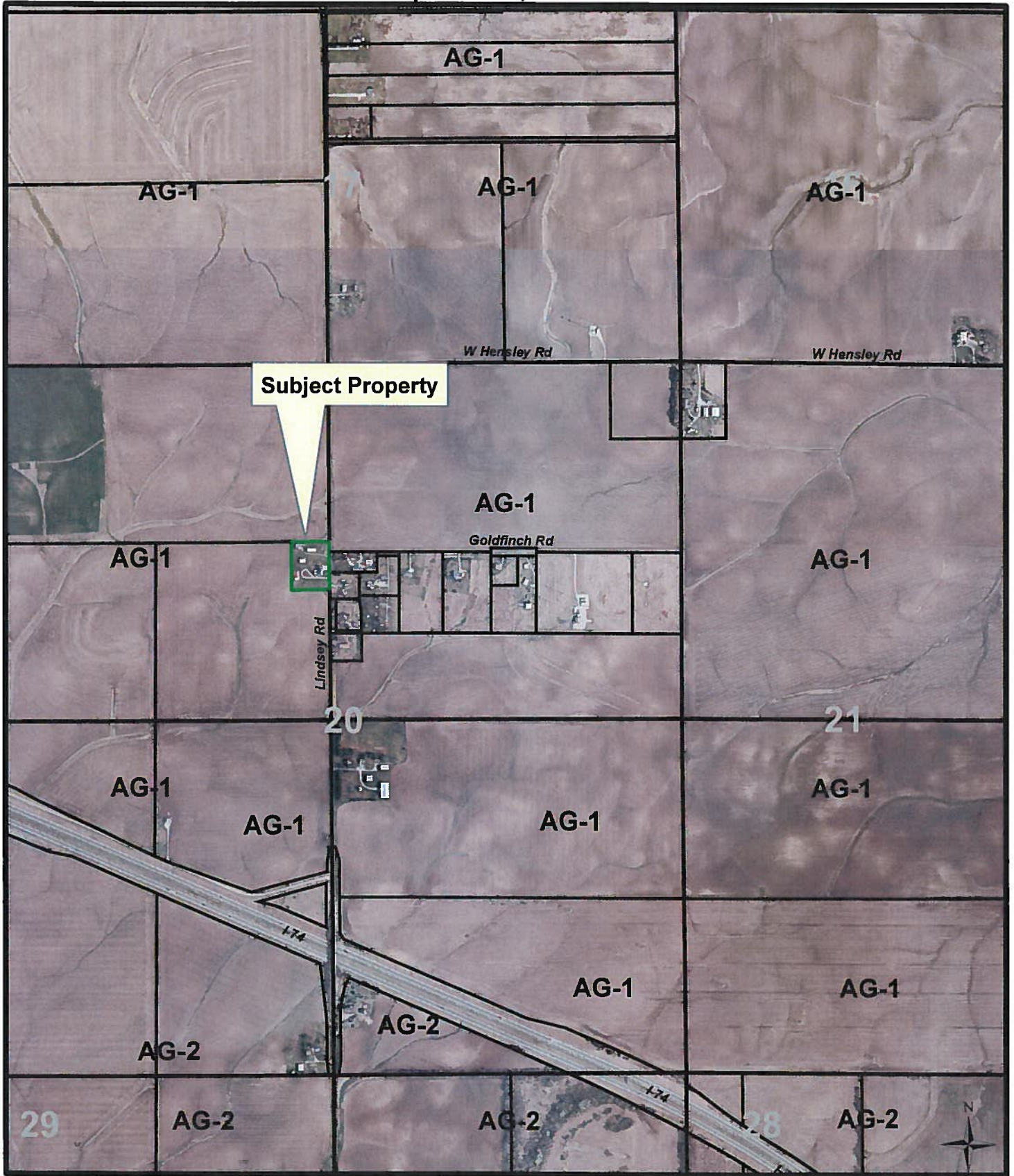


 Subject Property

1 inch = 400 feet



Attachment A: Zoning Map  
Case 697-V-11  
April 20, 2012



 Subject Property

1 inch = 1,000 feet





FIELD ENTRANCE

284'

LOT 101  
0.81 ACRES

21'

HOUSE

GARAGE / SHED

125'

DRIVEWAY

125'

GARAGE / SHED

360'

DRIVEWAY

235'

COVERED PAVILION

HOUSE

235'

DRIVEWAY

LOT 102  
1.53 ACRES

284'

RECEIVED

CHAMPAIGN CO. P & Z DEPARTMENT

EAST LINE NW 1/4, SEC. 20

360'



**PRELIMINARY**

**697-V-11**

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

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

Date: **April 26, 2012**

Petitioner: **Ronald and Susan Bryant**

Request: Authorize the following in the AG-1 Agricultural Zoning District:

- Part A. Variance for a proposed division of a lot 2.37 acres in area in lieu of the minimum required lot area of 5 acres;
- Part B. Variance for a proposed lot area of 35,500 square feet in lieu of the minimum required lot area 43,560 square feet (1 acre) **\*Note: The lot area is anticipated to be 29,975 square feet after dedication of right-of-way during the subdivision process;**
- Part C. Variance for a proposed average lot width of 125 feet in lieu of the minimum required average lot width of 200 feet;
- Part D. Variance for a rear yard of an existing home of 21 feet in lieu of the minimum required rear yard of 25 feet;
- Part E. Variance for a proposed side yard of an existing accessory building of 8 feet in lieu of the minimum required side yard of 10 feet;
- Part F. Variance for a rear yard of an existing accessory structure of 8 feet in lieu of the minimum required rear yard of 10 feet, on the following property:
  - A 2.37 acre tract proposed to be divided into two lots in the East One-Half of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter Section 20 of Hensley Township and commonly known as the homes at 5111 Lindsey Road, Champaign.

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**Case 697-V-11 Final Determination ..... 19-20**

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on April 26, 2012, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner owns the subject property. The petitioner purchased the property in 1997 and the homes on the subject property existed at the time of purchase. The Petitioner's have received a permit for an attached garage on the south home on the subject property (Permit 257-01-04).
2. The subject property is a 2.37 acre tract proposed to be divided into two lots in the East One-Half of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter Section 20 of Hensley Township and commonly known as the homes at 5111 Lindsey Road, Champaign.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. The Petitioner will have to subdivide with the Village of Mahomet pending approval of the requested variance.

**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. Land to the north of the subject property is zoned AG-1 Agriculture and is in agricultural use.
  - B. Land on the east side of the subject property is zoned AG-1 Agriculture and is in residential use.
  - C. Land on the south side of the subject property is zoned AG-1 Agriculture and is in agricultural use.
  - D. Land on the west side of the subject property is zoned AG-1 Agriculture and is in agricultural use.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan of the subject site:
  - A. The subject property is 2.37 acres in area.
  - B. The Site Plan of the proposed development was received on November 29, 2011, and amended April 18, 2012, and includes the following:
    - (1) The proposed division line to divide the existing lot into two lots as follows:
      - (a) Proposed Lot 101 is the north lot and is proposed to be 125 feet wide and 284 feet deep and .81 acre in area. This structure does not appear in the spring 1972 aerial photo.

**PRELIMINARY DRAFT**

- (b) Proposed Lot 102 is the south lot and is proposed to be 235 feet wide and 284 feet deep and 1.53 acres in area. The Petitioner's reside on this portion of the property and this structure existed on the property when the Zoning Ordinance was adopted on October 10, 1973.
  - (2) Two existing homes with one home on each proposed lot
  - (3) Two existing garages with one on each proposed lot
  - (4) An existing covered pavilion on the proposed Lot 102
  - (5) Three existing driveways.
  - (6) Location of two existing septic systems
  - (7) Location of a water well
- C. The requested variance is as follows:
- (1) Variance for a proposed division of a lot 2.37 acres in area in lieu of the minimum required lot area of 5 acres;
  - (2) Variance for a proposed lot area of 35,500 square feet in lieu of the minimum required lot area of 43,560 square feet (1 acre) **\*Note: The lot area will be 29,975 square feet after dedication of right-of-way during the subdivision process;**
  - (3) Variance for a proposed average lot width of 125 feet in lieu of the minimum required average lot width of 200 feet;
  - (4) Variance for a rear yard of an existing home of 21 feet in lieu of the minimum required rear yard of 25 feet;
  - (5) Variance for a proposed side yard of an existing accessory building of 8 feet in lieu of the minimum required side yard of 10 feet; and
  - (6) Variance for a rear yard of an existing accessory structure of 8 feet in lieu of the minimum required rear yard of 10 feet.

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

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
    - (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or

**PRELIMINARY DRAFT**

attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.

- (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
- (2) "AREA, LOT" is the total area within the LOT LINES.
- (3) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
- (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (5) "LOT LINES" are the lines bounding a LOT.
- (6) "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.
- (7) "LOT WIDTH, AVERAGE" is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
- (8) "NONCONFORMING LOT, STRUCTURE, or USE" is a LOT, SIGN, STRUCTURE, or USE which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (9) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (10) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
- (11) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A

**PRELIMINARY DRAFT**

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.
- (12) "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.
  - (13) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
  - (14) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
  - (15) "YARD, REAR" is a YARD A YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
  - (16) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Minimum setbacks from the centerline of a street and minimum front yards in the AG-1 Zoning District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a minor street is listed in Section 5.3 and Subsection 4.3.2 as 55 feet with a front yard of 25 feet.
- C. Minimum side and rear yards in the AG-1 Zoning District are established in Section 5.3 of the *Zoning Ordinance* as follows:
- (1) The minimum side yard is listed in Section 5.3 as 15 feet.
  - (2) The minimum rear yard is listed in Section 5.3 and as 25 feet.

**PRELIMINARY DRAFT**

- D. Minimum average lot width in the AG-1 Zoning District is listed in Section 5.3 of the Zoning Ordinance as follows:
- (1) The minimum average lot width is 200 feet.
- E. Minimum lot area in the AG-1 Zoning District is listed in Section 5.3 of the Zoning Ordinance as follows:
- (1) The minimum average lot area is 1 acre.
- F. Minimum side and rear yards for detached accessory buildings and structures in the AG-1 Zoning District are listed in Section 7.2 of the Zoning Ordinance as follows:
- (1) The minimum side yard is listed in Section 7.2 as 10 feet.
  - (2) The minimum rear yard is listed in Section 7.2 as 10 feet.
- G. Restriction on the division of lot 5 acres or smaller is established in Section 5.4 of the *Zoning Ordinance* as follows:
- (1) No LOT that is 5 acres or less in area may be further divided.
- H. 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.
- I. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.

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- (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.
- J. 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, **“Property has 2 houses (occupied). The division would include 1 house and 2 outbuildings and 1 house and 1 outbuilding.”**
  - B. The documented history of the houses on this property is as follows:
    - (1) Only the house on proposed Lot 102 existed on October 10, 1973.
    - (2) Both houses appear to be on the property in the 1988 aerial photo.
    - (3) There is no record for a permit for the house on proposed Lot 101.
    - (4) The property tax record card indicates that the house on proposed Lot 101 was on the property in 1988.
  - C. The house on proposed Lot 101 is small at approximately 992 square feet in area and has a total of four rooms.
  - D. The prohibition on division of lots less than five acres was first added to the Zoning Ordinance on an interim basis by Ordinance No. 709 (Case 431-AT-03 Part A) on February 19, 2004, and made permanent by Ordinance No. 729 (Case 464-AT-04 Parts A and B) on April 19, 2004.
  - E. A field entrance and lane are located immediately north of proposed Lot 101.
  - F. The land to the north, west, and south is under separate ownership and it is not known if additional land is available for purchase.



**PRELIMINARY DRAFT**

**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, **“Fannie Mae will not loan on properties with 2 existing residences. In the event we would like to sell in the future a variance would make it possible.”**
  - B. It is not known if additional land is available for purchase and the surrounding land is prime farmland.
  - C. Regarding Part B of the variance regarding lot area:
    - (1) The field entrance and lane on the north side of proposed Lot 101 limits the width of proposed Lot 101.
    - (2) The septic system that serves the south house is located north of the house and limits how wide the proposed Lot 101 can be for approximately one-half of the lot depth.
    - (3) West of the south septic system the width of proposed lot 101 is limited by a garage/shed (Part E of the variance) and a covered pavilion (Part F of the variance).

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, **“No – same conditions when we bought the property (new Fannie Mae regulations).”**
  - B. The Petitioner’s purchased the property as it currently exists. The second home was moved onto the home when the property was a 40 acre parcel.

**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, **“1 home would stay in harmony with the intent of the ordinance. The second home has its own septic system and would have almost an acre of land with it with an outbuilding.”**
  - B. Regarding Parts D, E, and F of the variance:

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- (1) The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side yard is presumably intended to ensure the following:
  - (a) Adequate light and air: The property to the west, north, and south is in agricultural use. Property to the east is in residential use but is separated by Lindsey Road.
  - (b) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Corn Belt Fire Protection District and the station is approximately 5¼ miles to the west of the subject property.
  - (c) Aesthetics may also play a part in minimum yard requirements.
- C. The Zoning Ordinance does not clearly state the considerations that underlay the minimum average lot width requirement but it is presumably intended to help ensure the following:
  - (1) Adequate average width for sunlight and ventilation; and
  - (2) Minimize conflagration of other structures; and
  - (3) Adequate space for off-street parking; and
  - (4) Adequate area for onsite water wells; and
  - (5) Adequate area for appropriate onsite wastewater treatment and disposal with a preference for subsurface seepage systems (leach fields) which are land intensive compared to other systems; and
  - (6) Adequate separation between onsite wastewater treatment and disposal systems and water wells that are both on the subject property and on adjacent properties; and
  - (7) Generally wide separation between principal structures to allow for overland stormwater flows; and
  - (8) Aesthetics with an assumed preference for more open space on rural residential properties.
- D. Minimum average lot width requirements in the Zoning Ordinance vary as follows:

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- (1) For rural zoning districts, the range is from 100 to 150 feet in the AG-2 District to 200 feet in the AG-1 and CR districts. The minimum required average lot width in the AG-2 Zoning District depends upon whether a connected public water supply system is available (if so 100 feet) or not (150 feet) and assumes that a connected public sanitary sewer system is not available.
  - (2) Minimum average lot width requirements in the Zoning Ordinance for urban zoning districts when neither a connected public water supply system nor a connected public sanitary sewer system is available the minimum required average lot width is 150 feet.
- E. The Zoning Ordinance does not clearly state the considerations that underlay the restriction on division of lots that are 5 acres or less. This amendment resulted from zoning Case 431-AT-03 Part B and so is related to the County's desire to limit the number of new lots in the rural areas. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is the primary method by which Champaign County limits the number of new lots in the rural zoning districts. 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. Paragraph 5.4.3 C.1. 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.
  - (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 LESA (Land Evaluation and Site Assessment) score of the subject site.
- F. Regarding the RRO factors for the subject property:
- (1) Adequacy and safety of roads providing access to the site. The additional house on the property had likely lead to an increase of approximately 10 ADT for Lindsey Road. There are already existing access points to the subject property from Lindsey Road.
    - (a) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design

**PRELIMINARY DRAFT**

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):

- A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
  - A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
  - A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
  - A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
- (b) 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 (2009) AADT data in the vicinity of the subject property is 275ADT for Lindsey Road in front of the subject property.
- (2) Effects on drainage both upstream and downstream. The subject property gradually slopes and appears to drain to the northeast to a field.
- (3) The suitability of the site for onsite wastewater systems. There is no Natural Resource Report for the subject property but the Soil Survey indicates that the subject property likely consists of Raub silt loam and Wyand silt loam. Currently, each home on the subject property has its own septic system.

