

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **August 14, 2014**
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 (July 17, 2014)
5. Continued Public Hearings

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

Case 771-AM-13 & 772-S-13 Petitioner: Randy and Sue Hopkins, d.b.a. Atlantic Services, Inc.

Case 771-AM-13 Request: **Amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District in order to authorize the proposed Special Use in related zoning Case 772-S-13, described below, on the subject property described below.**

*Case 772-S-13 Request: **On the subject property described below, authorize the following as a Special Use in the B-4 General Business Zoning District:
Part A. Authorize multiple principal buildings on the same lot consisting of the following:**

(1) Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 101-S-97; and

(2) a Landscaping and Maintenance Contractor's Facility with outdoor storage as proposed in Part B.

Part B. Authorize the construction and use of a Landscaping and Maintenance Contractor Facility.

Location: **An 11.8 acre tract of land in the North Half of the Northwest Quarter of the Northeast Quarter of Section 24 of Hensley Township and commonly known as the plant nursery and self-storage warehouse located at 31 East Hensley Road, Champaign, and an adjacent tract of farmland.**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
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***Case 778-S-14** Petitioner: **Charles and Mary Ellen Stites**
Request: **Authorize continued use of a Major Rural Specialty Business in the CR District on the following property as previously approved for a limited time in Special Use Permit 610-S-08.**
Location: **A 5.0 acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1, Township 18 North, Range 10 East of Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph.**

***Case 779-S-14** Petitioner: **Keith Pedigo**
Request: **Authorize a Special Use Permit for the conversion of an existing single family residence to a two family residence in the R-2, Single Family Residence Zoning District that is also the subject of related Case 780-V-14.**
Location: **Lot 6 in Block 2 of Commissioner's Addition to the Village of Seymour in the Northeast corner of Section 17 in Scott Township and commonly known as the residence at 202 South Sheridan Street, Seymour.**

6. New Public Hearings

***Case 783-V-14** Petitioner: **Stephanie Amebeli**
Request: **Authorize the following variance for a residential property in the AG-2 Agricultural Zoning District:**
(1) an existing dwelling with the following:
 (a) a front yard facing Karadan Street of 11 feet in lieu of the minimum required 25 feet; and
 (b) a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection; and
(2) an existing detached residential accessory building with a front yard facing Karadan Street of 15 feet in lieu of the minimum required 25 feet; and
(3) a proposed residential accessory building with a height of 18 feet instead of the maximum required height of 15 feet; and
(4) a lot coverage of 27% instead of the maximum lot coverage of 25%.
Location: **A 20,038 square feet lot in Mahomet Township located in the West Half of the South Half of the Southeast Quarter of the Northwest Quarter of Section 14 of Township 20 North, Range 7 East of the Third Principal Meridian and commonly known as the residence located at 1505 Summit Ridge Road, Mahomet.**

7. Staff Report

8. Other Business

A. Review of Docket

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

10. Adjournment

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

1 **MINUTES OF REGULAR MEETING**
2
3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
4 **1776 E. Washington Street**
5 **Urbana, IL 61801**
6

7 **DATE:** July 17, 2014 **PLACE:** Lyle Shield's Meeting Room
8 **TIME:** 7:00 p.m. **1776 East Washington Street**
9 **Urbana, IL 61802**

10 **MEMBERS PRESENT:** Catherine Capel, Marilyn Lee, Roger Miller, Jim Randol, Eric Thorsland
11
12

13 **MEMBERS ABSENT :** Debra Griest, Brad Passalacqua
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15 **STAFF PRESENT :** Lori Busboom, Susan Chavarria, John Hall
16

17 **OTHERS PRESENT :** Chad Osterbur, Tim Hughes, Don Wauthier, Josh Rund, Eric Sebens, Scott
18 Reifsteck
19

20
21 **1. Call to Order**
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23 The meeting was called to order at 7:00 p.m.
24

25 **2. Roll Call and Declaration of Quorum**
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27 The roll was called and a quorum declared present with two members absent.
28

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

33 **3. Correspondence**
34

35 None
36

37 **4. Approval of Minutes (June 12, 2014)**
38

39 Mr. Thorsland entertained a motion to approve the June 12, 2014, minutes.
40

41 **Mr. Randol moved, seconded by Ms. Capel to approve the June 12, 2014, minutes.**
42

43 Mr. Thorsland asked the Board if there were any corrections or additions to the minutes.
44

45 Mr. Thorsland indicated that he had a minor correction to Line 32 on Page 12. He said that he was only
46 paraphrasing a concern of Ms. Lee but she did not state that there is a ramp for the water. He said that
47 Line 32 should be revised to indicate the following: He said that Ms. Lee questioned the direction of the
48 water to get to the detention rather than heading straight to the swale which is much lower.

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The motion carried by voice vote.

5. Continued Public Hearing

Case 766-AM-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping Request: Amend the Zoning Map to change the zoning district designation from the AG-1, Agriculture Zoning District to the B-1 Rural Trade Center Zoning District in order to authorize the proposed Special Use in related zoning Case 767-S-13. Location: A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.

Case 767-S-13 Petitioner: Eric L. Sebens d.b.a. Prairieview Landscaping Request: Authorize the following as a Special Use in the B-1 Rural Trade Center Zoning District: Part A. Authorize multiple principal buildings on the same lot consisting of the following: (1) a landscape contractor’s facility with outdoor storage that was originally authorized in Case 101-S-97; and (2) Self-Storage Warehouses, providing heat and utilities to individual units as a special use proposed in Part B. Authorize the construction and use of Self-Storage Warehouses, providing heat and utilities to individual units as a special use. Location: A 5-acre tract in Tolono Township in the East Half of the Southeast Quarter of the Northeast Quarter of Section 9 of Township 18 North, Range 8 East of the Third Principal Meridian and commonly known as Prairieview Landscaping at 1069 CR 900E, Champaign.

Mr. Thorsland informed the audience that Case 767-S-13 is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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

Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

1 Mr. Eric Sebens, who resides at 3008 Cherry Hills Drive, Champaign, stated that he is present tonight to
2 present revised drawings which include three different examples showing the detail of the progressive
3 development as he proposes to develop the property.
4

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

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

9 Mr. Thorsland called John Hall to testify.
10

11 Mr. John Hall, Zoning Administrator, apologized that no information was included in the mailing
12 although staff had not received the revised plan by the deadline. He said that the revised plans were
13 received on July 16, 2014. He said that Sheet 1 of the revised plans indicates the full proposed
14 development; and Sheet 2 indicates the first phase; and Sheet 3 indicates an intermediate phase but he is
15 assuming that the Board would be willing to grant any amount of flexibility between the preliminary and
16 the final phase as long as all of the requirements are met. He said that something that the Board may
17 want to consider is if the intermediate phase needs to consist of this much or is it just important that each
18 phase be wholly contained.
19

20 Mr. Hall stated that the Supplemental Memorandum dated July 17, 2014, reviews the changes. Mr. Hall
21 reviewed the changes to the plan as follows: 1. The Revised Site Plan dated 7/16/14 includes a
22 Preliminary Site Plan, Phase 1 Construction and Phase 2 Construction; and 2. The debris area on the
23 southwest corner of the property has been moved to ensure 10 feet of space between the debris area and
24 the property lines; and 3. The Hoop Shed has been moved from the southwest part of the property to an
25 area just behind the existing house on the north-central part of the property; and 4. Grass areas and paved
26 surface have been differentiated. An additional aggregate surface drive has been added to the area
27 between the west property line and the westernmost self-storage building with a note "drive for
28 landscaping access"; and 5. "Stone Riprap, Class A3" has been noted on the south basin; and 6. At least
29 20 feet has been ensured for the area between the relocated poly-houses and self-storage warehouses
30 identified in Phase 2 Construction. Further, Note 9 states that "A minimum of 20' separation will be
31 required between buildings on the contractor's facility and the storage facility"; and 7. The existing
32 septic tank and leach field are demarcated at their existing location as well as where they will be
33 relocated to an area in front of the house on the east-central part of the property; and 8. The driveway
34 entrance to the storage facility has been widened; and 9. Regarding the use of gravel, Note 8 on the
35 Preliminary Site Plan that "owner shall be responsible for maintaining aggregate drives in good
36 condition"; and 10. A note has been added on the Preliminary Site Plan on the north side property line
37 that states "no parking within 5 feet of the property line." Mr. Hall noted that an attempt has been made
38 to illustrate the contractor's facility buildings, parking and such in a clearer format. He said that at the
39 last meeting the contractor's facility buildings and parking were not this readable and the new plans are
40 an improvement. He said that if the Board looks at the north detention basin the Board will note that it
41 looks like parking spaces are no closer than 25 feet to the berm which he assumes is an attempt to

1 minimize encroachment onto the detention basin and if the Board is comfortable with this he believes
2 that it is sufficiently clear that this is the limit of encroachment into the detention basin.
3

4 Mr. Hall stated that the minutes that were approved tonight are the minutes of these cases at the last
5 meeting. He said that in reviewing the minutes the only thing that was not updated on the new plan is
6 where the western most access drive goes over the south end of the north detention basin. He said that
7 no changes were made in this area and it isn't much of a berm at that point and he assumes that the
8 petitioner was just thinking that there wouldn't be enough traffic to damage it.
9

10 Mr. Hall stated that as he was working on the memorandum today he finally remembered that we have
11 not seen a self-storage facility like this that was not proposed to have concrete for the access drive and at
12 this point the only issue needing to be resolved is the issue that gravel drives are okay but gravel is not
13 an accessible surface. He said that the condition is to require the facility to be in compliance with the
14 Illinois Accessibility Code so there has to be acceptable parking that is accessible to all of the units. He
15 said that attached to the Supplemental Memorandum dated July 17, 2014, is one attempt at showing how
16 accessibility could be provided and accessibility for the self-storage warehouses is one of the more
17 difficult things we ever review for. He said that he did go back through our file of letters from the
18 Capital Development Board and he found a letter from 2002 and the Capital Development Board wants
19 every storage unit to be accessible from an accessible parking space. He said that with a development
20 like the one proposed it means that at every building there has to be some amount of accessible parking
21 that is accessible to every unit in that building. He said that it is unknown as to how many units there are
22 going to be at this time so in the example he assumed a more or less three foot sidewalk along the long
23 sides of all of the buildings, except the westernmost building which only has storage units on one side,
24 and indicated accessible parking at one end. He said that an accessible parking space is 16 feet wide and
25 20 feet long constructed of concrete or asphalt therefore the material that is indicated as an aggregate
26 surface is not where those parking spaces are. He said that the parking must be concrete or asphalt with
27 striping and signage indicating where the parking spaces are located. He said that he believes that there
28 will be two spaces required per building although it really depends on how much parking is associated
29 with each building and to a certain extent that will depend upon the number of storage units. He said
30 that as the petitioner proposed, with 30 foot wide access drives and 30 feet between buildings, part of
31 determining accessibility is that the three foot sidewalks must fit within that 30 feet of separation or are
32 they outside of the 30 feet separation because these are sidewalks that are not supposed to be blocked by
33 parked vehicles and must be accessible for access. He said that if the sidewalks are inside of the 30 feet
34 then it is no longer 30 feet but is actually 24 feet and 24 feet is wider than a rural road but some part of
35 that has to be available for assumed parallel parking along one side and therefore a 9 feet space off of 24
36 feet leaves 15 feet for movement which should work but he does not know if that is what the Board
37 wants and this is something for which we have no standard. He said that staff needs to know what the
38 Board believes is acceptable.
39

40 Mr. Hall stated that the 16 feet for the accessible parking at the north end of these buildings was taken
41 out of the building area with the exception of the westernmost building in which case you could add 16

1 feet at the south end. He said that the 30 feet entrance drive is not really a standard but earlier we had
2 assumed that the 30 feet would include some amount of parallel parking so what he is trying to say to the
3 Board is that we have not seen a self-storage facility like this, that adds gravel drives between buildings,
4 so we have never had to determine what really is acceptable in that instance. He said that when the
5 gravel drives between the buildings are concrete it really becomes a much easier thing because concrete
6 is an accessible surface that still needs the striping and signage.
7

8 Mr. Hall stated that the petitioner has not seen the example before this evening so it is news to the
9 petitioner that when staff indicates that it is going to be accessible that he may end up with less building
10 area and perhaps even fewer units. Mr. Hall stated that the new memorandum includes a revised special
11 condition regarding accessibility which attempts to set out the performance characteristics for
12 accessibility and then simply says that Illinois Capital Development Board signoff is required for
13 anything that is proposed for accessibility. He said that it is not up to the Zoning Administrator as to
14 what is considered accessible and it is not up to the Zoning Board or the County Board but is up to the
15 Illinois Capital Development Board. Mr. Hall read special condition G. as follows:
16

17 **G. The Zoning Administrator shall not approve a Zoning Use Permit or issue a Zoning**
18 **Compliance Certificate for the proposed self-storage warehouses until the petitioner**
19 **has demonstrated that the proposed Special Use complies with the Illinois**
20 **Accessibility Code which will require the following:**

- 21 (1) Every self-storage space shall be easily made accessible at any time and shall
22 be located on an accessible path from an accessible parking space, unless a
23 different standard is authorized or required in writing by the Illinois Capital
24 Development Board; and
25 (2) There must be at least {30/36} feet of clearance between self-storage buildings
26 unless a different dimension is required to meet the standard of the Illinois
27 Capital Development Board; and
28 (3) The petitioner shall submit with any Zoning Use Permit Application written
29 approval of the proposed site plan accessibility by the Illinois Capital
30 Development Board; and
31 (4) The above requirements shall apply even if those requirements cause a
32 reduction in the total number of storage units and/or total area of self-
33 storage buildings and/or additional areas of concrete or asphalt are required
34 as necessary to meet the accessible parking requirement.
35

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

37 **That the proposed Special Use meets applicable state requirements for accessibility.**
38

39 Mr. Hall stated that we cannot determine during this public hearing what is accessible unless the Board
40 requires the petitioner to submit something to the Capital Development Board and Doug Gamble
41 provides those types of comments every day therefore those comments are not difficult to get but until

1 we go through that exercise we don't really know what they require. Mr. Hall stated that the first part of
2 special condition G. is text from the Capital Development Board. He said that if there is a storage unit
3 that has an 8 foot wide overhead door, as long as there is an electric operator to open that door and there
4 is no big gap for a change in level at the floor, that is an accessible entrance provided that they can get
5 there and that is why the accessible route is indicated on the front of each building. He said that making
6 each unit easily accessible is a standard part of what we do during permitting but the fact that gravel is
7 proposed for all of the drives is what really makes this case different from anything that the Board has
8 seen recently.

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

11
12 Mr. Thorsland stated that the petitioner is just now hearing about the requirements for accessibility and
13 the only reason why the petitioner is hearing the requirements tonight is because staff only received the
14 revised site plan yesterday. Mr. Thorsland stated that he would like to have more time to review the
15 revised site plan and what we are going to do about accessibility. He said that the accessibility
16 requirement is not something that the Zoning Board of Appeals has any control over but it is a
17 requirement of the Capital Development Board and because of the proposed use of gravel that is not an
18 acceptable surface because it changes a lot. Mr. Thorsland asked Mr. Sebens what his first thoughts are
19 about making the building smaller. Mr. Thorsland stated that he is not comfortable with coming out into
20 the just 30 foot space and adding 3 foot successful sidewalks there because what will happen is that
21 people will drive upon those sidewalks. He said that the answer for many of the questions could have
22 been answered had staff known what questions to ask before yesterday. He said that there are a lot of
23 variables that we do not have an answer and there are three different site plans for the Board to review.
24 He said that some of the members came in the meeting room right before the meeting started therefore
25 they did not have any opportunity to review any of the new information. He asked Mr. Sebens if he is
26 willing to reduce the size of the units if required.

27
28 Mr. Sebens stated that he would like to have a little bit more information to see if there are any other
29 options.

30
31 Mr. Thorsland stated that the Board would like to review the information a lot further and he would like
32 to know what the Capital Development Board states about accessibility. He said that one option, which
33 is not cost effective for Mr. Sebens, is to pave everything but if it is all paved then there are always water
34 concerns. Mr. Thorsland stated that there are other items that he would like to review such as the
35 detention area where Mr. Sebens indicated employee parking, and the berm that is proposed to be driven
36 over to get to the back of the property. He said that the elevation to the front of the property is 716 feet
37 and the building to the back is 715.5 feet therefore if the drainage plan does not work well then the water
38 is going to be inside of the building because it is one-half foot lower. He said that he has questions
39 regarding the water drainage, ADA requirements, etc.

40
41 Mr. Sebens stated that he has not looked at the cost difference between gravel and concrete.

1

2 Mr. Thorsland stated that he can guarantee that the cost will be different.

3

4 Mr. Thorsland stated that he is not comfortable as a member of the Board in going too much further with
5 this case until some of the questions are answered. He said that he understands that Mr. Sebens put forth
6 a lot of effort for the submitted plans but the plans were received somewhat late for tonight's meeting
7 and if the Board would have had time to review the information they would have more questions. He
8 said that if the new information had been received earlier perhaps some of those questions, such as
9 accessibility, could have been answered prior to the meeting.

10

11 Ms. Lee asked Mr. Sebens to indicate the results of the recent rain event at the property.

12

13 Mr. Sebens stated that the rain event that was received two months ago really challenged his property
14 more than the last rain event. He said that the recent rain event only produced three inches total in
15 comparison to some other areas of the County and even though the event still produced a lot of water it
16 was not as bad as the event that occurred two months ago.

17

18 Mr. Randol stated that he does not feel comfortable proceeding without information regarding the
19 accessibility. He said that if the concrete is allowed along the buildings with the gravel then something
20 needs to be required to prevent parking on the sidewalk.

21

22 Mr. Thorsland stated that he works across from the rehabilitation facility on campus and there are always
23 people in wheelchairs and they have a lot of trouble with people parking on the sidewalk during
24 construction periods.

25

26 Mr. Thorsland stated that there is an avenue to answer all of the Board's questions and Mr. Sebens can
27 work with staff and the state and those answers will probably shift around some of Mr. Sebens' thoughts
28 about what he wants to do on the property. He noted that the site plan is much better. He asked Mr.
29 Sebens if he has moved the hoop houses.

30

31 Mr. Sebens stated no, the plan indicates their proposed location during the final phase.

32

33 Mr. Thorsland asked Mr. Sebens if he indeed found the septic tank and knows where the new system
34 will be located.

35

36 Mr. Sebens stated yes.

37

38 Mr. Thorsland stated that the questions regarding accessibility should be at the top of Mr. Sebens' list
39 and that would even be with just the Phase I construction. He said that if he was proposing this project
40 he would ask the Capital Development Board if Phase I was completely compliant does every other
41 building on the property need to be accessible or could the next building be non-accessible because any

1 client who needs an accessible unit would be located in the first building.
2
3 Mr. Sebens stated that the first building could have a percentage of the units to be reserved for clients
4 who require accessibility only.
5
6 Mr. Thorsland stated that Mr. Sebens will need to discuss all of his options with the Capital
7 Development Board. He said that the ZBA only needs to make sure that accessibility is included on the
8 site plan.
9
10 Mr. Thorsland asked the Board if there were any additional questions for Mr. Sebens.
11
12 Ms. Lee asked Mr. Sebens if the outlet on the west end of the property is a 6-inch outlet or an 8-inch
13 outlet.
14
15 Mr. Sebens stated that it is a 6-inch outlet.
16
17 Ms. Lee stated that all three outlets on the plan are 6-inch outlets.
18
19 Mr. Sebens stated yes.
20
21 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Sebens and there was no one.
22
23 Mr. Thorsland called Chad Osterbur to testify.
24
25 Mr. Chad Osterbur stated that he is a Consulting Engineer with Fehr Graham Engineering and
26 Environmental. He said that he had no new information but would answer any questions that the Board
27 may have regarding this project.
28
29 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Osterbur and there were
30 none.
31
32 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Osterbur and there was no one.
33
34 Mr. Thorsland called Mr. Scott Reifsteck to testify.
35
36 Mr. Scott Reifsteck, who resides at 1341 CR 600N, Tolono, stated that he is in attendance on behalf of
37 Betty Wills, his landlord, and himself. He said that Mr. Sebens asked for permission to use the 6-inch
38 tile on the northwest detention basin and he and Ms. Wills are willing to allow Mr. Sebens to use it as an
39 outlet providing that the 6-inch tile maintains its capabilities. Mr. Reifsteck stated that he and Ms. Wills
40 do not want any further buildings put into the area where the detention basin is or concrete surfaces
41 which would increase the amount of water runoff. He said that he and Ms. Wills also do not want any

1 further water diverted into that area from other places on the property, which could easily happen,
2 because the tile is not large enough to handle a lot of water and the tile was put in to keep the area dry
3 and prevent erosion from surface water runoff. Mr. Reifsteck stated that he installed the six-inch tile
4 himself to try to contain erosion in that area and he is more than willing to allow Mr. Sebens to use the
5 tile as long as we don't do something there that will increase more water flow into the detention area or
6 increase the amount of water that would normally go into the tile. He said that if an 8-inch outlet is
7 installed there is potential for it to run down and cause erosion.

8
9 Mr. Reifsteck stated that Mr. Sebens asked if he could not be required to install fencing around the edge
10 of the property because there will be a security fence around the self-storage units and will install a grass
11 area around the edge of the property to prevent the encroachment issues that had been previously
12 occurring. Mr. Reifsteck stated that he and Ms. Wills are willing to agree with Mr. Sebens' request to
13 not install the fence around the edge of the property at this time although they would like to stipulate that
14 if the security fence does not provide for debris retention on the property or if other issues occur that the
15 security fencing does not prevent then the security fencing must be installed around the perimeter of the
16 west and north of the subject property. He said that he has always gotten along with Mr. Sebens very
17 well and he understands that there are times when things just don't work. He said that he did not realize
18 that Mr. Sebens intended to install a tall fence around the storage area and he is willing to try not
19 installing the fence around the property area as long as Mr. Sebens would be willing to install it at a later
20 date upon Mr. Reifsteck and Ms. Wills' request.

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

23
24 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Reifsteck and there was no
25 one.

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

28
29 Mr. Hall stated that he noticed that Mr. Reifsteck did not attend the last public hearing. He asked Mr.
30 Reifsteck if he had spent much time familiarizing himself with the proposed south detention basin.

31
32 Mr. Reifsteck stated that he hasn't seen the most recent plan.

33
34 Mr. Hall stated that the proposed detention basin is no closer than 30 feet to the centerline of the swale
35 therefore from his perspective he does not see that it encroaches too much into the swale and it is going
36 to have riprap at the outlet so that the water does not cause erosion. He said that he believes that it may
37 way help the drainage situation in the south swale but given that Mr. Reifsteck farms the property to the
38 south and he has not seen the new plan he wanted to make sure that Mr. Reifsteck was aware of it and
39 did not have any concerns.

40
41 Mr. Reifsteck stated that he is aware that they have moved it and have made some changes to it but it

1 seems to him that it will be an improvement.
2
3 Mr. Hall stated that the new plan is easier to understand because they have drawn the elevations on both
4 sides of the dam therefore it does show how close it comes to the centerline of the swale.
5
6 Mr. Reifsteck stated that it appears to be an improvement and he believes that it will help to alleviate the
7 problem with the drainage.
8
9 Ms. Lee asked Mr. Hall if it would be beneficial for Mr. Reifsteck to receive a copy of the minutes that
10 the Board approved tonight.
11
12 Mr. Reifsteck stated that he did receive a copy of the draft minutes in the mailing.
13
14 Mr. Reifsteck submitted his written comments to the Board as a Document of Record.
15
16 Mr. Thorsland asked the Board if there were any questions for Mr. Reifsteck and there were none.
17
18 Mr. Thorsland asked if staff had any additional questions for Mr. Reifsteck and there were none.
19
20 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Reifsteck and there was no
21 one.
22
23 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
24 testimony and there was no one.
25
26 Mr. Thorsland closed the witness register.
27
28 Mr. Thorsland stated that in listening to Mr. Reifsteck's testimony it may be appropriate to ask staff for a
29 couple of conditions that address the size of the northwest tie into the tile and limit it to a 6-inch tile and
30 some sort of language that if it continues to be an issue that it needs to be addressed. He said that the
31 same type of condition could be constructed for the western fence because it seems to be a reasonable
32 proposal to not worry about the fence until encroachment becomes an issue. He said that the conditions
33 do not need to be very complicated.
34
35 Mr. Randol asked Mr. Thorsland if the 5-foot buffer strip was the Board's recommendation. He asked if
36 that was to be like a grass lawn or ornamental native grass to provide screening.
37
38 Mr. Thorsland stated that the old plan indicated parking spots right up against the western property line
39 and the aerial indicated that the vehicles were clearly getting onto the cultivated area therefore the grass
40 is there to try to stop that drift onto Mr. Reifsteck's property. He said that the grass should not be short
41 grass because someone will park on it. He said that the Board has a nice site plan currently but the

1 Board needs more time to review it.

2
3 Mr. Thorsland requested that Mr. Osterbur attend the next public hearing for these cases to explain how
4 they will deal with the access during the last phase when the traffic for the landscaping business will go
5 behind the building to the west. He said that there is a ramp or berm that will take care of the northwest
6 detention pond and the Board is concerned that the ramp or berm will not be tramped down by the traffic
7 therefore a little more detail regarding that would make the Board more comfortable.
8

9 Mr. Thorsland asked the Board if there is any other information required from staff or petitioner before
10 this case is brought back before the Board.
11

12 Mr. Thorsland requested a continuance date.
13

14 Mr. Hall stated that he would prefer that the petitioner provide the information to the Capital
15 Development Board and they can let the petitioner know if the information is adequate. Mr. Hall said
16 that Mr. Gamble gets back to staff amazingly quickly considering that he is the only person who does
17 this for the entire State of Illinois but it will probably take a couple of weeks to get something to Mr.
18 Gamble and one week for Mr. Gamble to get back to staff and/or the petitioner and a week for staff to
19 have Mr. Gamble's response written into a memorandum for the ZBA mailing. He said that at a
20 minimum he would rather not see these cases come back before this Board prior to August 28th. He said
21 that the August 28th meeting has two new variance cases which should be simple and able to be
22 completed in one meeting. He said that he believes that if things go perfect these cases could be ready
23 for August 28th but personally he would feel better if the cases were continued to the September 11th
24 meeting because any time staff sends something out for review by someone else it always ends up taking
25 up more time. He said that if the Board feels that they have time to deal with this on August 28th and the
26 petitioner will do his utmost to get all of the review completed by August 28th then it is okay with staff
27 but this is a lot to have work out perfectly.
28

29 Mr. Thorsland stated that he cannot stress enough that the Board wants to open up their mailing
30 envelopes and see the site plan at that time to review.
31

32 Mr. Hall stated that the condition regarding fencing should be reviewed by Mr. Reifsteck before it comes
33 to the Board. He said that he does not believe that August 28th is enough time but if everyone else
34 believes that it is then that is fine.
35

36 Mr. Thorsland stated that it appears that the consensus of the Board is to continue these cases to the
37 September 11th meeting. He said that this is just to be absolutely sure that the Board has everything that
38 they can do at that meeting because he is sure that Mr. Sebens would be very happy if the Board were
39 able to finish these cases on that night and not continue them again. He noted that if the Board gets to
40 the August 28th meeting and everything is not all done the cases will not be continued to September 11th
41 because by then the docket will be filled for that date and the cases will be heard sometime late in the

1 year.

2
3 Mr. Thorsland entertained a motion to continue Cases 766-AM-13 and 767-S-13 to the September 11,
4 2014, meeting.

5
6 **Mr. Randol moved, seconded by Ms. Capel to continue Cases 766-AM-13 and 767-S-13 to the**
7 **September 11, 2014, meeting. The motion carried by voice vote.**

8
9 **6. New Public Hearings**

10
11 **Case 781-S-14 Petitioner: United Prairie LLC, owned by Premier Cooperative and Topflight**
12 **Grain, and officers Roger Miller, William Schable, Ron Meece, and Tim Hughes. Request to**
13 **authorize expansion of existing Special Use Permit 676-S-10 to allow for the construction and use**
14 **of a liquid fertilizer storage tank as part of a “Farm Chemicals and Fertilizer Sales including**
15 **incidental storage and mixing of blended fertilizer” facility. Location: A 12 acre tract in Lots 1, 2,**
16 **and 3 of August Miller’s Subdivision, part of the southwest quarter of the northeast quarter of**
17 **Section 34, Township 22N, Range 8 East, in East Bend Township and commonly known as United**
18 **Prairie LLC, at 3506 CR 950E, Dewey.**

19
20 Mr. Thorsland informed the audience that Case 781-S-14 is an Administrative Case and as such the
21 County allows anyone the opportunity to cross examine any witness. He said that at the proper time he
22 will ask for a show of hands for those who would like to cross examine and each person will be called
23 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask
24 any questions. He said that those who desire to cross examine are not required to sign the witness
25 register but are requested to clearly state their name before asking any questions. He noted that no new
26 testimony is to be given during the cross examination. He said that attorneys who have complied with
27 Article 7.6 of the ZBA By-Laws are exempt from cross examination.

28
29 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
30 sign the witness register for that public hearing. He reminded the audience that when they sign the
31 witness register they are signing an oath.

32
33 Mr. Roger Miller, Zoning Board of Appeals member, stated that due to a potential conflict of interest he
34 must abstain from Case 781-S-14.

35
36 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

37
38 Mr. Tim Hughes, who resides at 808 E Jackson, Tolono, stated that he is the General Manager for
39 United Prairie LLC. He said that he is before the Board tonight to request a Special Use Permit to
40 authorize expansion of their existing Special Use Permit for construction of a liquid fertilizer storage
41 tank that is 67 feet in diameter and 40 feet tall. He said that the storage tank will have a secondary 40

1 Mil PVC internal liner for containment of the 32%. He said that as part of authorization to construct this
2 tank United Prairie has simultaneously submitted an Application for Permit and Construction Approval,
3 Agrichemical Facility, to the Illinois Department of Agriculture. He said that currently the liquid
4 fertilizer is being stored on site in the smaller tanks and the proposed tank will be located on the north
5 side of the fertilizer shed. He said that they are also planning to add 300 feet of rail siding for the
6 project.

7
8 Mr. Thorsland asked the Board if there were any questions for Mr. Hughes.

9
10 Ms. Lee asked Mr. Hughes what the liner is made of.

11
12 Mr. Hughes stated that it is a plastic poly-type liner. He said that the liner is called an 8-ounce Geo-Tech
13 Style Liner and the regulations for that liner come from the Department of Agriculture. He said that it
14 fits inside therefore it mounts to the top of the tank and the product actually sits in the liner, like a
15 bladder, so that the product does not come in contact with the steel portion of the tank.

16
17 Ms. Lee asked Mr. Hughes if water would be added to the 32% to make 28% or will other products be
18 used.

19
20 Mr. Hughes stated that they do not add water to the 32% and they sell the product as 32%. He said that
21 32% is a product that will salt out during extreme temperatures unless it is stored in quantities of
22 500,000 gallons or more. He said that watering the 32% down to 28% requires hauling water back and
23 forth to the field therefore 32% provides a more efficient delivery method, if you have the storage for it.

24
25 Ms. Lee asked Mr. Hughes if at any time they will mix the 32% with anhydrous ammonia.

26
27 Mr. Hughes stated no. He said that 32% and anhydrous ammonia do the same thing to the plant but they
28 are two different products. He said that anhydrous ammonia is a hazardous material therefore a facility
29 is required to have a hazardous material license to haul it and 32% is considered non-hazardous and does
30 not require a special hazardous material license to haul it.

31
32 Ms. Lee asked Mr. Hughes to indicate the total capacity of the tank.

33
34 Mr. Hughes stated that the total capacity of the tank is 1 million gallons however with the bladder they
35 lose a lot of head space. He said that they have applied with the Department of Agriculture to go up to 1
36 million gallons if they filled the tank completely full. He said that they work in terms of tonnage
37 therefore this is a tank that is rated to hold 5,000 tons of 32%.

38
39 Ms. Lee asked Mr. Hughes to explain what kind of damage would be caused to the soil if the material
40 were to leak out onto other landowner's property.

41

1 Mr. Hughes stated that the site itself is contained therefore if they had a catastrophic rupture, although
2 the tank is designed not to do so, the tank itself is containment and there is only one entry and one exit
3 valve on the tank and those valves are contained in steel boxes that are closed and locked at all times.
4 He said that if one of the valves would rupture the valve is within a steel box that is connected inside the
5 tank. He said that if the tank were to rupture most of the product would be contained on site because
6 there is a berm around the entire property. He said that since the 32% is a nitrogen product they would
7 be required to clean it up because they would not want the nitrogen product to leach into the ground
8 water.

9
10 Mr. Thorsland asked Mr. Hughes if they had located any abandoned wells on the subject property.

11
12 Mr. Hughes stated no.

13
14 Mr. Thorsland asked Mr. Hughes if United Prairie had someone verify that no abandoned wells are
15 located on the subject property.

16
17 Mr. Hughes stated yes.

18
19 Mr. Thorsland asked Mr. Hughes if he is happy with Special Condition C. regarding the capping of
20 unused wells on the subject property if found.

21
22 Mr. Hughes stated yes.

23
24 Mr. Hall stated that the Board recently saw a special use permit like this, although the proposal was for
25 28%, and the Department of Agriculture had granted that project an experimental permit. He asked Mr.
26 Hughes if United Prairie's permit from the Department of Agriculture is an experimental permit as well.