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 reviews 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). Excerpts from this pamphlet were included for the soils on the subject property as attachments to the Preliminary Memorandum. The excerpts indicate that these soils have the following general characteristics:

- (a) 481 Raub silt loam has Medium suitability for septic tank leach fields with a soil potential index of 83. Raub soil has a high groundwater level of 1 to 3 feet below grade that is rated as a “severe” limitation. It also has permeability that is rated as a “severe” limitation and only a slight problem

*PRELIMINARY DRAFT*

due to slope. The typical corrective measures are subsurface drainage improvements (underground drain tiles) to lower the groundwater level and an oversized absorption field. There are 23 soil types in Champaign County that have lower suitability potential than Raub.

- (b) 622B Wyanet silt loam (formerly 221B Parr) has Very High suitability for septic tank leach fields with soil potential index of 100. Wyanet soil has a high groundwater level of greater than 6 feet below grade that is rated as a “slight” limitation. There are no corrective measures provided to lower the groundwater level. There are 52 soil types in Champaign County that have lower suitability potential than Wyanet.
- (4) The availability of water supply to the site. The subject property has a water well and the two homes share the water supply. The proposed subdivision should have little or no affect on water availability.
- (5) The availability of emergency services to the site. The subject property is approximately 5¼ road miles from the Corn Belt Fire Protection District station.
- (6) The flood hazard status of the site. The subject property is not within the Special Flood Hazard Area.
- (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat. The subject property contains no historic or archeological sites, and the proposed subdivision would have no effect on such sites.
- (8) The presence of nearby natural or man-made hazards. There are no known man-made hazards nearby.
- (9) Effects on nearby farmland and farm operations. The proposed variance and resulting subdivision would technically result in twice the development on the subject property than would be otherwise allowed and would therefore result in twice the impacts on nearby farmland. The requested variance should not have an impact on agricultural operations.
- (10) Effects of nearby farm operations on the proposed residential development. The proposed variance and resulting subdivision would divide the existing property into smaller lots but would not provide a lesser amount of buffer from farm operations because the two homes have existed on the property for some time.
- (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated. The proposed variance and resulting subdivision do not propose to take any current farmland out of production.

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- (12) The LESA (Land Evaluation and Site Assessment) score of the subject site. Because there is no Natural Resource Report for the subject property staff has not calculated a LESA score at this time.
- G. The requested variance is as follows:
- (1) Regarding Part A of the variance, a division of a lot 2.37 acres in area is 47% of the minimum of 5 acres required for a variance of 53%.
  - (2) Regarding Part B of the variance: a proposed lot area of 35,500 square feet is 81% of the 43,560 square feet (1 acre) required for a variance of 19%.
  - (3) Regarding Part C of the variance: an average lot width of 125 feet is 62% of the 200 feet required for a variance of 38%.
  - (4) Regarding Part D of the variance: variance for a rear yard of an existing home of 21 feet is 84% of the required 25 feet for a 16% variance.
  - (5) Regarding Part E of the variance: variance for a proposed side yard of an existing accessory building of 8 feet is 80% of the required 10 feet for a 20% variance.
  - (6) Regarding Part F of the variance: variance for a rear yard of an existing accessory structure of 8 feet is 80% of the required 10 feet for a 20% variance.
- H. No part of the requested variance is 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, **“Existing conditions would not be changed at all – simply a division of the property.”**
  - B. The requested variance should have not have an impact on public health, safety, or welfare. The proposed use is a residential use in an agricultural area.
  - C. The Township Road Commissioner has received notice of this variance, but no comments have been received.
  - D. The Fire Protection District has received notice of this variance, but no comments have been received.

**GENERALLY REGARDING SPECIAL CONDITIONS OF APPROVAL**

12. Regarding new construction on the subject property and septic systems:

- A. Proposed Lot 101 is less than an acre in area and thus the amount of land area available for a septic system is less than would be available if the lot were the minimum required lot area of one acre. And beginning January 1, 2013, the public health laws will be much more restrictive regarding septic systems and lot owners with septic systems will have to be much more aware of the importance of reserving lot area for an active septic system and a reserve area for a future replacement septic system. The following special condition will ensure that the property owner considers the need for lot area for a septic system before undertaking any construction:

**Until such time as proposed Lot 101 is connected to a connected public sanitary sewer any construction on Proposed Lot 101 shall be limited as follows:**

- (1) Construction may only occur on the west 70 feet of the property which corresponds to that area that is west of the east line of the existing house.**
- (2) No construction (including rebuilding of the existing garage/ shed) shall occur in the east 214 feet of proposed Lot 101 unless a variance is granted by the Zoning Board of Appeals.**

The above special condition is required to ensure the following:

**To ensure that there will be adequate area for a septic system before undertaking any construction.**

**DOCUMENTS OF RECORD**

1. Variance Application received on September 9, 2011
2. Site Plan received November 29, 2011
3. Site Plane with aerial photo received November 29, 2011
3. Preliminary Memorandum dated April 20, 2012, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan
  - C Annotated Site Plan
  - D Summary of Evidence, Finding of Fact, and Final Determination



**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 697-V-11 held on **April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

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

\_\_\_\_\_  
\_\_\_\_\_

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

**FINAL DETERMINATION**

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

The Variance requested in Case 697-V-11 is hereby *{GRANTED / GRANTED WITH CONDITIONS/DENIED}* to the petitioner **Ronald and Susan Bryant** to authorize:

- Part A. Variance for a proposed division of a lot 2.37 acres in area in lieu of the minimum required lot area of 5 acres;
- Part B. Variance for a proposed lot area of 35,500 square feet in lieu of the minimum required lot area 43,560 square feet (1 acre);
- Part C. Variance for a proposed average lot width of 125 feet in lieu of the minimum required average lot width of 200 feet;
- Part D. Variance for a rear yard of an existing home of 21 feet in lieu of the minimum required rear yard of 25 feet;
- Part E. Variance for a proposed side yard of an existing accessory building of 8 feet in lieu of the minimum required side yard of 10 feet;
- Part F. Variance for a rear yard of an existing accessory structure of 8 feet in lieu of the minimum required rear yard of 10 feet.

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

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

**Case 697-V-11**  
Page 20 of 20

***PRELIMINARY DRAFT***

Secretary to the Zoning Board of Appeals  
Date

**BRYANT SUBDIVISION**  
 AN ADDITION TO THE VILLAGE OF MAHOMET,  
 CHAMPAIGN COUNTY, ILLINOIS  
 PART OF NW 1/4, SEC. 20, T. 20 N., R. 8 E., 3rd. P.M.



**LEGEND**  
 - - - - - PROPERTY LINE  
 - - - - - SECTION LINE  
 - - - - - CULTIVATION LINE

**LEGAL DESCRIPTION**

PART OF THE EAST ONE HALF OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:  
 BEGINNING ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, A DISTANCE OF 977 FEET NORTH OF THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER, RUNNING THENCE NORTH 360 FEET ON SAID EAST LINE, THENCE WESTERLY AT RIGHT ANGLES 284 FEET, THENCE SOUTH 360 FEET PARALLEL WITH SAID EAST LINE, AND THENCE EASTERLY 284 TO THE POINT OF BEGINNING, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

**NOTES**

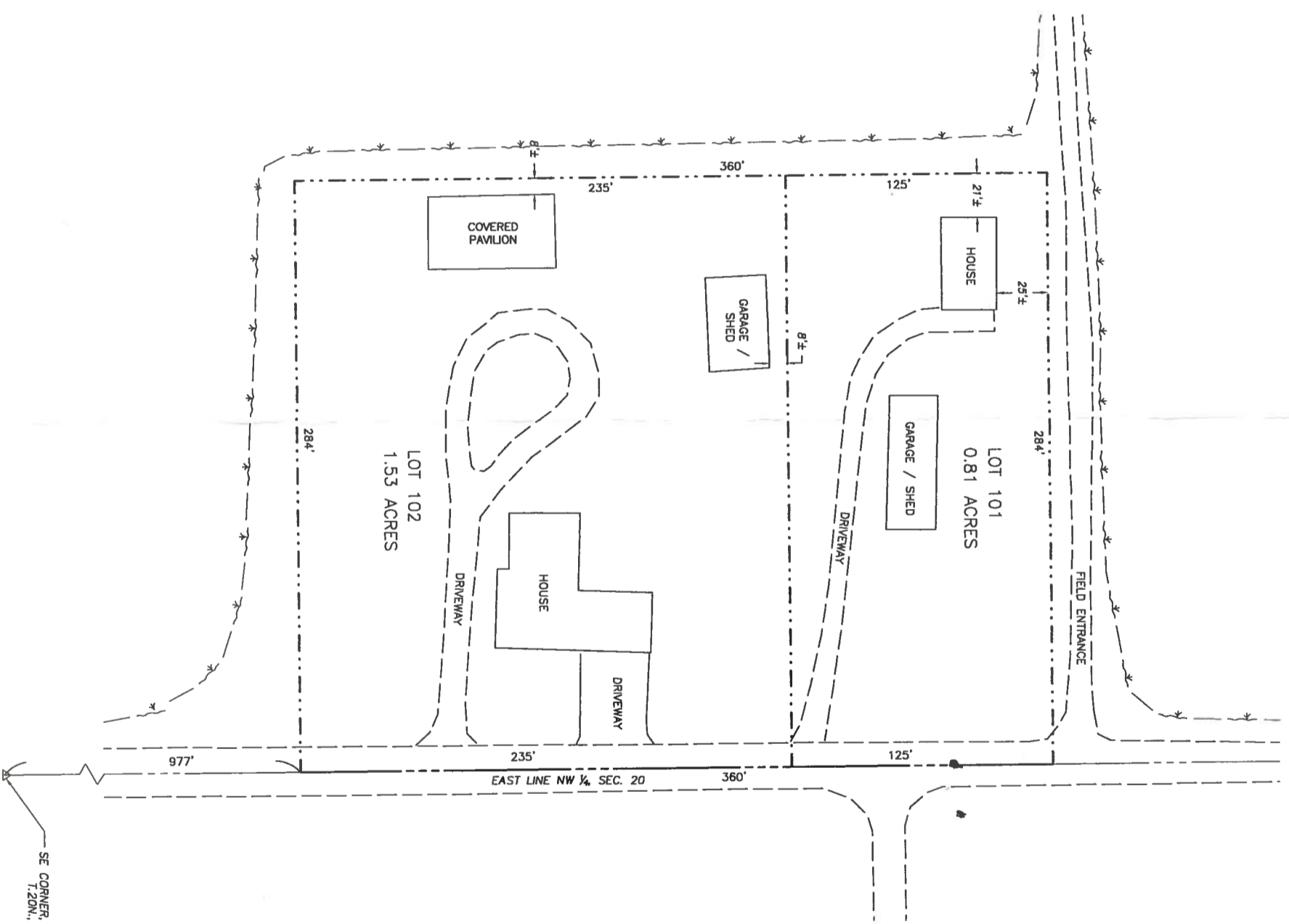
1. THE BOUNDARY LINES SHOWN ON THIS PLAN ARE APPROXIMATE AND NOT THE RESULT OF A FIELD SURVEY.

**RECEIVED**  
 NOV 29 2011  
 CHAMPAIGN CO. P & Z DEPARTMENT

PREPARED BY:

**Phoenix Consulting Engineers, Ltd.**  
 P.O. BOX 1187 • MAHOMET, IL 61853  
 217-586-1803 • FAX 217-586-6757

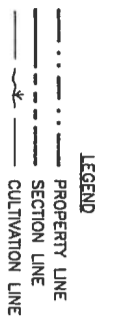
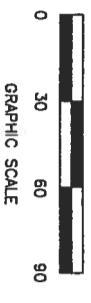
DATE OF PREPARATION: OCTOBER 19, 2011



SE CORNER, NW 1/4, SEC. 20,  
 T. 20N., R. 8E., 3RD P.M.

**BRYANT SUBDIVISION**  
 AN ADDITION TO THE VILLAGE OF MAHOMET,  
 CHAMPAIGN COUNTY, ILLINOIS  
 PART OF NW 1/4, SEC. 20, T. 20 N., R. 8 E., 3rd. P.M.

*Amended by Ronald  
 Bryant 4-18-2012  
 Andrew Jones*



**LEGAL DESCRIPTION**  
 PART OF THE EAST ONE HALF OF THE NORTHWEST QUARTER OF SECTION 20,  
 TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN,  
 CHAMPAIGN COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 20,  
 TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, A  
 DISTANCE OF 977 FEET NORTH OF THE SOUTHEAST CORNER OF SAID NORTHWEST  
 QUARTER, RUNNING THENCE NORTH 360 FEET ON SAID EAST LINE THENCE  
 WESTERLY AT RIGHT ANGLES 284 FEET THENCE SOUTH 360 FEET PARALLEL WITH  
 SAID EAST LINE AND THENCE EASTERLY 284 TO THE POINT OF BEGINNING,  
 SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

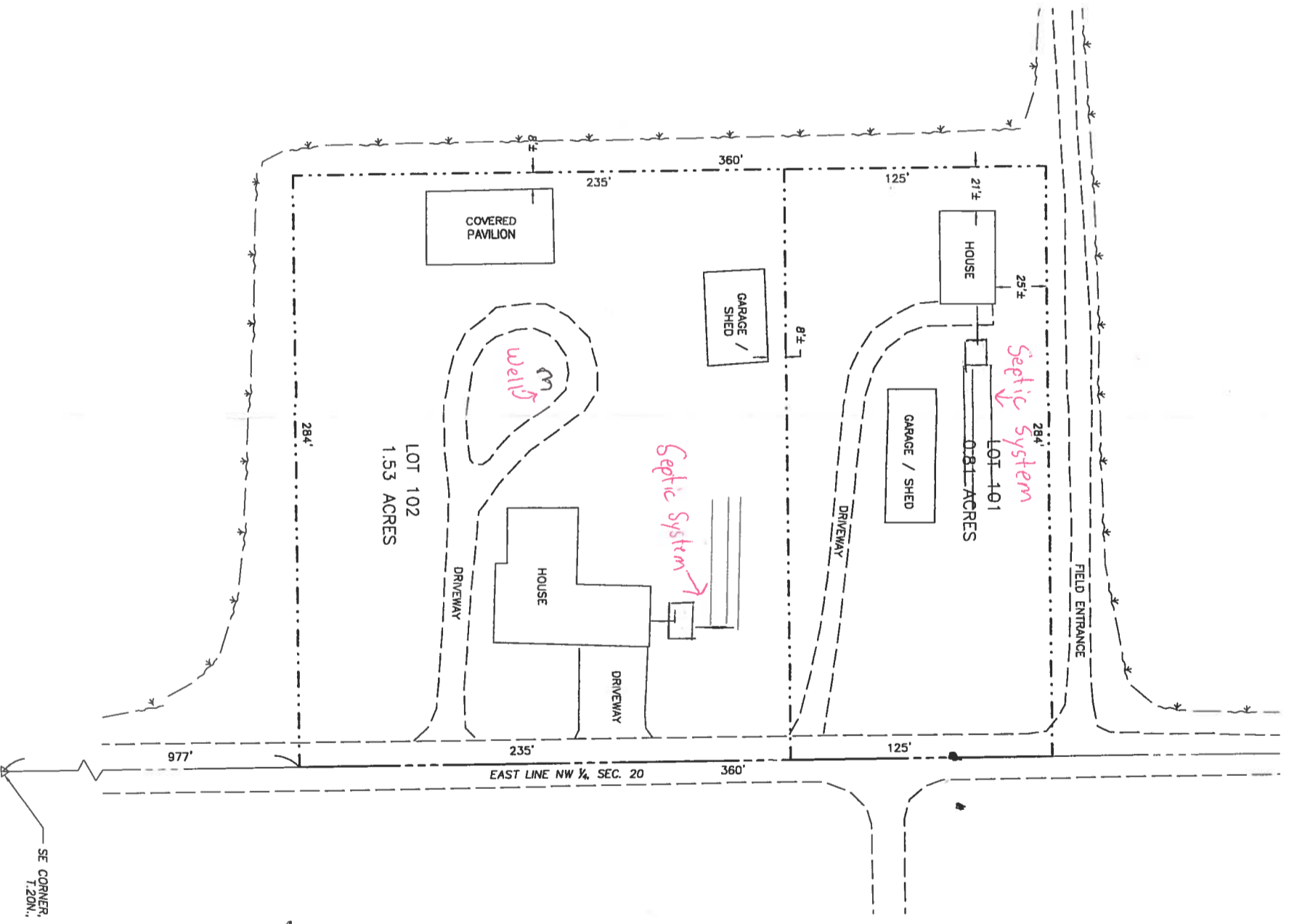
**NOTES**  
 1. THE BOUNDARY LINES SHOWN ON THIS PLAN ARE APPROXIMATE AND NOT  
 THE RESULT OF A FIELD SURVEY.

**RECEIVED**  
 NOV 29 2011  
 CHAMPAIGN CO. P & Z DEPARTMENT

PREPARED BY:

**Phoenix Consulting Engineers, Ltd.**  
 P.O. BOX 1187 • MAHOMET, IL 61853  
 217-586-1803 • FAX 217-586-8757

DATE OF PREPARATION: OCTOBER 19, 2011



SE CORNER, NW 1/4, SEC. 20,  
 T. 20N., R. 8E., 3RD P.M.

# CASE NO. 714-V-12

## PRELIMINARY MEMORANDUM

Champaign County  
Department of

**PLANNING &  
ZONING**

Petitioner: **Lee and Myrtle Pardy**

Site Area: **.90 acre**

Time Schedule for Development:

**Request: Variance for a side yard of an existing carport of 7 feet in lieu of the minimum required side yard of 10 feet, in the AG-2 Zoning District.**

**Location: A .90 acre parcel in the West One-Half of the Northwest Quarter of the Northwest Quarter Section 27 of Somer Township and commonly known as the home at 5106 North Cunningham Avenue, Urbana.**

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

(217) 384-3708

Prepared by: **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

---

## BACKGROUND

The Petitioner's seek a variance for an existing carport which is seven feet from the side property line. In order to comply with the minimum required 10 feet side yard the carport would have to be moved three feet to the south where it would block the doors to the existing nonconforming garage which was built only 5 feet from the property line prior to zoning.

The carport was previously approved by Zoning Use Permit No. 263-11-01 on October 24, 2011. After the carport was approved it was moved too close to the property line and wind damaged the carport before it was anchored down. The Zoning Administrator authorized the Petitioner's to anchor the carport down prior to approval of the variance so that no additional wind damage occurs. The Petitioner's have agreed to abide by the determination of the ZBA.

---

## EXTRATERRITORIAL JURISDICTION

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

## EXISTING LAND USE AND ZONING

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

Direction	Land Use	Zoning
Onsite	Residential	AG-2 Agriculture
North	Residential	AG-2 Agriculture
East	Agriculture	AG-2 Agriculture
West	Agriculture	AG-2 Agriculture
South	Residential	AG-2 Agriculture

**ATTACHMENTS**

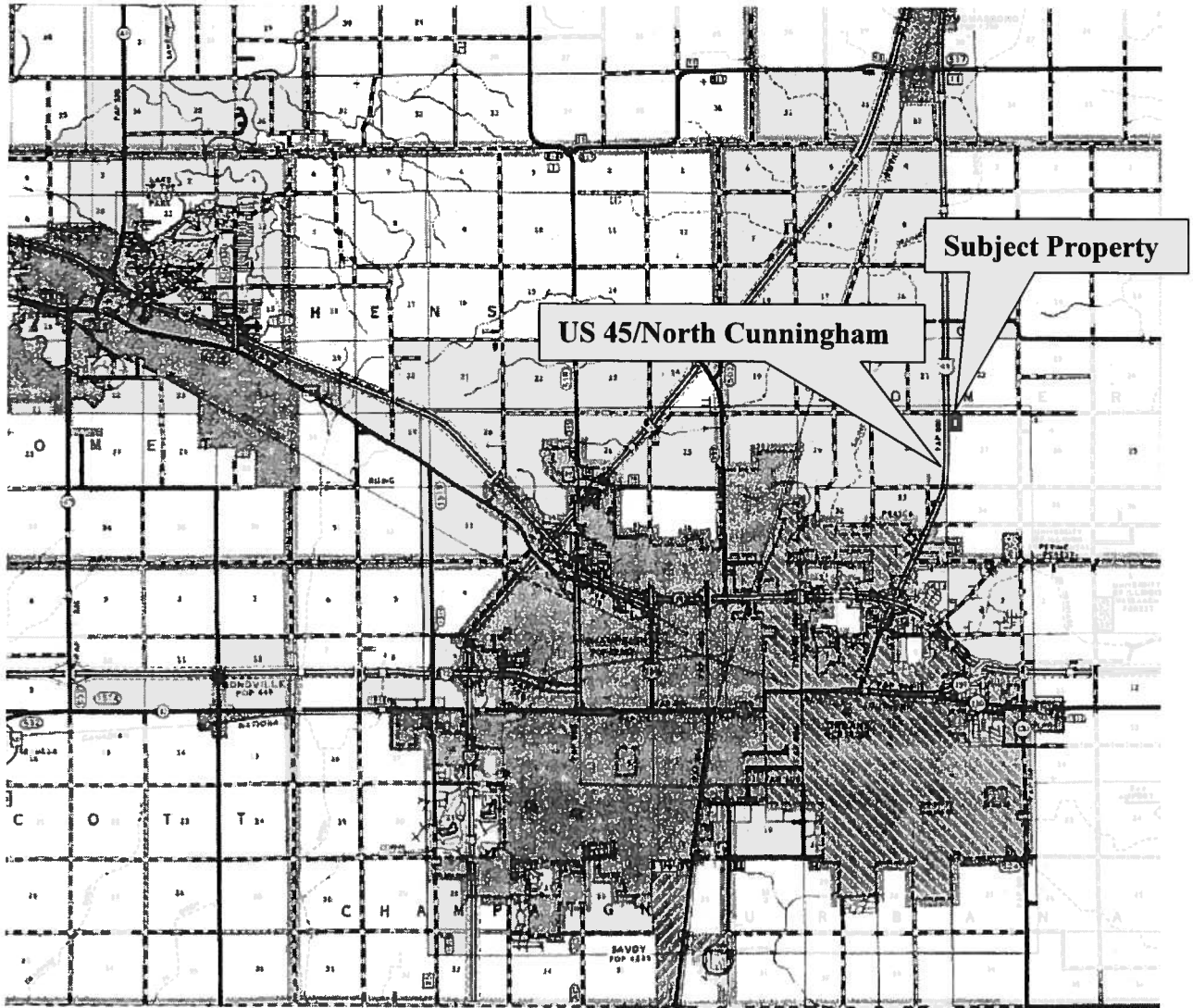
- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received September 19, 2011
- C Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)