27
28 Mr. Hughes stated no and he cannot explain why. He said that up to this point they have been using the
29 bladder system in the industry for over one decade and they had always been considered experimental.
30 He said that he was surprised that the new permit was not listed as experimental although he cannot
31 explain why other than speculating that this has become the standard in the industry and to mark it as
32 experimental is misleading because this is what they require facilities to do. He said that the old system
33 would have a steel tank with a steel dike around it and the problem with that is that over time 32% can
34 be very corrosive and you need to keep the product from the steel. He said that the liner keeps the 32%
35 product away from the steel. He said that the liner sits on a sand base and located around the bottom of
36 the tank are small ports where they are required to check weekly for leaking and if they are leaking they
37 are required to repair the port and replace the bladder.

38
39 Mr. Hall stated that during the previous special use permit there was an operations manual written by a
40 certified professional. Mr. Hall asked Mr. Hughes if an operations manual will be prepared by certified
41 professional for this tank.

1

2 Mr. Hughes stated that the firm that they utilize is ASMARK and they write their operation manuals and
3 perform their safety training classes. He said that they have an on-staff health and safety person that
4 takes care of that aspect of the operation.

5

6 Mr. Hall asked Mr. Hughes if the health and safety person is the staff person who will be checking the
7 ports on a weekly basis.

8

9 Mr. Hughes stated that the on-site location manager is the person who is responsible for checking the
10 ports and is required to manage the logs each week and those logs are checked periodically by the
11 Department of Agriculture to make sure that the ports are being checked and that the results are being
12 documented.

13

14 Mr. Hall asked Mr. Hughes if the permit that is received from the Department of Agriculture a
15 permanent permit or is it renewed annually.

16

17 Mr. Hughes stated that the initial permit takes longer to receive but after it is received the permit is
18 renewed on an annual basis.

19

20 Mr. Thorsland asked if the connective piping for filling the tank is close to the tank and does not run
21 across the site.

22

23 Mr. Hughes stated that the connective piping is stainless steel and is local to the tank. He said that
24 where the truck physically hooks on to the tank there is concrete pad to catch any spillage. He said that
25 as a company they use a double wall stainless steel piping because in the long run it keeps them from
26 having to replace it. He said that the piping goes in to an exterior valve that opens and closes and then
27 goes into the valve that is located in the steel box so that if there is any rupture the product goes in to the
28 tank.

29

30 Mr. Thorsland asked Mr. Hughes if he had reviewed the proposed special conditions for approval.

31

32 Mr. Hughes stated that he had reviewed the proposed special conditions approval.

33

34 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hughes and there were
35 none.

36

37 Mr. Thorsland asked if staff had any additional questions for Mr. Hughes.

38

39 Mr. Hall stated that the site plan indicates that the spur ends at some distance from the tank. He asked if
40 there would be some sort of a facility at the end of the spur that the rail cars hook up to that would
41 transfer the product to the tank.

1

Mr. Hughes stated yes.

3

4

Mr. Hall asked Mr. Hughes what he would call that facility.

5

6

Mr. Hughes stated that the facility would be indicated as the bulk head.

7

8

Mr. Hall stated that the State of Illinois has adopted Public Act 96-704, which staff calls the Commercial Building Code Act. He said that the Public Act indicates that any commercial building must meet certain commercial codes. He said that Public Act 96-704 was written by legislators and they probably did not know that in the code even a tank is called a building. He said that in a previous special use permit there was a special condition that required documentation indicating that the 3/4 million gallon tank complied with Public Act 96-704 and that documentation was provided. Mr. Hall stated that he does not see such a special condition for this case but he does believe that it is a feature of state law. He asked Mr. Hughes if he was familiar with Public Act 96-704.

9

10

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17

Mr. Hughes stated that he is not familiar with Public Act 96-704.

18

19

Mr. Hall stated that this is the problem when the State creates a law that talks about commercial buildings complying with the building code and the building code considers the tank as being a building. He said that there is a question in his mind if the state legislature really wanted fertilizer tanks to comply with the building code but that is literally what the law says. He asked Mr. Hughes if he would have a problem with such a condition being added because it would require someone being involved from the beginning to the end that could certify at the end of the project that it complies with the building code.

20

21

22

23

24

25

26

Mr. Hughes stated that he would not have a problem with such a special condition.

27

28

Mr. Hall stated that the special condition could be added as Special Condition H.

29

30

Ms. Lee stated that item #5.A.(3) indicates that the proposed liquid solution tank is 60 feet x 40 feet

31

although Mr. Hughes indicated that the proposed liquid solution tank is 67 feet x40 feet.

32

33

Mr. Hughes stated that Ms. Lee was correct.

34

35

Mr. Hall stated that all references regarding the liquid solution tank should be revised to indicate 67 feet

36

x 40 feet.

37

38

Mr. Hughes requested that Mr. Hall read proposed Special Condition H.

39

40

Mr. Hall stated that when the Board is ready to review the special conditions he will read Special

41

Condition H.

- 1
2 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall or Mr. Hughes and
3 there were none.
4
- 5 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Hughes and there was no one.
6
- 7 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
8 testimony for Case 781-S-14 and there was no one.
9
- 10 Mr. Thorsland closed the witness register.
11
- 12 Mr. Thorsland stated that the Board will now review the proposed special conditions. Mr. Thorsland
13 read the special conditions as follows:
14
- 15 **A. The Zoning Administrator shall not issue a Zoning Compliance Certificate without**
16 **documentation of the County Engineer's approval of any constructed driveway**
17 **entrance including any necessary as-built engineering drawings.**
18
- 19 The special condition stated above is required to ensure the following:
20
- 21 **All vehicles related to the proposed Special Use can safely enter and exit the subject**
22 **property with adequate visibility and regardless of weather conditions.**
23
- 24 Mr. Thorsland stated that the railroad spur was discussed briefly during tonight's public hearing. He
25 asked Mr. Hall if the railroad spur would be approved by the County Engineer.
26
- 27 Mr. Hall stated no.
28
- 29 Mr. Thorsland asked if construction of the railroad spur was between the petitioner and the railroad
30 company.
31
- 32 Mr. Hall stated yes.
33
- 34 Mr. Thorsland asked Mr. Hughes if he was comfortable with the special condition not mentioning
35 anything about the railroad spur.
36
- 37 Mr. Hughes stated yes.
38
- 39 Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition A.
40
- 41 Mr. Hughes stated that he agreed with Special Condition A.

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B. 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 review 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:

The proposed Special Use Permit conforms to the requirements of the Stormwater Management Policy.

Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition B.

Mr. Hughes stated that he agreed with Special Condition B.

C. Any private wells on the subject property shall be documented on the site plan and all unused wells shall be sealed. The Zoning Administrator shall not approve a Zoning Compliance Certificate for Phase I of the Proposed Special Use Permit without documentation that all unused wells on the subject property have been sealed and the Champaign County Health Department has been notified.

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

Any unused wells on the subject property are protected from contamination.

Mr. Thorsland asked Mr. Hall if Special Condition B. should be revised to indicate Phase II.

Mr. Hall stated that Phase I was in 2010 and this special use permit is in addition to that. He said the petitioner indicated that there are no unsealed wells on the subject property.

Mr. Thorsland stated that he is comfortable with Phase II.

Mr. Hall stated that we don't know if there are any unsealed wells and we could request that the petitioner inform the Board if one is discovered and if it is the well should be sealed appropriately as soon as possible.

Mr. Thorsland stated that he is more interested that we are not looking all of the way back to Phase I with this special condition. He said that the site plan indicated Phase I and most of everything is already there.

Mr. Hughes stated that the site plan indicates "future" and those items are not on the subject property to

1 date.

2
3 Mr. Hall stated that the permit in 2010 was for Phase I and no Zoning Compliance Certificate has been
4 issued. He said that many of the conditions from the 2010 special use case are still applicable and it is
5 not intended to add anything new but to be consistent with the previous approval.
6

7 Mr. Thorsland stated that Ms. Busboom suggested that Special Condition C. read as follows:
8

9 **C. Any private wells on the subject property shall be documented on the site plan and**
10 **all unused wells shall be sealed. The Zoning Administrator shall not approve a**
11 **Zoning Compliance Certificate for Phase I and the Proposed Special Use Permit**
12 **without documentation that all unused wells on the subject property have been**
13 **sealed and the Champaign County Health Department has been notified.**
14

15 The above stated special condition is necessary to ensure the following:
16

17 **Any unused wells on the subject property are protected from contamination.**
18

19 Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition C.
20

21 Mr. Hughes stated that he agreed with Special Condition C.
22

23 **D.**
24 **(1) The Zoning Administrator shall not approve a Zoning Use Permit for the**
25 **proposed Special Use Permit without certification by an Illinois Licensed**
26 **Architect or Illinois Professional Engineer that the proposed construction**
27 **will comply with the Illinois Accessibility Code and Illinois Environmental**
28 **Barriers Act; and**
29

30 **(2) The Zoning Administrator shall not authorize a Zoning Compliance**
31 **Certificate Authorizing operation of the proposed Special Use Permit until**
32 **the Zoning Administrator has verified that the Special Use as constructed**
33 **does in fact comply with the Illinois Accessibility Code and Illinois**
34 **Environmental Barriers Act.**
35

36 The above stated special condition is necessary to ensure the following:
37

38 **The proposed Special Use Permit meets applicable state codes for handicapped**
39 **accessibility.**
40

41 Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition D.

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Mr. Hughes stated that he agreed with Special Condition D.

E. The Zoning Administrator shall not approve a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit unless a copy of the required Agrichemical Permit from the Illinois Department of Agriculture is provided.

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

The proposed Special Use Permit meets applicable state codes for construction and use of an agrichemical facility.

Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition E.

Mr. Hughes stated that he agreed with Special Condition E.

F.

- (1) The Special Use shall at all times be operated in conformance with the Illinois Department of Agriculture permit, and any special conditions thereof.**
- (2) The owner/operator of the Special Use shall make all inspection and maintenance records required by the Illinois Department of Agriculture (IDAG) available to Champaign County upon request by the Zoning Administrator and shall cooperate with Champaign County in resolving any valid complaint or concern that is related to public safety and environmental protection.**
- (3) The owner/operator of the Special Use shall provide the Zoning Administrator with copies of renewal permits over the lifetime of the Special Use for the Illinois Department of Agriculture (IDAG) Permit. The Special Use shall become void if the Petitioner fails to submit a renewal permit from the Illinois Department of Agriculture (IDAG) to the Zoning Office over the lifetime of the Special Use.**

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

To ensure that Champaign County is fully informed of any risks that arise for public safety and environmental protection.

1
2 Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition F.

3
4 Mr. Hughes stated that he agreed with Special Condition F.

- 5
6
7 **G. The development of the site must be substantially the same as indicated in the Site**
8 **Plan submitted on April 30, 2014.**

9
10 The above stated special condition is necessary to ensure the following:

11
12 **That the development of the site is the same as described in the public hearing.**

13
14 Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition G.

15
16 Mr. Hughes stated that he agreed with Special Condition G.

- 17
18 **H. The Zoning Administrator shall not authorize a Zoning Compliance Certificate for**
19 **the proposed Special Use until the Zoning Administrator received a certification of**
20 **inspection from an Illinois Licensed Architect or other qualified inspector certifying**
21 **that the new building complies with the following codes:**

- 22 **A. The 2006 or later edition of the International Building Code**
23 **B. The 2008 or later edition of the National Electrical Code NFPA 70**
24 **C. The Illinois Plumbing Code**

25
26 The above stated special condition is necessary to ensure the following:

27
28 **The proposed structures comply with *Illinois Public Act 96-704*.**

29
30 Mr. Hall stated that he does not know if the Illinois Plumbing Code is relevant to an ammonia tank, and
31 likewise, if it can be shown that the Illinois Plumbing Code or any of the other codes are not relevant
32 then even if this is a condition it would not apply. He said that the International Building Code
33 specifically defines a building as including a tank and he is sure that the National Electrical Code NFPA
34 70 is still relevant. He said that if we find conclusively that the Illinois Plumbing Code is not relevant
35 then it will not be applied.

36
37 Mr. Thorsland asked Mr. Hughes if he agreed with Special Condition H.

38
39 Mr. Hughes stated that he agreed with Special Condition H.

40
41 Mr. Thorsland stated that there are no new Documents of Record.

1
2 **Findings of Fact for Case 781-S-14:**
3

4 From the documents of record and the testimony and exhibits received at the public hearing for zoning
5 case 781-S-14 held on July 17, 2014, the Zoning Board of Appeals of Champaign County finds that:
6

- 7 **1. The requested Special Use Permit IS necessary for the public convenience at this**
8 **location.**
9

10 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
11 location because there is customer demand for the product that the retailer proposed to supply and
12 requires storage for; and there is highway and railroad access at the site; and the site is existing for agri-
13 chemicals and sales and the proposed use is compatible with current use of the site.
14

- 15 **2. The requested Special Use Permit, subject to the special conditions imposed herein,**
16 **is so designed, located, and proposed to be operated so that it WILL NOT be**
17 **injurious to the district in which it shall be located or otherwise detrimental to the**
18 **public health, safety, and welfare because:**
19

- 20 **a. The street has ADEQUATE traffic capacity and the entrance location has**
21 **ADEQUATE visibility.**

22 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has
23 ADEQUATE visibility. She said that County Highway 23 has adequate traffic capacity and also the
24 County Engineer’s approval is required for the entrance.
25

26 Mr. Randol stated that the petitioner is already using the street and entrance location and is only
27 combining storage.

- 28 **b. Emergency services availability is ADEQUATE.**
29

30 Ms. Capel stated that emergency services availability is ADEQUATE.
31

- 32 **c. The Special Use WILL be compatible with adjacent uses.**
33

34 Mr. Thorsland stated that the Special Use WILL be compatible with adjacent uses.
35

- 36 **d. Surface and subsurface drainage will be ADEQUATE.**
37

38 Mr. Randol stated that surface and subsurface drainage will be ADEQUATE.
39

- 40 **e. Public safety will be ADEQUATE.**
41

1 Mr. Randol stated that public safety will be ADEQUATE.

2
3 **f. The provisions for parking will be ADEQUATE.**

4
5 Ms. Capel stated that the provisions for parking will be ADEQUATE.

6
7 **g. The property is BEST PRIME FARMLAND and the property with the**
8 **proposed improvements IS WELL SUITED OVERALL.**

9
10 Ms. Capel stated that the property is BEST PRIME FARMLAND and the property with the proposed
11 improvements IS WELL SUITED OVERALL.

12
13 **h. The existing public services ARE available to support the proposed special**
14 **use effectively and safely without undue public expense.**

15
16 Mr. Randol stated that the existing public services ARE available to support the proposed special use
17 effectively and safely without undue public expense.

18
19 **i. The only existing public infrastructure together with proposed improvements**
20 **ARE adequate to support the proposed development effectively and safely**
21 **without undue public expense.**

22
23 Mr. Thorsland stated that only existing public infrastructure together with proposed improvements ARE
24 adequate to support the proposed development effectively and safely without undue public expense.

25
26 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed
27 herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the
28 district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

29
30 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
31 **DOES conform to the applicable regulations and standards of the DISTRICT in**
32 **which it is located.**

33
34 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
35 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

36
37 **3b. The requested Special Use Permit, subject to the special conditions imposed herein,**
38 **DOES preserve the essential character of the District in which it is located because:**
39 **a. The Special Use will be designed to CONFORM to all relevant County**
40 **ordinances and codes.**

1 Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County
2 ordinances and codes.

3
4 **b. The Special Use WILL be compatible with adjacent uses.**

5
6 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

7
8 **c. Public safety will be ADEQUATE.**

9
10 Mr. Randol stated that public safety will be ADEQUATE.

11
12 Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed
13 herein, DOES preserve the essential character of the District in which it is located.

14
15 **4. The requested Special Use Permit, subject to the special conditions imposed herein,**
16 **IS in harmony with the general purpose and intent of the Ordinance because:**
17 **a. The Special Use IS authorized in the DISTRICT.**

18
19 Mr. Randol stated that the Special Use IS authorized in the DISTRICT.

20
21 **b. The requested Special Use Permit IS necessary for the public convenience at**
22 **this location.**

23
24 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
25 location.

26
27 **c. The requested Special Use Permit, subject to the special conditions imposed**
28 **herein, is so designed, located, and proposed to be operated so that it WILL**
29 **NOT be injurious to the district in which it shall be located or otherwise**
30 **detrimental to the public health, safety and welfare.**

31
32 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
33 is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in
34 which it shall be located or otherwise detrimental to the public health, safety and welfare.

35
36 **d. The requested Special Use Permit, subject to the special conditions imposed**
37 **herein, DOES preserve the essential character of the DISTRICT in which it**
38 **is located.**

39
40 Mr. Randol stated that the Special Use Permit, subject to the special conditions imposed herein, DOES
41 preserve the essential character of the DISTRICT in which it is located.

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Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS in harmony with the general purpose and intent of the Ordinance.

5. The requested Special Use Permit IS NOT an existing nonconforming use.

Mr. Randol stated that the requested Special Use Permit IS NOT an existing nonconforming use.

6. 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. The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the County Engineer’s approval of any constructed driveway entrance including any necessary as-built engineering drawings.
The special condition stated above is required to ensure the following:
All vehicles related to the proposed Special Use can safely enter and exit the subject property with adequate visibility and regardless of weather conditions.

B. 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 review 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:
The proposed Special Use Permit conforms to the requirements of the Stormwater Management Policy.

C. Any private wells on the subject property shall be documented on the site plan and all unused wells shall be sealed. The Zoning Administrator shall not approve a Zoning Compliance Certificate for Phase I and the Proposed Special Use Permit without documentation that all unused wells on the subject property have been sealed and the Champaign County Health Department has been notified.
The above stated special condition is necessary to ensure the following:
Any unused wells on the subject property are protected from contamination.

D.
(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 construction will comply with the Illinois Accessibility Code and Illinois Environmental Barriers Act; and

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

The proposed Special Use Permit meets applicable state codes for handicapped accessibility.

E. The Zoning Administrator shall not approve a Zoning Compliance Certificate authorizing operation of the proposed Special Use Permit unless a copy of the required Agrichemical Permit from the Illinois Department of Agriculture is provided.

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

The proposed Special Use Permit meets applicable state codes for construction and use of an agrichemical facility.

F.

(1) The Special Use shall at all times be operated in conformance with Illinois Department of Agriculture permit, and any special conditions thereof.

(2) The owner/operator of the Special Use shall make all inspection and maintenance records required by the Illinois Department of Agriculture (IDAG) available to Champaign County upon request by the Zoning Administrator and shall cooperate with Champaign County in resolving any valid complaint or concern that is related to public safety and environmental protection.

(3) The owner/operator of the Special Use shall provide the Zoning Administrator with copies of renewal permits over the lifetime of the Special Use for the Illinois Department of Agriculture (IDAG) Permit. The Special Use shall become void if the Petitioner fails to submit a renewal permit from the Illinois Department of Agriculture (IDAG) to the Zoning Office over the lifetime of the Special Use.

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

1 **To ensure that Champaign County is fully informed of any risks that arise for**
2 **public safety and environmental protection.**

3
4 **G. The development of the site must be substantially the same as indicated in the Site**
5 **Plan submitted on April 30, 2014.**

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

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

8
9 **H. The Zoning Administrator shall not authorize a Zoning Compliance Certificate for**
10 **the proposed Special Use until the Zoning Administrator received a certification of**
11 **inspection from an Illinois Licensed Architect or other qualified inspector certifying**
12 **that the new building complies with the following codes:**

13 **A. The 2006 or later edition of the International Building Code**

14 **B. The 2008 or later edition of the National Electrical Code NFPA 70**

15 **C. The Illinois Plumbing Code**

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

17 **The proposed structures comply with *Illinois Public Act 96-704*.**

18
19 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and
20 Findings of Fact as amended.

21
22 **Ms. Capel moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents of**
23 **Record and Findings of Fact as amended. The motion carried by voice vote.**

24
25 Mr. Thorsland entertained a motion to move to the Final Determination for Case 781-S-14.

26
27 **Ms. Capel moved, seconded by Mr. Randol to move to the Final Determination for Case 781-S-14.**
28 **The motion carried by voice vote.**

29
30 Mr. Thorsland informed the petitioner that two Board members were absent and one Board member has
31 abstained therefore it is at his discretion to either continue Case 781-S-14 until a full Board is present or
32 request that the present Board move forward to the Final Determination. He informed the petitioner that
33 four affirmative votes are required for approval.

34
35 Mr. Hughes requested that the present Board move to the Final Determination.

36
37 **Final Determination for Case 781-S-14:**

38
39 **Ms. Capel moved, seconded by Mr. Randol that the Champaign County Zoning Board of Appeals**
40 **finds that, based upon the application, testimony, and other evidence received in this case, the**
41 **requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority**

1 granted by Section 9.1.6B. of Champaign County Zoning Ordinance, determines that the Special
2 Use requested in Case 781-S-14 is hereby GRANTED WITH SPECIAL CONDITIONS, to the
3 applicant United Prairie, LLC, owned by Premier Cooperative and Topflight Grain, to authorize
4 expansion of existing Special Use Permit 676-S-10 to allow for the construction and use of a liquid
5 fertilizer storage tank as part of a “Farm Chemicals and Fertilizer Sales including incidental
6 storage and mixing of blended fertilizer” facility.
7

8 Mr. Thorsland requested a roll call vote.
9

10 The roll was called:
11

12	Capel-yes	Griest-absent	Lee-yes
13	Miller-abstained	Passalacqua-absent	Randol-yes
14	Thorsland-yes		

15
16 Mr. Hall informed Mr. Hughes that he has received approval and staff will send out the appropriate
17 paperwork as soon as possible.
18

19 **7. Staff Report**
20

21 Mr. Hall stated that the Board received information regarding the upcoming Illinois Association of
22 County Zoning Officials meeting on August 8, 2014, at Starved Rock Lodge & Conference Center,
23 Starved Rock State Park, Utica, IL. He said that this meeting provides a good opportunity for the Board
24 to meet other County Zoning Board of Appeals members. He said that this meeting generally has
25 approximately 100 people in attendance and he highly recommends it to the Board. He said that he is
26 planning to attend and would be happy to have anyone accompany him to the meeting but anyone
27 interested should get pre-registered as soon as possible.
28

29 Ms. Capel stated that she is interested in attending the meeting.
30

31 Ms. Lee stated that she may be interested in attending but she will have to let staff know if it is possible.
32

33 Mr. Hall stated that it is appropriate to be pre-registered and then cancel if necessary. He said that
34 anyone who decides to attend at the last minute can register and pay the fee at the door. He noted that
35 the Department of Planning and Zoning will pay the fees for registration but will not pay for any hotel
36 fees.
37

38 **8. Other Business**
39 **A. Review of Docket**
40
41

1 Mr. Hall stated that during preparation of the budget staff discovered that by the end of May the Board
2 has only had half as many cases as last year. He said that this year is a much different year than last year
3 and it is unknown if the pace will continue.
4

5 **9. Audience Participation with respect to matters other than cases pending before the Board**
6

7 None
8

9 **10. Adjournment**
10

11 Mr. Thorsland entertained a motion to adjourn the meeting.
12

13 **Ms. Capel moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**
14

15 The meeting adjourned at 8:32 p.m.
16

17 Respectfully submitted
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22 Secretary of Zoning Board of Appeals
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CASE NO.S 771-AM-13 and 772-S-13

SUPPLEMENTAL MEMORANDUM

August 8, 2014

Petitioners: Randy and Sue Hopkins d.b.a. Atlantic Services, Inc.

Case 771-AM-13

Request: Amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District in order to authorize the proposed Special Use in related zoning Case 772-S-13 described below, on the subject property described below.

Case 772-S-13

Request: Authorize the following as a Special Use in the B-4 General Business Zoning District:

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

- (1) Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 101-S-97; and
- (2) a Landscaping and Maintenance Contractor's Facility with outdoor storage as proposed in Part B.

Part B. Authorize the construction and use of a Landscaping and Maintenance Contractor Facility.

Location: An 11.8 acre tract of land in the North Half of the Northwest Quarter of the Northeast Quarter of Section 24 of Hensley Township and commonly known as the plant nursery and self storage warehouse located at 31 East Hensley Road, Champaign, and an adjacent tract of farmland.

Site Area: 11.8 acres

Time Schedule for Development: Existing and As Soon As Approval Is Given

Prepared by: John Hall
Zoning Administrator

STATUS

These cases are continued from the July 31, 2014, meeting.

Special Condition 13.F. has been revised to be more explicit about future use of the east 6.8 acres

ATTACHMENTS

- A Revised Draft Finding of Fact for Case 771-AM-13 dated August 8, 2014 (included separately)
- B Revised Draft Summary of Evidence and Finding of Fact for Case 772-S-13 dated August 8, 2014 (included separately)

8/8/14 REVISED DRAFT

771-AM-13

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

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

Date: ***{date of final determination}***

Petitioner: **Randy and Sue Hopkins d.b.a. Atlantic Services, Inc.**

Request: **Amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District in order to authorize the proposed Special Use in related zoning Case 772-S-13**

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 17, 2014; July 31, 2014; and August 14, 2014**, the Zoning Board of Appeals of Champaign County finds that (Note that* indicates identical to evidence in related Case 772-S-13):

- *1. The petitioners Randy and Sue Hopkins d.b.a. Atlantic Services, Inc., own the subject property.
- *2. The subject property is an 11.8 acre tract of land in the North Half of the Northwest Quarter of the Northeast Quarter of Section 24 of Hensley Township and commonly known as the plant nursery and self-storage warehouse located at 31 East Hensley Road, Champaign and an adjacent tract of farmland.
- *3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign, a municipality with zoning. The City of Champaign has been notified of this case.

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 a 5 acre tract and is currently zoned B-3 Highway Business. The subject property was previously used to operate a plant nursery and a self-storage warehouse with heat and utilities as authorized in Case 576-S-07 but is now proposed to be a self-storage warehouse with heat and utilities and a contractor facility with outdoor storage in related Case 772-S-13, pending approval of this case.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land on the north is zoned AG-1 Agriculture, and is in agricultural production.
 - (2) Land on the south is zoned B-3 Highway Business and is an interchange for Interstate 57.
 - (3) Land west of the subject property is zoned B-3 Highway Business and is used for a tire distribution warehouse for Tire Central stores.
 - (4) Land east of the subject property is zoned B-3 Highway Business and is in agricultural production.

*Identical to evidence in related Case 772-S-13.

5. Regarding comments by the petitioner on the Petition for Amendment:
 - A. When asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner indicated the following:

“Would like to build a contractor’s warehouse, shop, and office. Currently contractor’s facilities are not allowed in B-3.”

- B. When asked on the petition what other circumstances justify the rezoning, the petitioner indicated the following:
 - “Current location is too congested and located on Mattis Avenue that is heavily traveled”**
 - C. Additional comments on the petition by the petitioner are as follows: None
6. Previous zoning cases in the vicinity are the following:
- A. Case 576-S-07 authorized the current plant nursery and self-storage warehouse with heat and utilities on the subject property.
 - B. Case 555-AM-06 was a proposed rezoning from the B-3 District to the B-4 District on the adjacent property to the east. The ZBA recommendation was “Recommend Approval” and ELUC upheld that recommendation but the County Board failed to override a protest from Hensley Township and the map amendment was not approved.
 - C. Case 504-AM-05 established the current B-4 District (from the previous B-3 District) on the east side of the interchange. This District fronts CH20 (Leverett Road).
 - D. Case 294-AM-01 established the I-1 District (from the previous B-3 District) southwest of CH20 and the Market Street overpass.
 - E. The original zoning at this interchange was AG-2 Agriculture and was changed to the B-3 District in Cases 688-AM-89, 636-AM-88, 360-AM-79, and 151-AM-76.
- *7. Regarding the site plan and operations of the proposed Special Use in related Case 772-S-13:
- *A. Site plans were received on December 31, 2013; February 14, 2014; and May 30, 2014. The revised site plan received May 30, 2014, indicates the following existing and proposed improvements:
 - (1) The existing self-storage warehouse and the building used for the previous plant nursery are at the north end of the subject property and as documented in Case 576-S-07 include the following:
 - a. The revised Site Engineering Plans received on March 15, 2007 indicates the following:
 - (a) There are two buildings on the subject property. The 40 feet by 32 feet existing building in the northwest corner of the property is associated with the tree nursery.
 - (b) The proposed self-storage warehouse is located on the east edge of the developed portion of the subject property and is 100 feet by 48 feet.
 - (c) The separation distance between the two buildings is indicated as 64 feet.

- (d) The area between the buildings has been paved to act as a parking lot and vehicle maneuvering space.
 - (e) The developed portion of the subject property is bordered by a fence that is six feet tall and made of decorative aluminum on the north edge of the property line, and is four feet tall and made of chain links on the east and west sides of the development.
 - (f) The two eastern pillars are indicated as being in the right-of-way.
 - (g) What is apparently the entrance gate is not noted and is indicated as being located adjacent to the street right-of-way and approximately 20 feet from the street pavement.
 - (h) There is a large mound of dirt and a berm indicated south of the developed portion of the property. The berm is located almost on top of the property line for the subject property.
 - (i) A wind powered electrical generator is proposed on the west side of the property.
- b. As indicated on excerpts of building drawings received January 10, 2007, the proposed self-storage warehouse will contain seven units. One of the self-storage bays will be 15 feet by 48 feet, and the rest will be 14 feet by 48 feet.
- c. The “Hensley Storage Security Notes” received on March 9, 2007 state the following:
- (a) Access to the site will be controlled by an electronic gate keypad with individual codes allowing only renters and owner into site.
 - (b) Color video surveillance cameras will be in place to record all activity between buildings and gate. Recording will be on a DVR and I hope to access the system from the internet.
 - (c) The site will be lit with 5-27 watt fluorescent lights between the 2 buildings.
 - (d) Inside the storage building units will be 2-13 watt compact fluorescent lights on a timer switch, with 1 hour maximum time, and a 1-15 amp outlet.
 - (e) Site is self-powered with solar and wind generators with battery backup.
 - (f) Renters will not have access to power breakers and in-floor heat controls.
 - (g) No water on site.
 - (h) Owner lives within 1 mile of site and will visit it often. No one will be employed at site.
 - (i) Site will be fenced with 5-foot tall chain link along sides and a 6-foot decorative fence on North side with a 6-foot tall gate.
 - (j) Each bay will have an overhead door 12 feet wide by 14 feet tall.
 - (k) There will be gutters and downspouts along the east wall.

- (l) Walls are insulated fiberglass with a vapor barrier type of insulations.
- d. The Gate and Fence detailed site plan received on March 9, 2007 indicates the following additional relevant information:
 - (a) Four stone pillars will support a 6-foot tall fence and gate along the Hensley Road right-of-way.
 - (b) A dual swing gate that is 32 feet wide will limit access to the property.
 - (c) A 5-foot tall chain link fence is proposed to extend an unspecified distance south of Hensley Road on each side.
 - (d) A 4-foot tall berm with evergreen windbreak will be constructed along the west property line.
- e. The South bay floor plan and revised building elevations received on May 15, 2007, indicate the following:
 - (a) The southern most bay in the building will be handicapped accessible from a door in the south wall of the building and will have an electric opener on the overhead door.
 - (b) There will be a handicapped reserved parking sign on the overhead door for that bay for the parking space in front of that bay.
 - (c) The door in the south wall of the building will be ADA compliant. There will be a 5 foot by 7 foot concrete pad in front of the door,
 - (d) The electric opener button and light switch will be located on the wall next to the door.
 - (e) This bay will be 16 feet wide but only 40 feet deep because the east 8 feet will be used as a mechanical room where the controls for the heating and electrical systems for the whole building will be located.
 - (f) The mechanical room will have a separate entrance from the south bay that will be located in the south wall. This door will also be ADA compliant and have a concrete pad identical to the one outside the bay entrance door, but will only be openable by the management.
- (2) The existing detention basin is proposed to be relocated to the south.
- (3) A proposed new contractor facility building consisting of a 100' by 150' warehouse portion and an approximately (not dimensioned on the plan) 30' by 40' office portion. The new building is surrounded by a proposed new drive. Parking spaces are indicated east and west of the office portion including one accessible parking space.

*Identical to evidence in related Case 772-S-13.

- (4) 11 Parking spaces on the east side of the warehouse portion of the contractor facility building.
 - (5) Outdoor storage consisting of 3 Storage bins located north of the new building and an outside storage area located south of the proposed new building.
 - (6) A fence surrounding the proposed new contractor facility building, parking spaces, and outdoor storage areas.
- B. A written update on Concerns Regarding Zoning Changes received June 25, 2014, stated as follows:
- (1) We expect no more than 1-2 customers at a time with the retail of landscaping materials. We plan to sell mulch, river rock, and other landscaping rock. Most orders will be phoned in and then delivered. Also, we have 8 parking spaces in the front and 1 ADA space which will be for customers only, no employees will park in this area.
 - (2) We will be purchasing 6.8 acres next to our current property. By purchasing this property we are able to relocated our topsoil pile to that location, creating room for our retention pond to be relocated per our plan drawn out by the engineer.
 - (3) The detention basin and water run-off area are on the submitted plans. The overflow will go into the drainage ditch to the South of the property.
 - (4) We will be installing a fence for the entire rear of the property.
 - (5) We do not plan on renting any of the current storage units at this time. These units will be used for our own Atlantic Services, Inc. equipment storage purposes. We have no plans to rent out the units in the future but we would like to keep the special use permit on both properties.

*Identical to evidence in related Case 772-S-13.

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 B-3, Highway Business DISTRICT is intended to provide areas for commercial establishments which primarily serve the needs of motorists and are intended for application only adjacent to major thoroughfares in the COUNTY.
 - (2) The B-4, General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.

- B. Regarding the general locations of the existing and proposed zoning districts:
- (1) The B-3 District is generally located throughout the county near major thoroughfares.
 - (2) The B-4 District is generally located in areas adjacent to urbanized areas suitable for commercial activity.
- 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 48 types of uses authorized by right in the B-3 District and there are 114 types of uses authorized by right in the B-4 District:
 - a. The following 45 uses are authorized by right in both the B-3 District and the B-4 District:
 - Hotel – no more than 15 lodging units;
 - Hotel – over 15 lodging units;
 - Subdivisions of three lots or less;
 - Subdivisions totaling more than three lots or with new streets or private accessways;
 - Agriculture;
 - Minor Rural Specialty Business;
 - Major Rural Specialty Business;
 - Commercial Greenhouse;
 - Greenhouse (not exceeding 1,000 square feet);
 - Garden Shop;
 - Plant Nursery;
 - Municipal Government Building;
 - Township Highway Maintenance Garage (must meet separation requirements of Special Use Permit in B-3);
 - Police Station or Fire Station;
 - Public Park or Recreational Facility;
 - Parking Garage or Lot;
 - Telephone Exchange;
 - Telegraph Office;
 - Motor Bus Station;
 - Roadside Produce Stand;
 - Artists Studio;
 - Restaurant (indoor service only);
 - Supermarket or Grocery Store;
 - Drive-In Restaurant;
 - Tavern or Night Club;
 - Bakery (less than 2,500 square feet);
 - Dairy Store;

- Delicatessen;
 - Confectionary Store;
 - Retail Liquor Store;
 - Locker, Cold Storage for Individual Use;
 - Major Automobile Repair;
 - Minor Automobile Repair;
 - Gasoline Service Station;
 - Automobile Washing Facility;
 - Automotive Accessories (new);
 - Antique Sales and Service;
 - Lawnmower Sales and Service;
 - Bait Sales;
 - Outdoor Commercial Recreational Enterprise (except amusement park);
 - Private Indoor Recreational Development;
 - Commercial Fishing Lake;
 - Christmas Tree Sales Lot;
 - Off-Premises Sign; and
 - Temporary Uses
- b. The following 3 uses are authorized by right in the B-3 District but not at all in the B-4 District:
- TRAVEL TRAILER Camp;
 - Roadside Stand operated by Farm Operator; and
 - Public CAMP or Picnic Area
- c. The following 69 uses are authorized by right in the B-4 District but not in the B-3 District (Note that “PS” indicates uses listed in Sec. 5.2 under the heading “Personal Services” and “BS” indicates uses listed in Sec. 5.2 under the heading “Business, Private, Educational, and Financial Services”, and “RT” indicates uses listed in Sec. 5.2 under the heading “Retail Trade”):
- Institution of an Educational, Philanthropic or Eleemosynary Nature;
 - Church, Temple or church related Temporary Uses of Church Property;
 - Library, Museum or Gallery;
 - Radio or Television Station;
 - Railway Station;
 - Truck Terminal;
 - Barber Shop (PS);
 - Beauty Shop (PS);

- Reducing Salon (PS);
- Dressmaking Shop (PS);
- Drycleaning Establishment (PS);
- Laundry and/or Drycleaning Pick-up (PS);
- Millinery Shop (PS);
- Self-Service Laundry (PS);
- Shoe Repair Shop (PS);
- Tailor and Pressing Shop (PS);
- Diaper Service Establishment (PS);
- Clothing Repair and Storage (PS);
- Mortuary or Funeral Home (PS);
- Medical and Dental Clinic (PS);
- Farm Equipment Sales and Service;
- Feed and Grain (sales only);
- Artist Studio (BS)
- Banks, Savings and Loan Associations (BS);
- Insurance and Real Estate Offices (BS);
- Business Office (BS);
- Professional Office; (BS)
- Private Kindergarten or Day Care Facility (BS);
- Vocational, Trade or Business School (BS);
- Meat and Fish Market;
- Automobile, Truck, Trailer and Boat Sales Room (all indoors)
- Automobile or Trailer Sales area (open lot);
- Building Materials Sales (excluding concrete or asphalt mixing) (RT);
- Hardware Store (RT);
- Electrical or Gas Appliance Sales and Service (RT);
- Department Store (RT);
- Apparel Shop (RT);
- Shoe Store (RT);
- Jewelry Store (RT);
- Stationery-Gift Shop-Art Supplies (RT);
- Florist (RT);
- Newsstand-Bookstore (RT);
- Tobacconist (RT);
- Variety-Drygoods Store (RT);
- Music Store (RT);
- Drugstore (RT);
- Photographic Studio and Equipment Sales and Service (RT);
- Furniture Store – Office Equipment Sales (RT);

- Used Furniture Sales and Service (RT);
 - Pet Store (RT);
 - Bicycle Sales and Service (RT);
 - Fuel Oil, Ice, Coal, Wood (sales only) (RT);
 - Monument Sales (excluding stone cutting) (RT);
 - Pawn Shop (RT);
 - Sporting Goods Sales and Service (RT);
 - Heating, Ventilating, Air Conditioning Sales and Service (RT);
 - Billiard Room;
 - Bowling Alley;
 - Dancing Academy or Hall;
 - Lodge or Private Club;
 - Indoor Theater;
 - VETERINARY HOSPITAL (no outdoor areas and no animal boarding);
 - Wholesale Business;
 - Warehouse;
 - Self-Storage Warehouse, providing heat and utilities to individual units;
 - Self-Storage Warehouse, not providing heat and utilities to individual units;
 - Auction House (non-animal);
 - Sexually Oriented Business (subject to minimum separation requirements including no less than 1,000 feet from a residential District);
 - Contractors Facilities (with no outdoor storage nor outdoor operations);
 - Small Scale Metal Fabricating Shop
- (2) There are 11 types of uses authorized by Special Use Permit (SUP) in the B-3 District and 11 types of uses authorized by SUP in the B-4 District:
- a. The following 4 uses may be authorized by SUP in both the B-3 District and B-4 District:
 - Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right;
 - Private or commercial transmission and receiving tower (including antennas) over 100 feet in height;
 - Electrical Substation; and
 - HELIPORT-RESTRICTED LANDING AREAS
 - b. The following 7 uses may be authorized by SUP in the B-3 District and all but two may be authorized by right in the B-4 District:

- Radio or Television Station (by right in B-4);
 - VETERINARY HOSPITAL (by right in B-4);
 - Warehouse (by right in B-4);
 - Self-storage Warehouses, providing heat and utilities to individual units (by right in B-4);
 - Self-storage Warehouses, not providing heat and utilities to individual units (by right in B-4);
 - Gasoline and Volatile Oils Storage up to and including 80,000 gallons (also by Special Use Permit in B-4); and
 - Liquefied Petroleum Gases Storage (not at all in B-4).
- c. The following 7 uses may be authorized by SUP in the B-4 District but not at all in the B-3 District:
- HOSPITAL;
 - Bakery (more than 2,500 square feet);
 - Amusement Park;
 - Kennel;
 - Recycling of Non-Hazardous materials (all storage and processing indoors);
 - Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS (by right if all outdoor STORAGE is in the REAR YARD); and
 - LIGHT ASSEMBLY
- (3) In general, the differences between the types of uses that are authorized in the existing B-3 and the proposed B-4 zoning DISTRICTS can be summarized as follows:
- a. The B-3 DISTRICT is a lower intensity business zoning DISTRICT than the B-4 DISTRICT based on the following:
- (a) There are 48 types of uses authorized by right in the B-3 DISTRICT and there are 114 types of uses authorized by right in the B-4 DISTRICT.
- (b) The only uses authorized in the B-3 DISTRICT that are not authorized by any means in the B-4 DISTRICT are the following (type of authorization in the B-3 DISTRICT in parentheses):
- TRAVEL TRAILER Camp (by right);
 - Roadside Stand operated by Farm Operator (by right);
 - Public CAMP or Picnic Area (by right);
 - Gasoline and Volatile Oils Storage up to and including 80,000 gallons (by Special Use Permit);
 - Liquefied Petroleum Gases Storage (by Special Use Permit)

- (c) A great many types of uses are authorized in the B-4 DISTRICT that are not authorized by any means in the B-3 DISTRICT and it is difficult to characterize the differences. Some of the differences are as follows:
 - i. Personal Service Uses; Business, Private, Educational, and Financial Services Uses; and Retail Trade Uses are authorized by right in the B-4 DISTRICT but not at all in the B-3 DISTRICT.
 - ii. In regards to Transportation types of uses, Railway Station and Truck Terminal are not authorized in the B-3 DISTRICT but are authorized by right in the B-4 DISTRICT. In a previous zoning case on this property, Hensley Township expressed a concern about “oversized traffic”. “Major AUTOMOBILE Repair (all indoors)” is also authorized by right in the B-4 DISTRICT but not at all in the B-3 DISTRICT.

- (4) The B-1 Rural Trade Center Zoning District is a lower intensity business zoning district even than the B-3 District and in which Contractor Facility is authorized by right, as amended in Case 734-AT-12 that was approved on May 23, 2013, and Self-Storage Warehouses are authorized by Special Use Permit and multiple principal buildings are also authorized by Special Use Permit. The Zoning Administrator discussed with the Petitioner the difference between the B-1 and B-4 Districts but the Petitioner elected to seek rezoning to the B-4 District.

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 Polices as follows:
 - (1) Goal: an ideal future condition to which the community aspires

- (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”
- D. Note that the Appendix in Volume 2 of the LRMP includes the following definitions:
- (1) *Urban development* is defined as “The construction, extension, or establishment of a land use that requires or is best served by a connection to a public sanitary sewer system.”
 - (2) *Discretionary development* is defined as “A non-agricultural land use that may occur only if a Special Use Permit or Zoning Map Amendment is granted by the County.”

REGARDING LRMP GOALS & POLICIES

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

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

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

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

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 rezoning will **NOT IMPEDE** the achievement of 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 rezoning **WILL HELP ACHIEVE** the achievement of Goal 3 based on the following:

- A. Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of the Goal 3 Objectives, the proposed rezoning will allow the petitioner to utilize the property somewhat more intensively and continue business operations in Champaign County.
- B. Based on the above and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 3 Prosperity**.

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 **WILL HELP ACHIEVE** Goal 4 for the following reasons:

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

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

- (1) Policy 4.1.6 states, “**Provided that the use, design, site and location are consistent with County policies regarding:**
 - i. **Suitability of the site for the proposed use;**
 - ii. **Adequacy of infrastructure and public services for the proposed use;**
 - iii. **Minimizing conflict with agriculture;**
 - iv. **Minimizing the conversion of farmland; and**
 - v. **Minimizing the disturbance of natural areas; then**
 - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or**
 - b) **On best prime farmland, the County may authorize non-residential discretionary development; or**
 - c) **The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

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

- a. There was no Section 22 Natural Resource Report for the subject property during the public hearing for Case 576-S-07 because the property already had business zoning and there is none at this time. The subject property is best prime farmland consisting of Drummer silty clay loam (relative LE of 100 in the Champaign County LESA System) and Elburn silt loam (relative LE of 100 in the Champaign County LESA System).
- b. The proposed rezoning is to accommodate non-residential discretionary development.
- c. The subject property is already zoned B-3 Highway Business and is not proposed to be expanded so there is no concern related to minimizing the conversion of farmland (item 4.1.6 iv.) or related to minimizing the disturbance of natural areas (item 4.1.6 v.).
- d. Achievement of Policy 4.1.6 items i., ii., and iii. requires achievement of related Objectives 4.2 and 4.3.

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

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

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

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1 because based on the evidence, the proposed Special Use in related Case 772-S-13 **WILL NOT IMPEDE** agriculture and **WILL NOT** interfere with agricultural operations and is a service which is appropriate for the rural area and therefore **IS** a service better provided in rural area than in an urban area as follows:

- *a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- *b. The existing Self-Storage Warehouses providing heat and utilities to individual units, is a USE that has been deemed appropriate for either the B-1 or the B-3 District provided that a Special Use Permit is authorized and appropriate for the B-4 DISTRICT by right. The existing Special Use Permit Self-Storage Warehouse providing heat and utilities to individual units has existed since 5/17/07 when Case 576-S-07 was approved by the ZBA.

- *c. Section 5.2 of the Zoning Ordinance authorizes “Contractor Facility with outdoor STORAGE and/or OPERATIONS” in the AG-1 and AG-2 Districts if a Special Use Permit is granted and is therefore a USE that has been determined to be appropriate in the rural area. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-4 DISTRICT if all outdoor STORAGE is in the REAR YARD or otherwise by Special Use Permit. “Contractor Facility” is not authorized in the B-3 DISTRICT. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-1 Rural Trade Center Zoning DISTRICT as amended in Case 734-AT-12. Note that the B-1 DISTRICT is a lower intensity business zoning DISTRICT than either the B-3 or the B-4 DISTRICT.
- *d. The subject property fronts both CR2100N (East Hensley Road) and Interstate 57 and is located about 700 feet east of County Highway 20 at the Market Street interchange.

*Identical to evidence in related Case 772-S-13.

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

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2 because based on the evidence, the proposed Special Use in related Case 772-S-13 **DOES NOT** negatively affect agricultural activities, **IS** located and designed to minimize exposure to negative effects of agricultural activities, and **WILL NOT** interfere with agricultural activities as follows:

- *a. The existing Self-Storage Warehouses providing heat and utilities to individual units, is a USE that has been deemed appropriate for the B-3 District provided that a Special Use Permit is authorized and appropriate for the B-4 DISTRICT by right. The existing Special Use Permit Self-Storage Warehouse providing heat and utilities to individual units has existed since 5/17/07 when Case 576-S-07 was approved by the ZBA.

- *b. Section 5.2 of the Zoning Ordinance authorizes “Contractor Facility” in the AG-1 and AG-2 Districts if a Special Use Permit is granted and is therefore a USE that has been determined to be appropriate in the rural area. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-4 DISTRICT if all outdoor STORAGE is in the REAR YARD or otherwise by Special Use Permit. “Contractor Facility” is not authorized in the B-3 DISTRICT. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-1 Rural Trade Center Zoning DISTRICT as amended in Case 734-AT-12. Note that the B-1 DISTRICT is a lower intensity business zoning DISTRICT than either the B-3 or the B-4 DISTRICT.

- *c. The subject property fronts both CR2100N (East Hensley Road) and Interstate 57 and is located about 700 feet east of County Highway 20 at the Market Street interchange.

- *d. Regarding the rural road at this location:
 - (a) The pavement surface of CR 2100N in the vicinity of the subject property is oil and chip. In previous zoning case 576-S-07 the pavement width (measured by staff) is 18 feet which would equate to a maximum recommended traffic volume of no more than 250 ADT.

 - (b) The proposed Special Use seems unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.

 - (c) The Township Highway Commissioner has been notified of this case, but no comments have been received yet.

 - (d) The following evidence is from item 8.D. of the Summary of Evidence for the previous zoning case on the subject property, Case 576-S-07 (‡ indicates same lettering as in Case 576-S-07):
 - ‡(6) In a letter from Brian T. Schurter, Hensley Township attorney, received on March 1, 2007 it was indicated that the township was opposed to the proposed Special Use because of the following:
 - ‡(a) The subject property is currently served by a township road that has certain weight restrictions.
 - ‡(b) The township anticipates that the proposed Special Use would result in a significant increase in oversized traffic.

- ‡(c) The township already has difficulties maintaining these roads due to heavily weighted traffic that uses the road.
- ‡(d) The proposed Special Use would only increase that burden without providing a corresponding benefit.
- ‡(e) There is a property in close proximity to the subject property that accommodates heavy equipment however that property is located on a section of state highway that is equipped to carry such loads.

- ‡(7) At this time staff has not tried to estimate the increase in traffic that would result from the proposed Special Use, but the increase should be small.

- ‡(8) Dave Atchley, engineer for the Petitioner, testified at the March 1, 2007 ZBA meeting that he would estimate that the traffic impact would be one trip per week per unit.

- ‡(9) As appears to be indicated on the Site Engineering Plans received on March 15, 2007, the dual swing gate appears to be only 20 feet from the pavement of CR 2100N. This distance is less than that required to allow a vehicle pulling a trailer to pull completely off the pavement of the CR 2100N.

*Identical to evidence in related Case 772-S-13.

- C. Objective 4.3 states, **“Champaign County will require that each discretionary review development is located on a suitable site.”**
The proposed rezoning **WILL HELP ACHIEVE** Objective 4.3 because of the following:
- (1) Policy 4.3.2 states, **“On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.2 for the following reason(s):

- a. There was no Section 22 Natural Resource Report for the subject property during the public hearing for Case 576-S-07 because the property already had business zoning and there is none at this time. The subject property is best prime farmland consisting of Drummer silty clay loam (relative LE of 100 in the Champaign County LESA System) and Elburn silt loam (relative LE of 100 in the Champaign County LESA System).

- b. The subject property is already zoned B-3 Highway Business.

- c. As determined for Policy 4.2.2, the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2 because based on the evidence, the proposed Special Use in related Case 772-S-13 **DOES NOT** negatively affect agricultural activities, **IS** located and designed to minimize exposure to negative effects of agricultural activities, and **WILL NOT** interfere with agricultural activities.
 - d. The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.3.
 - e. The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.4.
- (2) Policy 4.3.3 states, **“The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

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

- a. The subject property is in the B-3 Highway Business Zoning DISTRICT and has been proposed to be rezoned to the B-4 General Business Zoning DISTRICT in order to accommodate a proposed contractor facility in related Case 772-S-13. Section 5.2 of the Zoning Ordinance authorizes “Contractor Facility with outdoor STORAGE and/or OPERATIONS” in the AG-1 and AG-2 Districts if Special Use Permit is granted. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-4 DISTRICT if all outdoor STORAGE is in the REAR YARD or otherwise by Special Use Permit. “Contractor Facility” is not authorized in the B-3 DISTRICT. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-1 Rural Trade Center Zoning DISTRICT as amended in Case 734-AT-12. Note that the B-1 DISTRICT is a lower intensity business zoning DISTRICT than either the B-3 or the B-4 DISTRICT.
- b. The existing Special Use Permit Self-Storage Warehouse providing heat and utilities to individual units has existed since 5/17/07 when Case 576-S-07 was approved by the ZBA. Section 5.2 of the Zoning Ordinance authorizes “Self-Storage Warehouse providing heat and utilities to individual units” by right in the B-4 DISTRICT and by Special Use Permit in both the B-1 Rural Trade Center and B-3 Highway Business Zoning DISTRICT.
- c. Regarding fire protection on the subject property, the subject property is located within the Thomasboro Fire Protection District. The FPD Chief has been notified of this case but no comments have been received. No comments were received from the Thomasboro FPD in Case 576-S-07.

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

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

- a. The subject property is in the B-3 Highway Business Zoning DISTRICT and has been proposed to be rezoned to the B-4 General Business Zoning DISTRICT in order to accommodate a proposed contractor facility in related Case 772-S-13. Section 5.2 of the Zoning Ordinance authorizes “Contractor Facility” in the AG-1 and AG-2 DISTRICTS if a Special Use Permit is granted. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-4 DISTRICT if all outdoor STORAGE is in the REAR YARD or otherwise by Special Use Permit. “Contractor Facility” is not authorized in the B-3 DISTRICT. “Contractor Facility with outdoor STORAGE and/or OPERATIONS” may also be authorized “by right” in the B-1 Rural Trade Center Zoning DISTRICT as amended in Case 734-AT-12. Note that the B-1 DISTRICT is a lower intensity business zoning DISTRICT than either the B-3 or the B-4 DISTRICT.
- b. The existing Special Use Permit Self-Storage Warehouse providing heat and utilities to individual units has existed since 5/17/07 when Case 576-S-07 was approved by the ZBA. Section 5.2 of the Zoning Ordinance authorizes “Self-Storage Warehouse providing heat and utilities to individual units” by Special Use Permit in the B-1 Rural Trade Center Zoning DISTRICT.
- c. The subject property fronts both CR2100N (East Hensley Road) and Interstate 57 and is located about 700 feet east of County Highway 20 at the Market Street interchange.
- d. The pavement surface of CR 2100N in the vicinity of the subject property is oil and chip. In previous zoning case 576-S-07 the pavement width (measured by staff) is 18 feet which would equate to a maximum recommended traffic volume of no more than 250 ADT.
- e. The proposed Special Use seems unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.
- f. The Township Highway Commissioner has been notified of this case, but no comments have been received yet.

- g. The following evidence is from item 8.D. of the Summary of Evidence for the previous zoning case on the subject property, Case 576-S-07 (‡ indicates same lettering as in Case 576-S-07):
- ‡(6) In a letter from Brian T. Schurter, Hensley Township attorney, received on March 1, 2007 it was indicated that the township was opposed to the proposed Special Use because of the following:
 - ‡(a) The subject property is currently served by a township road that has certain weight restrictions.
 - ‡(b) The township anticipates that the proposed Special Use would result in a significant increase in oversized traffic.
 - ‡(c) The township already has difficulties maintaining these roads due to heavily weighted traffic that uses the road.
 - ‡(d) The proposed Special Use would only increase that burden without providing a corresponding benefit.
 - ‡(e) There is a property in close proximity to the subject property that accommodates heavy equipment however that property is located on a section of state highway that is equipped to carry such loads.
 - ‡(7) At this time staff has not tried to estimate the increase in traffic that would result from the proposed Special Use, but the increase should be small.
 - ‡(8) Dave Atchley, engineer for the Petitioner, testified at the March 1, 2007 ZBA meeting that he would estimate that the traffic impact would be one trip per week per unit.
 - ‡(9) As appears to be indicated on the Site Engineering Plans received on March 15, 2007, the dual swing gate appears to be only 20 feet from the pavement of CR 2100N. This distance is less than that required to allow a vehicle pulling a trailer to pull completely off the pavement of the CR 2100N.
- h. Regarding the previous concern of Hensley Township regarding oversize traffic, Sec. 5.2 of the Zoning Ordinance authorizes “truck terminal” “by right” in the B-4 DISTRICT and not at all in either the B-3 or the B-1 DISTRICT.
- (4) Policy 4.3.5 states, **“On best prime farmland, the County will authorize a business or other non-residential use only if:**
- a. **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**

- b. **the use is otherwise appropriate in a rural area and the site is very well suited to it.”**

The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.5 for the following reason(s):

- a. There was no Section 22 Natural Resource Report for the subject property during the public hearing for Case 576-S-07 because the property already had business zoning and there is none at this time. The subject property is best prime farmland consisting of Drummer silty clay loam (relative LE of 100 in the Champaign County LESA System) and Elburn silt loam (relative LE of 100 in the Champaign County LESA System).
- b. The subject property is already zoned B-3 Highway Business.
- c. The proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.1 because based on the evidence, the proposed Special Use in related Case 772-S-13 **DOES NOT IMPEDE** agriculture and **WILL NOT** interfere with agricultural operations and is a service which is appropriate for the rural area and therefore **IS** a service better provided in rural area than in an urban area.
- d. The proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2, the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2 because based on the evidence, the proposed Special Use in related Case 772-S-13 **DOES NOT** negatively affect agricultural activities, **IS** located and designed to minimize exposure to negative effects of agricultural activities, and **WILL NOT** interfere with agricultural activities.
- e. The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.3.
- f. The proposed rezoning **WILL HELP ACHIEVE** Policy 4.3.4.

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

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

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

Goal 5 has 3 objectives and 15 policies. The proposed amendment **WILL HELP ACHIEVE** Goal 5 for the following reasons:

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

The proposed rezoning **WILL HELP ACHIEVE** Objective 5.1 because of the following:

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

The proposed rezoning **WILL NOT IMPEDE** Policy 5.1.3 for the following reason:

- a. The subject property is in the B-3 Highway Business Zoning DISTRICT and has been proposed to be rezoned to the B-4 General Business Zoning DISTRICT in order to accommodate a proposed contractor facility in related Case 772-S-13.
- b. On the LRMP map Future Land Use -2030 the subject property is just beyond the extra-territorial jurisdiction area for the City of Champaign and located about a half-mile away from the nearest contiguous urban growth area.
- (2) Policy 5.1.4 states, **“The County may approve discretionary development outside contiguous urban growth areas, but within municipal extra-territorial jurisdictions areas only if:**
- a. **the development is consistent with the municipal comprehensive plan and relevant municipal requirements;**
- b. **the site is determined to be well-suited overall for the development if on best prime farmland or the site is suited overall, otherwise and**
- c. **the development is generally consistent with all relevant LRMP objective and policies.”**

The proposed rezoning **WILL NOT IMPEDE** Policy 5.1.4 for the following reason:

- a. The subject property is in the B-3 Highway Business Zoning DISTRICT and has been proposed to be rezoned to the B-4 General Business Zoning DISTRICT in order to accommodate a proposed contractor facility in related Case 772-S-13. Section 5.2 of the Zoning Ordinance authorizes “Contractor Facility” in the AG-1 and AG-2 Districts if Special Use Permit is granted and as amended by Case 734-AT-12, “by right” in the B-1 Rural Trade Center Zoning DISTRICT. Note that the B-1 DISTRICT is a lower intensity business zoning DISTRICT than either the B-3 or the B-4 DISTRICT.

- b. The existing Special Use Permit Self-Storage Warehouse providing heat and utilities to individual units has existed since 5/17/07 when Case 576-S-07 was approved by the ZBA. Section 5.2 of the Zoning Ordinance authorizes “Self-Storage Warehouse providing heat and utilities to individual units” by Special Use Permit in the B-1 Rural Trade Center Zoning DISTRICT.
 - c. On the LRMP map Future Land Use -2030 the subject property is just beyond the extra-territorial jurisdiction area for the City of Champaign and located about a half-mile away from the nearest contiguous urban growth area.
- (3) Policy 5.1.5 states “**The County will encourage *urban development* to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.**”

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

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

The proposed rezoning **WILL HELP ACHIEVE** Policy 5.1.6 for the following reasons:

- a. The subject property does not directly abut property that is zoned AG-1, AG-2, or CR but land on the opposite side of East Hensley Road (CR2100N) is zoned AG-1 Agriculture and is in agricultural production.
- b. The subject property is located adjacent to an interchange for Interstate 57 and is approximately 720 feet from the interchange and County Highway 20.
- c. The proposed activities at the subject property are landscape contracting activities that are generally compatible with agriculture.
- d. No additional buffer is necessary

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

The proposed rezoning **WILL HELP ACHIEVE** Objective 5.3 because of the following:

- (1) Policy 5.3.1 states, “The County will:
- a. require that proposed new urban development in unincorporated areas is sufficiently served by available public services and without undue public expense; and
 - b. encourage, when possible, other jurisdictions to require that proposed new urban development is sufficiently served by available public services and without undue public expense.”

The proposed rezoning **WILL HELP ACHIEVE** Policy 5.3.1 for the following reason:

- a. See the evidence under Policy 4.3.3 (item 13.C.(2)).
- (2) Policy 5.3.2 states, “The County will:
- a. require that proposed new urban development, with proposed improvements, will be adequately served by public infrastructure, and that related needed improvements to public infrastructure are made without undue public expense; and
 - b. encourage, when possible, other jurisdictions to require that proposed new urban development, with proposed improvements, will be adequately served by public infrastructure, and that related needed improvements to public infrastructure are made without undue public expense.”

The proposed rezoning **WILL HELP ACHIEVE** Policy 5.3.2 because of the following:

- a. See the evidence under Policy 4.3.4 (item 13.C.(3)).

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

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

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

Goal 6 has 4 objectives and 7 policies. The proposed rezoning **WILL HELP ACHIEVE** Goal 6 for the following reasons:

- A. Objective 6.1 states, “**Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.**”

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

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

The proposed rezoning **WILL HELP ACHIEVE** Policy 6.1.3 because of the following:

- a. Any new exterior lighting will comply with the standard condition in Section 6.1.2 regarding exterior lighting and will be full-cutoff light fixtures.

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

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

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

Goal 7 has 2 objectives and 7 policies. The proposed rezoning **WILL HELP ACHIEVE** Goal 7 for the following reasons:

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

The proposed rezoning **WILL HELP ACHIEVE** Objective 7.1 because of the following:

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

The proposed rezoning **WILL HELP ACHIEVE** Policy 7.1.1 because of the following:

- (a) In a similar recent zoning case with a much greater amount of proposed self-storage warehouse area, staff from the Champaign Urbana Urbanized Area Transportation Study (CUUATS) evaluated the proposed Special Use in that Case (Case 759-S-13) for traffic impacts and determined that a Traffic Impact Analysis was not necessary because the number of weekday and weekend peak hour trips generated would be minimal.

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

17. LRMP Goal 8 is entitled “Natural Resources” and states as follows:
Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.

Goal 8 has 9 objectives and 36 policies. The proposed rezoning **WILL NOT IMPEDE** the achievement of Goal 8.

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.

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

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

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.**

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

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	EXISTING: Plant Nursery and Self-Storage Warehouse (Case 576-S-07)	EXISTING: B-3 Highway Business w/ Special Use Case 576-S-07

	----- Agriculture	
	PROPOSED: Self-Storage Warehouse and Contractor facility with outdoor storage	PROPOSED: B-4 General Business
North	Agriculture	AG-1 Agriculture
East	Agriculture	B-3 Highway Business
West	Tire Central Distribution	AG-1 Agriculture
South	Interstate 57 and interchange	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 the subject property, the requested map amendment may have some positive effect or else the landowner would not have submitted the petition for the rezoning.
- C. **LaSalle factor: The extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public.**
- (1) There has been no evidence submitted regarding property values.
 - (2) The proposed rezoning should not have a negative effect on the public health, safety, and welfare and therefore, denying the request to rezone the property will not promote public health, safety, or welfare.
- D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.**
- (1) The proposed rezoning and related Special Use will allow the petitioner to relocate Atlantic Services, Inc. to a location with better access than the current location on Mattis Avenue.
 - (2) If the request is denied the hardship imposed on the property owner will be great given that the property will not be able to be used for the intended use.

- (3) The proposed B-4 General Business Zoning District is not the only Zoning District that would provide for the proposed uses. The B-1 Rural Trade Center would also allow the proposed uses.
- E. **LaSalle factor: The suitability of the subject property for the zoned purposes.**
- (1) The subject property is suitable for the current zoned purposes.
- (2) Based on the discussion of suitability under Items 13.C. and 14 .B. above, the subject property **IS SUITABLE** for the proposed zoned purpose which is a self-storage warehouses and a contractor facility with outdoor storage.
- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.**
- (1) The subject property is not vacant and the current Special Use was authorized in Case 576-S-07.
- G. **Sinclair factor: The need and demand for the use.**
- The proposed contractor facility is a very successful enterprise that provides services to many Champaign County businesses but needs to relocate to a less congested location. The proposed Self-Storage Warehouses will also provide a service for rural and urban residents.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.**
- (1) In regards to the Champaign County Land Resource Management Plan, the subject property already has B-3 Highway Business Zoning and is located at an Interstate interchange that is just outside of the City of Champaign's 1½ mile extra-territorial jurisdiction area and about ¾ mile from the Contiguous Urban Growth Area. There is at least one other Interstate interchange (the Monticello Road Interchange) that has some land in the B-4 Zoning District.
- (2) The proposed uses are not substantially different from what the property has been used for in the past .

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

21. The proposed amendment **WILL HELP ACHIEVE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:
- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

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. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The requested Special Use Permit should not decrease the value of nearby properties.

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

The proposed rezoning and the proposed Special Use seem unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.

- D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed construction on the subject property will trigger the need for stormwater management. The petitioner will need to submit a complete stormwater management plan that is in compliance with the *Stormwater Management Policy* before a Zoning Use Permit can be issued for the proposed construction.

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

(1) 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.

(2) 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.

- F. 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.

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

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

- H. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with those requirements.

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

(1) The property has had business zoning for a long time.

(2) The proposed rezoning and proposed Special Use will not take any land out of production that is in the AG-1, AG-2, or CR Zoning Districts.

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

The subject property does not contain any natural features.

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

The proposed rezoning and the proposed Special Use will not require the development of public utilities or transportation facilities.

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

- (1) The property has had business zoning for a long time.

- (2) The proposed use will take any land out of production.

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

The proposed rezoning and proposed Special Use will not hinder the development of renewable energy sources.