**ATTACHMENT A. LOCATION MAP**

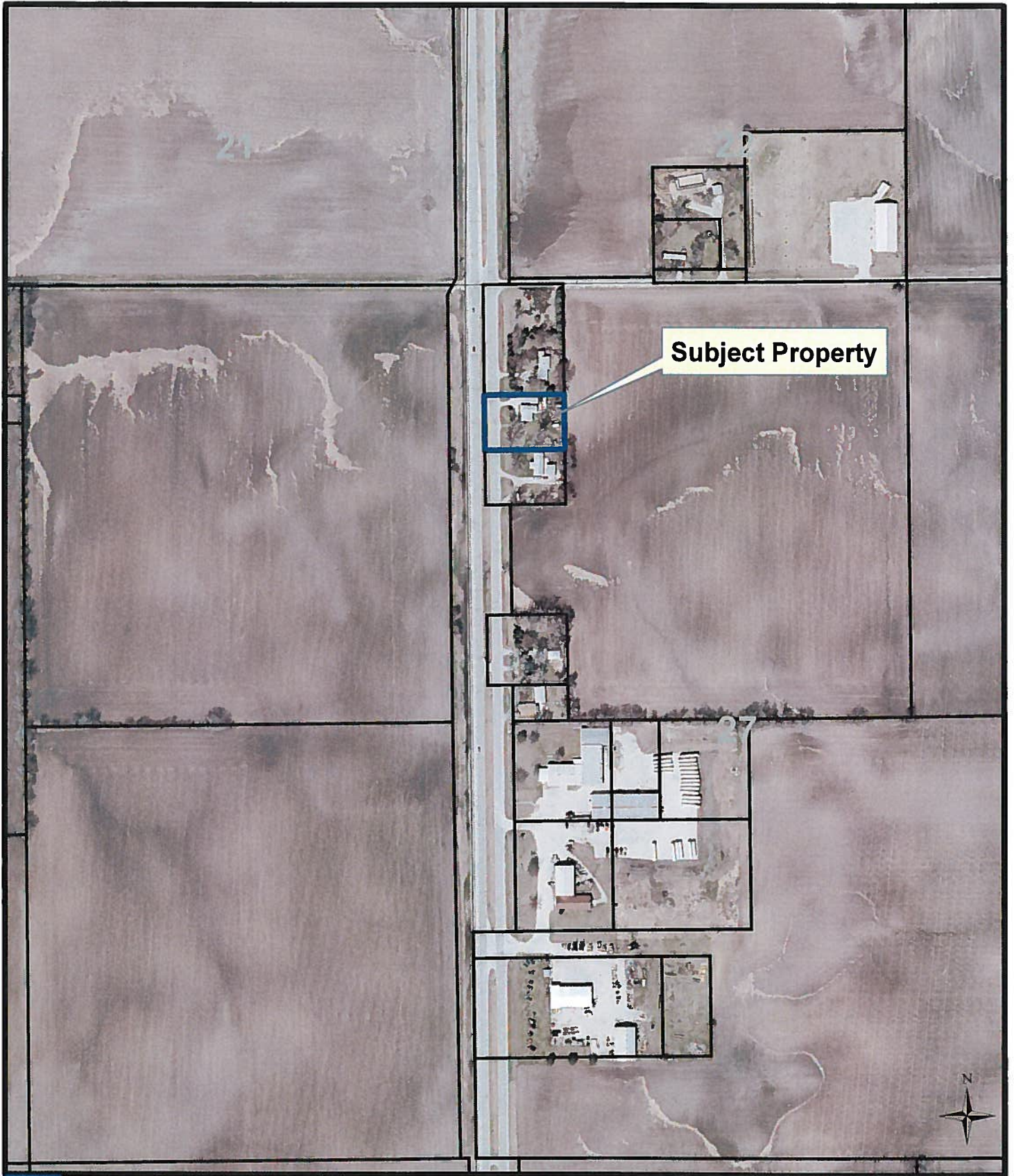
Case 714-V-12

April 20, 2012



Champaign  
County  
Department of  
**PLANNING &  
ZONING**

**Attachment A: Land Use Map**  
**Case 714-V-12**  
**April 20, 2012**

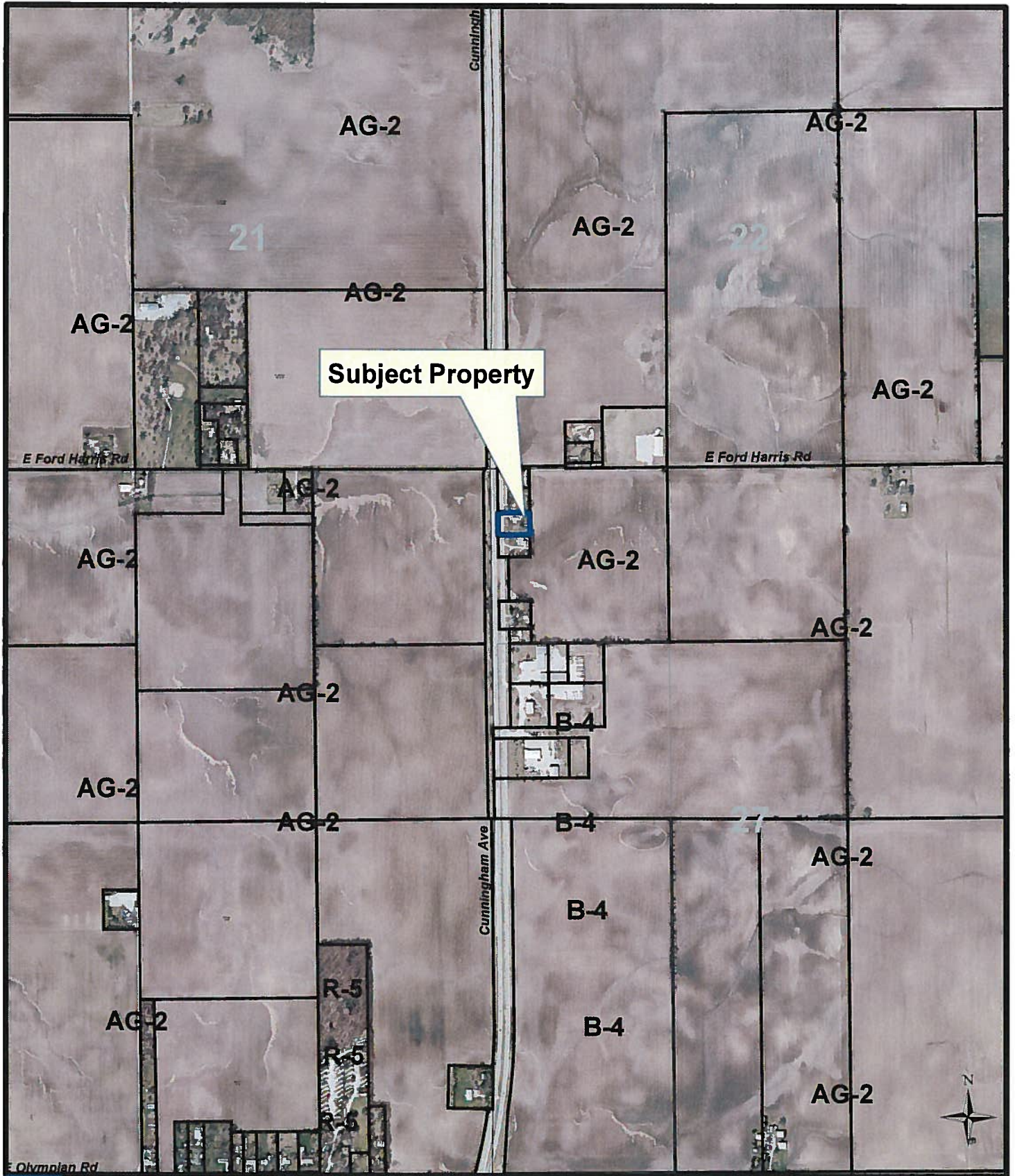


 Subject Property

1 inch = 400 feet



Attachment A: Zoning Map  
Case 714-V-12  
April 20, 2012



 Subject Property

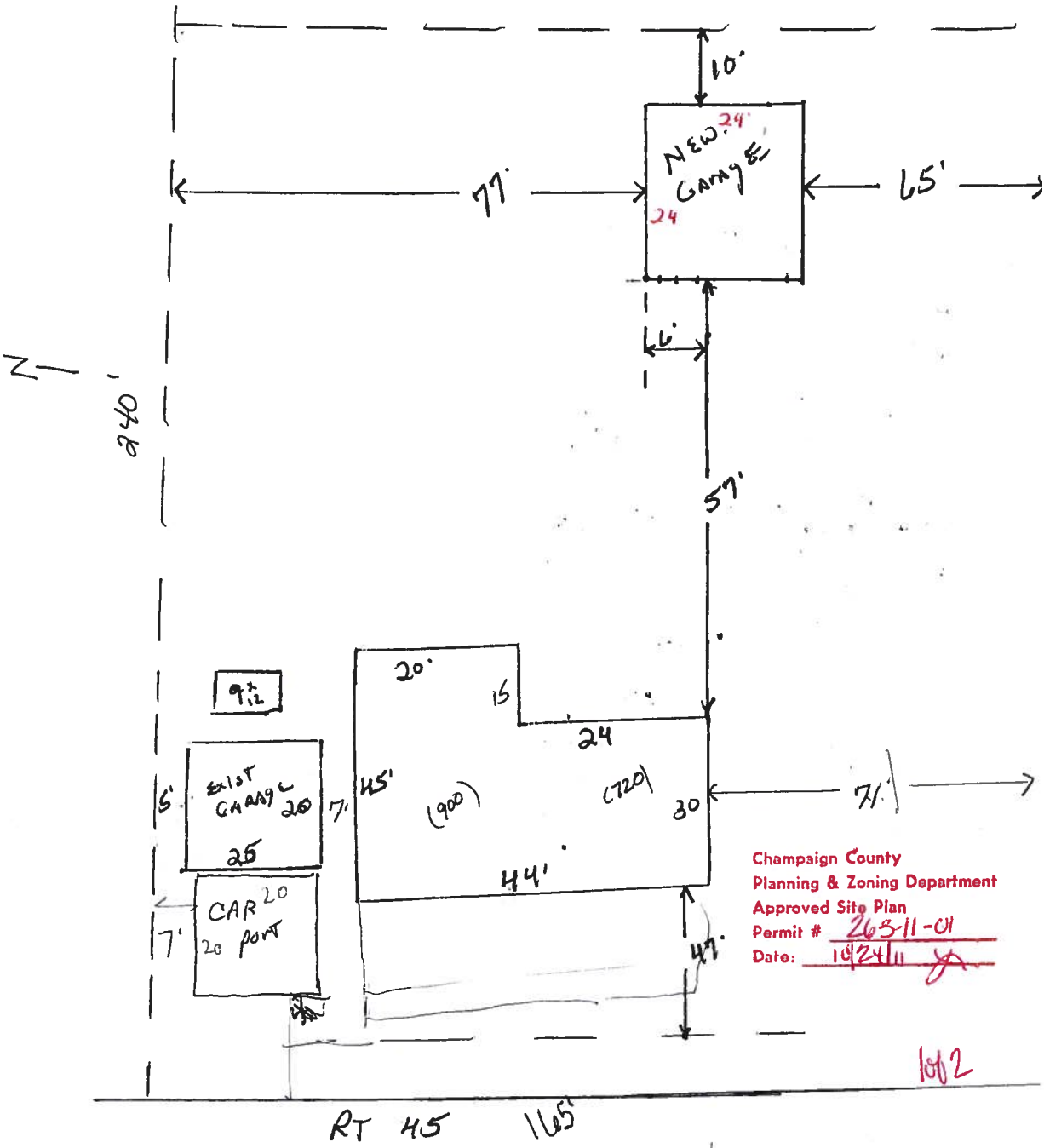
1 inch = 1,000 feet

I acknowledge that the variance is not approved I will move it to an approved position  
Secretary

RECEIVED

SEP 19 2011

CHAMPAIGN CO. P & Z DEPARTMENT



Champaign County  
Planning & Zoning Department  
Approved Site Plan  
Permit # 263-11-01  
Date: 10/24/11 *JR*

1002

**PRELIMINARY DRAFT**

**714-V-12**

**FINDING OF FACT  
AND FINAL DETERMINATION  
of**

**Champaign County Zoning Board of Appeals**

---

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

Date: **April 26, 2012**

Petitioners: **Lee and Myrtle Pardy**

Request: Variance for a side yard of an existing carport of 7 feet in lieu of the minimum required side yard of 10 feet, in the AG-2 Zoning District.

---

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner owns the subject property.
2. The subject property is a .90 acre parcel in the West One-Half of the Northwest Quarter of the Northwest Quarter of the Northwest Quarter Section 27 of Somer Township and commonly known as the home at 5106 North Cunningham Avenue, Urbana.
3. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana, a municipality with zoning. Municipalities do not have protest rights regarding variances, and are not notified of such cases.

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

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned AG-2 Agriculture, and is in use as residential.
  - B. Land to the north and south of the subject property is zoned AG-2 Agriculture and is in use as residential.
  - C. Land to the east and west of the subject property is zoned AG-2 Agriculture and is in use for agricultural purposes.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan of the subject site:
  - A. The subject property is a 39,800 square feet (.90 acre) lot.
  - B. The Site Plan includes the following:
    - (1) Location of the existing 1,620 square feet home.
    - (2) Location of an existing 24' × 24' feet detached garage.
    - (3) Location of an existing garage and carport north of the existing home. The 20' × 20' carport is indicated to be 7 feet from the north property line and the 25' × 7' garage is indicated to be 5 feet from the north property line.
  - C. The requested variance is as follows:
    - (1) Variance for a side yard of an existing carport of 7 feet in lieu of the minimum required side yard of 10 feet.

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

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
    - (1) “ACCESSORY BUILDING” is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
    - (2) “AREA, LOT” is the total area within the LOT LINES.
    - (3) “BUILDING RESTRICTION LINE” is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
    - (4) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
    - (5) “LOT LINES” are the lines bounding a LOT.
    - (6) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
    - (7) “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.
    - (8) “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.
    - (9) “YARD” is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT



**PRELIMINARY DRAFT**

LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

- (10) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- C. Minimum side yards in the AG-2 District are established in Section 5.3 of the *Zoning Ordinance* as follows:
- (1) The minimum side yard in the AG-2 Zoning District is listed in Section 5.3 as 10 feet.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
    - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
  - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.



*GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT*

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
  - A. The Petitioner has testified on the application, **“Garage was built before zoning.”**
  - B. The garage appears in the spring 1972 aerial photo and the garage was built only 5 feet from the property line.
  - C. In order to comply with the minimum required 10 feet side yard the carport would have to be moved three feet to the south where it would block the doors to the existing nonconforming garage which was built only 5 feet from the property line prior to zoning.

*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, **“Carport blocks north door of garage when it was moved. Picking a different location would create a hardship on my wife who is 75 and has great difficulty walking 78 feet.”**

*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, **“No.”**
  - B. In order to comply with the minimum required 10 feet side yard the carport would have to be moved three feet to the south where it would block the doors to the existing nonconforming garage which was built only 5 feet from the property line prior to zoning.

*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, **“Garage was built before zoning laws were in effect. The carport intentionally did not go out as far as the garage did because it is only as wide as the door openings.”**

***PRELIMINARY DRAFT***

- B. The requested variance of a side yard of 7 feet is 70% of the minimum required 10 feet for a variance of 30%.
- C. 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, **“I have contacted the neighbor to the north of me and he has no objection to the carport.”**
  - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
  - C. The Fire Protection District has been notified of this variance but no comments have been received.

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

- 12. Regarding proposed special conditions of approval:  
*No Special Conditions of Approval are proposed*

**DOCUMENTS OF RECORD**

1. Variance Application received on March 13, 2012, with attachment:
  - A Site Plan
  
2. Preliminary Memorandum with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan
  - C Draft Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 714-V-12 held on **April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

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

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**FINAL DETERMINATION**

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

The Variance requested in Case 714-V-12 is hereby **{GRANTED / GRANTED WITH CONDITIONS/ DENIED}** to the petitioner **Lee and Myrtle Pardy** to authorize: **a side yard of an existing carport of 7 feet in lieu of the minimum required side yard of 10 feet, in the AG-2 Zoning District.**

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

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals  
Date

# CASE NO. 700-S-11

## SUPPLEMENTAL MEMORANDUM

April 20, 2012

Champaign  
County

Department of

**PLANNING &  
ZONING**

Petitioner: **L.A. Gourmet Catering, LLC**

Site Area: **10 acres**

Time Schedule for Development:

**Post Zoning Approval (Approximately  
year)**

**Request: The construction and use of an Event Center as a "Private Indoor Recreational Development" as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning case 699-AM-11**

Brookens

Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

Prepared by: **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

**Location: A 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign.**

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### STATUS

This case was continued from the March 29, 2012, public hearing. A revised site plan has been submitted showing the new location of the tree screening. New evidence has been added to the Summary of Evidence which is attached separately.

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### COMMENTS FROM THE THOMASBORO FPD CHIEF

Paul Cundiff, Fire Chief for the Thomasboro Fire Protection District made the following suggestions in regards to public safety at the proposed event center:

- (1) The owner install a KNOX box on the building for fire department access.
- (2) The owner install a monitored fire alarm system within the building.
- (3) Provide an all access defibrillator in the public space.
- (4) Install a Dry Hydrant that is accessible at all times within 8 feet of a hard surfaced road or parking area.

A KNOX box is a secure box mounted on a building which holds access keys to a building and provides a way for public safety to gain access to a building if it is locked. A Special Condition of Approval has been proposed to ensure that the Special Use meets the requests of the fire protection district.

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**TRAFFIC IMPACT ANALYSIS**

Planning and Zoning Staff contacted Jeff Blue, County Engineer and Rita Morocoima-Black, CUUATS Transportation Planning Manager to determine if a Traffic Impact Analysis is warranted. It was determined that a Traffic Impact Analysis is necessary due to safety concerns. Champaign-Urbana Urbanized Area Transportation Study (CUUATS) staff members are preparing a Scope of Services and estimating the cost of a Traffic Impact Analysis. This information may be available at the April 26, 2012, public hearing.

Attached are two maps which provide crash information on County Highway 1 near the subject property. Staff has obtained additional information regarding accidents along County Highway 1 and intends to have that available at the April 26, 2012.

**ATTACHMENTS**

- A Revised Site Plan
- B County Highway 1 Crash Location and Severity Map 2007-2011
- C County Highway 1 5-Year Crash Information Map 3
- D Revised Summary of Evidence, Finding of Fact, and Final Determination (attached separately)



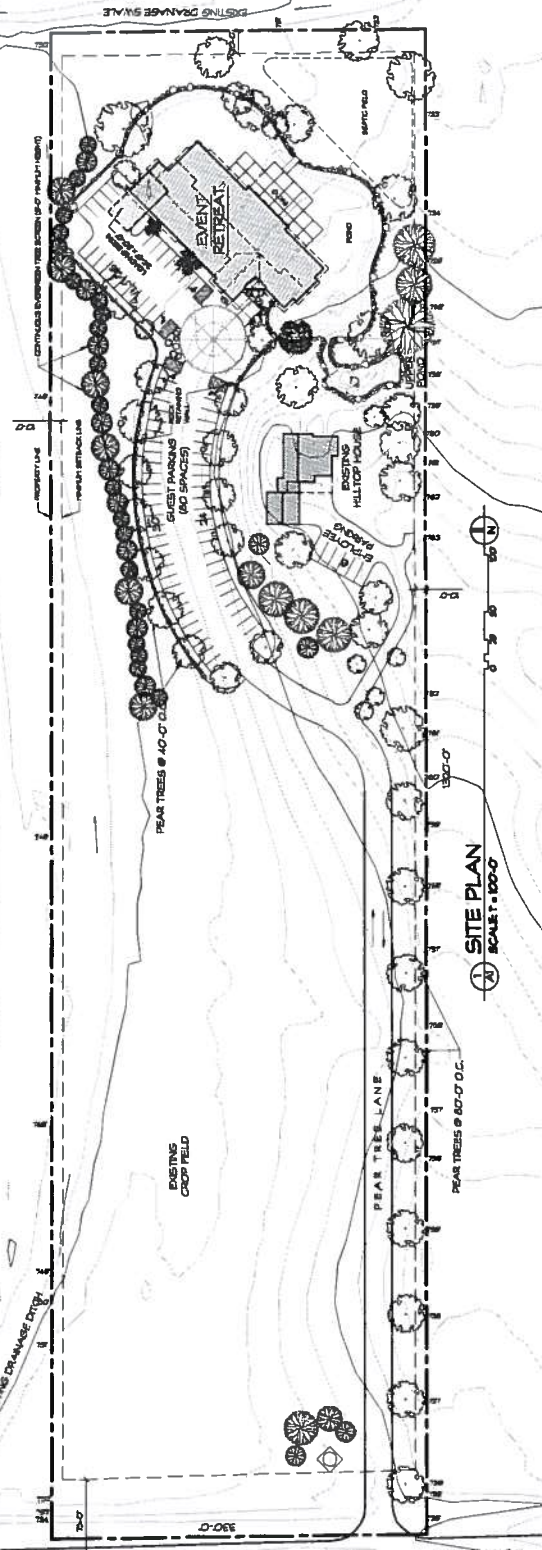
**EXTERIOR LIGHTING CONCEPTS:**  
 PROPOSED BUILDING LIGHTING CONSISTS OF RECESSED  
 EAVE DOWNLIGHTS AND AT-GRADE FIXTURES AIMED AT  
 THE BUILDING. 100W FIXTURES TO BE 12'-0" ON CENTER  
 AROUND ENTIRE PERIMETER OF BUILDING.

PROPOSED SITE LIGHTING CONSISTS OF AT-GRADE  
 FIXTURES AIMED UP INTO TREES, WATER FEATURES, AT  
 ROCK FORMATIONS, OR OTHER SITE AMENITIES SUCH AS  
 SCULPTURE AND WALKING PATHS. ONE 100W FIXTURE  
 LOCATED AT EACH PEAR TREE ADJACENT TO PAVEMENT.

ALL PROPOSED 100W EXTERIOR LIGHTING FIXTURES  
 PRODUCE ONLY SOFT REFLECTED LIGHT IN THE  
 HORIZONTAL DIRECTION.

IF FINAL LIGHTING DESIGN CONCEPTS CHANGE AND  
 FIXTURES THAT HAVE HORIZONTAL COMPONENTS ARE  
 UTILIZED, ONLY FIXTURES WITH FULL HORIZONTAL  
 CUTOFFS WILL BE SPECIFIED AND WILL BE SUBJECT TO  
 FINAL CODE APPROVAL AT TIME OF BUILDING PERMIT  
 APPLICATION.

NOTE: ALL TOPOGRAPHY SHOWN IS EXISTING



**L.A. GOURMET EVENT RETREAT**  
 2150 CR 1000 EAST  
 CHAMPAIGN, ILLINOIS 61822

① SITE PLAN  
 SCALE: 1" = 80'-0"

RECEIVED  
 APR 17 2012

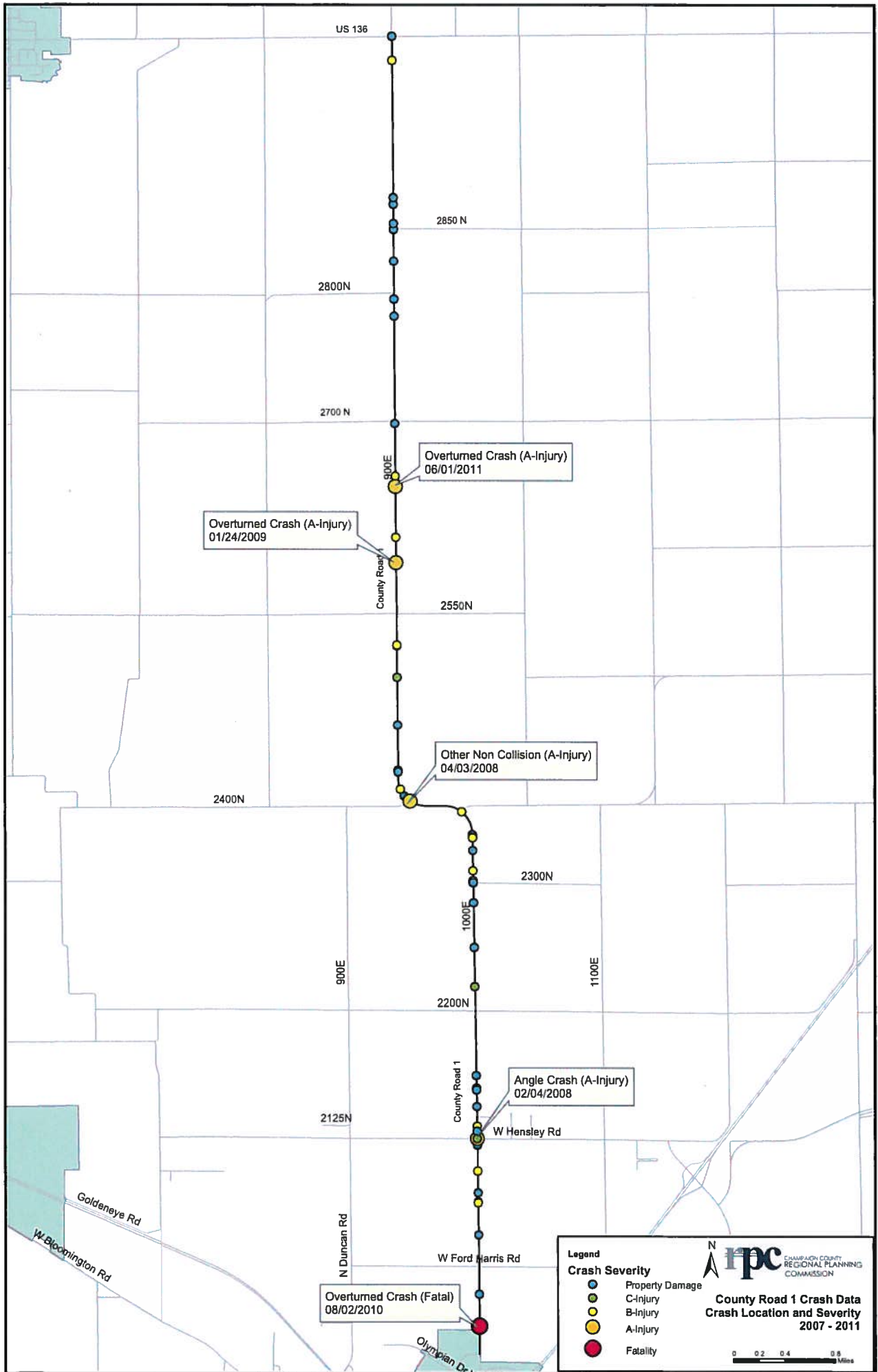
CHAMPAIGN CO. P & Z DEPARTMENT

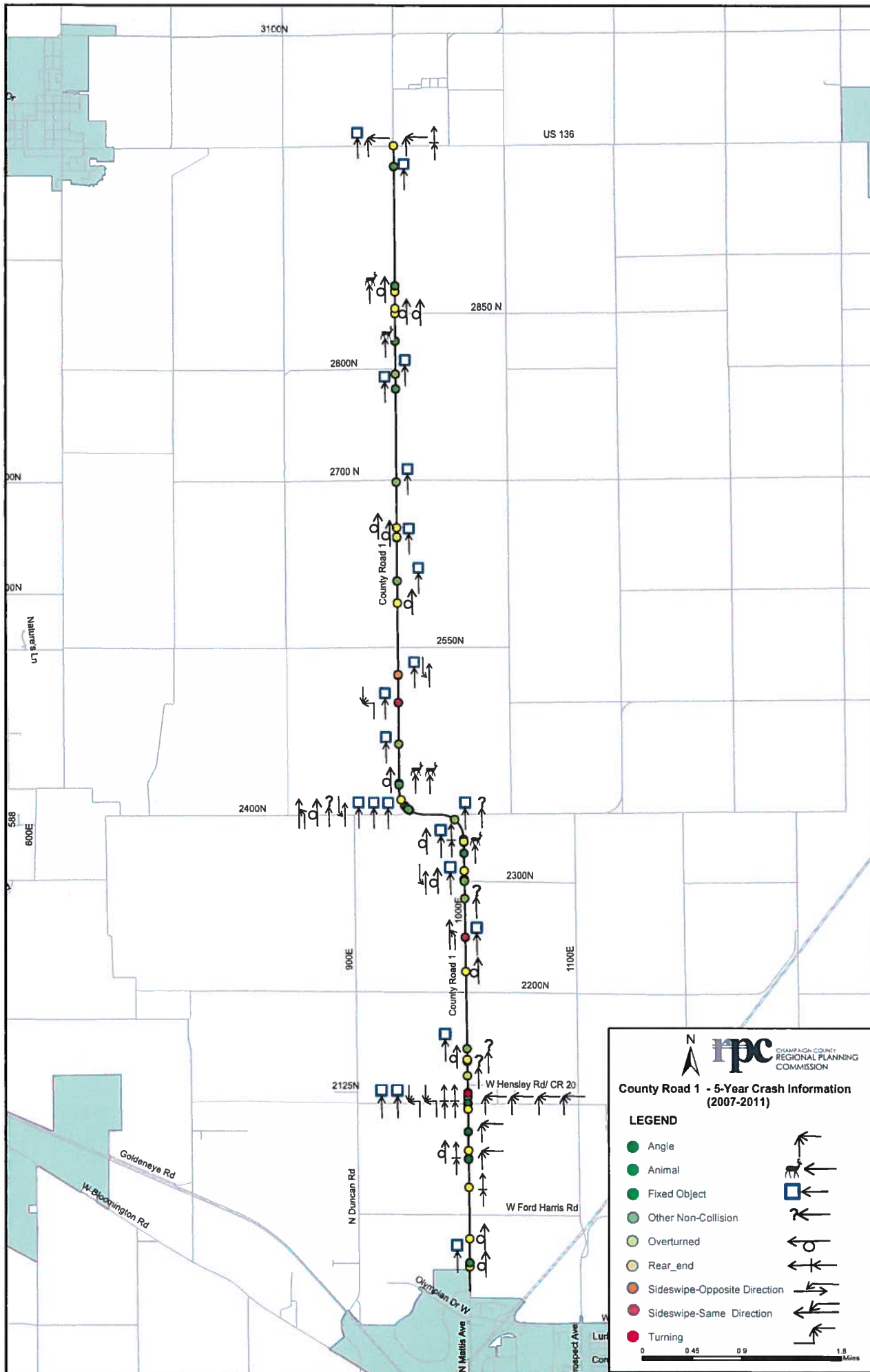
1106  
 04/16/12  
 A1  
 SMT  
 9TH

SITE PLAN  
 L.A. GOURMET EVENT RETREAT  
 2150 CR 1000 EAST  
 CHAMPAIGN, ILLINOIS 61822



Shordwicks Architects  
 010  
 SHORDWICKS ARCHITECTS  
 100 N. HANCOCK ST. SUITE 200  
 CHAMPAIGN, ILLINOIS 61822





**REVISED DRAFT**

**700-S-11**

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

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

Date: ~~March 29, 2012~~ April 26, 2012

Petitioners: L.A. Gourmet Catering, LLC

Request: Authorize the following on land in the AG-2 Agriculture Zoning District:

The construction and use of an Event Center as a “Private Indoor Recreational Development” as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning case 699-AM-11

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## SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 29, 2012, and April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

- \*1. The petitioner L.A. Gourmet, LLC is owned by Lauren and Annie Murray, 2607 CR 1000E, Champaign. The petitioner's father, John Murray owns the subject property.

(Note: asterisk indicates items of evidence that are identical to evidence in Case 699-AM-11)

- \*2. Regarding the subject property where the special use is proposed to be located:
- A. The subject property is a 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign. Part of the subject property has an existing home on it and part of the subject property is used for agricultural production and consists of best prime farmland.
- ~~\*3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning and is 2 miles from the City of Champaign.~~  
The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning and is 2 miles from the City of Champaign.
- \*3. The subject property is in Hensley Township, which has a planning commission. Townships with a planning commission are notified of all map amendments and they have protest rights on such cases. The Hensley Township Planning Commission has provided the following comments:
- A. At the March 29, 2012, public hearing Mr. Ben McCall, speaking on behalf of the Hensley Township Plan Commission objected to the proposed map amendment. Mr. McCall's testimony is summarized as follows:
- (1) The Hensley Township Plan Commission is concerned about the impacts the proposed in related Special Use Case 700-S-11 will have on drainage.
- (2) Traffic impacts cause by the proposed special use in related Special Use Case 700-S-11 were understated and vehicles traveling at 55 miles per hour and slowing down to turn into the subject property will lead to more accidents.
- (3) There is no justification for rezoning subject property from AG-1 to AG-2 other than the desire of the owner to use the property for a purpose that is not allowed in the AG-1 zoning district.
- (4) The rezoning of the subject property is inappropriate considering the general intent of the zoning districts for the following reasons:

- (a) Rezoning the parcel from AG-1 would facilitate the mixture of urban and rural uses that the zoning ordinance intends to prevent;
  - (b) Rezoning the parcel to AG-2 would enable scattered indiscriminate urban development; and
  - (c) The AG-2 district is generally located in areas near urban areas, but the subject property is not near an urban area or within 1.5 miles of an urban area.
- (5) The proposed rezoning is incompatible with the stated purposed of the zoning ordinance for the following reasons:
- (a) The proposed use of the subject property is incompatible with the surrounding area because it is not allowed in the AG-1 district;
  - (b) Rezoning the subject property would enable a haphazard and unplanned intrusion into rural Hensley Township;
  - (c) Rezoning the subject property would encourage non-contiguous development in a rural area; and
  - (d) Rezoning the subject property would discourage the preservation of the agricultural belt around the Champaign-Urbana area by encouraging an urban use in an agricultural area.

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

- \*4. Land use and zoning on the subject property and in the vicinity are as follows:
- A. The subject property is currently zoned AG-1 Agriculture and is in use as a residential property with some of the subject property used for row-crop agricultural production.
  - B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
    - (1) Land on the north is in agriculture production except for one single-family dwelling.
    - (2) Land on the south is in agricultural production and there is one single-family dwelling to the south.
    - (3) Land east of the subject property is in agricultural production.
    - (4) Land west of the subject property is in agricultural production.

*GENERALLY REGARDING THE PROPOSED SPECIAL USE*

5. Regarding site plan and operations of the proposed Event Center:
  - A. The site plan received March 2, 2012, and April 17, 2012, shows the entirety of the subject property and includes the following:
    - (1) The existing 2,500 square feet home authorized in Zoning Use Permit 178-85-01 and attached garage authorized in Zoning Use Permit 345-87-01.
    - (2) A proposed event center which is approximately 11,300 square feet in area including approximately 8,256 square feet in meeting space. (\*Note square footage of the building is an approximation based on scale measurements, exact building dimensions have yet to be provided by the petitioner).
    - (3) Parking areas to accommodate up to 84 parking spaces.
    - (4) A 24' × 50' loading berth.
    - (5) The proposed location of the septic field in the southeast corner.
    - (6) Screening along the north property line and along the north side of the parking area.
    - (7) Various landscaping features including detention ponds, rock retaining walls, and trees.
  - B. Information regarding the operations of L.A. Gourmet Catering has been provided by the petitioners and is summarized as follows:
    - (1) Lauren and Anne Murray own L.A. Gourmet Catering, LLC.
    - (2) The business was established six years ago.
    - (3) The existing catering business has provided service to over 1,000 events and is located at 2607 CR 1000E, Champaign.
    - (4) In the past year the Petitioners have been forced to move 18 events outside of Champaign County because there is not an event center similar to what the Petitioners are proposing available in Champaign County.
    - (5) The catering business will not be operated on the subject property nor will food be prepared on site. The Petitioners will continue to conduct business activities and prepare food at their kitchen and office at 2607 CR 1000E, Champaign.



**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for a Private Indoor Recreational Development as a Special Use in the AG-2 Agriculture Zoning District in the *Zoning Ordinance*:
- A. Section 5.2 authorizes RESIDENTIAL RECOVERY CENTER as a Special Use in the AG-2, R-3, and R-4 Zoning District.
- B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
- (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
- (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
- (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
- (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
- (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- (2) Subsection 6.1.3 does not establish standard conditions for Private Indoor Recreational Developments.
- C. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
- (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN OR PRINCIPAL STRUCTURE,



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subordinate to and USED for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE or the main or principal USE.

- (3) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
  - (5) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
  - (6) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- D. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
  - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
  - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- E. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
    - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
    - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
  - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and

the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:

- (a) Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
- (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
- (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.

- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

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

- 7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
  - A. The Petitioner has testified on the application, **“This atmosphere cannot be obtained in town or even on the edge of town. We have searched in Champaign-Urbana for two years for a facility that would suit our clients’ needs. After five years in the catering business and doing extensive market research we see a need for this type of business plan. The outdoor atmosphere and the feel of seclusion on this property would take ten to twenty years to develop on bare ground. Horizon Hobby, Pioneer, Carle, and the U of I are going out of state to hold retreats and conference that we could host in our county. Similar business from outside the area would be attracted to the area.”**
  - B. The subject property is zoned AG-1 Agriculture, but the Petitioners have filed an application to rezone the property from its AG-1 designation to an AG-2 designation in related Case 699-AM-11.
  - C. The subject property has frontage on and is accessed from a county highway which will provide good access to the property. ~~and is capable of handling the increase in traffic the proposed use will cause.~~
  - D. The subject property is located 2 miles from the City of Champaign

- E. At the March 29, 2012, public hearing Mr. Ben McCall in his personal testimony testified that the proposed special use is not necessary on the subject property because there are other options which would be more contiguous to other development.

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

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“We are working with an architect that will ensure all regulations are included in the plans.”**
- B. Regarding surface drainage:
- (1) A Drainage Review of New Event Retreat & Parking Lot Expansion by Bryan K. Bradshaw dated February 9, 2012, can be summarized as follows:
- (a) The surface flow of the property is generally to the north towards and agricultural waterway which flows easterly outletting at the Saline Branch Drainage Ditch.
- (b) The proposed event center and associated parking would create approximately 1.2 acres of impervious area within the development 3 acre watershed area.
- (c) Low impact design practices will be utilized such as bioswales and infiltration strips.
- (d) A two-tier detention pond is proposed for the site located south, north, and east of the proposed event center.
- (2) Berns, Clancy, and Associates, an engineering firm reviewed the proposed drainage plan for feasibility and evaluated drainage calculations. The results of the feasibility study are summarized as follows:
- (a) The concept drainage plan appears to be feasible to construct in a manner that will comply with the stormwater management ordinance.
- (b) The proposed compensatory storage area along the surface waterway should minimize any impacts caused by the placement of a portion of the proposed development site within the informal “flood plain” of the surface waterway.