REGARDING SPECIAL CONDITIONS OF APPROVAL

- 22. Regarding proposed special conditions of approval:

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

The above special condition is necessary to ensure the following:

Conformance with policies 4.2.3 and 5.1.5.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 17, 2014; July 31, 2014; and August 14, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. Regarding the effect of the proposed amendment on the Land Resource Management Plan (LRMP):
 - A. **Regarding Goal 3:**
 - Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of the Goal 3 objectives, the proposed rezoning will allow the petitioner to utilize the property somewhat more intensively and continue business operations in Champaign County.
 - Based on achievement of the above and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 3 Prosperity.**
 - B. **Regarding Goal 4:**
 - It **WILL HELP ACHIEVE** Objective 4.3 **requiring any discretionary development to be on a suitable site** because it **WILL HELP ACHIEVE** the following:
 - Policy 4.3.5 **requiring that a business or non-residential use on best prime farmland only if it serves surrounding agriculture and is appropriate in a rural area** (see Item 14.C.(4)).
 - Policy 4.3.4 **requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense** (see Item 14.C.(3)).
 - Policy 4.3.3 **requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense** (see Item 14.C.(2)).
 - Policy 4.3.2 **requiring a discretionary development on best prime farmland to be well-suited overall** (see Item 14.C.(1)).
 - It **WILL HELP ACHIEVE** Objective 4.2 **requiring discretionary development to not interfere with agriculture** because it **WILL HELP ACHIEVE** the following:
 - Policy 4.2.2 **requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure** (see Item 14.B.(2)).
 - Policy 4.2.1 **requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area** (see Item 14.B.(1)).
 - It **WILL HELP ACHIEVE** Objective 4.1 **requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland** because it **WILL HELP ACHIEVE** the following:
 - Policy 4.1.6 **requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas** (see Item 14.A.(1)).

- Based on achievement of the above Objectives and Policies, the proposed map amendment **WILL HELP ACHIEVE Goal 4 Agriculture.**

C. Regarding Goal 5:

- It **WILL HELP ACHIEVE** Objective 5.3 requiring County opposition to new urban development unless adequate infrastructure and public services are provided because it will **WILL HELP ACHIEVE** the following:
 - Policy 5.3.2 require that new urban development be adequately served by public infrastructure without undue public expense (Item 15.B.(2)).
 - Policy 5.3.1 require that new urban development be adequately served by public services without undue public expense (Item 15.B.(1)).
- It **WILL HELP ACHIEVE** Objective 5.1 ensure that the population growth and economic development is accommodated by new urban development in or adjacent to existing population centers because it **WILL HELP ACHIEVE** the following:
 - Policy 5.1.3 consider municipal ETJ areas that are served or that are planned to be served by sanitary sewer as contiguous urban growth areas (Item 15.A.(1)).
- Based on achievement of the above Objectives and Policies, the proposed map amendment **WILL HELP ACHIEVE Goal 5 Urban Land Use.**

D. Regarding Goal 6:

- Objective 6.1 ensuring that development does not endanger public health or safety because it **WILL HELP ACHIEVE** the following:
 - Policy 6.1.3 preventing nuisances created by light and glare to limit excessive night lighting.
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 6 Public Health and Public Safety (see Item 16.A.(1)).**

E. Regarding Goal 7:

- Objective 7.1 consider traffic impact in land use decisions because it **WILL HELP ACHIEVE** the following:
 - Policy 7.1.1 requiring traffic impact analyses for projects with significant traffic generation.
- Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment **WILL HELP ACHIEVE Goal 7 Transportation (see Item 17.A.(1)).**

F. The proposed amendment **WILL NOT IMPEDE** the following LRMP goal(s):

- **Goal 1 Planning and Public Involvement**
- **Goal 2 Governmental Coordination**
- **Goal 3 Prosperity**
- **Goal 8 Natural Resources**
- **Goal 9 Energy Conservation**
- **Goal 10 Cultural Amenities**

H. Overall, the proposed map amendment **WILL HELP ACHIEVE** the Land Resource Management Plan.

2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair* factors because of the following:
 - The amendment will allow the petitioners to continue to provide the existing services they offer but at a less congested location.
 - The subject property is suitable for the existing and proposed businesses.
3. The proposed Zoning Ordinance map amendment **WILL HELP ACHIEVE the purpose of the Zoning Ordinance** because:
 - Establishing the B-4 District at this location will help lessen and avoid congestion in the public streets (Purpose 2.0 (c) see Item 22.C.).
 - Establishing the B-4 District at this location will help classify, regulate, and restrict the location of the uses authorized in the B-4 District (Purpose 2.0 (i) see Item 22.G.).

DOCUMENTS OF RECORD

1. Application for Map Amendment received December 31, 2013, with attachments:
 - A Aerial photograph of subject property received 12/31/13
 - B Warranty Deed
 - C Site Plan
2. Special Use Permit application received December 31, 2013, with attachments:
 - A Aerial photograph of subject property received 12/31/13
 - B Warranty Deed
 - C Site Plan
3. Zoning Case 576-S-07 case file
4. On-Site Evaluation for Septic Filter Field by Roger D. Windholm received February 11, 2014
5. Isometric drawing of proposed building received February 11, 2014
6. Revised Site Plan received February 14, 2014
7. Preliminary Memorandum for Cases 771-AM-13 and 772-S-13 dated April 11, 2014, with attachments:
 - A Case Maps from Case 576-S-07 (Location, Land Use, Zoning)
 - B Pages from Atlantic Services Inc. website (www.atlanticsvcs.com)
 - C Approved Site Plan from Case 576-S-07 (seven sheets total) consisting of the following:
 1. Grading and Utility Sheet received 3/15/07
 2. Specifications and Details received 3/15/07
 3. Hensley Storage Security Notes received 3/09/07
 4. Elevation of typical overhead door received 3/09/07
 5. South bay floor plan received 5/15/07
 6. Revised building elevations received 5/15/07
 7. Gate & Fence detail site plan received 3/09/07
 - D Excerpt of Draft minutes of 5/17/07 ZBA Public Hearing for Case 576-S-07 with As-Approved Finding of Fact, Special Conditions, and Final Determination
 - E Aerial photograph of subject property received 12/31/13
 - F Revised Proposed Site Plan received February 14, 2014 (Reduced to 8½x 11; Board members also received 11 x 17 copy)
 - G Isometric drawing of proposed building received February 11, 2014
 - H On-Site Evaluation for Septic Filter Field by Roger D. Windholm received February 11, 2014
 - I LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
 - J LRMP Land Use Management Areas Map (included separately)

8. Revised Site Plan received May 30, 2014
9. Written Update on Concerns Regarding Zoning Changes received June 25, 2014
10. Supplemental Memorandum for Cases 771-AM-13 and 772-S-13 dated July 24, 2014, with attachments:
 - A Approved ZBA Minutes of 4/17/14 Public Hearings for Cases 771-AM-13 and 772-S-13
 - B Revised Site Plan received May 30, 2014
 - C Written Update on Concerns Regarding Zoning Changes received June 25, 2014
 - D Aerial photograph of subject property, I-57 interchange, and Beaver Lake Drainage Ditch
 - E Champaign County Right to Farm Resolution # 3425
 - F Preliminary Revised Draft Finding of Fact for Case 771-AM-13 dated July 25, 2014
 - G Preliminary Revised Draft Summary of Evidence and Finding of Fact for Case 772-S-13 dated July 25, 2014
11. Supplemental Memorandum for Cases 771-AM-13 and 772-S-13 dated August 8, 2014, with attachments:
 - A Revised Draft Finding of Fact for Case 771-AM-13 dated August 8, 2014
 - B Revised Draft Summary of Evidence and Finding of Fact for Case 772-S-13 dated August 8, 2014

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

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

8/8/14 REVISED DRAFT

772-S-13

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

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

Date: *{date of final determination}*

Petitioners: Randy and Sue Hopkins d.b.a. Atlantic Services, Inc.

Request: Authorize the following as a Special Use in the B-4 General Business Zoning District:
Part A. Authorize multiple principal buildings on the same lot consisting of the following:

- (1) Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 576-S-07; and
- (2) a Landscaping and Maintenance Contractor’s Facility with outdoor storage as proposed in Part B.

Part B. Authorize the construction and use of a Landscaping and Maintenance Contractor Facility with outdoor storage.

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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 17, 2014; July 31, 2014; and August 14, 2014**, the Zoning Board of Appeals of Champaign County finds that:

- *1. The petitioners Randy and Sue Hopkins d.b.a. Atlantic Services, Inc., own the subject property.
- *2. The subject property is an 11.8 acre tract of land in the North Half of the Northwest Quarter of the Northeast Quarter of Section 24 of Hensley Township and commonly known as the plant nursery and self storage warehouse located at 31 East Hensley Road, Champaign and an adjacent tract of farmland.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - (1) The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the City of Champaign but the City is located more than 1½ miles from the subject property.
 - (2) The subject property is located within Hensley Township which has a Planning Commission. Regarding Hensley Township Planning jurisdiction:
 - a. The Township has protest rights on the proposed Map Amendment. A Township protest must be signed and acknowledged by the Township Board and filed with the Champaign County Clerk within 30 days after the close of the public hearing at the Zoning Board of Appeals. In the event of a Township protest, a three-fourths majority of the County Board will be required to grant the Map Amendment request instead of a simple majority.
 - b. No comments have yet been received from Hensley Township.
 - c. In the previous zoning case 576-S-07 on this property Hensley Township provided the following comments in a letter received on March 1, 2007, from Brian Schurter, attorney for Hensley Township, stating that the township was opposed to granting the proposed Special Use Permit because of the following:
 - (a) The subject property is currently served by a township road that has certain weight restrictions. The township anticipates the proposed Special Use would lead to a significant increase in oversized traffic. The township already has difficulty maintaining the street due to the existing level of oversized traffic.
 - (b) There is a property in close proximity to the subject property that accommodates heavy machinery, however, that property is located on a County Highway that is equipped to carry such loads.

*Identical to evidence in related Case 771-AM-13.

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 a 5 acre tract and is currently zoned B-3 Highway Business but is proposed to be rezoned to B-4 General Business in related Case 771-AM-13. The subject property was previously used to operate a plant nursery and a self storage warehouse with heat and utilities as authorized in Case 576-S-07.
 - B. Land on the north, south, east, and west of the subject property is zoned and is in use as follows:
 - (1) Land on the north is zoned AG-1 Agriculture, and is in agricultural production.
 - (2) Land on the south is zoned B-3 Highway Business and is an interchange for Interstate 57.
 - (3) Land west of the subject property is zoned B-3 Highway Business and is used for a tire distribution warehouse for Tire Central stores.
 - (4) Land east of the subject property is zoned B-3 Highway Business and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

- *5. Regarding the site plan and operations of the proposed Special Use:
- A. Site plans were received on December 31, 2013; February 14, 2014; and May 30, 2014. The revised site plan received May 30, 2014, indicates the following existing and proposed improvements:
 - (1) The existing self-storage warehouse and the building used for the previous plant nursery are at the north end of the subject property and as documented in Case 576-S-07 include the following:
 - a. The revised Site Engineering Plans received on March 15, 2007 indicates the following:
 - (a) There are two buildings on the subject property. The 40 feet by 32 feet existing building in the northwest corner of the property is associated with the tree nursery.
 - (b) The proposed self-storage warehouse is located on the east edge of the developed portion of the subject property and is 100 feet by 48 feet.
 - (c) The separation distance between the two buildings is indicated as 64 feet.
 - (d) The area between the buildings has been paved to act as a parking lot and vehicle maneuvering space.

*Identical to evidence in related Case 771-AM-13.

- (e) The developed portion of the subject property is bordered by a fence that is six feet tall and made of decorative aluminum on the north edge of the property line, and is four feet tall and made of chain links on the east and west sides of the development.
 - (f) The two eastern pillars are indicated as being in the right-of-way.
 - (g) What is apparently the entrance gate is not noted and is indicated as being located adjacent to the street right-of-way and approximately 20 feet from the street pavement.
 - (h) There is a large mound of dirt and a berm indicated south of the developed portion of the property. The berm is located almost on top of the property line for the subject property.
 - (i) A wind powered electrical generator is proposed on the west side of the property.
- b. As indicated on excerpts of building drawings received January 10, 2007, the proposed self-storage warehouse will contain seven units. One of the self-storage bays will be 15 feet by 48 feet, and the rest will be 14 feet by 48 feet.
- c. The "Hensley Storage Security Notes" received on March 9, 2007 state the following:
- (a) Access to the site will be controlled by an electronic gate keypad with individual codes allowing only renters and owner into site.
 - (b) Color video surveillance cameras will be in place to record all activity between buildings and gate. Recording will be on a DVR and I hope to access the system from the internet.
 - (c) The site will be lit with 5-27 watt fluorescent lights between the 2 buildings.
 - (d) Inside the storage building units will be 2-13 watt compact fluorescent lights on a timer switch, with 1 hour maximum time, and a 1-15 amp outlet.
 - (e) Site is self-powered with solar and wind generators with battery backup.
 - (f) Renters will not have access to power breakers and in-floor heat controls.
 - (g) No water on site.
 - (h) Owner lives within 1 mile of site and will visit it often. No one will be employed at site.
 - (i) Site will be fenced with 5-foot tall chain link along sides and a 6-foot decorative fence on North side with a 6-foot tall gate.

*Identical to evidence in related Case 771-AM-13.

- (j) Each bay will have an overhead door 12 feet wide by 14 feet tall.
- (k) There will be gutters and downspouts along the east wall.

- (l) Walls are insulated fiberglass with a vapor barrier type of insulations.

- d. The Gate and Fence detailed site plan received on March 9, 2007 indicates the following additional relevant information:
 - (a) Four stone pillars will support a 6-foot tall fence and gate along the Hensley Road right-of-way.
 - (b) A dual swing gate that is 32 feet wide will limit access to the property.
 - (c) A 5-foot tall chain link fence is proposed to extend an unspecified distance south of Hensley Road on each side.
 - (d) A 4-foot tall berm with evergreen windbreak will be constructed along the west property line.

- e. The South bay floor plan and revised building elevations received on May 15, 2007, indicate the following:
 - (a) The southern most bay in the building will be handicapped accessible from a door in the south wall of the building and will have an electric opener on the overhead door.
 - (b) There will be a handicapped reserved parking sign on the overhead door for that bay for the parking space in front of that bay.
 - (c) The door in the south wall of the building will be ADA compliant. There will be a 5 foot by 7 foot concrete pad in front of the door,
 - (d) The electric opener button and light switch will be located on the wall next to the door.
 - (e) This bay will be 16 feet wide but only 40 feet deep because the east 8 feet will be used as a mechanical room where the controls for the heating and electrical systems for the whole building will be located.
 - (f) The mechanical room will have a separate entrance from the south bay that will be located in the south wall. This door will also be ADA compliant and have a concrete pad identical to the one outside the bay entrance door, but will only be openable by the management.

- (2) The existing detention basin is proposed to be relocated to the south.

*Identical to evidence in related Case 771-AM-13.

- (3) A proposed new contractor facility building consisting of a 100' by 150' warehouse portion and an approximately (not dimensioned on the plan) 30' by 40' office portion. The new building is surrounded by a proposed new drive. Parking spaces are indicated east and west of the office portion including one accessible parking space.
 - (4) 11 Parking spaces on the east side of the warehouse portion of the contractor facility building.
 - (5) Outdoor storage consisting of 3 Storage bins located north of the new building and an outside storage area located south of the proposed new building.
 - (6) A fence surrounding the proposed new contractor facility building, parking spaces, and outdoor storage areas.
- B. A written update on Concerns Regarding Zoning Changes received June 25, 2014, stated as follows:
- (1) We expect no more than 1-2 customers at a time with the retail of landscaping materials. We plan to sell mulch, river rock, and other landscaping rock. Most orders will be phoned in and then delivered. Also, we have 8 parking spaces in the front and 1 ADA space which will be for customers only, no employees will park in this area.
 - (2) We will be purchasing 6.8 acres next to our current property. By purchasing this property we are able to relocated our topsoil pile to that location, creating room for our retention pond to be relocated per our plan drawn out by the engineer.
 - (3) The detention basin and water run-off area are on the submitted plans. The overflow will go into the drainage ditch to the South of the property.
 - (4) We will be installing a fence for the entire rear of the property.
 - (5) We do not plan on renting any of the current storage units at this time. These units will be used for our own Atlantic Services, Inc. equipment storage purposes. We have no plans to rent out the units in the future but we would like to keep the special use permit on both properties.
- C. Previous Zoning Use Permits on the subject property are as follows:
- (1) Zoning Use Permit # 112-05-02 approved on 4/22/05 authorized construction of a storage building that was 40 feet by 32 feet in dimension (1,280 square feet in area) to house equipment for a tree farm. A fee was charged but was later refunded because a tree farm is considered to be agriculture.

- (2) Zoning Use Permit # 272-06-02 approved on 10/17/06 authorized construction of a storage building that was 48 feet by 100 feet in dimension (4,800 square feet in area).

*Identical to evidence in related Case 771-AM-13.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for multiple principal uses on one lot and contractors facilities in the B-4 General Business Zoning DISTRICT in the *Zoning Ordinance*:
 - A. Section 4.2.1F.1 requires the following:
 - (1) It shall be unlawful to erect or establish more than on MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT having more than one existing PRINCIPAL STRUCTURE or BUILDING constructed prior to the adoption of this Ordinance in the following zoning DISTRICTS except as provided in Section 4.2.1D unless a SPECIAL USE permit has been obtained from the BOARD:
 - R-4, Multiple Family Residence
 - B-1, Rural Trade Center
 - B-2, Neighborhood Business
 - B-3, Highway Business
 - B-4, General Business
 - B-5, Central Business
 - I-1, Light Industrial
 - I-2, Heavy Industrial
 - B. Section 4.2.1F.2. requires the following:
 - (1) Such SPECIAL USE permit shall be issued only if the following criteria have been met:
 - a. The requirements of Section 9.1.11, SPECIAL USES, shall be met.
 - b. The USES are permitted either by right or as a SPECIAL USE in the DISTRICT in which the LOT or parcel of land is located.
 - c. The regulations and standards for the DISTRICT in which the LOT is located shall be met.
 - d. A LOT may be occupied by two or more MAIN or PRINCIPAL STRUCTURES or BUILDINGS as authorized by a SPECIAL USE under this section, when adequate OPEN SPACE is provided between all STRUCTURES or BUILDINGS in accordance with the following standards:
 - i. For STRUCTURES in the Business or Industrial DISTRICTS the required minimum depth of OPEN SPACE shall be determined by doubling the required SIDE YARD in the DISTRICT in which the LOT or parcel of land is located.

- (8) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
 - (9) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
 - (10) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (11) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
 - (12) "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.
 - (13) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
 - (14) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
 - (15) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.
- E. 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 except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:

- a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
- (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- F. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - a. that the waiver is in accordance with the general purpose and intent of the ordinance; and
 - b. that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - a. Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.

- b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- G. 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, **“Location close to interstate to better serve clients ie public”**
 - B. The following evidence is from the previous zoning case on the subject property, Case 576-S-07 (‡ indicates same lettering as in Case 576-S-07):
 - ‡C. The subject property is located adjacent to an interchange with Interstate 57, and approximately 720 feet off of County Highway 20.
 - ‡D. The subject property has room to allow these uses to be established with more than the required open space between them.
 - ‡E. Part A is a request for a seven unit self-storage warehouse which is such a small number of storage units it is assumed there is a demand.
 - *C. Regarding whether the proposed use is better provided in a rural area:
 - (1) The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination much be made in each zoning case.
 - (2) The B-4 District is intended to accommodate a range of commercial uses and is intended for application only adjacent to the urbanized areas of the County.
 - (3) The existing Special Use Permit has existed since 5/17/07.
 - (4) The existing Self-Storage Warehouse is a USE that has been deemed appropriate for the rural area provided that a Special Use Permit is authorized.

- (5) The proposed contractor facility could be authorized in the AG-1 District if a Special Use Permit is granted.
- (6) The petitioner testified at the public hearing on 4/17/14 regarding proposed retail sales as follows:
 - a. He would like to sell landscape supplies including mulch, rock, pavers, etc. to customers who come to the facility.
 - b. He does not believe there will be a high volume of retail sales.
 - c. He anticipates only about 5 to 10 retail customers per week and no retail customers during the winter months.
- (7) In a written update on Concerns Regarding Zoning Changes received June 25, 2014, the petitioner stated the following regarding retail sales:
 - a. We expect no more than 1-2 customers at a time with the retail of landscaping materials. We plan to sell mulch, river rock, and other landscaping rock. Most orders will be phoned in and then delivered. Also, we have 8 parking spaces in the front and 1 ADA space which will be for customers only, no employees will park in this area.

*Identical to evidence in related Case 771-AM-13.

- D. The evidence in related Case 771-AM-13 established that the proposed Special Use IS a service better provided in a rural area than in an urban area.

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, **“location is next to a tire wholesaler, no dwelling within ½ mile. Property will be clean, well maintained, and professional. Would like to sell some landscaping materials/ mulch, river rock, etc. from property. Equipment will be stored in proposed building”**
 - B. The petitioner did not discuss retail sales with Department staff. Retail sales of materials are not specifically authorized at contractor facilities and if it occurs it must be insignificant in terms of both traffic and dollar volume.
 - C. There was no Section 22 Natural Resource Report for the subject property during the public hearing for Case 576-S-07 because the property already had business zoning and there is none at this time. The subject property is best prime farmland consisting of Drummer silty clay loam (relative LE of 100 in the Champaign County LESA System) and Elburn silt loam (relative LE of 100 in the Champaign County LESA System).

- D. Regarding surface drainage, the following evidence is from the previous zoning case on the subject property, Case 576-S-07 (‡ indicates same lettering as in Case 576-S-07):
- ‡(1) There is a berm on the west property line that could be a *de facto* violation of the Illinois drainage law. The berm is close to being on top of the property line and could block drainage for the neighboring property.
 - ‡(2) There is a detention pond on the subject property that the Petitioner intends to use for irrigation.
 - ‡(3) Drainage from the rest of the subject property travels south overland and eventually below I-57.
 - (4) The subject property borders Interstate 57 and apparently drains to a ditch along Interstate 57.
- E. Regarding traffic, the following evidence is from the previous zoning case on the subject property, Case 576-S-07 (‡ indicates same lettering as in Case 576-S-07):
- ‡D. The subject property fronts the south side of CR 2100N. Regarding the general traffic conditions on CR 2100N at this location and the level of existing traffic and the likely increase from the proposed Special Use:
 - ‡(1) 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 Average Daily Traffic (ADT). The most recent ADT data is from 2001 in the vicinity of the subject property. There is no ADT given on 2100N, but County Highway 10 has an ADT of 1000 near the subject property.
 - ‡(2) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
 - ‡(a) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - ‡(b) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - ‡(c) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.

- ‡(3) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. Local roads with greater ADT have progressively greater required minimum shoulder widths.
- ‡(4) The pavement surface of CR 2100N in the vicinity of the subject property is oil and chip. The pavement width (measured by staff) is 18 feet which would equate to a maximum recommended traffic volume of no more than 250 ADT.
- ‡(5) The Township Highway Commissioner has been notified of this case, but no comments have been received yet.
- ‡(6) In a letter from Brian T. Schurter, Hensley Township attorney, received on March 1, 2007 it was indicated that the township was opposed to the proposed Special Use because of the following:
 - ‡(a) The subject property is currently served by a township road that has certain weight restrictions.
 - ‡(b) The township anticipates that the proposed Special Use would result in a significant increase in oversized traffic.
 - ‡(c) The township already has difficulties maintaining these roads due to heavily weighted traffic that uses the road.
 - ‡(d) The proposed Special Use would only increase that burden without providing a corresponding benefit.
 - ‡(e) There is a property in close proximity to the subject property that accommodates heavy equipment however that property is located on a section of state highway that is equipped to carry such loads.
- ‡(7) At this time staff has not tried to estimate the increase in traffic that would result from the proposed Special Use, but the increase should be small.
- ‡(8) Dave Atchley, engineer for the Petitioner, testified at the March 1, 2007 ZBA meeting that he would estimate that the traffic impact would be one trip per week per unit.
- ‡(9) As appears to be indicated on the Site Engineering Plans received on March 15, 2007, the dual swing gate appears to be only 20 feet from the pavement of CR 2100N. This distance is less than that required to allow a vehicle pulling a trailer to pull completely off the pavement of the CR 2100N.

- G. Regarding fire protection on the subject property, the subject property is located within the Thomasboro Fire Protection District. The FPD Chief has been notified of this case but no comments have been received. No comments were received from the Thomasboro FPD in Case 576-S-07.
- H. No part of the subject property is located within the mapped floodplain.
- I. Regarding outdoor lighting on the subject property, the following evidence is from the previous zoning case on the subject property, Case 576-S-07 (§ indicates same lettering as in Case 576-S-07):
- ‡ (1) The only outdoor lighting shown on the revised Site Engineering Plans received March 15, 2007 is four proposed light poles outside the self-storage warehouse.
 - ‡(2) The Hensley Storage Security Notes received on March 9, 2007 indicate that the outdoor lights will be mounted on the self-storage warehouse.
 - ‡(3) There is no indication of whether the lights are full, partial, or no cutoff.
 - ‡(4) Tom Courson, the Petitioner, testified at the May 17, 2007 ZBA meeting that there would be one light fixture on the south side of the self-storage warehouse.
- J. Regarding wastewater treatment and disposal on the subject property:
- (1) There were no employees proposed to be onsite in Case 576-S-07 and there was no onsite wastewater treatment and disposal system proposed.
 - (2) A report titled *On-Site Evaluation for Septic Filter Field* by Roger D. Windhorn was received on February 11, 2014, indicates that a septic system can probably be installed on the property.
 - (3) A special condition has been proposed regarding the septic system.
- 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.
 - g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

- (2) Illinois Public Act 96-704 requires that in a non-building code jurisdiction no person shall occupy a newly constructed commercial building until a qualified individual certifies that the building meets compliance with the building codes adopted by the Board for non-building code jurisdictions based on the following:
 - a. The 2006 or later editions of the following codes developed by the International Code Council:
 - i. International Building Code;
 - ii. International Existing Building Code; and
 - iii. International Property Maintenance Code
 - b. The 2008 of later edition of the National Electrical Code NFPA 70.
 - c. A special condition has been proposed to ensure compliance.
- L. Generally regarding security measures at the proposed self-storage warehouses:
 - (1) In the previous Zoning Case 576-S-07 the ZBA had imposed a condition requiring videotaping of outside activities but no special condition for security is imposed in this Zoning Case 772-S-13.
 - (2) Also in the previous Zoning Case 576-S-07 the ZBA had required that even though access should be restricted for security purposes no vehicle or trailer should sit or stand on CR2100N while the gate is being unlocked or opened. A similar condition is imposed in this Zoning Case 772-S-13 but it does not require that access be restricted.
- *M. Generally regarding interference with agricultural operations:
 - (1) The existing Special Use Permit has existed since 5/17/07.
 - (2) The existing Self-Storage Warehouse is a USE that has been deemed appropriate for the rural area provided that a Special Use Permit is authorized.
 - (3) The proposed contractor facility could be authorized in the AG-1 District if a Special Use Permit is granted.
 - (4) The traffic produced by the proposed use will be an increase in traffic but there is no Traffic Impact Assessment.

*Identical to evidence in related Case 771-AM-13

- N. The Special Use **WILL** be compatible with adjacent uses because the evidence in related Case 771-AM-13 established that the proposed Special Use **WILL NOT** interfere with agricultural operations and the subject site **IS** suitable for the proposed Special Use.

- 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: **“Yes, see Case 771-AM-13”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) More than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT is authorized as a Special Use in the R-4, B-1, B-2, B-3, B-4, B-5, I-1, and I-2 Zoning Districts.
 - (2) Self-storage Warehouses, providing heat and utilities to individual units are authorized as a Special Use in the B-1, B-3, and B-5 Zoning DISTRICTS and by right in the B-4 DISTRICT.
 - (3) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, I-1, and I-2 Zoning DISTRICTS and by right in the B-4 DISTRICT provided that all Outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN.

The subject property has no rear yard because it fronts onto CR2100N (East Hensley Road) on the north and Interstate 57 on the south and therefore on this property a Contractor Facility with any outdoor STORAGE will require a Special Use Permit.
 - (4) Regarding compliance with Subsection 4.2.1F.2.:
 - a. The minimum required depth of the OPEN SPACE between the various uses on the subject property is 20 feet, and while the open space is not dimensioned on the site plan it appears to be about 85 feet.
 - (5) All existing and proposed structures meet setback and front, side and rear yard requirements.

- (6) Regarding parking on the subject property:
 - a. Paragraph 7.4.1 C.1.e. requires ESTABLISHMENTS other than specified above: one such PARKING SPACE for every 200 square feet of floor area or portion thereof.
 - b. Paragraph 7.4.1D.1. requires for industrial uses that one space shall be provided for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.
 - c. Regarding the number of required parking spaces for business vehicles and equipment and employees:
 - (a) On the application the petitioner states that business equipment (and presumably business vehicles) will be stored inside the proposed contractor facility building.
 - (b) The number of employees is unknown but the revised site plan received May 30, 2014, indicates 11 parking spaces located east of the proposed contract facility building and these spaces are presumably for employees.
- (7) Regarding loading berths on the subject property, paragraph 7.4.2 C.5. requires two loading berths of minimum 10' × 40' dimensions for commercial and industrial establishments of 10,000 to 24,999 square feet of floor area. There is adequate area to accommodate these loading berths as the site is developed.
- (8) Regarding screening of outdoor storage for Contractors Facilities:
 - a. OUTDOOR STORAGE as an ACCESSORY USE is allowed by right when all OUTDOOR STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN meeting the provisions of Section 7.6.3.
 - b. A Type D SCREEN is a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.
 - c. A Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for OUTDOOR STORAGE and/or OUTDOOR OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
 - i. Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL;

church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or

- ii. Any designated urban arterial street or MAJOR STREET. Interstate 57 is a MAJOR STREET.
- d. The Revised Site Plan received May 30, 2014, indicates outdoor STORAGE in the following locations:
 - (a) Outdoor storage bins are proposed north of the proposed contractor facility building. If the bins have walls eight feet tall the walls will act as a Type D Screen.
 - (b) An outside storage area is indicated south of the proposed contractor facility building. The outside storage area is surrounded by proposed fencing but no information is provided as to the height or style of fencing.
 - (c) The stockpile of earth on the property is considered outdoor STORAGE and may be relocated to the eastern parcel although “topsoil berms” are indicated northeast and southwest of the proposed contractor facility building. The stockpile of soil also requires a Type D screen.
- (9) Regarding other use of the east 6.8 acre parcel and the required zoning approvals:
 - a. The only use authorized in this Zoning Case 772-S-13 on the east 6.8 acre parcel is a stockpile of soil that is an accessory use to the Contractor Facility.
 - b. As long as there are no buildings and/or structures on the east parcel that are used for any use on the west parcel, a totally different principal use could be established by right on the east parcel and with buildings and/ or structures without requiring a Special Use Permit for multiple principal buildings and/or structures.
- C. Regarding compliance with the *Stormwater Management Policy*:
 - (1) The petitioner must comply with the *Stormwater Management Policy* because the amount of impervious area exceeds the minimum threshold.
 - (2) Before a Zoning Use Permit Application can be approved the petitioner must submit a stormwater management plan that is in compliance with the *Stormwater Management Policy*. A special condition has been proposed to ensure compliance.
- D. Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.

- E. Regarding the Subdivision Regulations, the subject property is located in the Champaign County subdivision jurisdiction and the subject property is in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the B-4 General Business Zoning DISTRICT:
- (1) More than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT is authorized as a Special Use in the R-4, B-1, B-2, B-3, B-4, B-5, I-1, and I-2 Zoning Districts.
 - (2) Self-storage Warehouses, providing heat and utilities to individual units are authorized as a Special Use in the B-1, B-3, and B-5 Zoning DISTRICTS.
 - (3) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-4, Zoning DISTRICT provided that all Outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN.
 - (4) The proposed use will not hinder agricultural production on adjacent properties.
 - (5) The visual character of the subject property will change due to the size of the proposed contract facility building but it will be in harmony with other existing non-agricultural uses in the immediate vicinity.
 - (6) The proposed Special Use seems unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.
 - (7) There will be no significant drainage impacts because the proposed Special Use will comply with the *Stormwater Management Policy*.
 - (8) There will be no significant impact on public health and safety because the proposed buildings will comply with the International Building Code as required by Public Act 96-704 and the septic system will be approved by the County Health Department.
- G. Currently, the subject property is zoned B-3 Highway Business and the Petitioners have requested to rezone the property to B-4 General Business Zoning District in related Case 771-AM-13. Regarding whether or not the proposed Special Use will preserve the essential Character of the surrounding B-3 District:
- (1) As reviewed in Case 771-AM-13 the types of uses authorized by right in the B-3 DISTRICT are different from the by-right uses in the B-4 DISTRICT. Any proposed Special Use on the subject property should be evaluated for compatibility with the adjacent B-3 uses.

- (2) Compatibility of the proposed Special Use with surrounding agriculture is evaluated in related Case 771-AM-13 under review of Land Resource Management Plan Objective 4.2 regarding interference with agricultural operations and the Zoning Board of Appeals found the proposed Special Use **WILL NOT** interfere with agricultural operations.
 - (3) The proposed Special Use will have no significant impact on traffic, drainage, public health or safety, or visual character of the surrounding B-3 District.
 - (4) The subject property is located on East Hensley Road (CR2100N) and immediately adjacent to I-57. Land use and zoning in the immediate neighborhood area of the subject property are as follows:
 - a. Land on the north is zoned AG-1 Agriculture, and is in agricultural production.
 - b. Land on the south is zoned B-3 Highway Business and is an interchange for Interstate 57.
 - c. Land west of the subject property is zoned B-3 Highway Business and is used for a tire distribution warehouse for Tire Central stores.
 - d. Land east of the subject property is zoned B-3 Highway Business and is in agricultural production.
- H. 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. More than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT is authorized as a Special Use in the R-4, B-1, B-2, B-3, B-4, B-5, I-1, and I-2 Zoning Districts.
 - (1) Self-storage Warehouses, providing heat and utilities to individual units are authorized as a Special Use in the B-1, B-3, and B-5 Zoning DISTRICTS and by right in the B-4 DISTRICT.
 - (2) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, I-1, and I-2 Zoning DISTRICTS and by right in the B-4 DISTRICT provided that all Outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN. Contractors Facilities

with Outdoor STORAGE and/or Outdoor OPERATIONS are also authorized by Special Use Permit in the AG-1 and AG-2 Zoning Districts and in the B-4 DISTRICT if all Outdoor STORAGE is not located in the REAR YARD.