- (c) Storage volumes and discharge rates of the concept stormwater management system appear to comply at the conceptual level with requirements of the stormwater management ordinance.
  - (d) If the drainage system is properly designed and constructed there should not be any adverse impacts to adjacent property
  - (e) The proposed development will increase the total volume of runoff from the site, but it would likely result in an increase from the approximate 2.75 square mile watershed of less than 1%.
  - (f) The proposed tree screening along the north property line would be located in within the flood flow area of the adjacent surface drainage waterway. The planting of the trees in this location would result in debris collecting and blocking the waterway and would hinder the flow of stormwater runoff.
- (3) At the March 29, 2012, public hearing Mr. Jack (John) Murray, testified regarding drainage on the subject property. His testimony is summarized as follows:
- (a) He and Joe Irle (drainage district commissioner) located and mapped all of the existing drainage tiles.
  - (b) There are some tiles that will need to be relocated because of the proposed ponds, but the ponds will slow the flow of water.
- C. The subject property is accessed from CR 1000E/County Highway 1 on the west side of the property. Regarding the general traffic conditions on CR 1000E/County Highway 1 at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). The AADT of CR 1000E/County Highway 1 is indicated as 3,850 AADT.
  - (2) CR 1000E/County Highway 1 is a Collector Street as indicated in the Champaign County Zoning Ordinance.
  - (3) Pavement width in front of the subject property is approximately 30 feet.
  - (4) The County Engineer has been notified of this case.
  - (5) Regarding the proposed special uses and the anticipated traffic impacts:

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- (a) The proposed Event Center includes parking spaces for 84 vehicles. ~~which is a significant increase in traffic on CR 1000E/County Highway 1.~~
  - (b) The proposed Event Center will accommodate up to 400 people.
  - (c) ~~At capacity this use could cause a significant increase in traffic on CR 1000E/County Highway 1.~~ Although this increase may be significant at times, events at maximum capacity will not take place every day on the subject property, therefore the increase in traffic will likely be sporadic.
  - (d) The County Engineer and officials at the Champaign Urbana Urbanized Area Transportation Study (CUUATS) have been contacted to determine if the proposed use on the subject property warrants a Traffic Impact Analysis.
  - (e) In an email dated April 18, 2012, Rita Morocoima-Black, CUUATS Transportation Planning Manager recommended that a Traffic Impact Analysis is warranted due to safety concerns.
- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Thomasboro Fire Protection District and is located approximately 8 road miles from the fire station. ~~The Fire Protection District Chief has been notified of this request, but no comments have been received at this time.~~ In an email dated March 31, 2012, Paul Cundiff, Fire Chief for the Thomasboro Fire Protection District provided comments regarding the proposed use:
- (1) The owner install a KNOX box on the building for fire department access.
  - (2) The owner install a monitored fire alarm system within the building.
  - (3) Provide an all access defibrillator in the public space.
  - (4) Install a Dry Hydrant that is accessible at all times within 8 feet of a hard surfaced road or parking area.
- A Special Condition of Approval has been proposed to ensure that the Special Use meets the requests of the fire protection district.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, new outdoor lighting has been proposed to light up the proposed event center, landscape features, and trees planted along

the access to the property. All proposed lighting will minimize glare onto roads and neighboring properties.

G. Regarding wastewater treatment and disposal on the subject property:

- (1) The Petitioner's have applied for and received a private sewage disposal permit, No 12-008-19 from the Champaign County Public Health Department.
- (2) The proposed site plan received March 2, 2012, indicates that the proposed septic field is to be located in the southeast corner of the subject property.
- (3) A soil characterization report evaluating the soils for use in a septic system for the proposed Event Center was prepared by Roger Windhorn received February 13, 2012, and can be summarized as follows:
  - (a) Three holes within the proposed seepage filter field were examined to a depth of 60 inches. Hole 1 was on the south, Hole 2, on the east, and Hole 3 on the north.
  - (b) All three holes have layers in the upper or middle part of the subsoil that have a moderately slow permeability rate due to clay content greater than 35% or weak soil structure.
  - (c) The soils on the subject property consist of a Loess parent material, 1 percent slopes.
  - (d) The natural soils on the subject property have a seasonal high water table, typically in early spring or late fall. The field tile lines in the surrounding farm fields have reduced the depth and length of seasonal water table effect on this site.
  - (e) Mr. Windhorn suggests that all construction traffic stay off of the proposed septic site to minimize soil compaction.
  - (f) A special condition is proposed to ensure that the site of the septic system does not become compacted.
- (3) The soil characterization report is consistent with the pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, that 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). Drummer silty loam, (soil map unit 152A) soil is rated as having "low"

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suitability for subsurface soil absorption wastewater systems (septic tank leach fields) and requiring corrective measures generally of subsurface drainage or fill.

- (4) A description of the proposed septic system to serve the proposed Event Center was written by Jeff Jackson and received on February 9, 2012 and can be summarized as follows:
  - (a) The septic system would be designed to serve the Event Center and would be sized for 2,000 gallons of water per day.
  - (b) The septic system proposed by Mr. Jackson consists of 2 - 1,500 gallon septic tanks that would discharge into a 4,500 square feet seepage bed.
  - (c) A curtain drain will surround the seepage bed and a pump chamber will discharge to a detention pond.
  - (d) A special condition has been proposed to ensure that the septic system is designed and installed as what was approved by the Champaign county Health Department.
- I. Regarding parking for the proposed Event Center, the proposed parking complies with the minimum requirements of the Zoning Ordinance.
  - (1) Paragraph 7.4.1 C.3.b.i. requires that places of public assembly including assembly halls, exhibition halls, convention halls, and other enclosed STRUCTURES shall provide one parking space for each five seats provided for patrons use or at least one parking space for each 200 square feet of floor area, whichever requires the greater number of parking spaces.
    - (a) There is a proposed maximum of 400 people in the Event Center by dividing 400 by 5 seats it equals 80 parking spaces which is the greater number compared to 56 which is a result of dividing 11,300 square feet by 200 square feet.
    - (b) The site plan received on March 2, 2012, indicates 84 proposed parking spaces. 80 regular spaces and 4 handicap accessible spaces.
- J. Regarding food sanitation and public health considerations related to the proposed Special Use:
  - (1) The Event Center Floor Plan received February 9, 2012, indicates a kitchen in the proposed Event Center.
  - (2) A special condition is proposed to ensure ongoing compliance with Health Code.
- K. Regarding life safety considerations related to the proposed Special Use:

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



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compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.

- (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

(2) Illinois Public Act 96-704 requires that in a non-building code jurisdiction no person shall occupy a newly constructed commercial building until a qualified individual certifies that the building meets compliance with the building codes adopted by the Board for non-building code jurisdictions based on the following:

(a) The 2006 or later editions of the following codes developed by the International Code Council:

- i. International Building Code;
- ii. International Existing Building Code; and
- iii. International Property Maintenance Code

(b) The 2008 of later edition of the National Electrical Code NFPA 70.

O. At the March 29, 2012, public hearing neighbor Judy Swartzendruber expressed her concerns regarding the proposed Special Use and they can be summarized as follows:

- (1) Water runoff from the subject property could cause problems for neighbors because the swale which runs along the north property line has caused flooding on downstream properties in the past.
- (2) The added traffic will add additional traffic to a heavily traveled road and will result in increase traffic noise. Additionally, if there were to be 400 people at the event center and 500 people at the Hindu Temple there would be traffic issues.
- (3) The proposed entrance to the property is at a very low point and not visible to oncoming traffic from either direction and is an area where snow drifts in the winter time.

- (4) If trucks are delivering items to the Hindu Temple and to the proposed event center it will cause additional deterioration to the Dewey-Fisher Road which may lead to it being widened.
- P. At the March 29, 2012, public hearing neighbor Peggy Anderson expressed her concerns regarding the proposed Special Use and they can be summarized as follows:
- (1) The subject property slopes down toward her land and her concern is additional water runoff if the proposed use is granted.
- (2) Her son currently resides on the property directly north of the subject property and he would like to be able to enjoy the country atmosphere and not be distracted by lighting, noise, and septic issues.
- O. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application: **The applicant did not indicate a response to this question.**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) Regarding the proposed special use:
- (2) A Private Indoor Recreational Development is authorized by Special Use Permit in the AG-2 Agriculture, R-3 Residential, and R-4 Residential Zoning District and by right in the B-2, B-3, and B-4 Zoning District.
- (3) Regarding parking on the subject property for the proposed Event Center:
- (a) Paragraph 7.4.1 C.3.b.i. requires that places of public assembly including assembly halls, exhibition halls, convention halls, and other enclosed STRUCTURES shall provide one parking space for each five seats provided for patrons use or at least one parking space for each 200 square feet of floor area, whichever requires the greater number of parking spaces.

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- (b) There is a proposed maximum of 400 people in the Event Center by dividing 400 by 5 seats it equals 80 parking spaces which is the greater number compared to 56 which is a result of dividing 11,300 square feet by 200 square feet.
- (c) The site plan received on March 2, 2012, indicates 84 proposed parking spaces. 80 regular spaces and 4 handicap accessible spaces.
- (d) Paragraph 7.4.1 C.4.a. requires SCREENS for parking for commercial ESTABLISHMENTS including a church or school or dormitory.

Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a Type B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.

Paragraph 4.3.3 H. identifies a Type A SCREEN as a decorative opaque fence, shrubs or other vegetative material or a landscaped berm planted and maintained with a minimum HEIGHT of four feet as measured from the highest adjacent grade and a Type B SCREEN as an opaque fence or wall with a minimum HEIGHT of four feet as measured from the highest adjacent grade.

The proposed parking on the north side of the subject property is within 100 feet of the building restriction line of a property containing a dwelling. Screening is required and shown on the site plan for any of the proposed new parking spaces located on the north side of the subject property.

- C. Regarding compliance with the *Stormwater Management Policy*:
  - (1) Paragraph 4.3A.2. of the Stormwater Management Policy exempts the first 10,000 square feet of impervious area relative to what existed on 2/20/03.
  - (2) The proposed site plan received on March 2, 2012, indicates three types of increases in impervious area as follows (A special condition has been proposed to ensure compliance with the stormwater management ordinance):

- (a) The proposed Event Center will be impervious area and is indicated with an overall building footprint of approximately 11,300 square feet.
  - (b) The site plan indicates an addition of 84 parking spaces but the increase in the parking of area is not dimensioned. The Zoning Ordinance requires parking spaces to be a minimum of 9 feet wide by 20 feet long. Using a scale approximately 25,317 square feet of parking area is proposed on the subject property.
  - (c) Sidewalks and detention basins are also proposed on the subject property, but are not dimensioned on the site plan.
  - (d) In a letter from Bryan Bradshaw received February 9, 2012 Mr. Bradshaw indicates that the total increase in impervious surface will be approximately 1.2 acres.
- (3) Berns, Clancy, and Associates, an engineering firm reviewed the proposed drainage plan for feasibility and evaluated drainage calculations. The results of the feasibility study are summarized as follows:
- (a) The concept drainage plan appears to be feasible to construct in a manner that will comply with the stormwater management ordinance.
  - (b) The proposed compensatory storage area along the surface waterway should minimize any impacts caused by the placement of a portion of the proposed development site within the informal "flood plain" of the surface waterway.
  - (c) Storage volumes and discharge rates of the concept stormwater management system appear to comply at the conceptual level with requirements of the stormwater management ordinance.
  - (d) If the drainage system is properly designed and constructed there should not be any adverse impacts to adjacent property
  - (e) The proposed development will increase the total volume of runoff from the site, but it would likely result in an increase from the approximate 2.75 square mile watershed of less than 1%.
  - (f) The proposed tree screening along the north property line would be located in within the flood flow area of the adjacent surface drainage waterway. The planting of the trees in this location would result in debris

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collecting and blocking the waterway and would hinder the flow of stormwater runoff.

- D. Regarding the Special Flood Hazard Areas Ordinance, no part of the subject property is located in the Special Flood Hazard Area.
- E. Regarding the Subdivision Regulations, the subject property is located in the Champaign County subdivision jurisdiction and no subdivision is proposed or required.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning District:
- (1) Private Indoor Recreational Development is permitted by Special Use Permit in the AG-2 Agriculture Zoning District
  - (2) The proposed use will not hinder agricultural production and agricultural production will still occur onsite.
  - (3) The proposed building is clustered with the existing home.
  - (4) Currently, the subject property is zoned AG-1 Agriculture and the Petitioner's have requested to rezone the subject property to AG-2 Agriculture in related Case 699-AM-11.
  - (5) As reviewed in Case 699-AM-11 the types of uses authorized by right in the AG-1 District are nearly identical to the by right uses in the AG-2 District and any proposed Special Use on this property should be evaluated for compatibility with the adjacent AG-1 uses.
- G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.

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

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
- A. A Private Indoor Recreational Development is authorized by Special Use Permit in the AG-2 Agriculture, R-3 Residential, and R-4 Residential Zoning District and by right in the B-2, B-3, and B-4 Zoning District.

B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

- (1) Subsection 5.1.14 of the Ordinance states the general intent of the AG-2 District and states as follows (capitalized words are defined in the Ordinance):

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

Currently, the subject property is zoned AG-1 Agriculture and the Petitioner's have requested to rezone the subject property to AG-2 Agriculture in related Case 699-AM-11. The Zoning Ordinance states that the AG-2 District is generally for areas within one and one-half miles of existing communities, this is not always the case. The AG-2 District is as far as 3 miles from the City of Urbana and as far as 1.75 miles from the City of Champaign. The subject property is 2 miles from the City of Champaign.

- (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG-2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

The uses authorized by Special Use Permit in the AG-1 Agriculture and AG-2 Agriculture Zoning Districts are nearly identical. A Private Indoor Recreational Development is one of the special uses authorized in the AG-2 District and not the AG-1 District.

C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

- (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
- (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.
- (b) A Special Condition has been proposed to ensure that the proposed event center will comply with a building code.
- (c) Paul Cundiff, Fire Chief for the Thomasboro Fire Protection District provided comments regarding the proposed use:

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- i. The owner install a KNOX box on the building for fire department access.
- ii. The owner install a monitored fire alarm system within the building.
- ii. Provide an all access defibrillator in the public space.
- iv. Install a Dry Hydrant that is accessible at all times within 8 feet of a hard surfaced road or parking area.

A Special Condition of Approval has been proposed to ensure that the Petitioner's provide the proper measures for safety.

- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY. In regards to the value of nearby properties:
  - (a) The existing home on the subject property has been used as a single-family home since the mid 1980s. The special use permit for the Event Center should have no affect on property value.
  - (b) It is not clear whether or not the proposed Event Center will have any impact on the value of nearby properties.
  - (c) Currently, the subject property is zoned AG-1 Agriculture and the Petitioner's have requested to rezone the subject property to AG-2 Agriculture in related Case 699-AM-11.
  - (d) As reviewed in Case 699-AM-11 the types of uses authorized by right in the AG-1 District are nearly identical to the by right uses in the AG-2 District and any proposed Special Use on this property should be evaluated for compatibility with the adjacent AG-1 uses.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS. In regards to congestion in the public STREETS:
  - (a) The proposed Event Center requires 84 new parking spaces and ~~that is a significant~~ will only be a minor increase to traffic on CR 1000E/ County Highway 1. However, a Traffic Impact Analysis is warranted due to safety concerns.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.
- (a) The proposed Event Center is not less than 10,000 square feet increase in impervious area and the Champaign County Stormwater Management Policy does require stormwater detention for an increase of more than 10,000 square feet.
- (b) Berns, Clancy, and Associates, an engineering firm reviewed the proposed drainage plan for feasibility and evaluated drainage calculations and found that the proposed drainage plan is feasible and should not have any adverse impacts on neighboring properties.
- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.
- These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.
- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and



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standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

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

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.
- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.
  - (a) Currently, the subject property is zoned AG-1 Agriculture and the Petitioner's have requested to rezone the subject property to AG-2 Agriculture in related Case 699-AM-11. The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use.
  - (b) The proposed use will be taking a minimal amount of land out of agricultural production. The subject property is 2 miles from the subject property.
  - (c) As reviewed in Case 699-AM-11 the types of uses authorized by right in the AG-1 District are nearly identical to the by right uses in the AG-2 District and any proposed Special Use on this property should be evaluated for compatibility with the adjacent AG-1 uses.
- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

The subject property does not contain any natural features other than best prime farmland and there are no natural features other than best prime farmland in the vicinity of the subject property.
- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

~~The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use. Currently, the subject property is zoned AG-1 Agriculture and the Petitioner's have requested to rezone the subject property to AG-2 Agriculture in related Case 699-AM-11.~~

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

~~The subject property is located in the AG-2 Agriculture District and is, by definition, a rural use.~~

- (a) Currently, the subject property is zoned AG-1 Agriculture and the Petitioner's have requested to rezone the subject property to AG-2 Agriculture in related Case 699-AM-11.
- (b) The proposed use will be taking a minimal amount of land out of agricultural production and should not be a disturbance to agriculture activities.
- (c) As reviewed in Case 699-AM-11 the types of uses authorized by right in the AG-1 District are nearly identical to the by right uses in the AG-2 District and any proposed Special Use on this property should be evaluated for compatibility with the adjacent AG-1 uses.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE**

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner has testified on the application, **“Currently, it is a vacant house. It will be occupied and the new building will be among beautiful landscape to conform to the property.”**
- B. The existing home and attached garage are not nonconforming uses. The home was authorized by Zoning Use Permit No. 178-85-01 and the attached garage was authorized by Zoning Use Permit 345-87-01.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

12. Regarding proposed special conditions of approval:
- A. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the**

**Zoning Use Permit application and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

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

**That the drainage improvements conform to the requirements of the Stormwater Management Policy.**

**B. Regarding State of Illinois accessibility requirements:**

- (1) The Zoning Administrator shall not approve a Zoning Use Permit for the proposed Special Use Permit without certification by an Illinois Licensed Architect or Illinois Professional Engineer that the proposed Event Center will comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act;**
- (2) The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit until the Zoning Administrator has verified that the Special Use as constructed does in fact comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act.**

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

**That the proposed Special Use meets applicable state codes for handicap accessibility.**

- C. The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed Event Center until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new building complies with the following codes: (A) The 2006 or later edition of the International Building Code; (B) The 2008 or later edition of the National Electrical Code NFPA 70; and, (C) the Illinois Plumbing Code.**

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

**That the proposed structure is safe and built to current standards.**

- D. All onsite foodservice shall be in compliance at all times with the Champaign County Health Ordinance.**

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

**That foodservice for the proposed Residential Recovery Center is consistent with County requirements and the testimony in the public hearing and that compliance is enforceable.**

- E. The proposed parking area for the proposed Event Center shall comply with the Champaign County Zoning Ordinance requirements for screening from adjacent residences and Residential Districts.**

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

**That all parts of the proposed Residential Recovery Center are consistent with the Ordinance and that compliance is enforceable.**

- F. All onsite Special Use activities shall be in compliance at all times with the Champaign County Health Ordinance, the Champaign County Liquor Ordinance, and the Champaign County Recreation and Entertainment Ordinance.**

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

**That the proposed Special Use is in on-going compliance with all applicable County requirements.**

- G. The following condition will ensure that the recommendation of Roger Windhorn (soil surveyor) regarding compaction of the septic site and that the septic system is built as was approved by the Champaign County Health Department are a requirement for a Zoning Use Permit:**

- (1) The area proposed for the septic system shall be identified, marked off, and protected from compaction prior to any construction on the subject property as recommended by the Roger Windhorn.**
- (2) The Zoning Administrator shall verify that the area proposed for the septic system is identified, marked off, and protected from compaction prior to approval of the Zoning Use Permit for the Event Center.**
- (3) The Zoning Use Permit Application for the construction and establishment of the proposed SPECIAL USE shall include the following:**
  - (a) A true and correct copy of an approved COUNTY Health Department PERMIT for construction of the private sewage disposal system.**
  - (b) The site plan for the Zoning Use Permit Application shall indicate the identical area for the private sewage disposal system as approved in the COUNTY Health Department PERMIT and only the private sewage**

**disposal system approved by the COUNTY Health Department may occupy that portion of the LOT.**

- (4) **A true and correct copy of the COUNTY Health Department Certificate of Approval for the private sewage disposal system shall be submitted to the Zoning Administrator prior to issuance of a Zoning Compliance Certificate for the proposed SPECIAL USE.**

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

**The area of the proposed septic system does not become compacted in order to prevent a reduction in permeability of the soil and that the septic system is in compliance with the Champaign County Health Department.**

**H. Regarding compliance with the Champaign County Stormwater Management Policy:**

- (1) Paragraph 7.2 B. of the Champaign County Stormwater Management Policy requires that if no easement exists for existing agricultural drainage tile an easement shall be granted for access and maintenance. The following condition will require that an easement be granted if there is no easement for existing agricultural drainage tile on the property:

**The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation that the petitioner has filed with the Recorder of Deeds a tile access and maintenance easement with a width of 40 feet for any underground tile in the developed portion of the property**

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

**The Special Use Permit is in compliance with the Stormwater Management Policy.**

- (2) Paragraph 7.2 C. of the Champaign County Stormwater Management Policy requires that all agricultural drainage tile located underneath areas that will be developed shall be replaced with non-perforated conduit to prevent root blockage provided that drainage district tile may remain with the approval of the drainage district. Trees are proposed as a screen near the agricultural drainage tile on the north edge of the property. The following conditions will require documentation of investigations to identify if tile are present and additional safeguards for any tiles encountered during construction on the subject property:

- (2) **The Zoning Administrator shall not authorize any Zoning Use Permit on the subject property until the following has occurred:**

- (a) Subsurface investigations intended to identify underground drain tile are conducted at least 50 feet on either side of the suspected centerline of tiles indicated on the approved site plan and in a manner and to a depth below ground as recommended by the Champaign County soil and Water Conservation District.**
- (b) Written notice identifying the proposed date for subsurface investigation has been to the Zoning Administrator at least one week prior to the investigation.**
- (c) If any underground drain tiles are encountered during the subsurface investigation the course of each tile across the subject property shall be established by additional investigation in consultation with the Champaign County soil and Water Conservation District.**
- (d) Documentation and certification of all subsurface investigations by an Illinois Professional Engineer shall be provided to the Zoning Administrator.**
- (e) When full and complete excavation of tile clearly indicates that the tile does not serve any upstream areas other than the subject property and certifications to that effect are made in writing by an Illinois Professional Engineer and the excavations are inspected by the Zoning Administrator, such tile may be removed and capped at the point at which the tile enters the developed area.**
- (f) Any proposed construction on the subject property shall either be located so as to avoid any identified underground drain tile or the identified underground drain tile shall be relocated to avoid the proposed construction.**
- (g) Any relocation of underground drain tile shall meet the requirements of the Champaign County Stormwater Management Policy and shall be certified by an Illinois Professional Engineer. Relocated tile shall be non-perforated conduit to prevent root blockage provided that the petitioner may install new underground drainage tile to serve the subject property so long as cleanout manholes are provided at the point of connection to the existing underground drain tile.**
- (h) As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning**

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**Administrator prior to approval of a Zoning Use Permit Application on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.**

- (3) If any underground drain tile is encountered during construction the applicant must do the following:**
- (a) Construction shall cease until the course of each tile across the subject property is established by additional investigation and construction shall not recommence until authorized by the Zoning Administrator except that construction that does not implicate the tile may continue.**
  - (b) The Zoning Administrator shall be notified within 48 hours or the next business day.**
  - (c) Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer.**
  - (d) As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Use Permit Application on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.**

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

**Possible field tiles on the subject property are identified prior to development and adequately protected and that any possible tiles that are discovered during construction are adequately protected.**

- I. The site plan includes a vegetative screen (including evergreen trees) along the north side of the developed area. The following condition will ensure that the evergreen trees provide at least 50% of the required screen within two years of planting:

**The evergreen trees in the screening along the north property line shall be at least 2 feet 8 inches tall at the time of planting and within two years of issuance of a Zoning Compliance Certificate shall provide at least 50% of the required screen or additional plantings shall be required.**

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

**Adequate screening is provided to the parking areas and as a buffer for the adjacent property.**

- J. The subject property fronts a County Highway. The driveway entrance and exit should be constructed of an all weather surface at a width, elevation, geometry, and materials (including culvert) as approved by the Champaign County Engineer so as to maintain safe entrance and exit conditions. The County Engineer should approve the proposed driveway before it is constructed and also approve the driveway as constructed. The Zoning Ordinance does not require County Engineer approval of driveway access to a county highway. The following conditions will ensure that the driveway access to County Highway 1 is approved by the Champaign County Engineer.

**The Driveway shall be improved as follows:**

- (1) The petitioner shall provide the County Engineer with engineering drawings of the proposed driveway entrance.**
- (2) The Zoning Administrator shall not approve a Zoning Use Permit for the temple building without documentation of the County Engineer's approval of the proposed driveway entrance.**
- (3) The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the County Engineer's approval of the constructed driveway entrance including any necessary as-built engineering drawings.**

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

**All parking related to the Special Use Permit can safely enter and exit the subject property safely with adequate visibility and regardless of weather conditions.**

- K. Chief Paul Cundiff of the Thomasboro Fire Protection District has recommended four special conditions to ensure public safety and those special conditions are in the following special condition:**



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**(1) The Special Use shall include the following:**

- (a) A KNOX box shall be installed on the building for fire department access.**
- (b) A monitored fire alarm system shall be installed within the building.**
- (c) An all access defibrillator shall be provided in the public space.**
- (d) A dry hydrant shall be installed at the detention basin in a location that is within 8 feet of a hard surfaced driveway or a no parking area that is built to carry the load of an emergency vehicle and is accessible at all times by a posted fire lane. The location and details of construction shall be approved in writing by the Thomasboro Fire Protection District Chief. The as-built dry hydrant shall also be approved in writing by the Thomasboro Fire Protection District Chief.**

The special condition stated above is required to ensure the following:  
**Adequate public safety.**

**DOCUMENTS OF RECORD**

1. Special Use Permit Application received on November 10, 2011, with attachments:
  - A Letter of Intent
  - B Sketches of location, existing use, and proposed use
2. Site Plan, Building Plan, and Exterior Drawings received on February 9, 2012
3. Letter of Intent received February 9, 2012
4. Septic System Permit and Application received February 9, 2012
5. On-site Soil Evaluation for Septic Filter Field received February 13, 2012
6. Revised Site Plan received February 13, 2012
7. Revised Site Plan received March 2, 2012
8. Preliminary Memorandum dated March 23, 2012, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan (Proposed Development) received March 2, 2012
  - C Building plans and drawings received February 9, 2012
  - D Stormwater Drainage Plan
  - E Septic System Plan
  - F Letter of Intent received February 9, 2012
  - G Draft Summary of Evidence, Finding of Fact, and Final Determination
9. Special Report from the Hensley Township Plan Commission submitted by Mr. Ben McCall at the March 29, 2012, public hearing.
10. Revised site plan received April 17, 2012
11. Supplemental Memorandum dated April 20, 2012 with attachments:
  - A Revised site plan received April 17, 2012
  - B County Highway 1 Crash Location and Severity Map 2007-2011
  - C County Highway 1 5-Year Crash Information Map
  - D Revised Summary of Evidence, Finding of Fact, and Final Determination

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 700-S-11 held on **March 29, 2012, and April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN {IS / IS NOT}}*** necessary for the public convenience at this location because:  
\_\_\_\_\_  
\_\_\_\_\_
  
2. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** is so designed, located, and proposed to be operated so that it ***{WILL NOT / WILL}*** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has ***{ADEQUATE / INADEQUATE}*** traffic capacity and the entrance location has ***{ADEQUATE / INADEQUATE}*** visibility.
  - b. Emergency services availability is ***{ADEQUATE / INADEQUATE} {because\*}***:  
\_\_\_\_\_  
\_\_\_\_\_
  - c. The Special Use ***{WILL / WILL NOT}*** be compatible with adjacent uses ***{because\*}***:  
\_\_\_\_\_  
\_\_\_\_\_
  - d. Surface and subsurface drainage will be ***{ADEQUATE / INADEQUATE} {because\*}***:  
\_\_\_\_\_  
\_\_\_\_\_
  - e. Public safety will be ***{ADEQUATE / INADEQUATE} {because\*}***:  
\_\_\_\_\_  
\_\_\_\_\_
  - f. The provisions for parking will be ***{ADEQUATE / INADEQUATE} {because\*}***:  
\_\_\_\_\_  
\_\_\_\_\_

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

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

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
- a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
  - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
  - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
  - b. The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience at this location.
  - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *{IS/ IS NOT}* an existing nonconforming use and the requested Special Use Permit *{WILL/ WILL NOT}* make the existing use more compatible with its surroundings *{because: \*}*
6. *{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW}*

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

**FINAL DETERMINATION**

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

The Special Use requested in Case 700-S-11 is hereby { *GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED* } to the applicants to **L.A. Gourmet Catering, LLC** owned by **Anne and Lauren Murray** authorize **The construction and use of an Event Center as a “Private Indoor Recreational Development”** as a Special Use subject to the approval of related rezoning Case 699-AM-11 { *SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:* }

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

# CASE NO. 699-AM-11

SUPPLEMENTAL MEMORANDUM

April 20, 2012

Petitioners: L.A. Gourmet Catering, LLC

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Site Area: **10 acres**

Time Schedule for Development:

Prepared by: **Andy Kass**  
Associate Planner

**John Hall**  
Zoning Administrator

**Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to operate the proposed Special Use in related zoning case 700-S-11.**

**Location: A 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign.**

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## *STATUS*

This case was continued from March 29, 2012, public hearing. New evidence has been added to the Finding of Fact and a revised version has been attached.

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## **ATTACHMENTS**

A Revised Finding of Fact, and Final Determination

**REVISED DRAFT**

**699-AM-11**

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

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

Date: ~~March 29, 2012~~ April 26, 2012

Petitioners: **L.A. Gourmet, LLC**

Request: **Amend the Zoning Map to change the zoning district designation from AG-1 Agriculture to AG-2 Agriculture.**

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 29, 2012, and April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

- \*1. The petitioner L.A. Gourmet, LLC is owned by Lauren and Annie Murray, 2607 CR 1000E, Champaign. The petitioner's father, John Murray owns the subject property.