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

- (1) The subject property is currently zoned B-3 Highway Business and the Petitioners have requested to rezone the property to B-4 General Business Zoning District in related Case 771-AM-13. The current B-3 Zoning District does not allow Contractor Facilities but the proposed B-4 Zoning District does allow Contractor Facilities. Contractor Facilities are also authorized in the AG-1, AG-2, and B-1 Zoning Districts.
- (2) Subsection 5.1.14 of the Ordinance states the general intent of the B-4 District and states as follows (capitalized words are defined in the Ordinance):

The B-4, General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.

- (3) The types of uses authorized in the B-4 District are in fact the types of uses that have been determined to be acceptable in the B-4 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.

E. 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.

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.

- (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:

The requested Special Use Permit should not decrease the value of nearby properties.

- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

The proposed Special Use seems unlikely to create any significant traffic impacts but no Traffic Impact Assessment has been made.

- (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.

The proposed construction on the subject property will trigger the need for stormwater management. The petitioner will need to submit a complete stormwater management plan that is in compliance with the *Stormwater Management Policy* before a Zoning Use Permit can be issued from the proposed construction.

- (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 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 any problematic 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.

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with those requirements.

- (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. The property has had business zoning for a long time.
 - b. The proposed use will not take any land out of production that is in the AG-1, AG-2, or CR Zoning Districts.

- (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.

- (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 proposed use will not require the development of public utilities or transportation facilities.

- (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.
- a. The property has had business zoning for a long time.
 - b. The proposed use will take any land out of production.

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

The proposed use will not hinder the development of renewable energy sources.

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: N/A
 - B. The existing use on the property is not a nonconforming use.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. The following special conditions were imposed in Case 576-S-07 but are not imposed in this Case 772-S-13:
- (1) Access to the subject property should be controlled but may be problematic for large vehicles or vehicles pulling trailers if it is restricted by a driveway gate. The following conditions make it clear that access should be restricted but should not create a traffic hazard on CR 2100N:
 - a. **Access to the subject property should be restricted for security but no vehicles or trailers should sit or stand on CR 2100N while the gate is being unlocked and opened.**
 - b. **Access may be restricted by keypad access operable by customers only if the gate is relocated to provide a minimum 35 foot queuing space between the gate and CR 2100N or access may be restricted by a remote operable gate for which each customer would be given a remote control .**

The above conditions are required to ensure the following:

Access by customers should not create a traffic safety problem on CR2100N while waiting for the gate to be opened.

- (2) Security is a particular concern at a rural self-storage warehouse with heat and utilities provided to individual units. The following condition should provide adequate security:

Activities outside the self-storage units shall be recorded by video surveillance as described in the Hensley Storage Security Notes submitted by the petitioner.

This condition is required to ensure the following:

Outside activities are monitored to help ensure public safety.

13. 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. The following special conditions were imposed in Case 576-S-07 and are retained as special conditions in this Case 772-S-13:

(1) Heat and utilities provided to the individual self-storage units should be limited so that improper use cannot be made of those services. The following conditions will ensure that heat and utilities are provided as necessary but not to the extent that the services can be used for improper or illegal activities:

- a. **Heating in the individual storage units shall not be controllable by the individual storage unit renters and shall be controlled by the management as described in the Hensley Storage Security Notes submitted by the petitioner.**
- b. **No plumbing shall be provided within the individual self-storage units nor within the immediate vicinity of the self-storage units as described in the Hensley Storage Security Notes submitted by the petitioner.**
- c. **Electrical power within the individual self-storage units shall be limited to one 15 amp outlet as described in the Hensley Storage Security Notes submitted by the petitioner.**

The above conditions are required to ensure the following:

Heat and utilities are provided as necessary but not to the extent that the services can be used for improper or illegal activities.

- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed self-storage warehouses contractor facility building 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:

New buildings shall be in conformance with Public Act 96-704.

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance .

- E. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed ~~self-storage warehouses~~ contractor facility building until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

- F. **The only two principal uses authorized on the west 5 acres by Case 772-S-13 are a Contractors Facility with outdoor storage and/or outdoor operations and self-storage warehouses providing heat and utilities to individual units and the east 6.8 acres is authorized for outdoor storage of an earth stockpile and a principal building for a separate use may be established on the east 6.8 acres, in conformance with the Zoning Ordinance requirements.**

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

That the petitioner and future landowners understand the requirements of the Zoning Ordinance.

- G. The County Health Department recommends that the area for the subsurface septic system be identified, marked off and protected from compaction prior to construction. The following condition will ensure that the recommendations of the County Health Department are a requirement for a Zoning Use Permit:
- (1) **The Zoning Administrator shall not accept a Zoning Use Permit Application for the proposed contractor facility building unless there is a copy of an approved septic system permit by the Champaign County Health Department.**

- (2) **The area proposed for the septic system shall be identified, marked off, and protected from compaction prior to any construction on the subject property and the site plan shall include notes to that effect.**
- (3) **The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the approval of the as-built septic system by the Champaign County Health Department.**

To ensure that:

The septic system meets the requirements of the Champaign County Health Ordinance.

- H. **If access to the subject property is restricted there should be no vehicles or trailers required to sit or stand on CR 2100N while access is provided (ie, a gate is unlocked and opened).**

The above condition is required to ensure the following:

Restricting access by customers should not create a traffic safety problem on CR2100N.

DOCUMENTS OF RECORD

1. Application for Map Amendment received December 31, 2013, with attachments:
 - A Aerial photograph of subject property received 12/31/13
 - B Warranty Deed
 - C Site Plan

2. Special Use Permit application received December 31, 2013, with attachments:
 - A Aerial photograph of subject property received 12/31/13
 - B Warranty Deed
 - C Site Plan

3. Zoning Case 576-S-07 case file

4. On-Site Evaluation for Septic Filter Field by Roger D. Windhorn received February 11, 2014

5. Isometric drawing of proposed building received February 11, 2014

6. Revised Site Plan received February 14, 2014

7. Preliminary Memorandum for Cases 771-AM-13 and 772-S-13 dated April 11, 2014, with attachments:
 - A Case Maps from Case 576-S-07 (Location, Land Use, Zoning)
 - B Pages from Atlantic Services Inc. website (www.atlanticsvcs.com)
 - C Approved Site Plan from Case 576-S-07 (seven sheets total) consisting of the following:
 1. Grading and Utility Sheet received 3/15/07
 2. Specifications and Details received 3/15/07
 3. Hensley Storage Security Notes received 3/09/07
 4. Elevation of typical overhead door received 3/09/07
 5. South bay floor plan received 5/15/07
 6. Revised building elevations received 5/15/07
 7. Gate & Fence detail site plan received 3/09/07
 - D Excerpt of Draft minutes of 5/17/07 ZBA Public Hearing for Case 576-S-07 with As-Approved Finding of Fact, Special Conditions, and Final Determination
 - E Aerial photograph of subject property received 12/31/13
 - F Revised Proposed Site Plan received February 14, 2014 (Reduced to 8½x 11; Board members also received 11 x 17 copy)
 - G Isometric drawing of proposed building received February 11, 2014
 - H On-Site Evaluation for Septic Filter Field by Roger D. Windhorn received February 11, 2014
 - I LRMP Land Use Goals, Objectives, and Policies & Appendix (included separately)
 - J LRMP Land Use Management Areas Map (included separately)
Preliminary Draft Finding of Fact for Case 771-AM-13 (included with memo but not listed as an attachment)

Preliminary Draft Summary of Evidence and Finding of Fact for Case 772-S-13 (included with memo but not listed as an attachment)

8. Revised Site Plan received May 30, 2014
9. Written Update on Concerns Regarding Zoning Changes received June 25, 2014
10. Supplemental Memorandum for Cases 771-AM-13 and 772-S-13 dated July 24, 2014, with attachments:
 - A Approved ZBA Minutes of 4/17/14 Public Hearings for Cases 771-AM-13 and 772-S-13
 - B Revised Site Plan received May 30, 2014
 - C Written Update on Concerns Regarding Zoning Changes received June 25, 2014
 - D Aerial photograph of subject property, I-57 interchange, and Beaver Lake Drainage Ditch
 - E Champaign County Right to Farm Resolution # 3425
 - F Preliminary Revised Draft Finding of Fact for Case 771-AM-13 dated July 25, 2014
 - G Preliminary Revised Draft Summary of Evidence and Finding of Fact for Case 772-S-13 dated July 25, 2014
11. Supplemental Memorandum for Cases 771-AM-13 and 772-S-13 dated August 8, 2014, with attachments:
 - A Revised Draft Finding of Fact for Case 771-AM-13 dated August 8, 2014
 - B Revised Draft Summary of Evidence and Finding of Fact for Case 772-S-13 dated August 8, 2014

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 772-S-13 held on April 17, 2014; July 31, 2014; and August 14, 2014, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit **IS** necessary for the public convenience at this location because **it is an expansion and reutilization of an existing facility as opposed to creating a new facility.**
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 because:
 - a. The street has **ADEQUATE** traffic capacity and the entrance location has **ADEQUATE** visibility.
 - b. Emergency services availability is **ADEQUATE**.
 - c. The Special Use **WILL** be compatible with adjacent uses.
 - d. Surface and subsurface drainage will be **ADEQUATE**.
 - e. Public safety will be **ADEQUATE**.
 - f. The provisions for parking will be **ADEQUATE**.
 - g. The property is **BEST PRIME FARMLAND** and the property with the proposed improvements **IS WELL SUITED OVERALL**.
 - h. The existing public services **ARE** available to support the proposed special use effectively and safely without undue public expense.
 - i. The only existing public infrastructure together with proposed improvements **ARE** adequate to support the proposed development effectively and safely without undue public expense.
- 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.
- 3b. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN DOES** preserve the essential character of the **DISTRICT** in which it is located because:
 - a. The Special Use will be designed to **CONFORM** to all relevant County ordinances and codes.

- b. The Special Use **WILL** be compatible with adjacent uses.
 - c. Public safety will be **ADEQUATE**.
4. The requested Special Use Permit **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN IS** 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** 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 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** preserve the essential character of the **DISTRICT** in which it is located.
5. The requested Special Use **IS NOT** an existing nonconforming use.
6. **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. **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. The following special conditions were imposed in Case 576-S-07 and are retained as special conditions in this Case 772-S-13:
 - (1) Heat and utilities provided to the individual self-storage units should be limited so that improper use cannot be made of those services. The following conditions will ensure that heat and utilities are provided as necessary but not to the extent that the services can be used for improper or illegal activities:
 - a. **Heating in the individual storage units shall not be controllable by the individual storage unit renters and shall be controlled by the management as described in the Hensley Storage Security Notes submitted by the petitioner.**

- b. **No plumbing shall be provided within the individual self-storage units nor within the immediate vicinity of the self-storage units as described in the Hensley Storage Security Notes submitted by the petitioner.**
- c. **Electrical power within the individual self-storage units shall be limited to one 15 amp outlet as described in the Hensley Storage Security Notes submitted by the petitioner.**

The above conditions are required to ensure the following:

Heat and utilities are provided as necessary but not to the extent that the services can be used for improper or illegal activities.

- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed ~~self-storage-warehouses~~ contractor facility building 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:

New buildings shall be in conformance with Public Act 96-704.

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That any proposed exterior lighting is in compliance with the Zoning Ordinance .

- E. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed ~~self-storage-warehouses~~ contractor facility building until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

That the proposed Special Use meets applicable state requirements for accessibility.

- F. **The only two principal uses authorized on the west 5 acres by Case 772-S-13 are a Contractors Facility with outdoor storage and/or outdoor operations and self-storage warehouses providing heat and utilities to individual units and the east 6.8 acres is authorized for outdoor storage of an earth stockpile and a principal building for a**

separate use may be established on the east 6.8 acres, in conformance with the Zoning Ordinance requirements.

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

That the petitioner and future landowners understand the requirements of the Zoning Ordinance.

- G. The County Health Department recommends that the area for the subsurface septic system be identified, marked off and protected from compaction prior to construction. The following condition will ensure that the recommendations of the County Health Department are a requirement for a Zoning Use Permit:
- (1) **The Zoning Administrator shall not accept a Zoning Use Permit Application for the proposed contractor facility building unless there is a copy of an approved septic system permit by the Champaign County Health Department.**
 - (2) **The area proposed for the septic system shall be identified, marked off, and protected from compaction prior to any construction on the subject property and the site plan shall include notes to that effect.**
 - (3) **The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of the approval of the as-built septic system by the Champaign County Health Department.**

To ensure that:

The septic system meets the requirements of the Champaign County Health Ordinance.

- H. **If access to the subject property is restricted there should be no vehicles or trailers required to sit or stand on CR 2100N while access is provided (ie, a gate is unlocked and opened).**

The above condition is required to ensure the following:

Restricting access by customers should not create a traffic safety problem on CR2100N.

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 **772-S-13** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED }* to the applicants **Randy and Sue Hopkins d.b.a. Atlantic Services, Inc.**, to authorize **the following as a Special Use in the B-4 District:**

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

- (1) Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 576-S-07; and
- (2) a Landscaping and Maintenance Contractor's Facility with outdoor storage as proposed in Part B.

Part B. Authorize the construction and use of a Landscaping and Maintenance Contractor Facility with outdoor storage.

{ 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. 778-S-14
SUPPLEMENTAL MEMORANDUM

August 7, 2014

Champaign County
Department of

**PLANNING &
ZONING**

Petitioner: Charles and Mary Ellen Stites,
d.b.a. River Bend Wild Game and Sausage Co.

Request: Authorize the following as a Special Use in the CR Conservation Recreation District on the subject property below:

Authorize continued use of a Major Rural Specialty Business in the CR District on the following property as previously approved for a limited time in Special Use Permit 610-S-08 on the following property:

Location: A 5.0 acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1 T.18 N. R 10 E. of Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph.

Site Area: 5 acres

Time Schedule for Development: Existing and As Soon As Approval Is Given

Prepared by: **Susan Chavarria**
Associate Planner

John Hall
Zoning Administrator

STATUS

This case was continued from the June 26, 2014, public hearing and an excerpt of those Approved Minutes is included separately.

Staff has documented that the exterior lights on the new storage building are full-cutoff light fixtures. See the discussion below.

The Board had requested two additional special conditions related to operation of the air treatment system used to minimize odors and new special conditions are proposed below.

EXTERIOR LIGHTS ON THE NEW BUILDING

Photos were taken of the exterior lights installed on the large storage shed and business building. Attachment A includes photos of the exterior light fixtures. Staff checked with Tepper Electric Company, the source of the lights, and found that the lights were manufactured by RAB Lighting and are Model ## WPLED26, which is a full-cutoff light fixture. See the attached product data sheet.

RAB Lighting does make a "swivel mount" (see attached product data sheet) that if available, would provide for adjustment of the angle of the light fixture that could perhaps provide adequate lighting for the petitioner's property with less light trespass onto the neighboring property.

ADDITIONAL PROPOSED SPECIAL CONDITIONS

Two new special conditions were requested at the June 26, 2014 ZBA meeting. The Summary of Evidence and Final Determination can be amended to include the following Special Conditions:

- N. Regarding required maintenance on the Enviro-Pak “Enviro-Kleen” Air Treatment System:**
- (1) The Petitioner shall follow the manufacturer’s recommended maintenance for the Enviro-Pak “Enviro-Kleen” Air Treatment System; and**
 - (2) The Petitioner shall keep a written log of all maintenance performed on the Enviro-Pak “Enviro-Kleen” Air Treatment System; and**
 - (3) The Petitioner shall provide a copy of the maintenance log for inspection by the Zoning Administrator when necessary to respond to complaints.**

The above special condition is required to ensure the following:

To ensure that odors caused by the smoking are kept at the minimum acceptable level of odor control.

- O. At the beginning of each hunting season the Petitioner shall provide an opportunity for the Zoning Administrator to visit the property while smoking is being done so that the Zoning Administrator may verify that the Enviro-Pak “Enviro-Kleen” Air Treatment System is in operation and so that the Zoning Administrator may experience the smoking odor.**

The above special condition is required to ensure the following:

To ensure that the Zoning Administrator is familiar with the actual odors that are emitted during the operation of the smoker and the Air Treatment System.

ATTACHMENTS

- A Excerpt of Approved Minutes for Case 778-S-14 from the June 26, 2014, public hearing (included separately)**
- B Photos of exterior lights taken August 7, 2014**
- C RAB Lighting Product Data Sheet for Model # WPLED26**
- D RAB Lighting Accessory Product Data for Model # SWIVEL30**
- E Special Conditions A through M listed in Summary of Evidence for June 26, 2014 ZBA meeting**

778-S-14 Stites Images: Lighting



Exterior lighting on Storage building



Exterior lighting on Storage building

778-S-14 Stites Images: Lighting



Exterior lighting on Business building



Exterior lighting on Business building

Attachment C
AUGUST 7, 2014

Document: 06/07/2014

WPLED26

LED 26W Wallpack. Patent Pending thermal management system.
100,000 hour L70 lifespan. 5 Year Warranty.

Color: Froze

Weight: 7.5 lbs



LED Info

Watts: 26W
Color Temp: 5000K (Cool)
Color Accuracy: ≥ 90
LM79 Lifespan: 100000
LM79 Lumens: 2867
Efficacy: 90 LPW

Driver Info

Type	Constant Current
120V	0.26A
208V	0.16A
240V	0.14A
277V	0.12A
Input Watts:	30W
Efficiency:	98%

Technical Specifications

UL Listing:

Suitable for wet locations. Suitable for mounting within 1.2m (4ft) of the ground.

Lifespan:

100,000-hour LED lifespan based on IES LM-80 results and TM-21 calculations.

IP Rating:

Ingress Protection rating of IP66 for dust and water.

Finish:

Our environmentally friendly polyester powder coatings are formulated for high-durability and long-lasting color, and contains no VOC or toxic heavy metals.

Color Consistency:

7-step MacAdam Ellipse binning to achieve consistent fixture-to-fixture color.

Color Stability:

LED color temperature is warranted to shift no more than 200K in CCT over a 5 year period.

Color Uniformity:

RAB's range of CCT (Correlated color temperature) follows the guidelines of the American National Standard for Specifications for the Chromaticity of Solid State Lighting (SSL) Products, ANSI C78.377-2008.

Ambient Temperature:

Suitable for use in 40°C ambient temperatures.

Driver:

Multi-chip 26W high output long life LED Driver
Constant Current, 720mA, Class 2, 6kV Surge Protection, 100V-277V, 50-60 Hz, 100-240V, 4 Amps.

THD:

7.5% at 120V, 11% at 277V

Cold Weather Starting:

The minimum starting temperature is -40°C

Thermal Management:

Cast aluminum Thermal Management system for optimal heat sinking. The LPACK is designed for cool operation, most efficient output and maximum LED life by minimizing LED junction temperature.

California Title 24:

See WPLED26/PC for a 2013 California Title 24 compliant model.

Equivalency:

The WPLED26 is Equivalent in delivered lumens to a 175W Metal Halide Wallpack.

HID Replacement Range:

The WPLED26 can be used to replace 150 - 200W Metal Halide Wallpacks based on delivered lumens.

Green Technology:

RAB LEDs are Mercury, Arsenic and UV free.

Patents:

The WPLED design is protected by U.S. Pat. D634H7A, Canada Pat 134878, China Pat. CN301649064S.

For use on LEED Buildings:

IDA Dark Sky Approval means that this fixture can be used to achieve LEED Credits for Light Pollution Reduction.

Dark Sky Approved:

The International Dark Sky Association has approved this product as a full cutoff, fully shielded luminaire.

RAB
LIGHTING

Tech Help Line: 888.940.1000
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Email: sales@rabweb.com
New! Special rates on bulk orders - contact us today!

On the web at: www.rabweb.com

Attachment C
AUGUST 7, 2014

WPLED28 - continued

Contract 71070314

Country of Origin:
Designed by RAB in New Jersey and assembled in Taiwan.

Trade Agreements Act Compliant:
This product is a product of Taiwan and a "designated country" and product that complies with the Trade Agreements Act.

GSA Schedule:
Suitable in accordance with FAR Subpart 25.4.

DLC Listed:
This product is on the Design Lights Consortium (DLC) Qualified Products List and is eligible for rebates from DLC Member Utilities.

RAB
LIGHTING

Tech Help Line: 866-RAB-1000
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Email: sales@rabweb.com

Note: Specifications are subject to change without notice.

On the web at: www.rabweb.com

Page 2 of 2

Attachment C
AUGUST 7, 2014

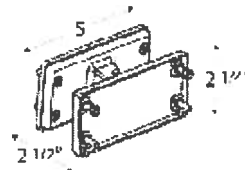
Attachment D
AUGUST 7, 2014

SWIVEL30

Swivel mount for LED Wallpack

Color: Bronze

Weight: 7.0 lbs



Technical Specifications

Accessory Only:

LPACK LED fixture sold separately.

Arm:

Use to extend fixtures away from wall and to adjust the aiming angle of the light fixture. Great for facade and sign lighting.

Swivel Plate:

Die cast aluminum Swivel Plate adjusts 30 degrees in both directions and mounts to RAB's WPLED10, WPLED13, WPLED20 and WPLED26 fixtures.

Mounting:

Die cast aluminum. Swivel mounts to RAB's LPACK surface junction box (not included with Swivel30) and RAB's LPACK WPLED fixtures with hardware provided.

Construction:

Die cast aluminum.

Country of Origin:

Designed by RAB in New Jersey and assembled in Taiwan.

Trade Agreements Act Compliant:

This product is a product of Taiwan and a "designated country" end product that complies with the Trade Agreements Act.

GSA Schedule:

Suitable in accordance with FAR Subpart 25.4.

RAB
LIGHTING

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On the Web at: www.rablighting.com

Page 1 of 1

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- A. The testimony and evidence presented by the petitioners in this case has been in support of a request to conduct final dressing of field dressed wild game on the subject property as a Major Rural Specialty Business as required by the following condition:

The Special Use Permit authorized herein is only for the final dressing of field dressed wild game and none of the following shall occur on the subject property:

- (1) No slaughtering of wild game or animals of any kind is authorized except for the final dressing (i.e., further processing) of field dressed wild game carcasses.**
- (2) No meat preparation or packaging that is subject to the Meat and Poultry Inspection Act is authorized except for the final dressing and packaging of field dressed wild game carcasses.**
- (3) There shall be no sales to the general public of products made from wild game that has been dressed onsite.**
- (4) The sale of goods produced off the premises must constitute less than 50 percent of the gross annual business income and less than 50 percent of the total annual stock in trade.**

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

The continued operation of the Special Use Permit authorized herein shall be in conformance with the testimony and evidence presented and shall continue to qualify as a Rural Specialty Business in the CR District.

- B. There is no public health regulation of the proposed special use. The Champaign County Public Health Department would have jurisdiction should a public health crisis arise from the operations of the proposed Special Use. In this Special Use Permit the Zoning Board of Appeals has not attempted to supplant the existing system of public health regulation for dressing of wild game but has only added relevant safeguards to ensure compliance with the Champaign County Zoning Ordinance. The following condition is the minimum requirement necessary to minimize risks to public health and safety by the proposed special use:

The petitioner shall provide reasonable access to both the subject property and all relevant business records, including employee work records; the location where food supplies were purchased; food lot numbers; the identity of food purchasers; and other as may be requested by the Champaign County Public Health Department pursuant to any complaint of food borne illness that is made after ingestion of products from the proposed special use.

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

The Champaign County Public Health Department shall be provided necessary access to property and records to respond to any relevant complaints of food borne illness.

- C. The petitioner has provided evidence that the business is completely exempt from regulation under the Illinois Meat and Poultry Inspection Act (225 ILCS 650/ *et seq*). “Custom processing” is a type of regulated activity under the Illinois Meat and Poultry Inspection Act (225 ILCS 650/ *et seq*) and “custom preparation” is also a term used in similar federal regulations. The existing advertising could confuse customers about whether or not the proposed special use is subject to regulation. The following condition requires the petitioner’s advertising to be in concert with the degree of public health regulation that applies to the proposed special use:

The following condition shall apply until such time that the petitioner is regulated by and has a license authorized by the Illinois Department of Agriculture:

- (1) **the phrases “custom wild game processor” and “custom wild game processing” and the words “custom processor” and “custom processing” shall not be used in any advertising or description of services provided by the petitioner about the proposed special use; and**
- (2) **The petitioner shall conspicuously display a sign stating “NO SALES OF WILD GAME PRODUCTS PERMITTED” in the public areas of the proposed special use and provide photographic proof of the sign’s installation within 30 days of the Special Use Permit approval.**

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

The public has clear expectations of the types of services that may be provided at the proposed special use and the degree of public health regulation required of the petitioner.

- D. There is no public health regulation of the proposed special use and co-petitioner Chuck Stites has a Master’s Degree in Meat Science from the University of Illinois and years of experience in meat processing. Because of Mr. Stites’ expertise the proposed Special Use is atypical in the low risk to public health. Operation under a different owner with less experience or training could have much different public health consequences. The following condition will ensure that public safety is considered if the proposed Special Use is ever sold to a different owner:

The Special Use Permit approved in Case 610-S-08 and renewed in Case 778-S-14 shall only be valid for the current owners, Chuck and Mary Ellen Stites,

on the subject property and if the business is ever transferred to new ownership a new Special Use Permit shall be required.

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

The risk to public health is adequately considered in management of the proposed Special Use.

- E. Complaints have been received regarding heavy customer traffic at the subject property and in the past customers have on occasion parked in the right of way of CR2400E. On-street parking is not acceptable in this rural location because it results in risks to public safety. The following condition will clarify that it is the Petitioner's responsibility to ensure that no parking occurs in the right of way:

The Petitioner is responsible to ensure that there shall be no queuing of customer traffic in the public right-of-way of CR 2400E and that no parking related to the Special Use Permit shall occur within any street right of way or on nearby properties.

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

There is no unreasonable risk to public safety caused either by on-street parking or long lines of standing traffic.

- F. There is no public health regulation of the proposed special use, but the proposed special use should not allow the creation of insanitary conditions, adulteration of product, or nuisance conditions for the neighborhood. Neighbors have for sometime complained about the appearance of carcass parts in the neighborhood and the carcass parts apparently come from the subject property. The following condition should help reduce the possibility that carcass parts are accessible by dogs, wildlife, and vermin:

The Petitioners shall ensure that all buildings, including the structures, rooms, and compartments used in the Special Use Permit are of sound construction and are kept in good repair to allow for processing, handling, and storage of product and waste materials in a manner that will not result in insanitary or nuisance conditions;

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

The proposed Special Use poses no risk to public health in general or to the immediate neighborhood.

- G. Complaints about the odor of the smoking of wild game have been received from neighbors. The petitioners have installed an air treatment system for their smokehouse ventilation. The condition is as follows:

In regards to the odors caused by the smoking and cooking of wild game products at the proposed Special Use, the Petitioners shall do the following:

- (1) The Enviro-Pak "Enviro-Kleen" Air Treatment System shall be used at all times during cooking and when the smokehouses are in operation.**
- (2) The Enviro-Pak "Enviro-Kleen" Air Treatment System is not expected to eliminate all odors from the smoking and cooking related to the Special Use Permit and some odor may still be present at the property line and adjacent dwellings.**
- (3) This condition does not exempt the proposed Special Use Permit from whatever Illinois Pollution Control Board or Environmental Protection Agency air pollution regulations are applicable or are later found to have been applicable and this Special Use Permit shall remain valid so long as the Petitioners comply with whatever air pollution regulations are found to be applicable.**

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

Odor from the cooking and smoking of wild game is reduced as much as practicable so as to preserve the essential character of the CR District and the Special Use shall comply with any Illinois air pollution regulations that are later found to be applicable.

- H. Complaints have been received regarding the odor of the bone barrels when they are stored outdoors and the appearance of trash from the subject property appearing on neighboring properties. The proposed special use permit should not be allowed to operate in such a fashion that allows the creation of insanitary conditions, nuisance conditions, or the adulteration of products in the neighborhood. The following condition will ensure that bone barrels and trash are stored in such a way to minimize insanitary conditions and nuisance conditions for the neighborhood:

In regards to the bone barrels and trash containers for the proposed Special Use, the Petitioners shall do the following:

- (1) No bone barrels shall be stored within 30 feet of any property line, except if stored within the walk-in cooler.**
- (2) No bone barrels shall be emptied within 70 feet of any property line.**
- (3) No more than 800 square feet of the proposed new storage building shall be used for storage of bone barrels, or any storage related to the proposed special use.**
- (4) All bone barrels shall be stored in a closed and secure building at all times except when being emptied into a rendering truck or a garbage truck for removal from the property.**

- (5) **The bone barrels shall be stored in a cooled environment when necessary to maintain sanitary conditions.**
- (6) **When the bone barrels and trash containers are not stored in a cooled environment they shall be covered adequately to prevent access by vermin.**
- (7) **The bone barrels and trash containers shall be cleaned and sanitized when necessary to maintain sanitary conditions and all such cleaning and sanitizing shall occur in a closed and secure building and all wash water from cleaning of the bone barrels shall be treated in the approved wastewater treatment and disposal system for the Special Use and not disposed of in an untreated condition and any solid waste from the cleaning bone barrels shall also be properly disposed of and not dumped on the surface of the ground.**

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

The bone barrels and trash containers shall be handled and used in a manner that does not create insanitary or nuisance conditions in the neighborhood.

- I. Complaints have been received regarding the noise of compressors used for the refrigeration units used by the River Bend Wild Game and Sausage business. The following condition requires that any new compressors must be located so as to minimize noise effects on neighbors who are concerned about noise:

Any new refrigeration units shall have all condensers located inside the building except that the permanent bone barrel storage buildings may be cooled by a through-the wall air conditioner if necessary.

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

There is maximum noise shielding for neighboring residences.

- J. The following is a preliminary condition for the disposal of wastewater from the proposed special use permit. It includes requirements relevant to the approval of a new wastewater disposal system for the proposed use; maintenance of the new system; and the consequences should the new system ever fail.

The Special Use Permit authorized in Case 610-S-08 and renewed in Case 778-S-14 shall be served by a wastewater disposal system as follows:

- (1) **A private sewage disposal system with subsurface discharge serving the Special Use Permit activities shall be in general conformance with the approved site plan.**
- (2) **The private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur on at least a triennial**

basis and all maintenance reports shall be filed with the Zoning Administrator. Failure to provide maintenance reports every three years shall constitute a violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State's Attorney for legal action.

(3) This Special Use Permit approval shall become void if the private sewage disposal system with subsurface discharge fails and cannot be repaired or if the system is repaired or modified later without the approval of both the County Health Department and the Zoning Administrator, as follows:

(a) The owner is obligated to provide notice of the failed system to both the Zoning Administrator and the County Health Department as soon as failure is suspected; and

(b) The Zoning Administrator and the County Health Department in consultation or individually may make a determination that the private sewage disposal system serving the Special Use Permit has failed and the owner shall provide necessary access to the private sewage disposal system for the purpose of necessary inspections pursuant to such a determination; and

(c) Provided that all necessary permits are received from the County Health Department, repairs that can result in lawful ongoing use of the private sewage disposal system with subsurface discharge may be made subject to approval by the Champaign County Health Department including any special conditions imposed thereby and provided that the Zoning Administrator is provided copies of all applications and approvals and is allowed to conduct inspections; and

(d) In the event of failure of the Special Use Permit private sewage disposal system that cannot be repaired or in the event of unresponsiveness by the owner in repairing a failed system, the Zoning Administrator shall provide written notice to the owner that the Special Use Permit is void and there shall be no more Special Use Permit activities conducted. However, any deer carcasses that are onsite at the time of failure may be dressed subject to any necessary conditions that may be imposed by either the County Health Department or the Zoning Administrator.

K. Neighbors have seen activities on the subject property that have made them wonder whether carcasses from the existing business have been burned and/or buried on the subject property. The following condition makes it clear that those activities should not be part of the proposed Special Use.

There shall be no burning or burial of carcass parts on the subject property.

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

All carcass parts are removed from the subject property in an appropriate manner.

- L. Enforcement of the preceding special conditions requires the Zoning Administrator to have access to the subject property at any time to inspect the proposed Special Use. The following condition makes this clear:

The petitioner shall provide reasonable access to the subject property and all structures where Special Use Permit activities take place to verify compliance with the special conditions in this case.

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

The Zoning Administrator shall be provided necessary access to property to respond to any relevant complaints regarding the proposed Special Use Permit.

- M. **The approved site plan for Case 778-S-14 shall consist of the following Documents of Record:**

- (1) **The revised site plan received on March 31, 2014**
- (2) **The floor plan of the business building received on May 5, 2008**
- (3) **The revised floor plan of the proposed storage building received on October 12, 2008**
- (4) **The elevation of the proposed storage building received on October 1, 2008**
- (5) **The elevation of the front view of the business building received on October 12, 2008**

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

It is clear which Documents of Record constitute the proposed site plan for enforcement purposes.