(Note: asterisk indicates items of evidence that are identical to evidence in Case 700-S-11)

- \*2. Regarding the subject property where the special use is proposed to be located:
  - A. The subject property is a 10 acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E, Champaign. Part of the subject property has an existing home on it and part of the subject property is used for agricultural production and consists of best prime farmland.
- \*3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning and is 2 miles from the City of Champaign. The subject property is in Hensley Township, which has a planning commission. Townships with a planning commission are notified of all map amendments and they have protest rights on such cases. The Hensley Township Planning Commission has provided the following comments:
  - A. At the March 29, 2012, public hearing Mr. Ben McCall, speaking on behalf of the Hensley Township Plan Commission objected to the proposed map amendment. Mr. McCall's testimony is summarized as follows:
    - (1) The Hensley Township Plan Commission is concerned about the impacts the proposed in related Special Use Case 700-S-11 will have on drainage.
    - (2) Traffic impacts cause by the proposed special use in related Special Use Case 700-S-11 were understated and vehicles traveling at 55 miles per hour and slowing down to turn into the subject property will lead to more accidents.
    - (3) There is no justification for rezoning subject property from AG-1 to AG-2 other than the desire of the owner to use the property for a purpose that is not allowed in the AG-1 zoning district.
    - (4) The rezoning of the subject property is inappropriate considering the general intent of the zoning districts for the following reasons:
      - (a) Rezoning the parcel from AG-1 would facilitate the mixture of urban and rural uses that the zoning ordinance intends to prevent;
      - (b) Rezoning the parcel to AG-2 would enable scattered indiscriminate urban development; and



(c) The AG-2 district is generally located in areas near urban areas, but the subject property is not near an urban area or within 1.5 miles of an urban area.

(5) The proposed rezoning is incompatible with the stated purposes of the zoning ordinance for the following reasons:

(a) The proposed use of the subject property is incompatible with the surrounding area because it is not allowed in the AG-1 district;

(b) Rezoning the subject property would enable a haphazard and unplanned intrusion into rural Hensley Township;

(c) Rezoning the subject property would encourage non-contiguous development in a rural area; and

(d) Rezoning the subject property would discourage the preservation of the agricultural belt around the Champaign-Urbana area by encouraging an urban use in an agricultural area.

4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated:

**“Current ordinance has property desired listed as agriculture use only. We would like to use as business/agricultural area.”**

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

**“There is 330 feet frontage between property and road. Property located on main road (Mattis/Dewey-Fisher RD). There would be no full time employees at facility.”**

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

\*6. Land use and zoning on the subject property and in the vicinity are as follows:

A. The subject property is currently zoned AG-1 Agriculture and is in use as a residential property with some of the subject property used for row-crop agricultural production.

B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:

(1) Land on the north is in agriculture production except for one single-family dwelling.

(2) Land on the south is in agricultural production and there is one single-family dwelling to the south.

- (3) Land east of the subject property is in agricultural production.
- (4) Land west of the subject property is in agricultural production.

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

- A. Case 560-S-06 was a Special Use Permit for a Temple and Cultural Center in the AG-1 District that was approved by the ZBA on May 31, 2007. This is on a property less than one-quarter of a mile immediately south of the subject property.

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

8. Regarding the existing and proposed zoning districts:

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

- (1) The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
- (2) The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

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

- (1) The AG-1 District is generally located throughout the county in areas which have not been placed in any other Zoning Districts.
- (2) The AG-2 is generally located in areas close to urban areas although in Somer Township the AG-2 district is as far as 3 miles from the City of Urbana and as far as 1.75 miles from the City of Champaign.

- C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:

- (1) There are 10 types of uses authorized by right in the AG-1 District and there are 13 types of uses authorized by right in the AG-2 District:
  - (a) The following 11 uses are authorized by right in the AG-1 District:
    - Single family dwelling;
    - Subdivisions of three lots or less;
    - Agriculture;
    - Roadside Stand operated by Farm Operator;
    - Minor Rural Specialty Business;
    - Plant Nursery;

- Township Highway Maintenance Garage;
- Christmas Tree Sales Lot;
- Off-premises sign within 660 feet of interstate highway;
- Off-premises sign along federal highway except interstate highways; and
- Temporary Uses

(b) The following ~~13~~ additional uses are also authorized by right in the AG-2 District:

- ~~Single family dwelling;~~
- ~~Subdivisions of three lots or less;~~
- ~~Agriculture;~~
- ~~Roadside Stand operated by Farm Operator;~~
- ~~Minor Rural Specialty Business;~~
- ~~Plant Nursery;~~
- ~~Township Highway Maintenance Garage;~~
- Country club or golf course;
- Commercial Breeding Facility;
- ~~Christmas Tree Sales Lot;~~
- ~~Off premises sign within 660 feet of interstate highway;~~
- ~~Off premises sign along federal highway except interstate highways; and~~
- ~~Temporary Uses~~

(2) The uses authorized by right in the AG-2 district should be compatible with adjacent AG-1 uses.

(2)(3) There are 42 types of uses authorized by Special Use Permit (SUP) in the AG-1 District and 76 types of uses authorized by SUP in the AG-2 District:

(a) The following 42 uses may be authorized by SUP in the AG-1 District:

- Hotel with no more than 15 lodging units;
- Residential PLANNED UNIT DEVELOPMENT;
- SUBDIVISION totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS (County Board SUP);
- Major RURAL SPECIALTY BUSINESS;
- Artificial lake of 1 or more acres;
- Mineral extraction, Quarrying, topsoil removal, and allied activities;
- Elementary School, Junior High School, or High School;
- Church, Temple or church related Temporary Uses on church Property;
- Municipal or Government Building;
- Township Highway Maintenance Garage;
- Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;
- Penal or correctional institution;
- Police station or fire station;

*DRAFT*

- Library, museum or gallery;
- Public park or recreational facility;
- Sewage disposal plant or lagoon;
- Private or commercial transmission and receiving tower (including antennas) over 100 feet in height;
- Radio or Television Station;
- Electrical Substation;
- Telephone Exchange;
- RESIDENTIAL AIRPORTS;
- RESTRICTED LANDING AREAS;
- HELIPORT-RESTRICTED LANDING AREAS;
- Farm Chemicals and Fertilizer Sales including incidental storage and mixing of blended fertilizer;
- Livestock Sales Facility and Stockyards;
- Slaughter Houses;
- Grain Storage Elevator and Bins;
- Riding Stable;
- Commercial Fishing Lake;
- Cemetery or Crematory;
- Pet Cemetery;
- Kennel;
- Veterinary Hospital;
- Off-premises sign farther than 660 feet from an interstate highway;
- Contractors Facilities with no outdoor operations or storage;
- Contractors Facilities with outdoor operations and/or storage;
- Small Scale Metal Fabricating Shop;
- Gas Turbine Peaker;
- BIG WIND TURBINE TOWER (1-3 turbines);
- WIND FARM (County Board SUP)
- Sawmills Planing Mills, and related activities; and
- Pre-Existing Industrial Uses (existing prior to October 10, 1973)

(b) ~~The following 76 uses may be authorized by SUP in the AG-2 District:~~ Except for a WIND FARM the same uses may also be authorized by SUP in the AG-2 District. The following additional uses may also be authorized by SUP in the AG-2 District:

- DWELLING, TWO-FAMILY;
- Home for the aged;
- NURSING HOME;
- ~~Hotel with no more than 15 lodging units;~~
- TRAVEL TRAILER Camp;

- ~~Residential PLANNED UNIT DEVELOPMENT;~~
- ~~SUBDIVISION totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS (County Board SUP);~~
- ~~Major RURAL SPECIALTY BUSINESS;~~
- ~~Artificial lake of 1 or more acres;~~
- Commercial greenhouse;
- Greenhouse (not exceeding 1,000 square feet)
- Garden Shop;
- ~~Mineral extraction, Quarrying; topsoil removal, and allied activities;~~
- ~~Elementary School, Junior High School, or High School;~~
- ~~Church, Temple or church related Temporary Uses on church Property;~~
- ~~Municipal or Government Building;~~
- ~~Township Highway Maintenance Garage;~~
- ~~Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;~~
- ~~Penal or correctional institution;~~
- ~~Police station or fire station;~~
- ~~Library, museum or gallery;~~
- ~~Public park or recreational facility;~~
- ~~Sewage disposal plant or lagoon;~~
- ~~Private or commercial transmission and receiving tower (including antennas) over 100 feet in height;~~
- Water Treatment Plant;
- ~~Radio or Television Station;~~
- ~~Electrical Substation;~~
- ~~Telephone Exchange;~~
- Public Fairgrounds;
- MOTOR BUS station
- Truck Terminal;
- Railroad Yards and Freight Terminals;
- AIRPORT;
- ~~RESIDENTIAL AIRPORTS;~~
- ~~RESTRICTED LANDING AREAS;~~
- HELIPORT/HELISTOPS;
- ~~HELIPORT RESTRICTED LANDING AREAS;~~
- Mortuary or Funeral Home;
- ~~Farm Chemicals and Fertilizer Sales including incidental storage and mixing of blended fertilizer;~~
- Roadside Produce Sales Stand;
- Feed and Grain (sales only);
- ~~Livestock Sales Facility and Stockyards;~~

*DRAFT*

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

(4) Any proposed Special Use Permit can be evaluated on a case by case for compatibility with adjacent AG-1 uses.

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

9. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
- A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:
- “It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
- B. The LRMP defines Goals, Objectives, and Policies as follows:
- (1) Goal: an ideal future condition to which the community aspires
  - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
  - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”

**REGARDING LRMP GOALS & POLICIES**

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

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

The proposed amendment is ***NOT RELEVANT*** to Goal 1.

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

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

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

Goal 2 has two objectives and three policies. The proposed amendment is ***NOT RELEVANT*** to Goal 2.

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

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

Goal 3 has three objectives and no policies. The proposed amendment is *RELEVANT* to Goal 3 because Objective 3.1 entitled “Business Climate” states:

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

The Petitioner’s are a local business and are proposing a venue that they claim is not available in Champaign County. ~~The proposed Event Center would add to a growing list of businesses and services available in rural Champaign County.~~

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

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

Goal 4 has 9 objectives and 22 policies. The proposed amendment is *RELEVANT* to Goal 4 because Objective 4.2 entitled “Development Conflicts with Agricultural Operations” and its policies state:

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

- A. Policy 4.2.1 states as follows:

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

The proposed Event Center will provide an atmosphere that is not available in an urban setting. In addition, the Petitioners cater events for agricultural businesses and organizations.

- B. Policy 4.2.2 states as follows:

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

- a. **is a type that does not negatively affect agricultural activities; or**



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

The proposed Event Center will not negatively affect agricultural activities. The proposed building will be sited on land that is not in crop production and the remainder of the development will take a minimal amount of land out of crop production. A Special Condition of Approval in related Case 700-S-11 has been proposed to mitigate any impact this development may have on agricultural drainage.

**C. Policy 4.2.3 states as follows:**

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

The Petitioner's understand that this is a rural area where agricultural activities take place.

**D. Policy 4.2.4 states as follows:**

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

There will be adequate space between the proposed use and adjacent agriculture uses.

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

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

The proposed amendment is ***NOT RELEVANT*** to Goal 5 because it is not relevant to urban development.

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

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

The proposed amendment should ***HELP ACHIEVE*** Goal 6 for the following reasons:

A. Policy 6.1.2 states as follows:

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

The Petitioner's have received a permit for a wastewater system from the Champaign County Health Department. The design of the system should not create nuisance conditions and should not endanger public health.

B. Objective 6.3 entitled "Development Standards" states as follows:

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

A special condition of approval has been proposed in related Case 700-S-11 to ensure that the proposed Event Center will comply with applicable building codes.

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

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

The proposed amendment is *RELEVANT* to Goal 7 for the following reason:

A. The proposed development on the subject property is a discretionary development and Policy 7.1.1 states:

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

The proposed Event Center will accommodate up to 400 people and the site plan ~~show~~ includes 84 parking spaces. Traffic entering and exiting the subject property before and after an event could cause a significant increase in traffic on CR 1000E/County Highway 1. ~~At capacity this use could cause a significant increase in traffic on CR 1000E/County Highway 1.~~ Although this increase may be significant at times, events at maximum capacity will not take place ~~every day on the subject property~~ on a daily basis, therefore ~~the increases~~ in traffic will likely be sporadic.

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

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

The proposed amendment is **NOT RELEVANT** Goal 8 because it will not be harmful to natural resources.

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

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

The proposed amendment is **NOT RELEVANT** to Goal 9 because the proposed amendment does not address energy efficiency or the use of renewable energy sources.

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

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

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

**GENERALLY REGARDING THE LaSalle Factors**

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

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

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

**Table 1: Land Use and Zoning Summary**

<b>Direction</b>	<b>Land Use</b>	<b>Zoning</b>
Onsite	Residential	AG-1 Agriculture
	----- Agriculture	
North	Agriculture	AG-1 Agriculture
	----- Residential	
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture

- B. **LaSalle factor: The extent to which property values are diminished by the particular zoning restrictions.**
- (1) It is impossible to establish values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
  - (2) In regards to the value of nearby residential properties, it is not clear if the requested map amendment would have any effect.
  - (3) In regards to the value of the subject property it also is not clear if the requested map amendment would have any effect.
- C. **LaSalle factor: The extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public.**  
There has been no evidence submitted regarding property values. The proposed rezoning should not have a negative effect on the public health, safety, and welfare.
- D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.**  
The gain to the public of the proposed rezoning is positive because the proposed amendment would allow the Petitioner's to provide a venue that is not available in Champaign County. Currently, the hardship imposed on the Petitioner's is minimal. The Petitioner's understand they could not operate a Private Indoor Recreation Development as a Special Use under its current zoning.
- E. **LaSalle factor: The suitability of the subject property for the zoned purposes.**  
The subject property is suitable for the zoned purposes. Currently, a portion of the property is used for agricultural production and will continue to be used for agricultural production if the proposed rezoning is approved.
- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.**  
The AG-1 District was planned in 1973 and thus was intended to protect areas of the County where soil and topographic conditions are best adapted to the pursuit of agricultural uses. Currently, the subject property is not vacant. A single-family home exists on the property with another portion being used a farmland. 1973 and 2008 aerial photos were compared and it appears that the land cover in 1973 exists today on the subject property aside from the home which was constructed on the property in the mid 1980s. In addition, the single family homes to the north and south appear in the 1973 aerial photography.
- G. **Sinclair factor: The need and demand for the use.**  
The proposed use, if rezoned is an Event Center for the Petitioner's catering business. The need and demand for the use is to provide a rural event center in Champaign County.

H. ***Sinclair* factor: The extent to which the use conforms to the municipality's comprehensive planning.**

The proposed use generally conforms to goals and policies of the Champaign County Land Resource Management Plan. The Petitioner's will be taking minimal, if any agricultural land out of production.

**REGARDING SPECIAL CONDITIONS OF APPROVAL**

21. No Special Conditions of Approval are ~~proposed at this time~~ necessary to mitigate the effect of the proposed rezoning on adjacent land or the neighborhood.

**DOCUMENTS OF RECORD**

1. Petition for Zoning Map Amendment signed by Lauren and Anne Murray received on November 10, 2011, with attachments:
  - A Letter of Intent
  - B Sketches of location, existing use, and proposed use
2. Preliminary Memorandum for Case 699-AM-11 with attachments:
  - A Case Maps (Location, Land Use, Zoning)
3. Supplemental Memorandum dated April 20, 2012, with attachment
  - A Revised Finding of Fact and Final Determination

**SUMMARY FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 29, 2012, and April 26, 2012**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance map amendment **{WILL/ WILL NOT} HELP ACHIEVE** the Land Resource Management Plan because:
  - A. The proposed Zoning Ordinance map amendment **{WILL / WILL NOT} HELP ACHIEVE** the following LRMP goals:
    -
  - B. The proposed Zoning Ordinance map amendment **{WILL / WILL NOT IMPEDE}** the achievement of the other LRMP goals.
2. The proposed Zoning Ordinance map amendment **{IS / IS NOT}** consistent with the *LaSalle* and *Sinclair* factors.

**FINAL DETERMINATION**

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

The Zoning Ordinance Amendment requested in **Case 699-AM-11** should *{BE ENACTED / NOT BE ENACTED}* by the County Board in the form attached hereto.

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date