Excerpt of Approved Minutes for June 26, 2014

Case 778-S-14

1 **Case 778-S-14 Petitioner: Charles and Mary Ellen Stites Request to authorize continued use**
2 **of a Major Rural Specialty Business in the CR District on the following property as**
3 **previously approved for a limited time in Special Use Permit 610-S-08. Location: A 5.0**
4 **acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1,**
5 **Township 18 North, Range 10 East of Sidney Township and commonly known as River**
6 **Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph.**
7

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

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

22 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of
23 their request.
24

25 Mr. Charles Stites, who resides at 1161 CR 2400E, St. Joseph, stated that he and his wife, Mary
26 Ellen Stites, own River Bend Wild Game and Sausage Company. He said that five years ago
27 they went through the Special Use Permit process and tried to make conditions at their facility
28 that were suitable for the way the property was zoned and allow them to do business with
29 minimum impact on the area and the surroundings. He said that at that time the ZBA indicated
30 that they wanted to approve the use with a five year contingency that they could revisit the case
31 so that if there were any special conditions that were outlined five years ago that were or weren't
32 working the ZBA could revisit those conditions at the end of that five years. He said that the
33 special conditions that were approved five years ago have proven to be effective and was
34 conditions that he and his wife were able to deal with.
35

36 Mr. Thorsland asked the Board if there were any questions for Mr. Stites.
37

38 Ms. Lee stated that the memorandum indicates that Mr. Stites was supposed to apply for a
39 Special Use Permit by November 15, 2013, although it appears that he waited until March 31,
40 2014. She asked Mr. Stites if there was a reason why he waited so long to apply.
41

42 Mr. Stites stated that last fall he received a letter from the Department of Planning and Zoning
43 indicating that there was language in the original document from five years ago that had

Excerpt of Approved Minutes for June 26, 2014

Case 778-S-14

1 conflicting dates and that one of those dates was April 1, 2014.

2

3 Mr. Thorsland asked the Board if there were any additional questions for Mr. Stites and there
4 were none.

5

6 Mr. Thorsland called John Hall to testify.

7

8 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated June
9 26, 2014, and the approved Findings of Fact for Case 610-S-08 for the Board's review. He said
10 that staff thought that the Board should have at least the first two findings from the previous case
11 because those are the two findings that the Board has to construct for each case. He said that
12 Finding #1 is necessarily a specific finding that the Board creates each time and in Finding #2
13 the Board added a lot of information based on the facts of the case. He said that whatever the
14 Board decides for this case staff thought that the Board should have the previous findings in front
15 of them so that whatever the changes the Board feels are necessary could be added. He said that
16 Findings #3, #4 and #5 are typically just yes, no, will, will not, and the Board can easily work
17 through those with this case. He said that the special conditions are included in the Preliminary
18 Memorandum dated June 20, 2014, and staff has not included special conditions that related to
19 proposed construction because there is no proposed construction for this special use permit and
20 everything that was authorized to be built was built therefore the only special conditions included
21 were those that have to do with ongoing operations. He said that Finding #1 relates to item #7 in
22 the Summary of Evidence and Finding #2 relates to item #8 in the Summary of Evidence.

23

24 Ms. Lee asked Mr. Hall if there will be an expiration date for this special use permit as well.

25

26 Mr. Hall stated no. He said that no expiration date is proposed because none of the special
27 conditions suggest that an expiration date is necessary but it is entirely up to the Board.

28

29 Ms. Lee stated that an expiration date would not be necessary unless Mr. and Mrs. Stites cease to
30 own the property.

31

32 Mr. Hall stated that Ms. Lee was correct.

33

34 Mr. Thorsland asked Ms. Lee if she was satisfied with the explanation from the petitioner
35 regarding the date differences in the memorandums.

36

37 Ms. Lee stated that she was just wondering if the date in November was when staff wanted the
38 application so that the Board could act on it before the date in April.

39

40 Mr. Hall stated that the original condition was complicated and he would be happy to review the
41 letter in the file but as he recalls the required date for application was in April and Mr. Stites
42 submitted his application in March so he is completely satisfied.

43

Excerpt of Approved Minutes for June 26, 2014

Case 778-S-14

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

3
4 Mr. Thorsland requested that Mr. Stites return to the witness microphone.

5
6 Mr. Thorsland asked the Board if there were any additional questions for Mr. Stites from staff or
7 the Board.

8
9 Mr. Thorsland asked Mr. Stites if he had received any complaints from neighbors that may have
10 not been reported to staff since the special use was granted.

11
12 Mr. Stites stated that he did have two conversations with his neighbor. He said that one
13 conversation took place a couple of years ago during the firearm deer season when he was out by
14 the woodpile collecting wood. Mr. Stites said that his neighbor informed him that he was
15 noticing an odor and requested that he check the smokehouse. Mr. Stites stated that he informed
16 the neighbor that he was not using the smokehouse and that the only smoke odor that he had
17 noticed was coming from another neighbor who was burning trash and brush. Mr. Stites said
18 that either last winter or the winter before he received a letter from a neighbor indicating that the
19 sign for River Bend Wild Game and Sausage Company had been damaged and that the sign had
20 obscured their vision while pulling out of their driveway. Mr. Stites said that his neighbor
21 requested that when he replaces the sign that he considers their visibility concern therefore when
22 he replaced the sign he investigated the neighbor's complaint and agreed that it could have
23 interrupted their vision to the south. Mr. Stites stated that when he replaced the sign he made
24 sure that it was placed in a location that would not interfere with the neighbor's visibility.

25
26 Mr. Thorsland asked Mr. Stites if any of the complaints were submitted to staff.

27
28 Mr. Stites stated that he had not received any communication from staff indicating that they had
29 received any complaints.

30
31 Mr. Thorsland stated that the Preliminary Memorandum dated June 20, 2014, indicates that no
32 complaints have been received. He asked Mr. Hall if the Preliminary Memorandum was still
33 current.

34
35 Mr. Hall stated that no complaints were received except for the two complaints that were
36 received immediately after approval of the special use permit and staff believes that both of those
37 complaints were resolved and staff has not received any communication from the complainants
38 since. He said that he did receive a call yesterday from a neighbor who had not previously
39 submitted any complaints regarding the petitioner but did have concerns regarding the current
40 special use permit.

41
42 Mr. Thorsland asked the Board if there were any questions for Mr. Stites and there were none.
43

Excerpt of Approved Minutes for June 26, 2014

Case 778-S-14

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

3
4 Mr. Thorsland called Dennis Wandell to testify.

5
6 Mr. Dennis Wandell, who resides at 1161 CR 2400E, St. Joseph, stated that he and his wife live
7 directly north of the subject property and their building is approximately five feet from their
8 property line. He said that some good things have happened since the last hearing and he would
9 like to thank the Board and Mr. Stites. He said that he does not receive the septic smell anymore
10 because Mr. Stites installed a new septic system with a lift station and they do not find deer parts
11 on their property anymore and they are happy about that as well. He said that he and his wife do
12 not smell the stench of decaying meat anymore because Mr. Stites keeps the deer part barrels
13 inside the building.

14
15 Mr. Wandell stated that on November 17, 2012, there was a strong odor of cooking sausage and
16 his wife mentioned that in her garden room she could smell wet garbage or some kind of a
17 metallic smell coming from the south. He said that the problems that are not addressed or new
18 items which need to be considered will be discussed tonight. He said that the 8 foot fence has
19 not been completed. He said that on days of the deer hunt River Bend Wild Game and Sausage
20 Company works late because the hunters have to have something done with their deer and that is
21 fine but he and his wife were wondering if there could be set hours of operation during the rest of
22 the season because during this time there are a number of truck doors slamming and it gets pretty
23 noisy.

24
25 Mr. Wandell stated that he does have a concern about the lighting for the subject property. He
26 said that when the new building was built there were no new lights for awhile but then very
27 bright lights, comparable to those on a school or fire station building, were installed. He said
28 that the lights on the house and the shop were also increased to a point that they are really bright.
29 He said that he and his wife enjoy the night and watching the stars therefore they are hopeful that
30 something can be done about the light intrusion. He said that one other issue is the cooling units
31 and even though they are inside, the windows are always open and the noise that the compressors
32 make is heard. He requested that the Board consider requiring another expiration date for this
33 special use permit, perhaps in five years, to make sure that there are no problems and if there are
34 they can be rectified at that time.

35
36 Mr. Wandell stated that he has recently retired from his business and began keeping a log
37 regarding any concerns that he and his wife had about the subject property and the odors. He
38 said that on November 12, 2012, he spoke with Mr. Stites about an odor and Mr. Stites indicated
39 that he was not cooking any sausage at that time and that perhaps it was their wood stove that he
40 was smelling. Mr. Wandell stated that he has a fireplace and he knows of others that have a wood
41 stove and the odor was not the kind of odor, cooked meat, normally emitted from either one of
42 those items.

Excerpt of Approved Minutes for June 26, 2014

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1 Mr. Wandell stated that he worked in the landscape business for many years and he worked
2 around many residences and he would smell a perfume odor from the dryer vents but recently he
3 and his wife have been getting a very strong perfume type odor and when he asked Mr. Stites
4 about the odor he did not respond. Mr. Wandell stated that he assumed that the odor was being
5 caused by the cleaning of the chimney for the smoker because Mr. Stites testified at the last
6 hearing they would receive a whiff now and then, which is fine, but when Mr. Wandell and his
7 wife continuously smell the odor during the morning hours it is intrusive. He asked the Board if
8 they would like to have the log as evidence.

9
10 Mr. Hall stated that Mr. Wandell should read the log in to the record.

11
12 Mr. Wandell stated that he can read the log but he understands that the Board is busy.

13
14 Mr. Thorsland stated that by reading the log the text will be incorporated in to the minutes.

15
16 Mr. Wandell read the log as follows: November 8, 2012: Heavy Odor; November 17, 2012,
17 11:00 a.m.: strong sausage cooking odor at Lucy's garden room strong rotten odor like wet
18 garbage and slightly metallic. Occurred for several days; November 25, 2012, 10:00 a.m.: heavy
19 odor; November 28, 2012, 5:30 a.m.: heavy odor; November 29, 2012: morning odor; November
20 30, 2012, all morning odor. I talked to Chuck about this odor. I ask that he check his air
21 cleaning equipment when he has the time. He said no cooking since November 29, 2012. Chuck
22 said that it was his wood stove that was making the odor. He has made this same claim in the
23 past. December 11, 2012: morning odor; January 3, 2013, 9:00: heavy odor; January 12, 2013:
24 odor so strong this morning Lucy observed it inside the office; January 25, 2013, at 2:00 p.m.:
25 return from Kentucky vacation, strong odor until 5:30 p.m.

26
27 Mr. Hall stated that Mr. Wandell has mentioned three types of odors in the log, a metallic odor, a
28 rotten odor and a strong perfume odor but he has not heard him say the odor of smoking sausage.

29
30 Mr. Wandell stated that every heavy odor that he is speaking about, other than the perfume odor,
31 is in relation to the odor of smoking sausage.

32
33 Mr. Hall asked Mr. Wandell if that was by memory or was it actually noted in the log.

34
35 Mr. Wandell stated that it was by memory because he did not take the time for each entry to
36 write down that the odor smelled like meat cooking. He said that all of the heavy odors refers to
37 sausage cooking.

38
39 Mr. Wandell continued reading the logs as follows: April 30, 2013: the odors of cooking sausage
40 returning. 5:20 a.m. to leaving at 8:20 a.m. odor. There seems to be a very strong smell of
41 laundry dryer freshener. Way too much for simply doing clothes. March 13, 2014, 10:00 a.m.:
42 strong sausage cooking odor in office and shed; March 14, 2014: strong perfume odor in office
43 and shed; March 15, 2014, 3:00 p.m.: heavy perfume odor at area east of office as I started

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1 burning white pine branches from winter ice and snow damage. When I started burning
2 weathervane on shed showed wind out of the east and it remained that way until about 4:30 p.m.
3 I quit burning about 6:00 p.m.; April 9, 2014, 9:00 p.m.: same old heavy perfume odor in office
4 area.

5
6 Mr. Wandell stated that there are two types of odors that they deal with currently, the heavy
7 perfume odor which is like what people put in their dryers and the heavy odor of sausage
8 cooking.

9
10 Mr. Thorsland requested that the log be submitted as a Document of Record.

11
12 Ms. Griest asked Mr. Wandell if, after he spoke to Mr. Stites about the odor and Mr. Stites
13 indicated that the odor was coming from an adjacent neighbor burning trash and debris, had he
14 checked to see if an adjacent neighbor was actually burning anything.

15
16 Mr. Wandell stated that Mr. Stites did not tell him that an adjacent neighbor was burning.

17
18 Ms. Griest stated that she thought that she heard Mr. Wandell indicate such during the reading of
19 the log.

20
21 Mr. Wandell stated that on November 30, 2013, he spoke to Mr. Stites about the odor and Mr.
22 Stites indicated that it was his wood stove that was making the odor and that he hadn't cooked
23 since November 28th. Mr. Wandell stated that there was no conversation related to a neighbor
24 burning.

25
26 Ms. Griest stated that perhaps she was mistaken. She asked Mr. Wandell if he had ever checked
27 out the possibility of anyone else burning something in the area therefore producing an odor.

28
29 Mr. Wandell stated no.

30
31 Mr. Thorsland asked the Board if there were any additional questions for Mr. Wandell.

32
33 Mr. Randol asked Mr. Wandell to indicate how close his personal structures are to the property
34 line.

35
36 Mr. Wandell stated that they have three buildings on their property.

37
38 Mr. Randol asked Mr. Wandell to indicate how close those structures were to the property line.

39
40 Mr. Wandell stated that the closest structure, the office/guest house, is probably 40 to 50 feet
41 from the property line.

42
43 Mr. Thorsland asked if staff had any questions for Mr. Wandell.

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Mr. Hall stated that he is disappointed that a log was evidently required by Mr. Wandell but he never called the office.

Mr. Wandell stated that Mr. Hall was correct.

Mr. Hall asked Mr. Wandell why he never called the office about the odor that he was obviously experiencing.

Mr. Wandell asked Mr. Hall if he is asking why he never called the office.

Mr. Hall stated yes.

Mr. Wandell stated that in 2008 he was given the impression that he and his wife didn't really matter therefore why suffer more abuse.

Mr. Hall stated that he is sorry that Mr. Wandell received that impression.

Mr. Thorsland stated that the reason why the Board includes special conditions in a case is because they anticipate a lot of their work to be driven by complaints from someone because staff and the Board can't drive out to the property all of the time. He said that the previous case was a very complex case which was evident by the number of special conditions that were placed upon it. He said that since Mr. Wandell felt the need to construct a log and there was a time when the odor was going on for a long time it would have been an important time for Mr. Wandell to have called the office to report the occurrences so that someone from the office could have gone out to the property to check out the complaint. He said that he was not the chair of the ZBA at that time but he was a member of the ZBA during 2008 and the ZBA does as much as possible to make sure that not one of the witnesses felt as though they were being abused. He said that they took a lot of time with the previous special use case for this petitioner, which Mr. Wandell knows because he was present, and the Board was not particularly delicate with the petitioner either due to the volume of conditions that were placed on the approval and the fact that we are here tonight after five years. He said that he is glad that Mr. Wandell kept a log of the concerns but as a citizen of the County if he feels the need to call the office then he should definitely call the office next time.

Mr. Wandell stated that when he would call the office Mr. Hall would indicate that he needed to come out although there is a very good chance that when Mr. Hall got to the property there would not be an odor therefore causing a wasted trip. He said that Mr. Hall has to verify the complaint and this problem occurred before the previous case came before the Board. He said that when he called Mr. Hall about the odor due to the barrels sitting outside with deer parts in them and Mr. Hall came out to the property to witness the complaint personally. He said that the intermittent problems regarding odor are hard to verify unless the staff can come out within the next hour after calling the office.

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1
2 Mr. Thorsland stated that as a personal observation of living in the country, when he left his
3 home this morning someone in the neighborhood decided that a giant pile of wet leaves was a
4 perfect thing to burn therefore everyone in the area was given the opportunity to smell those
5 leaves burning. He said that it is part of country life to smell the burning of limbs, leaves, etc.
6 He said that he appreciates the fact that Mr. Wandell kept a log regarding his concerns and that
7 the log has been submitted as a Document of Record.

8
9 Ms. Griest stated that when the Board heard this case in 2008 the Board was pretty tough on this
10 petitioner, as the Board is with most, by the volume of special conditions that were imposed on
11 the petitioner based on the concerns that Mr. Wandell expressed at the hearing. She said that she
12 is sorry that Mr. Wandell felt diminished or under-valued during the public hearing process
13 because that is never the Board's intent. She said that at the risk of doing that again, she asked
14 Mr. Wandell why his log does not begin until November 8, 2012. She asked Mr. Wandell if he
15 had no concerns between 2008 and that time during 2012 or what changed during that period.

16
17 Mr. Wandell stated that he was busy running his business and he spent a lot of his time doing
18 that therefore he did not have a chance to write all of his concerns down. He said that he regrets
19 not taking the time to start the log sooner.

20
21 Mr. Thorsland asked Mr. Wandell if he would categorize the submitted log as typical for any
22 period from when the special use permit was approved until today.

23
24 Mr. Wandell stated yes, but bear in mind that this was over a three year period and not an
25 everyday occurrence.

26
27 Mr. Randol asked Mr. Wandell if he kept the log mainly during the time when Mr. Stites was
28 processing the meat.

29
30 Mr. Wandell stated that it is his understanding that Mr. Stites freezes and processes the meat
31 during the year and cooks the sausage throughout the year.

32
33 Mr. Randol asked Mr. Wandell to describe the metallic smell.

34
35 Mr. Wandell stated that the metallic smell was his wife's description.

36
37 Mr. Randol stated that he has never smelled a metal that has an offensive smell to it.

38
39 Mr. Thorsland reminded Mr. Randol and the Board that smells are subjective to each individual.

40
41 Mr. Thorsland asked Mr. Wandell if he would like to add any further testimony.

42
43 Mr. Wandell stated no.

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

Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony regarding Case 778-S-14 and there was no one.

Mr. Thorsland closed the witness register.

Mr. Thorsland called Charles Stites to the witness microphone to address the Board.

Mr. Thorsland asked the Board if there were additional questions for Mr. Stites.

Ms. Griest asked Mr. Stites if they smoke meat throughout the year or only during the hunting season.

Mr. Stites stated that the times that they process, smoking of the meat, would occur from the beginning of archery season which is October 1st until they get done processing all of the boneless meat into the sausage which generally has been the month of April. He said that with the number of deer that comes in during hunting season the volume of meat is too great to cook and make into sausage therefore they freeze that meat and thaw it out as they process the product into sausage. He said that this process occurs after hunting season in the middle of January until April.

Ms. Griest stated that there has been some mention of a wood burning stove. She asked Mr. Stites if he had a wood burning stove on the property used for heating purposes and if so where is it located, what is it designed to heat and what is Mr. Stites using for the fuel source in the wood burning stove.

Mr. Stites stated that there are two wood burning stoves on the property. He said that one of the wood burning stoves is located in the shop area of River Bend Wild Game and Sausage Company and is used for heating that area. He said that there is no other heating in the refrigerated areas of the building therefore the wood stove would run from the time that it gets cool in the fall until it warms back up in the spring. He said that the wood stove will run through the night but will be choked down enough so that pipes do not freeze and it is bearable out there. He said that there is another wood stove that they use in the house and when they first moved out to the property they used it very often but now it is easier to use the electric ceiling heat and the wood stove is used when it gets really cold plus it feels good to have the fire going. He said that the fuel source is normal hardwood and the last couple of years he has had a customer who cuts down trees and he generally brings Mr. Stites a trailer load of wood. He said that other wood that he may burn is from trees that fall on his property such as black cherry, maple and locust.

Ms. Griest asked Mr. Stites if any of the exhaust from the wood stoves would put off a perfumed

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1 aroma which would account for the dryer sheet odor that has been reported.
2

3 Mr. Stites stated that there is no product or wood being used that has any kind of perfumed odor
4 at all other than the hand soap that they might use. He said that his wife does use some stuff for
5 the laundry that does indeed have a perfumed odor and he too can smell it outside of the house.
6 He said that if the dryer is running in the house he can smell the perfume odor as well when he
7 goes up to the front door.
8

9 Mr. Thorsland asked Mr. Stites if the lighting that was mentioned in previous testimony was
10 recently installed or did it exist before the previous special use permit case.
11

12 Mr. Stites stated that there is one exterior light which is on the east side of the cooler that they
13 hang deer in that has not changed other than changing it with a like kind since they started doing
14 their operation as a home occupation. He said it's a regular wall mount 70 watt sodium light like
15 you can buy at Menards and it has not changed. He said that when he built the metal building in
16 which a portion is used for a cooler for the bone barrels he had an electrician put in a light that is
17 the same type as the light on the hanging cooler and there is one that faces toward the north and
18 two that face toward the east. He said that he found that those lights would broadcast out and he
19 had a problem that when the cooler would kick on in the shed the lights would shut off due to a
20 voltage drop and the electrician could not figure out the issue therefore they were replaced with
21 LED lights which are sconces that shine down. He said that the lights are like the ones that
22 would be over the doorway of a building and most of the light is directed downward and goes out
23 about 30 to 40 feet. He said that after the building was built he installed the sodium lights and
24 after a year or two the lights were replaced with the down facing lights.
25

26 Mr. Thorsland asked Mr. Stites if he would consider the replacement lights to be full cut-off
27 lights or did the literature indicate that they were full cut-off lights.
28

29 Mr. Stites stated that he does not know what full cut-off means exactly.
30

31 Mr. Thorsland stated that it means that no light goes to the side. He said that if this was a brand
32 new case and Mr. Stites was building something new the Ordinance requires that all lighting be
33 full cut-off to prevent glare onto adjacent properties and the wattage is limited. He said that any
34 lighting that Mr. Stites had before would not be subject to the amended Ordinance but perhaps
35 there is a way that Mr. Stites could investigate the lighting to see if it does indeed trespass onto
36 adjacent properties. He said that with new special use permits screening is required to prevent
37 light trespass. He said that the lighting appears to fall into the realm of what is asked for but it
38 would be helpful if Mr. Stites would investigate the lighting concern to see if some wattage
39 exchange or shielding is necessary. He said that the LED lights are really great because they do
40 not draw any insects but they are really bright.
41

42 Mr. Stites stated that he has an asphalt driveway that runs east and west and the lights do not
43 illuminate the driveway and it is dark when he walks from the building to the house. He said that

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1 the lights do not shine out to the property lines.

2

3 Mr. Hall asked Mr. Stites if the replacement lights are wall mounted.

4

5 Mr. Stites stated that the lights are wall mounted and are just above where the 10 foot garage
6 doors are located and the lights shine downward.

7

8 Mr. Hall stated that in the past we have had people experiment with an aftermarket shroud that
9 goes around the light and the thing with full cut-off lights is that it positions the lamp above the
10 edge of the fixture so that unless someone at some distance is below the fixture they cannot see
11 the lamp. He said that he does not know how much the shrouds cost but he does not believe that
12 they are too expensive and they tend to work unless the building is light in color and then they
13 have the opposite affect and make the light more intense. He said that if Mr. Stites' building is
14 not light colored he might consider these shrouds which would solve Mr. Wandell's concern. He
15 said that Mr. Stites indicated that he replaced the light fixtures approximately two years after the
16 building was constructed in 2009 or 2010. Mr. Hall noted that the Ordinance was amended in
17 August of 2010 and there should have been something included in the amendment regarding
18 special uses that were already in place. He said that previous special use petitioners who add
19 new lighting would have no way of knowing about the new requirement for full cut-off but
20 nonetheless it is up to the Board. He said that he would be happy to research our files to see if
21 we have the names of the shrouds that have been utilized during other projects.

22

23 Mr. Hall stated that when the Board is ready he has some questions for Mr. Stites regarding the
24 smoker.

25

26 Mr. Passalacqua stated that the Board received testimony regarding noise from the compressors.
27 He asked Mr. Stites if he could hear the compressors in his own house.

28

29 Mr. Stites stated no.

30

31 Mr. Passalacqua asked Mr. Stites to explain the layout of the building which houses the
32 compressors. He said that testimony indicates that the building is open.

33

34 Mr. Stites stated that when they moved into the property in 1992 there was an existing 24' x 30'
35 detached garage and onto that was a metal lean-to that was built along the north and west sides of
36 the garage. He said that the refrigeration units for the operation are stored within the lean-to
37 except for the refrigeration unit for the bone barrel building. He said that on the north side the
38 shed is built like a metal pole barn with a metal roof and sides but the west side is built more like
39 a house that was built in the 70's with black fiber board and masonite siding. He said that there
40 are some windows in the west side of the building and they are the kind that can be cranked open
41 and indeed when it is warm it becomes hot in the shed and he will open the windows to let air
42 flow come in so that the units can operate more efficiently.

43

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1 Mr. Passalacqua asked Mr. Stites if they have hours of operation where people can drop off their
2 deer.

3
4 Mr. Stites stated yes. He said that during the hunting season they are opened Monday through
5 Friday 5 p.m. to 8 p.m., and 9 a.m. to 5 p.m. on Saturday and 2 p.m. to 5 p.m. on Sunday. He
6 said that during the warm weather months when it is imperative that the hunter gets their deer
7 cooled down properly they will go ahead and take deer up to 8 or 9 p.m. but that is during the
8 archery season when it is one or two hunters who may come in. He said that during the firearm
9 season when most of the deer come in during a very short period of time they will generally shut
10 down around 6 or 7 p.m.

11
12 Ms. Lee asked Mr. Stites if he knows the distance between his house and the shed with the
13 windows that houses the compressor units.

14
15 Mr. Stites stated that he does not know the exact measurement but he would estimate that the
16 distance between that part of the operation and his house is very similar to the distance from the
17 building to the neighbors to the north's house and his personal house may be closer.

18
19 Ms. Lee asked Mr. Stites to indicate how much of the fence is incomplete at this point.

20
21 Mr. Stites stated that when the special use permit was approved five years ago they had a six foot
22 high board fence between their property and the property to the north which extended east
23 several feet. He said that after review of the special conditions Mr. Hall suggested that there was
24 not enough vegetative screening to the east therefore a screening fence was needed and at that
25 time he asked if he could construct an 8 foot fence therefore he did place the screening from the
26 six foot fence to the road to the east. He said that there is some section that has six foot panels
27 and another section that has 8 foot panels.

28
29 Ms. Griest asked Mr. Stites if the fence is now complete but some of it is 6 foot tall and some is
30 8 foot tall.

31
32 Mr. Stites stated that next to the road near the right-of-way there is approximately 16 feet that
33 has the posts but not the fence panels but there is vegetative screening, evergreens, which are
34 taller than him at that location. He said that it is one of those things that needs to be done but
35 there should not be any disturbance from lights or sound near the road that would make him out
36 of compliance.

37
38 Ms. Griest asked Mr. Stites if the area by the road without the two or three fence panels is the
39 only area that does not have actual fencing and the rest of the area has fencing and may have
40 vegetation.

41
42 Mr. Stites stated that there is vegetation on the property to the north near the property line and
43 the 8 foot fence is right next to it.

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Mr. Thorsland asked the Board if there were any additional questions for Mr. Stites.

Ms. Lee asked Mr. Stites if the fence extends to the west property line.

Mr. Stites stated no. He said that the fence goes from the building all the way to the east because at the time the issue was noise and lights from vehicles entering the driveway that would shine on to the neighboring property.

Mr. Passalacqua asked Mr. Stites if there was some sort of scrubbing device on the discharge from the smoker and the cooker.

Mr. Stites stated that after the special conditions for the previous case he investigated the possibility of finding something that would resolve the concerns. He said that they purchased a system from a company in Oregon that has an electrostatic deionizer and any particulate matter that goes through that is burnt like a bug zapper and following that is a pleated paper filter and 4 inches of activated charcoal and every bit of air that goes through the smokehouse goes through that machine and he cannot operate the smokehouse without having that machine on.

Mr. Passalacqua asked Mr. Stites if the deionizer is a maintenance item and has it been maintained.

Mr. Stites stated yes. He said that the paper filter is changed monthly because they get wet and they need to catch the particulate matter that escapes the electrostatic deionizer. He said that the activated charcoal has to be replaced as well.

Ms. Lee asked Mr. Stites to indicate how far the neighbor's house is from the business building.

Mr. Stites stated that there are two buildings on the neighbor's property that appear to be residences although one used to be the residence but they moved it from the location of the new house to a location which is directly north of his building and their residence is north and west of the building.

Mr. Hall asked Mr. Stites how often the activated charcoal needs replaced.

Mr. Stites stated that it depends upon the use. He said that it is suggested that it is checked every month or so for the type of operation that he has.

Mr. Hall asked Mr. Stites to explain how the activated charcoal is tested to make sure that it is still active.

Mr. Stites stated that if he were outside and he was able to smell the odor coming from the smokehouse at a level that seems like it is not being filtered then the charcoal needs replaced.

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1 He said that he tries to be pro-active and maintains the equipment to avoid issues.

2

3 Mr. Hall asked Mr. Stites if there was a warranty for the electrostatic deionizer.

4

5 Mr. Stites stated that he is sure that there is a warranty but he does not have any idea of the time
6 period.

7

8 Mr. Hall stated that the submitted log indicates odors and perhaps if it had been started earlier
9 there may have been more notes about odor complaints. He asked Mr. Stites if given the dates
10 and what he recalls with weather patterns is there anything that may explain why there were so
11 many days with more odor than what the neighbor believed there should have been.

12

13 Mr. Stites stated that he does not know how the odor could have been from the smokehouse
14 because if the wind is from the west, which is predominant, he is going to smell it from 20 feet
15 away as he walks back and forth from the shop. He said that other than a faint whiff, as if you
16 stuck your nose right under the exhaust on the side of the building, you can't smell it on the
17 property. He said that he is as cognizant about that as Mr. Wandell is because he knows the
18 issues that they have had in the past and he does not want to cause any more fuel for the fire.

19

20 Mr. Stites stated that he is interested to know if the reference from Mr. Wandell regarding the
21 lighting which supposedly comes from Mr. Stites property is from the new building. Mr. Stites
22 stated that the lighting has not changed since they have been doing anything out there. He said
23 that Mr. Hall suggested the block out shields for the building but if those are not the lights that
24 Mr. Wandell is concerned about he does not want to purchase something that is not going to
25 resolve Mr. Wandell's concerns. He said that it may be if a light that is on the new building is
26 placed on the shop it might alleviate his concerns. He said that this is the first time that he has
27 heard any complaints about lighting and he has tried to be compliant with the County and as
28 accommodating to the neighbors as he can.

29

30 Mr. Thorsland stated that he will call Mr. Wandell back to the witness microphone to discuss the
31 lighting concerns.

32

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

35

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

38

39 Mr. Thorsland requested that Mr. Wandell go to the witness microphone but informed him that
40 he can decline to testify if desired.

41

42 Mr. Wandell stated that the lots are very long and narrow and the lights on the new building are
43 very bright and he mentions those lights because he and his wife like to take walks at night when

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1 the moon is out. He said that the lights that are on the house are very bright and have been
2 changed and do not appear to be average 100 watt bulbs. He said that the lights on the new pole
3 building are high in the air and broadcast further out.
4

5 Mr. Thorsland asked Mr. Wandell if he is indicating that the lights on the original building are
6 okay but the lights on the new building are the ones at issue.
7

8 Mr. Wandell stated yes, the lights on the new building and the house are the lights that cause
9 great concern and the lights on the house appear to be different than they used to be.
10

11 Mr. Thorsland asked the Board and staff if they had any questions for Mr. Wandell and there
12 were none.
13

14 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Wandell and there was
15 no one.
16

17 Mr. Thorsland called Mr. Stites to the witness microphone.
18

19 Mr. Stites stated that he heard Mr. Wandell's concerns about the sconce type lights on the new
20 building and if they are an issue then he will review any information that Mr. Hall can provide
21 regarding shields for those lights. He said that the lights were purchased from Tepper Electric
22 therefore perhaps they have options as well. He said that when the lights were purchased they
23 looked at all of the options available that would suit their needs for illuminating the area around
24 the building but not be visible for miles. He said that if the light is blinding then that is
25 something that he will remedy. He said that the three lights on the house have not been changed
26 and they are 100 watt incandescent lights that provide light at the front porch and the garage
27 area. He said that the 70 watt sodium light has always been there and the bulb was only changed
28 because it burned out once.
29

30 Mr. Randol stated the site plan indicates a proposed 40' x 60' building. He asked Mr. Stites if
31 this is the building with the lighting concerns or is it the building labeled for the business.
32

33 Mr. Stites stated that the site plan that Mr. Randol is reviewing is from the previous case. He
34 said that there should be a more recent site plan in the packet.
35

36 Mr. Thorsland noted that the previous case occurred five years ago and only a few of the Board
37 members were present for the previous case therefore they are more familiar with the case. He
38 said that it is important that all of the Board members are up to speed with the current case.
39

40 Mr. Randol asked Mr. Stites if the newer shed is the one with the lighting that is in question.
41

42 Mr. Stites stated yes. He said that there is one light on the north side and there are two lights on
43 the east side and to comply with trying to stay out of the floodplain the proposed building on the

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1 previous site plan the building was running north or south or east and west, he can't remember at
2 this time, but its current location is running at an angle which is the same as the house.

3
4 Ms. Lee asked Mr. Stites if the new building which was constructed at an angle is where the
5 compressors are located.

6
7 Mr. Stites stated that the new building in question has a walk-in cooler and there is a condensing
8 unit that sits beside it and both of those items are within the building. He said that this particular
9 cooler unit will only run during deer season which is October 1st to mid-January. He said that
10 even though they were allowed to have a window air conditioner to keep the area cool they
11 decided that a window unit was not the best option so they decided to install the compressor unit.
12 He said that the compressor unit cannot be heard outside of the building because the shed is fully
13 insulated and lined with metal. He said that the compressor units that are of concern are located
14 in the lean-to along the north and west side of the shop building.

15
16 Mr. Thorsland asked if staff had any further questions for Mr. Stites and there were none.

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

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

23
24 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to
25 present testimony for Case 778-S-14 and there was no one.

26
27 Mr. Thorsland closed the witness register at this time.

28
29 Mr. Hall stated that he has no additions although hearing the comments about the air cleaner for
30 the smoker he can imagine beefing it up with some condition regarding proper maintenance. He
31 said that if this case is continued he can imagine some minor changes there but he does not know
32 what the Board is going to do other than what had been done for odor concerns.

33
34 Mr. Passalacqua stated that looking at the special conditions for the case in 2008 it appears that
35 the Department of Planning and Zoning was given the criteria or tools to address a complaint
36 although even though there is a submitted log tonight no complaints were voiced. He said that it
37 isn't like staff did not address any odor or lighting concerns it was not addressed because no
38 complaints were being received.

39
40 Mr. Hall stated that he hopes that the Board saw that in January 2009 staff did receive a
41 complaint about odor and staff went out to follow up on the complaint and to a certain extent
42 there is a timing issue because by the time that staff got to the property the odor was very faint
43 and in their opinion did not constitute an actionable complaint. He said that staff did find out

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1 later that there was a delay in receipt of the electrostatic deionizer from Oregon and Mr. Stites
2 could not get it installed. He said after the electrostatic deionizer was hooked up no complaints
3 were received and all problems appeared to be resolved. He said that he can appreciate that in
4 the beginning Mr. Wandell probably became frustrated about calling with complaints that were
5 happening at that time and staff would get to the property as soon as possible and once staff did
6 drop everything in the office that they were doing and went out to visit the property but that is
7 not something that can occur every time a complaint is received.

8
9 Mr. Passalacqua asked Mr. Hall if it would be possible for staff to visit the property during the
10 full swing of business in the fall.

11
12 Mr. Hall stated that staff could do that if it would help. He said that he is willing to do that but
13 he does not know what that means for the special use except that staff could verify whether or
14 not the odor is at a magnitude to determine that it is a problem. He asked Mr. Passalacqua what
15 he would like staff to do at the point of determination that the odor is an issue.

16
17 Mr. Passalacqua stated that if in fact the scrubber is advertised to clean the matter and elements
18 that cause the odor then that would be the first step in assuring that the scrubber is working and if
19 it isn't then it either needs maintained or replaced.

20
21 Mr. Thorsland stated that if it is a piece of equipment that isn't doing what it was advertised to
22 do what is the Board supposed to do about it other than require that the technology needs to be
23 updated.

24
25 Mr. Passalacqua stated that in the 2008 case the petitioner was required to install a device that
26 would clean the air and if the device is not doing what it is required to do then the device either
27 needs replaced or repaired to do what it is required to do. He said that he is not against the
28 business by any means and it sounds as though Mr. Stites is trying to make his business in
29 compliance with the Ordinance but he would not want to live beside it either if the odor became
30 a continuous nuisance. He said that the tools for staff were there during the first approval
31 although the tools cannot be used if staff is not made aware of any issues. He said that the
32 majority of the complaint appears to be odor and there are also concerns voiced about noise and
33 lighting.

34
35 Mr. Thorsland asked Mr. Passalacqua if staff needs to take the time to beef up the special
36 condition. He said that there is no immediate need to complete this case this evening therefore if
37 the Board would like to have some additional strength added to the special condition then staff
38 could do so.

39
40 Mr. Passalacqua stated that he is not saying that staff needs to visit the property every month but
41 perhaps the next time that Mr. Stites plans to cook sausage a site visit could be scheduled. He
42 said that he is not aware of the relationship between the neighbors but perhaps they could get
43 together to brainstorm about the concerns and present suggestions as to how to remedy those

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1 concerns. He said that it sounds like the fence needs to be completed unless it will present the
2 same issues as the previous location of the sign. He said that perhaps a site visit and a
3 maintenance schedule would be beneficial to determine if the activated charcoal is doing its job
4 although he does not know how to tell if it is or isn't.

5
6 Mr. Hall stated that going out at the beginning of every season at the height of smoking the meat
7 to have staff verify what the situation is a great idea. He requested that Mr. Wandell call every
8 time he has a complaint because the two instances of complaints after the special use permit was
9 approved were investigated and it was very helpful and staff is willing to do that and eventually
10 he would hope that they can get all of the bugs out of the system.

11
12 Mr. Passalacqua asked how staff would abate the complaint that a livestock operation was
13 broadcasting odor.

14
15 Ms. Griest noted that a livestock operation is considered agriculture and is exempt.

16
17 Mr. Passalacqua asked how staff would abate odor for a different case.

18
19 Mr. Hall stated that what he would like the Board to consider is at what point does this situation
20 become serious enough that he is either authorized to inform Mr. Stites that he has to stop
21 smoking the meat until he acquires a new device or stop smoking meat until he receives a new
22 authorization from the Zoning Board of Appeals. He said that staff needs clear guidance as to
23 when this becomes a big problem but going out every year to complete a site visit and following
24 up on any complaint are great ideas.

25
26 Mr. Passalacqua stated that it may be that the device is not performing properly and the
27 complaint dates have something to do with the wind being out of the right direction.

28
29 Mr. Thorsland stated that part of one of the complaints did relate to wind direction. He said that
30 as he recalled the times of smoking the meat did have to do with the wind direction so that it did
31 not affect the neighbor to the south but perhaps that did not become part of any special
32 conditions.

33
34 Mr. Passalacqua asked if there were neighbors on either side of the property.

35
36 Mr. Hall stated yes but the neighbors to the south are not as close. He said that it is unfortunate
37 that in this location that the two dwellings are very close and they are located in a river valley
38 therefore the odor is going to hang around.

39
40 Ms. Lee asked if Mr. Stites has the times that he completed the smoking of the meat so that it
41 could be compared to the times that are indicated on Mr. Wandell's log.

42
43 Mr. Thorsland stated that the times might be somewhat hard to pin due to wind direction. He

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1 said that Mr. Stites made an effort to smoke the meat, before there were scrubbers were installed,
2 when the wind was not towards the north.

3
4 Ms. Griest stated that it is important to note that the Board reviewed the scrubber technical
5 material very thoroughly and even the material indicated that it is not guaranteed to remove all
6 odors. She said that unless the County invests in an electronic nose to determine the level of
7 odor there is no other way to determine what the level is at that time. She said that odor is a
8 personal preference and what she may smell versus what someone else might smell is not
9 objective because our bodies function differently. She said that the only true test would be an
10 electronic test. She said that she would like Mr. Hall to review the list that Mr. Wandell cited
11 because she does not believe that any of those instances were from the Wandell's residence itself
12 and were from the office/garden room area and the home was the Board's primary objective.

13
14 Mr. Thorsland stated that the Wandell's office building/garden room is very close to the line and
15 the house is more centered on the property.

16
17 Ms. Griest stated that she recalls that the house and office/garden room are approximately 20 to
18 30 feet apart.

19
20 Mr. Hall stated that perhaps the Board requires a demonstration of the air cleaning unit.

21
22 Ms. Griest asked if the Board would be taking a field trip to the site.

23
24 Mr. Hall stated yes.

25
26 Mr. Thorsland stated that the Board did have the manual or brochure for the air cleaning unit and
27 it was considered to be "top of the line" at the time.

28
29 Ms. Griest stated that as she recalls it was one of the most premier products available at the time
30 but even the special conditions indicate that the Board did not expect to eliminate all odors.

31
32 Mr. Passalacqua asked if anyone knows how the odors from Herriott's Columbia Street Roastery
33 or Kraft Foods are handled because residential areas are nearby.

34
35 Mr. Hall stated that he is not familiar with any of those standards and both of those things, in his
36 opinion, are controlled as well as the odors in this case are controlled.

37
38 Mr. Passalacqua stated that he thought that there may be a comparable City of Champaign
39 ordinance.

40
41 Ms. Lee stated that Allen's Meat Locker is within close proximity of the subject property
42 although she is not sure if they smoke any of their meats. She said that she would think that
43 Allen's Meat Market has meat for sale as retail therefore they are a different aspect but she

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1 would think that they would have some requirements.

2
3 Mr. Randol stated that if the Board has the guidelines for when this use was first established and
4 no complaints have been received since approval then there should be no issue. He said that Mr.
5 Stites is not burning leaves but is burning wood therefore it could be compared to Lil' Porgy's or
6 any of the other smokehouses in town therefore if nothing else is going on he is not in favor of
7 doing anything any different than perhaps a yearly visit.

8
9 Mr. Thorsland stated that he agrees with the annual visit and perhaps some sort of log regarding
10 maintenance of the scrubber unit.

11
12 Ms. Lee stated that over the years she has driven past the subject property several times and she
13 has never smelled any odors coming from the property. She said that if there is a southwest
14 wind, which would be prevailing, she would believe that the neighbors to the northwest would
15 smell odors from the subject property at their residence which is fairly close by.

16
17 Mr. Thorsland stated that he would like to see some language regarding the scrubbing unit and
18 some sort of log regarding maintenance indicating when the charcoal and filters were changed.

19
20 Mr. Hall clarified that the smoking is not burning wood but is actually a liquid that is applied in
21 the smokehouse.

22
23 Mr. Thorsland stated that this is not like Lil' Porgy's and as he recalls there is heat applied to the
24 meat and at some point, which is a short period of time, there is a liquid flavoring applied. He
25 said that this is not a 12 hour pig roast that is going on in the back of the shop but is a heat
26 process and then the flavor is infused and the unit was installed to take care of that short period
27 of time when the flavoring is infused.

28
29 Ms. Griest stated that she is not in favor of adding an additional special condition but she is less
30 in favor of restricting this to a five year renewal. She said that having participated in the
31 previous case and seeing the performance of this petitioner, as compared to other petitioners that
32 the Board has seen over time, she believes that this petitioner has done a marvelous job on
33 compliance. She said that the fact that there were no complaints directly to the petitioner or to
34 the zoning office that were not specifically addressed or resolved cannot be faulted on behalf of
35 the petitioner, regardless of who the petitioner may be. She said that she would be reluctantly
36 willing to support continuing this case and adding a special condition monitoring maintenance
37 and she would need to eliminate the five year renewal. She said that if adding the maintenance
38 monitoring requirement is the price that has to be paid for eliminating the five year renewal
39 requirement then she will support continuing the case to a later date. She said that she believes
40 that the Board could simply ask the petitioner to send in the maintenance records and the
41 petitioner would comply instead of adding another condition. She said that a visit can be
42 scheduled if need be but if Mr. Hall requires an enforcement tool then she will stand behind that
43 100% if it is actually something that can or should be enforced but the idea of no odor is not an

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1 option for enforcement.

2

3 Mr. Thorsland stated that currently the consensus of the Board is to have an annual check on the
4 entirety of the smoke/odor removal and perhaps some suggested language regarding a
5 maintenance log. He said that as he previously stated he does not believe that the case needs to
6 be finished tonight.

7

8 Ms. Lee stated it will take at least 30 minutes for staff to get to the property and so much can
9 change in 30 minutes time.

10

11 Mr. Thorsland suggested to the audience that if they believe that there is something happening on
12 the subject property that appears wrong then a phone call to the zoning department should occur
13 and staff can decide whether or not to send someone to the subject property to investigate the
14 complaint. He said that no one will know about what is going on if a phone call is not made to
15 the zoning office.

16

17 Mr. Thorsland entertained a motion to continue Case 778-S-14 to the August 14, 2014, meeting.

18

19 **Mr. Passalacqua moved, seconded by Ms. Griest to continue Case 778-S-14 to the August**
20 **14, 2014, meeting. The motion carried by voice vote.**

21

22

CASE NO. 779-S-14
SUPPLEMENTAL MEMORANDUM

August 7, 2014

Champaign County
Department of

**PLANNING &
ZONING**

Petitioner: Keith Pedigo

Request: Authorize the following as a Special Use in the R-2 Single Family Residence Zoning District on the subject property below:

Authorize a Special Use Permit for the conversion of an existing single family residence to a two family residence in the R-2 Single Family Residence Zoning District that is also the subject of related Case 780-V-14 on the following property:

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

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

Location: Lot 6 in Block 2 of Commissioner's Addition to the Village of Seymour in the Northeast corner of Section 17 in Scott Township and commonly known as the residence at 202 South Sheridan Street, Seymour.

Site Area: 0.19 acres

Time Schedule for Development: Existing and As Soon As Approval Is Given

Prepared by: Susan Chavarria
Associate Planner

John Hall
Zoning Administrator

STATUS

This case was continued from the June 26, 2014, public hearing and an excerpt of those Approved Minutes is included separately.

The petitioner has verified the location of the septic tank and leach field. See the discussion below.

LOCATION OF EXISTING SEPTIC TANK AND LEACH FIELD

Petitioner Keith Pedigo contracted with a septic company and provided a summary of the results in an email received by staff on August 6, 2014. See Attachment A.

The septic tank was pumped by the contractor and determined to have a volume of 1,200 gallons. This capacity is 96% of the required capacity for a four-bedroom dwelling unit.

The following evidence is proposed for new item 5. E. of the Summary of Evidence:

- E. In an email received on August 7, 2014, the petitioner provided the following information about the existing septic system:
 - (1) The petitioner hired Schoonover Sewer Service to identify where the septic tank is located and the tank is located just west of the dwelling and the leach field is located south of the dwelling. Both are indicated on a diagram received August 7, 2014.

- (2) The petitioner hired Berg Tanks of Urbana, Illinois to pump the septic tank and the petitioner was told "...everything looked great and was working properly." The petitioner was advised by Berg Tanks that high septic loadings as would occur from running two washing machines all day might cause problems for the septic system.

ADDITIONAL PROPOSED SPECIAL CONDITION

Staff recommends adding the following Special Condition as new item 12.E. of the Summary of Evidence:

- E. The number of bedrooms allowed in the structure will be limited to four.**

The above special condition is required to ensure the following:

To ensure that there is sufficient septic system capacity for the number of persons living in the structure.

ATTACHMENTS

- A Excerpt of Approved Minutes for Case 779-S-14 from the June 26, 2014, public hearing (included separately)
- B Email from Keith Pedigo received August 7, 2014, with attachment:
- Diagram of septic system size and location
 - Copy of receipt from Berg Tanks dated 7/23/14 noting size of tank

Susan Chavarria

From: Keith Pedigo <kpedigo1@hotmail.com>
Sent: Wednesday, August 06, 2014 9:47 PM
To: Susan Chavarria
Subject: RE: 202 sheridan seymour
Attachments: img001.jpg; septic diagram.png

Follow Up Flag: Follow up
Flag Status: Flagged

Okay well got things lined up with the septic guy! Looks like things may be pretty good. First we had schoonovers locate the septic by sending a camera down the sewer line. Everything was good there. Turns out my septic head was directly underneath a new sump line I installed. So I had to cut that to get it out of the way. Septic guy came (and pumped) and said everything looked great and was working properly. He said I had a 1200 gal Septic tank and the field was where we expected. He didn't think anything would be the problem except if both units were running washing machines all day. So to that i'll be certain to have high efficiency washers on site. I suspect that the reason things have gone so well is that we've had such a small amount of people for the large tank. We also plan to request our tenants use septic friendly toiletries as well as be mindful of what goes down the drain.

The diagram is of the tank and field

The receipt shows work done and I had him note the tank size on there, just underneath his notation of doing the pumping

From: schavarr@ccrpc.org
To: kpedigo1@hotmail.com
Subject: RE: 202 sheridan seymour
Date: Mon, 28 Jul 2014 15:20:32 +0000

Hi Keith,

Here are the files from the first meeting regarding case 779-S-14. If you need other files, just let me know.

Thanks!
Susan

From: kpedigo1 [<mailto:kpedigo1@hotmail.com>]
Sent: Saturday, July 26, 2014 10:27 AM
To: Susan Chavarria
Subject: 202 sheridan seymour

Hey would it be possible to get the digital packet version for my case that was used at our first meeting. !!! mark the septic tank on the satellite and field.

Sent from my Galaxy S^!!!



Berg Tanks
1808 East Main St.
Urbana, Illinois 61802
Phone 367-8632

Date 7-23-14

No:39113

Customer Name: KETHA PEDIGO

Address: 202 S SHERIDAN

Town: SEYMOUR State: IL Zip: _____

Work Ordered By: _____ Telephone: _____ P. O. _____

• Septic Tank Cleaning	<u>202 S. SHERIDAN SEYMOUR</u>	<u>200.⁰⁰</u>
• Aeration System Cleaning	<u>1200 gal. TANK</u>	
Filter Replacement		
• Grease Trap Cleaning/Outside		
• Grease Trap Cleaning/Inside		
• Pump Chamber	<u>Pol Ch # 1338</u>	
• Mud Pit Cleaning	<u>[Signature]</u>	
• Oil Separation Tank Cleaning	<u>[Signature]</u>	
• Digging		
• Other		
• Serviceman:		
• Payment Ck#		
• Payment Type: Charge	CC#	
Customer Signature: _____		Total: <u>200.⁰⁰</u>

**Excerpt of Approved Minutes for June 26, 2014
Cases 779-S-14 & 780-V-14**

1 **Case 779-S-14 Petitioner: Keith Pedigo Request to authorize a Special Use Permit for the**
2 **conversion of an existing single family residence to a two family residence in the R-2, Single**
3 **Family Residence Zoning District that is also the subject of related Case 780-V-14.**
4 **Location: Lot 6 in Block 2 of Commissioner's Addition to the Village of Seymour in the**
5 **Northeast corner of Section 17 in Scott Township and commonly known as the residence at**
6 **202 South Sheridan Street, Seymour.**

7
8 **Case 780-V-14 Petitioner: Keith Pedigo Request to authorize the following variance for an**
9 **existing single family residence on a corner lot in the R-2, Single Family Zoning District: 1)**
10 **a proposed porch with a setback which falls within, in lieu of outside of, the visibility**
11 **triangle established for corner lots defined as the area bounded by the street right-of-way**
12 **lines of corner lots and a straight line joining points along said street right-of-way lines 50**
13 **feet from the nearest point of intersection; and 2) a proposed porch with a front yard**
14 **facing Sheridan Street of 6 feet in lieu of the minimum required 25 feet; and 3) a proposed**
15 **porch with a front yard facing South Street of 14.5 feet in lieu of the minimum required 25**
16 **feet; and 4) an existing nonconforming side yard of 6 feet in lieu of the minimum required**
17 **10 feet for both the dwelling and the garage. Location: Lot 6 in Block 2 of Commissioner's**
18 **Addition to the Village of Seymour in the Northeast corner of Section 17 in Scott Township**
19 **and commonly known as the residence at 202 South Sheridan Street, Seymour.**

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

30
31 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing
32 tonight must sign the witness register for that public hearing. He reminded the audience that
33 when they sign the witness register they are signing an oath.

34
35 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his
36 request.

37
38 Mr. Keith Pedigo, who resides at 202 S. Sheridan Street, Seymour, stated that he and his wife
39 purchased the house seven years ago and there is a lot of room inside but what he did not know is
40 that they do not have a lot of room outside, which seems to be the problem. He said that the yard
41 extends past his property line and that is an area that he has been taking care of but it appears that
42 he has been naïve and the lot does not go where he believed it did. He said that the house is
43 large inside with an open basement but the main problem is that the yard is not large enough for
44 current septic standards and according to the information before the Board tonight he does not
45 have enough room for the current system. He said that if the Board has to go by the numbers

**Excerpt of Approved Minutes for June 26, 2014
Cases 779-S-14 & 780-V-14**

1 then it appears that the possibility of a duplex is over and if the Board has to deny his request
2 then that is fine. He said that he is fairly certain that his current septic field does go past the
3 property line but he is not certain. He said that the neighbors who received the notice that was
4 sent out were trying to decide what he was doing along South Street and he believes that it is the
5 fact that the house is already too close to South Street and the porch that they desire to attach to
6 the house will be straight off of South Street and will not be any further to the north of the house.
7 He said that his request is pretty straight forward but he would like to ask the Board one question
8 and that is whether or not everything would be fine and dandy for a duplex if Seymour installed a
9 public sewer system.

10
11 Mr. Thorsland stated that the County Health Department regulates the septic system and not the
12 Board. He said that the Board only reviews the property for adequate room for the required
13 septic system.

14
15 Mr. Pedigo stated that the all of the neighbors to the north, northwest and southwest have
16 properties that encroach into the visibility triangle. He said that the Summary of Evidence
17 indicates that the most recent ADT data is 175 near the subject property. He said that he believes
18 that 175 is very high because there are only 375 people who live in Seymour therefore the data is
19 indicating that more than half of the town drives past his house every day and that certainly is not
20 accurate.

21
22 Mr. Thorsland asked the Board if there were any questions for Mr. Pedigo.

23
24 Mr. Randol asked Mr. Pedigo to indicate the dimension from the front of his house to the street
25 line.

26
27 Mr. Pedigo stated that he believes that it is 14 or 16 feet. He said that the end of the proposed
28 porch will be six feet off of the property line.

29
30 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Pedigo and there was
31 no one.

32
33 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated June 26,
34 2014, to the Board for review. He said that included with the Supplemental Memorandum is an
35 email from Mr. Pedigo indicating that he had arranged to have the septic tank pumped but they
36 could not find the septic tank when they were there and will continue to work on that issue. Mr.
37 Hall said that the last attachment is a diagram that Ms. Chavarria made which is based on the
38 information provided by Mike Flanagan, Champaign County Public Health Department. Mr.
39 Hall said that according to Mr. Flanagan this property has a 50' x 55' area on the south where
40 you would expect a septic system would be located or could be located but we are more
41 interested in knowing if a new system could fit on the property. He said that in order for Mr.
42 Flanagan to approve a septic system on this property he would require soil data from three spots
43 and he was only provided data on one spot. Mr. Hall said that based upon the one soil data
44 investigation Mr. Flanagan determined that a curtain drain would be required and the curtain
45 drain can be no closer than 10 feet to the leach field so you start out with a 50' x 55' area and

**Excerpt of Approved Minutes for June 26, 2014
Cases 779-S-14 & 780-V-14**

1 quickly narrow it down to a 23.5' x 27' septic field and using the most technology that would
2 result in the smallest leach field he would have to invest in an aeration tank not just a septic tank.
3 Mr. Hall said that an aeration tank costs a lot more than a septic tank and has costs of operation
4 because it is processing the waste and hopefully being able to install the septic field as high in
5 the soil profile as possible so that it is getting the best soil for the smallest system. He said that
6 the house, as it currently sits, would require 155 linear feet of this low profile stuff that Mr.
7 Flanagan assumed because it gives the smallest required area. He said that 155 linear feet is
8 required but staff could only get 148 linear feet on the property by using all of the requirements
9 that staff had. He said that regarding the curtain drain, if Mr. Pedigo could obtain permission
10 from the highway commissioner and the neighbors he could put the curtain drain right up to the
11 property line provided that they let him do whatever excavation that he needs to do. He said that
12 the curtain drain would add another 8' and the trenches for the septic field material would require
13 9 feet on-center spacing. He said that using actual dimensions and not going by the aerial and
14 putting the curtain drain on the property line Mr. Pedigo might be able to install another run of
15 this trench material therefore he might be able to install a new system to serve the three bedroom
16 but using this technology there is no way Mr. Pedigo could install a septic system for a four
17 bedroom duplex. He said that he does not know if a sand filter would help and he doesn't know
18 if they allow surface discharging sand filters anymore but it is something that Mr. Pedigo could
19 investigate with Mike Flanagan and ask him if there are other options that would require less
20 area. Mr. Hall said that at this point it is up to the Board but he does not see how Mr. Pedigo is
21 going to get a septic system on the property for a duplex, at least not with the information that is
22 before us today.

23
24 Mr. Thorsland noted that to be clear the Champaign County Health Department has to sign off
25 on the septic system.

26
27 Mr. Hall stated that the Health Department would need to sign off on a new septic system or any
28 other significant change. He said that what the Board requires for the special use permit is up to
29 the Board but normally the Board would require the Health Department's sign off.

30
31 Mr. Thorsland asked Mr. Hall if the Board's job would be much easier if public sewer was
32 available.

33
34 Mr. Hall stated that he is assuming that it would make the Board's job easier.

35
36 Mr. Randol stated that the Seymour Water District is pursuing grants and the whole scope of
37 installing a public sewer system has been in process for three or four years. He said that public
38 sewer in Seymour is going to happen but he cannot indicate when it will happen. He said that it
39 all leads back to the EPA's requirements and the Seymour Water Board is hoping that they will
40 have something definite in five years or at least that is their goal.

41
42 Ms. Lee asked Mr. Hall how much a curtain drain costs.

43
44 Mr. Hall stated that he is not sure but he does not believe that it is greatly expensive.
45

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1 Ms. Lee asked if the curtain drain would cost at least \$1000.

2
3 Mr. Hall stated that he is fairly sure that it would because you would have to trench all the way
4 around it.

5
6 Ms. Lee asked Mr. Hall to indicate the type of the other system that might be available.

7
8 Mr. Hall stated that the other system that he discussed was an aeration system or multi-flow type
9 unit.

10
11 Ms. Lee asked if an aeration system would cost \$10,000.

12
13 Mr. Hall stated that an aeration system is very expensive. He said that Mr. Pedigo will need to
14 have a sewage ejector in the basement to get the waste up to the elevation of the septic system.

15
16 Mr. Pedigo stated that he has already purchased a sewage ejector and it is sitting in his basement
17 waiting for installation.

18
19 Mr. Randol stated that the house directly south of Mr. Pedigo's property has a multi-flo system
20 and that property has less yard and space than Mr. Pedigo's property. He said that the system is
21 new and they ran the discharge to the storm drain. He said that at the far northeast corner of that
22 block away a multi-flo system was discovered to be having issues and he found that it was over
23 the water main and the highway commissioner ran a line to the street so that the system could
24 discharge into the storm drain system. He said that there is a way for Mr. Pedigo to get rid of the
25 discharge if he pursues an aeration system.

26
27 Mr. Hall stated that the rules for an aeration system changed in February 2014. He asked Mr.
28 Pedigo if he discussed an aeration system with Mr. Flanagan.

29
30 Mr. Pedigo stated that he did discuss an aeration system with Mr. Flanagan and he indicated that
31 it would be the best way to go if you have limited space.

32
33 Mr. Hall asked Mr. Pedigo if Mr. Flanagan discussed having an aeration system that fed into a
34 leach field.

35
36 Mr. Pedigo stated that he mentioned a traditional system but when they discussed the limited
37 space he said that a traditional system was not an option.

38
39 Mr. Hall stated that he was curious if Mr. Flanagan mentioned that it would be possible to have
40 an aeration system that discharged to the surface of the ground.

41
42 Mr. Pedigo stated that he does not think that Mr. Flanagan knew of that. Mr. Pedigo stated that
43 he spoke to a neighbor that did that and she did not know the specifics but she indicated that she
44 did not believe that there was much of a septic system on her property at all.

45

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1 Mr. Hall stated that if the neighbor's system was installed prior to February 2014 then that is
2 probably what she has but systems like that cannot be installed currently unless the property
3 owner can prove that such a system is the only feasible approach. He said that just going
4 through the process of proving that it is the only feasible approach costs money. He said that he
5 does not know what the Board will suggest that Mr. Pedigo should do but Mr. Pedigo could talk
6 to Mr. Flanagan or his installer.

7
8 Mr. Pedigo stated that he does not have an installer in mind yet.

9
10 Ms. Lee asked if there was a difference between an aeration system and a multi-flo system.

11
12 Mr. Hall stated that an aeration system and multi-flo system are one in the same. He said that
13 this system uses an aeration system to feed into a leach field rather than an aeration system that
14 just discharges to the top of the ground.

15
16 Mr. Passalacqua stated that Multi-flo or Jet are brand names but they are all aeration systems.
17 He said that his discharges into the leach field that has an overflow at the end and he has never
18 seen anything come out of the overflow. He noted that he has a lot of leach field area and only
19 two people in his household but he does not know if it is true or not but the discharge is supposed
20 to be clear water.

21
22 Ms. Griest asked Mr. Hall if the width of the lot is 50 feet or 55 feet. She said that the lot for the
23 visibility triangle diagram appears to be 50 feet and the lot on the diagram for the septic appears
24 to be 55 feet. She requested clarification.

25
26 Mr. Hall stated that the 50 feet indicated on the visibility triangle diagram is the visibility
27 triangle itself. He said that the lot is 55 feet wide.

28
29 Mr. Randol stated that regarding the ADT data, there are probably not 10 cars per day that goes
30 around the corner where Mr. Pedigo resides because no matter whether you go south or west you
31 are one block from a corn field.

32
33 Mr. Thorsland noted that the traffic data comes from some mathematical formula and he is not
34 that worried about the ADT. He said that the two cases should be separated because the
35 visibility triangle for the porch is a fairly straight forward variance case. He said that the case
36 regarding the request for the duplex cannot be decided upon tonight because the petitioner needs
37 to discover where the septic system is located. He suggested that the petitioner use a tile probe
38 to find the septic system.

39
40 Mr. Randol stated that there is a possibility that the septic tank is located on the neighbor's
41 property. He said that both of those homes were close family and it was not unusual for those
42 homes to have a shared well and septic tank. He said that part of the leach field could be on the
43 neighbor's property therefore Mr. Pedigo should not be shy in investigating his neighbor's
44 property for the location of his system.

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1 Mr. Thorsland stated that the Board requires additional information.

2
3 Ms. Lee stated that there have been cases where septic systems are located underneath garages.

4
5 Mr. Thorsland stated that nothing is surprising with these small towns. He said that he
6 personally would like to have more information regarding Case 779-S-14. He asked Mr. Hall if
7 the cases could be separated and how does one have anything to do with the other.

8
9 Mr. Hall suggested that the Board not make a determination on the variance until the Board
10 decides the special use because in case the special use does get approved, approving the variance
11 at the same time makes it very clear that the variance is anticipating a duplex.

12
13 Mr. Randol asked Mr. Hall if the porch is part of the duplex.

14
15 Mr. Hall stated that the house without the porch needs a variance and approving the variance at
16 the same time makes it clear that the Board approved the variance for a duplex and not just for a
17 single family home. He said that it is a fine point but from the Zoning Administration
18 perspective it makes all of the difference in the world.

19
20 Ms. Griest stated that the fine point being if the structure were destroyed at a later date and time
21 they might need to come back and get a variance for the house.

22
23 Mr. Hall stated that it is even possible for a neighbor to take issue with the duplex if there was
24 any question whether this was a variance considered a duplex or a single family home.

25
26 Ms. Lee stated that without knowing where the septic system is located Mr. Pedigo could
27 discover that it is located under where the proposed porch is to be located.

28
29 Mr. Pedigo stated that it is impossible that the septic system is located where the porch is
30 proposed because grade goes uphill to where his sewer drain is located.

31
32 Mr. Randol asked Mr. Pedigo where the drain goes through the wall.

33
34 Mr. Pedigo stated that the drain goes through the southwest corner of the wall.

35
36 Mr. Randol stated that the system could be under the driveway or the garage. He said that the
37 porch is to be located at the northwest corner.

38
39 Mr. Pedigo asked the Board or staff to clarify what his current septic system has to do with the
40 porch because according to Mr. Flanagan until the current system fails he has no laws requiring
41 the location.

42
43 Mr. Hall stated that Mr. Flanagan is going by his regulations and the Board has to follow their
44 regulations and in approving the duplex the Board has to find that it doesn't create any problems
45 for public health and safety and at this point approving a doubling of the septic load without even

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1 knowing if there is a septic tank would be irresponsible.

2
3 Mr. Pedigo stated that certainly the determination of the fact that he can have an upgraded
4 system is based on the square footage of the yard and if it is inadequate then there is no reason to
5 move forward.

6
7 Mr. Hall stated that staff's determination is based on the information provided by Mr. Flanagan
8 and whether or not Mr. Pedigo can have an upgraded system is entirely up to Mr. Flanagan. Mr.
9 Hall stated that this is what is difficult about a case like this because staff is trying to provide the
10 best information we can to the Board and Mr. Flanagan is simply enforcing his ordinance and
11 until he is presented with a permit he cannot do much. He said that staff was willing to take the
12 time to draw the illustration so that the Board has some ideas whether this is going to work or
13 not.

14
15 Mr. Thorsland stated that he understands Mr. Pedigo's frustration because he has a perfectly
16 functioning system now and as far as he knows the system could be located on the entire lot
17 except for where the house is but the Board does not know its exact location. He said that if the
18 Board approves the duplex they have to assure that there is adequate room for a replacement unit
19 in case the existing unit fails. He said that the Board just reviewed a previous case and the site
20 plan indicated a space where a new system could be built and this is something that the Board
21 does for every case to assure that the use can properly function for many years. He said that at
22 this stage the Board does not have enough information about what is on the property now to
23 further discuss the case. He said that he does not want to go too far down the path to find out
24 that there is an adequate system that goes underneath everything else on the property or extends
25 into the neighbor's yard and that information would be helpful for the Board's consideration. He
26 said that if it is in the neighbor's yard and the Board approved the duplex request knowing this
27 information and the neighbor's yard explodes due to over use then the Board will have approved
28 a duplex on this lot which has somehow affected the neighbor. He said that he hopes that Mr.
29 Pedigo has a great neighbor if that is the case but it is a known fact that neighbors do not always
30 get along therefore it would be nice to know what the current situation is before we go any
31 further with the special use.

32
33 Mr. Hall stated that whoever Mr. Pedigo has to help him locate the tank there is always a risk of
34 damaging the system. He said that if the system is damaged Mr. Pedigo will be required to
35 repair the entire system to the new standards therefore Mr. Pedigo should have confidence in
36 whoever he has locating the tanks so that he does not inadvertently have to do something even
37 without having a duplex. He said that he has been told that this is a tricky practice.

38
39 Ms. Lee asked Mr. Hall to indicate the difference in the previous aeration requirements and the
40 current aeration requirements.

41
42 Mr. Hall stated that it is his understanding that a surface discharging aeration unit cannot be
43 installed now if one was not on the property previously although there is a way to justify it
44 economically but he does not recall if that is for entirely new systems or replacing old systems.
45 He said that the intent is to stop surface discharging and that is not due to any concern about

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1 public health but is related to water quality. He said that Illinois has been the last state to come
2 into line with what the USEPA wants in that regard. He said that our Department of Public
3 Health has fought for years to continue allowing these systems so that the people in Illinois had a
4 viable alternative but they are not going to be able to continue doing that and will have to
5 develop community systems because it will be the only real alternative in the future.
6

7 Mr. Randol stated that Mr. Flanagan has indicated that he has to look at requests as case by case
8 issues therefore he would not rule out the possibility of him working with Mr. Pedigo to
9 determine some type of system that can be upgraded. He said that the other systems have
10 probably been failing which makes a difference but Mr. Randol knows that Mr. Flanagan has
11 been working on case by case issues when problems arise.
12

13 Mr. Thorsland stated that perhaps the question to Mr. Flanagan should be if a duplex was on the
14 lot now what type of system would he recommend and is that something that Mr. Pedigo could
15 pursue. He suggested that Mr. Pedigo have someone assist him with finding his current system
16 and then speak with Mr. Flanagan about what options he may have so that the Board has
17 something to work with for the duplex request and then the variance case will fold into that
18 nicely.
19

20 Mr. Hall asked Mr. Pedigo if the porch that he has purchased is on the property currently.
21

22 Mr. Pedigo stated that the porch is currently sitting at Wonderful World of Homes in Mahomet.
23

24 Mr. Hall asked Mr. Pedigo if it is a problem to keep the porch at that location.
25

26 Mr. Pedigo stated that it is somewhat stuck there currently because there are other things that
27 need to be moved on their property but the porch does need to be moved soon, which will be in
28 his yard.
29

30 Mr. Randol noted that Wonderful World of Homes is going out of business therefore they want
31 to get the lot emptied.
32

33 Mr. Hall stated that if it is a real hardship then perhaps the Board could give Mr. Pedigo some
34 guidance on what to do with the porch in the mean time.
35

36 Mr. Randol stated that he would not have a problem with separating the two cases and moving
37 forward with the variance request for the porch. He said that the description of the case reads
38 that the variance is for an existing single family residence on a corner lot.
39

40 Mr. Thorsland agreed. He requested that Mr. Hall explain his concern about approving it in this
41 form and then approving the special use for a duplex with the porch.
42

43 Mr. Randol stated that there is a chance that Mr. Pedigo won't be able to move forward with his
44 duplex request due to the septic system in which case the porch will just be sitting there in limbo.
45

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1 Ms. Griest asked Mr. Hall if it would be feasible to go ahead and approve the porch on the single
2 family residence and then advertise a second variance case for the property to be authorized as a
3 duplex at no additional cost to the petitioner so that we can pull these two cases apart and make it
4 clear for anyone who would revisit the cases that when the Board approved the case for a duplex
5 that the Board also included a variance in case the structure needs to be rebuilt.
6

7 Mr. Hall stated that we would allow the porch to be stored on the property but his concern was
8 whether or not that would cause any undue weathering. He said that the porch just sitting on the
9 property is perfectly fine because we do that all of the time and his concern was that once Mr.
10 Pedigo takes the porch out of storage that he would want to have it connected to the house in a
11 weather tight manner as it is supposed to be.
12

13 Ms. Griest stated that Mr. Pedigo has already purchased the porch and is not taking it back to the
14 seller if his request is denied whereas if the case were denied he may not complete the purchase
15 contract.
16

17 Mr. Hall stated that his presumption is that if this is nothing more than a variance for the porch
18 and a single family home then he sees no reason why that would not be approved and then
19 converting it to a duplex is a completely different matter and re-advertising it at no cost to the
20 petitioner is going beyond the Ordinance but if that is what the Board wants he is willing to do it.
21 He said that approving a variance for a single family home at one meeting and then approving a
22 special use permit to make it a duplex at the next meeting, he would urge the Board not to do that
23 without re-advertising. He said that this type of matter is not a benefit that is granted by the
24 Ordinance but if that is what the Board thinks is reasonable then that is what he will do.
25

26 Mr. Randol stated that he would be in favor of re-advertising and letting them proceed with the
27 fact that they want to place a porch on a single family dwelling.
28

29 Mr. Thorsland stated that the Board has heard staff's concerns but he is not uncomfortable with
30 continuing forward with the variance case because he does not believe that it is in play with the
31 septic which is the driver for the duplex case. He said that he would flip a coin to decide
32 whether or not the duplex can be approved until the Board finds out about the septic or a public
33 sewer system is available. He said that if there is some period of time in between the two cases,
34 two or three years, and the Board comes back and approves the duplex this single family home
35 with a porch does not cause the same sort of conundrum that doing it a month apart from each
36 other would cause.
37

38 Mr. Hall stated that it may not sound logical but he would not have the same concerns then.
39

40 Mr. Thorsland stated that he completely understands staff perspective. He said that he
41 understands the situation with Wonderful World of Homes and the fact that they want to get the
42 lot cleared. He asked Mr. Pedigo if he owns the porch currently.
43

44 Mr. Pedigo stated yes.
45

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1 Mr. Thorsland stated that it could be argued that for some economical benefit to the petitioner
2 that the cases need to be separated. He said that the Board would probably agree that approving
3 the porch for a single family home is probably not dependent upon any other conditions than the
4 visibility triangle.
5

6 Ms. Lee asked Mr. Hall if the only reason why he does not want to do the porch case now and
7 then the duplex case at the next meeting is the re-advertising or is there anything else.
8

9 Mr. Hall stated that if he were back at the beginning he might have revised the legal
10 advertisement for the variance to include the proposal for a duplex because if you have a
11 building that is a single family home and it is nonconforming you can't make it into a duplex
12 without approving a variance for a duplex because making it into a duplex makes it more
13 nonconforming than if it is just a single family home. He said that it is a complicated issue and
14 writing legal advertisements to make that clear is just a challenge and the re-advertising is the
15 easiest thing to do in this instance. He said that the Board would approve the variance request
16 for a single family home and if there is reason to believe that the duplex is feasible he would say
17 then advertise the variance for the duplex but if that is years in the future then he thinks that it
18 could just be the special use permit. He said that mostly this is an issue of not creating any legal
19 problems that someone could challenge and he is completely serious that converting a single
20 family home to a duplex when the single family is nonconforming must be dealt with somehow.
21 He said that this is an issue that does not happen very frequently but it is an issue that came up in
22 another instance at the office recently which is why he is sensitive to it now and he hates to see
23 the Board do something when he is not comfortable about how that all works out. He said that
24 clearly re-advertising is easier and if the Board is ready to take action on this variance tonight
25 then that would be the easiest thing to do.
26

27 Mr. Thorsland asked Mr. Hall if the Board looks at it as a single family home for the variance for
28 the porch and it should be approved does it make more significantly noncompliant.
29

30 Mr. Hall stated no.
31

32 Mr. Thorsland stated that he is happy to go forward with the variance case if the rest of the Board
33 is comfortable as well. He said that if the Board is uncomfortable now is the time to discuss it.
34

35 The consensus of the Board was to move forward with Case 780-V-14.
36

37 Mr. Thorsland stated that he would like to add that the petitioner has possession of the porch and
38 it is located at a different location.
39

40 Mr. Hall asked if that information was relevant to granting the variance.
41

42 Mr. Thorsland stated probably not.
43

44 Ms. Capel stated that the information is already implied in the Summary of Evidence under Item
45 #7.D.(3).

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1
2 Mr. Thorsland stated that there are no new Documents of Record.
3

4 **Findings of Fact for Case 780-V-14:**
5

6 From the documents of record and the testimony and exhibits received at the public hearing for
7 zoning case 780-V-14 held on June 26, 2014, the Zoning Board of Appeals of Champaign
8 County finds that:
9

10 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
11 **structure involved, which are not applicable to other similarly situated land and structures**
12 **elsewhere in the same district.**
13

14 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the
15 land or structure involved, which are not applicable to other similarly situated land and structures
16 elsewhere in the same district because the lot sizes in Seymour are extremely narrow and this lot
17 is only 55 feet wide. The existing home already encroaches on the visibility triangle however
18 there is at least 15 feet between the edge of the pavement and the right-of-way line.
19

20 Ms. Capel stated that the purchased porch railings are less than 50% opaque.
21

22 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
23 **regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the**
24 **land or structure or construction.**
25

26 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict
27 letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use
28 of the land or structure or construction because the limited size of the corner lot prevents them
29 from altering their home and would prevent the addition of the porch without the variance.
30

31 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
32 **result from actions of the applicant.**
33

34 Mr. Thorsland stated that the special conditions, circumstances, hardships, or practical
35 difficulties DO NOT result from actions of the applicant because the lot and the home existed
36 prior to the adoption of zoning on October 10, 1973.
37

38 **4. The requested variance IS in harmony with the general purpose and intent of the**
39 **Ordinance.**
40

41 Ms. Capel stated that the requested variance IS in harmony with the general purpose and intent
42 of the Ordinance because it conforms to the general layout of the neighborhood.
43

44 Mr. Thorsland stated that the lot to the south has a similar configuration and lot usage.
45

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1 **5. The requested variance WILL NOT be injurious to the neighborhood or otherwise**
2 **detrimental to the public health, safety, or welfare.**

3
4 Mr. Randol stated that the requested variance WILL NOT be injurious to the neighborhood or
5 otherwise detrimental to the public health, safety, or welfare because it conforms with other
6 residences in the area.

7
8 Ms. Capel stated that the Township Highway Commissioner and the Fire Protection District have
9 been provided notice of the variance and no comments have been submitted.

10
11 Ms. Griest stated that each of the streets involved dead end within one block of the residence.

12
13 **6. The requested variance IS the minimum variation that will make possible the**
14 **reasonable use of the land/structure.**

15
16 Ms. Griest stated that the variance IS the minimum variation that will make possible the
17 reasonable use of the land/structure.

18
19 **7. No special conditions are hereby imposed.**

20
21 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record
22 and Findings of Fact as amended.

23
24 **Ms. Griest moved, seconded by Mr. Randol to adopt the Summary of Evidence, Documents**
25 **of Record and Findings of Fact as amended. The motion carried by voice vote.**

26
27 Mr. Thorsland entertained a motion to move to the Final Determination for Case 780-V-14.

28
29 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 780-**
30 **V-14. The motion carried by voice vote.**

31
32 Mr. Thorsland informed the petitioner that one Board member was absent therefore it is at his
33 discretion to either continue Case 780-V-14 until a full Board is present or request that the
34 present Board move forward to the Final Determination. He informed the petitioner that four
35 affirmative votes are required for approval.

36
37 Mr. Pedigo requested that the present Board move to the Final Determination.

38
39 **Final Determination for Case 780-V-14:**

40
41 **Ms. Griest moved, seconded by Mr. Passalacqua that the Champaign County Zoning**
42 **Board of Appeals finds that, based upon the application, testimony, and other evidence**
43 **received in this case, that the requirements for approval in Section 9.1.9.C. HAVE been**
44 **met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County**
45 **Zoning Ordinance, the Zoning Board of Appeals of Champaign County finds that the**

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1 variance requested in Case 780-V-14 is hereby GRANTED to petitioner Keith Pedigo to
2 authorize the following variances in the R-2 Residential Zoning District:

3 **Part 1.** **A setback which falls within, in lieu of outside of, the visibility triangle**
4 **established for corner lots defined as the area bounded by the street**
5 **right-of-way lines of corner lots and a straight line joining points**
6 **along said street right-of-way lines 50 feet from the nearest point of**
7 **intersection.**

8
9 **Part 2.** **A front yard facing Sheridan Street of 6 feet in lieu of the minimum**
10 **required 25 feet.**

11
12 **Part 3.** **A front yard facing South Street of 14.5 feet in lieu of the minimum**
13 **required 25 feet.**

14
15 **Part 4.** **A side yard of 6 feet in lieu of the minimum required 10 feet for both**
16 **the dwelling and the garage.**

17
18 Mr. Thorsland requested a roll call vote.

19
20 The roll was called as follows:

21			
22	Capel-yes	Lee-yes	Miller-absent
23	Passalacqua-yes	Randol-yes	Griest-yes
24	Thorsland-yes		
25			

26 Mr. Hall informed Mr. Pedigo that he has received approval of the variance request and staff will
27 contact him regarding the required paperwork for the porch.

28
29
30 Mr. Thorsland requested a date for continuance of Case 779-S-14.

31
32 Mr. Hall recommended that Case 779-S-14 be continued to the August 14, 2014, meeting.

33
34 Mr. Thorsland asked Mr. Pedigo if he would be available on August 14, 2014.

35
36 Mr. Pedigo stated yes.

37
38 Mr. Thorsland entertained a motion to continue Case 779-S-14 to the August 14, 2014, meeting.

39
40 **Ms. Griest moved, seconded by Ms. Lee to continue Case 779-S-14 to the August 14, 2014,**
41 **meeting. The motion carried by voice vote.**

CASE NO. 783-V-14

PRELIMINARY MEMORANDUM

August 5, 2014

Petitioner: **Stephanie Amabeli**

Request: **Authorize the following variance for a residential property in the AG-2 Agricultural Zoning District:**

- (1) **an existing dwelling with the following:**
 - (a) **a front yard facing Karadan Street of 11 feet in lieu of the minimum required 25 feet; and**
 - (b) **a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection; and**
- (2) **an existing detached residential accessory building with a front yard facing Karadan Street of 15 feet in lieu of the minimum required 25 feet; and**
- (3) **a proposed residential accessory building with a height of 18 feet instead of the maximum required height of 15 feet; and**
- (4) **a lot coverage of 27% instead of the maximum lot coverage of 25%.**

Subject Property: **A 20,038 square feet (0.46 acre) lot in Mahomet Township located in the West Half of the South Half of the Southeast Quarter of the Northwest Quarter of Section 14 of Township 20 North, Range 7 East of the Third Principal Meridian and commonly known as the residence located at 1505 Summit Ridge Road, Mahomet.**

Site Area: **20,038 square feet (0.46 acre)**

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

Prepared by: **Susan Chavarria**
Interim Associate Planner

John Hall
Zoning Administrator

BACKGROUND

The petitioner requests a variance to construct a shed that is proposed to be taller than the maximum 15 feet allowed in the ordinance. The shed's proposed height of approximately 18 feet is so that the shed will be tall enough to store a backhoe inherited by the petitioner. The petitioner has already purchased roof trusses for the shed; not using these trusses because of the height restriction will result in a loss of several thousand dollars in building materials. The square footage of the proposed shed will make the overall building lot coverage on the property exceed the 25% maximum allowed in the ordinance. The application review process resulted in determining that the existing residence and detached garage are non-conforming structures due to front yard dimensions and encroachment of the residence into the corner lot visibility triangle. The existing residence was constructed prior to the October 10, 1973 Zoning Ordinance adoption.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Residence	AG-2 Agricultural
North	Single Family Residence	AG-2 Agricultural
East	Single Family Residence	R-1 Single Family Residence
West	Single Family Residence	AG-2 Agricultural
South	Single Family Residence	RS Residential Suburban (Mahomet Zoning)

EXISTING CONDITIONS

The existing residence already encroaches on the minimum visibility triangle and the 25 foot minimum front yard between the right-of-way line and the edge of the existing residence and existing detached garage on Karadan Street. The existing residence has a covered porch facing Karadan Street that the petitioner seeks to expand.

TRAFFIC IMPACT

The intersection of Summit Ridge Road and Karadan Street has no traffic controls. The part of Karadan Street where the Petitioner lives is a dead end that has only three houses and one utility company that access the road, so traffic is very minimal. The visibility triangle requirements are presumably to ensure that there is a sufficient sight line for roadway users to safely travel the intersection. Zoning staff took photos from the perspective of a motorist showing the site line of a roadway user traveling east on Summit Ridge Road. It would appear that a motorist who yields at the intersection will have a sufficient sight line to see any potential vehicular conflicts coming from the south on Karadan Street.

SPECIAL CONDITIONS

No special conditions are proposed at this time.

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning, Visibility Triangle)
- B Site Plan received June 27, 2014
- C Cross Section of Proposed Shed received June 27, 2014
- D Annotated Site Plan dated August 5, 2014
- E Images of Subject Property taken July 21, 2014
- F Draft Summary of Evidence, Finding of Fact, and Final Determination

Location Map

Case 783-V-14
August 14, 2014

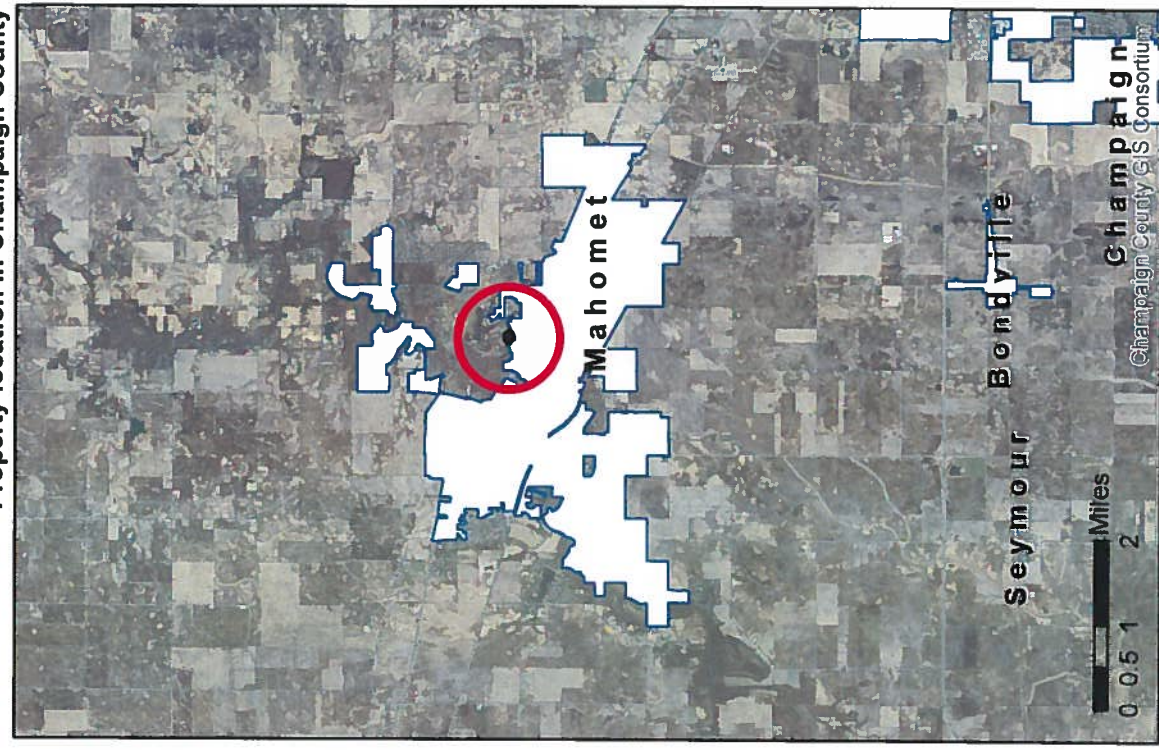
Subject Property



Legend

-  Subject Property
-  Parcels

Property location in Champaign County



Champaign County
Department of
PLANNING &
ZONING

Land Use Map

Case 783-V-14
August 14, 2014



Champaign County GIS Consortium

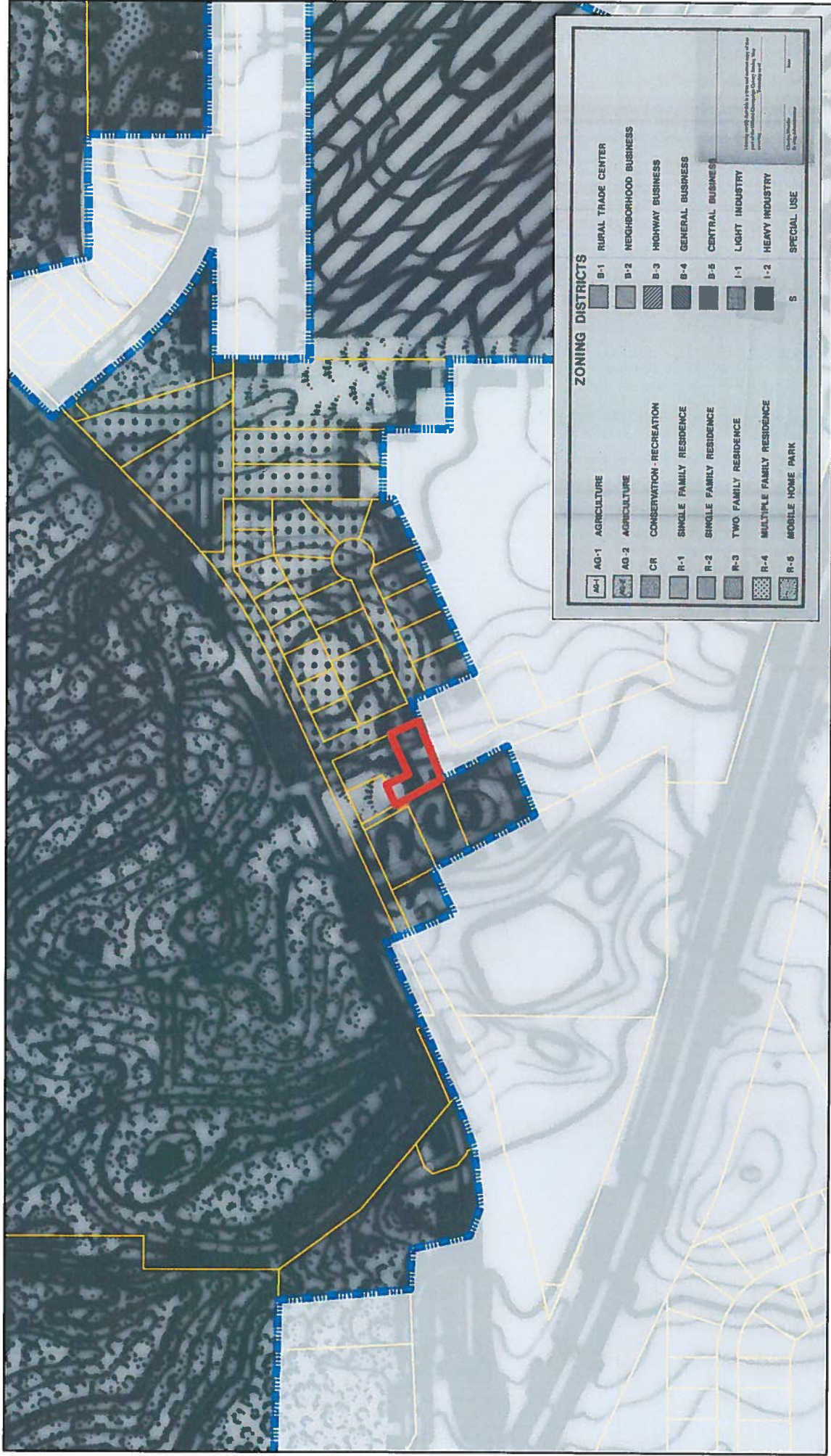
Champaign County
Department of
FLA/PLG &
ZOW/IG



- Legend**
-  Subject Property
 -  SF Residential
 -  Non Residential

Zoning Map

Case 783-V-14
August 14, 2014



Legend

- Subject Property
- Mahomet Corporate Limits
- Parcels

0 100 200 400 Feet

Proposed Visibility Triangle Encroachment

Case 783-V-14
August 14, 2014



Legend

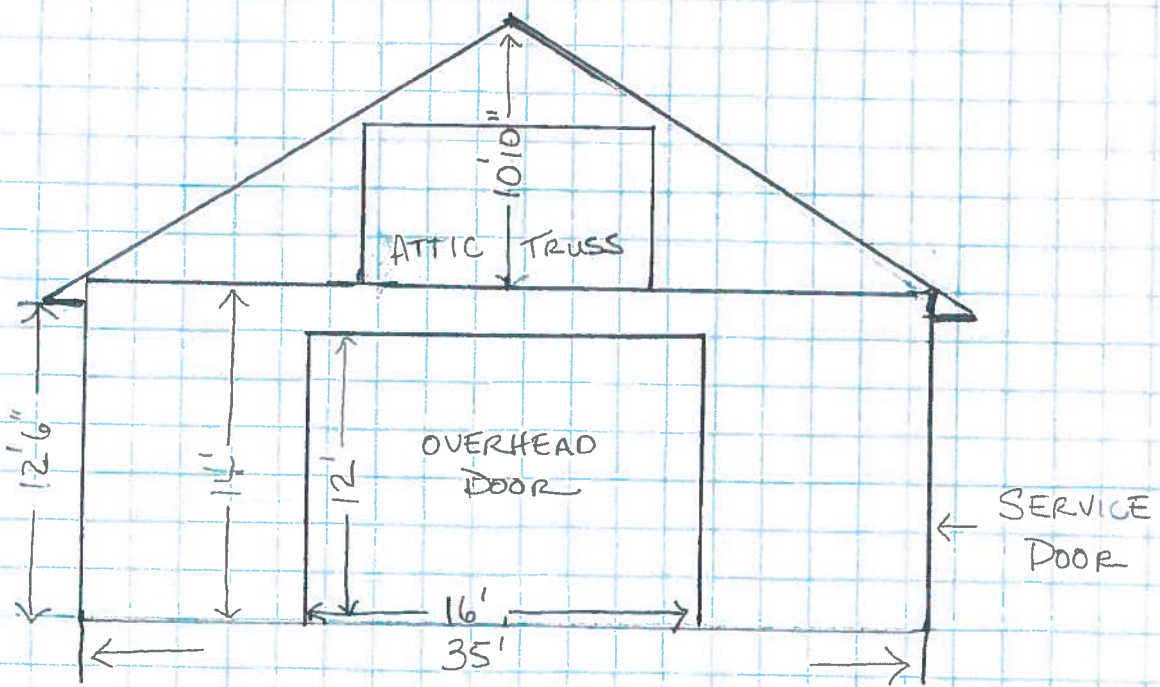
- Subject Property
- Parcels



Champaign County
Department of
PLANNING &
ZONING

$$\begin{array}{r} 14' \\ 11' \\ \hline 25' \\ + 12'6'' \\ \hline 37'6'' \end{array}$$

$$\begin{array}{r} 18.8'' \\ 2 \overline{) 37.6} \\ \underline{2} \\ 17 \\ \underline{16} \\ 16 \end{array}$$



1 Square = 2'

RECEIVED

JUN 27 2014

CHAMPAIGN CO. P & Z DEPARTMENT

783-V-14 Amabeli Images



From NW corner of house facing NW - proposed shed area



From NW corner of house facing SW – garage

783-V-14 Amabeli Images



From N corner of garage facing NW – proposed shed area



From Karadan facing NW - proposed shed area

783-V-14 Amabeli Images



From Karadan facing NW - old shed



From Karadan facing NW – old shed and garage, proposed shed location is about 56’ behind fence

783-V-14 Amabeli Images



From Karadan facing NW – garage



From Karadan facing NE – garage/driveway and residence

783-V-14 Amabeli Images



From Karadan facing NW – residence



From Karadan facing NE – residence and street corner

783-V-14 Amabeli Images



From Karadan facing NE – intersection at Summit Ridge Road (residence is on left, not shown)



From Summit Ridge Road facing SW – residence/visibility triangle

783-V-14 Amabeli Images



From Summit Ridge Road facing SW – intersection with Karadan/visibility triangle



From Summit Ridge Road facing SW – middle of Karadan (residence is on right)

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

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

Date: *{date of final determination}*

Petitioners: Stephanie Amabeli

Request: Authorize the following variance for a residential property in the AG-2 Agricultural Zoning District:

- (1) an existing dwelling with the following:
 - (a) a front yard facing Karadan Street of 11 feet in lieu of the minimum required 25 feet; and
 - (b) a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection; and
- (2) an existing detached residential accessory building with a front yard facing Karadan Street of 15 feet in lieu of the minimum required 25 feet; and
- (3) a proposed residential accessory building with a height of 18 feet instead of the maximum required height of 15 feet; and
- (4) a lot coverage of 27% instead of the maximum lot coverage of 25%.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 14, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Stephanie Amabeli, owns the subject property.
2. The subject property is a 20,038 square feet (0.46 acre) lot in Mahomet Township located in the West Half of the South Half of the Southeast Quarter of the Northwest Quarter of Section 14 of Township 20 North, Range 7 East of the Third Principal Meridian and commonly known as the residence located at 1505 Summit Ridge Road, Mahomet.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. Municipalities do not have protest rights on variances within their ETJ and are not notified of such cases.
 - B. The subject property is located within Mahomet Township, which has a Planning Commission.

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 a 0.46 acre tract and is currently zoned AG-2 Agriculture. Land use is a single family residence.
 - B. Land to the north of the subject property is zoned AG-2 Agriculture and is residential in use. Land to the south is within the municipal limits of the Village of Mahomet and is zoned RS Residential Suburban. Land to the west is zoned AG-2 Agriculture and is residential in use. Land to the east is zoned R-1 Single Family Residential and is residential in use.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan of the subject site:
 - A. The Petitioner's Site Plan, received June 27, 2014 indicates the following proposed improvements:
 - (1) Existing buildings consisting of the following:
 - (a) An existing dwelling with a front yard on Karadan Street that is only 11 feet deep and that encroaches into the corner visibility triangle.
 - (b) An existing garage with a front yard on Karadan Street of only 15 feet.

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- (c) A small existing shed that is proposed to be removed upon completion of the proposed shed.
 - (2) Proposed construction of a shed 68 feet deep, 35 feet wide and 18 feet tall. A cross section drawing received June 27, 2014 indicates the proposed shed will have an eave height of 12 feet 6 inches, and a peak height of 23 feet 4 inches, which averages to 17 feet 11 inches.
 - (3) Proposed addition to the residence of a covered porch 8 feet deep, 40 feet long and 8 feet tall. This will join with an existing covered porch that is 8 feet deep.
- B. There are no previous Zoning Use Permits on the subject property; the house was constructed prior to the Zoning Ordinance adopted October 10, 1973. The following nonconformities exist on the subject property:
- (1) The existing residence does not meet the minimum front yard distance of 25 feet between the right-of-way line and the residence on Karadan Street. According to the Petitioner's site plan received June 27, 2014, the distance between the house and the right-of-way line is 11 feet.
 - (2) The existing shed does not meet the minimum front yard distance of 25 feet between the right-of-way line and the shed on Karadan Street. According to the Petitioner's site plan received June 27, 2014, the distance between the 12 feet by 20 feet shed and the right-of-way line is 12 feet. This shed is proposed to be removed upon completion of the proposed shed.
 - (3) The existing detached garage does not meet the minimum front yard distance of 25 feet between the right-of-way line and the garage on Karadan Street. According to the Petitioner's site plan received June 27, 2014, the distance between the 24 feet by 24 feet garage and the right-of-way line is 15 feet.
 - (4) If the proposed shed were constructed, the land coverage would be 27% rather than the required maximum of 25%.
- C. The required variance is as follows:
- (1) an existing dwelling with the following:
 - (a) a front yard facing Karadan Street of 11 feet in lieu of the minimum required 25 feet; and
 - (b) a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-

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way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection; and

- (2) an existing detached residential accessory building with a front yard facing Karadan Street of 15 feet in lieu of the minimum required 25 feet; and
- (3) a proposed residential accessory building with a height of 18 feet instead of the maximum required height of 15 feet; and
- (4) a lot coverage of 27% instead of the maximum lot coverage of 25%.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for an accessory building in the AG-2 District:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
 - (1) "ALTERATION" is any change in the bearing walls, columns, beams, girders, or supporting members of a STRUCTURE, any change or rearrangement in the floor area of a BUILDING, any enlargement of a STRUCTURE whether by extending horizontally or by increasing in HEIGHT, and/or any movement of a STRUCTURE from one location or position to another.
 - (2) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
 - (3) "AREA, LOT" is the total area within the LOT LINES.
 - (4) "BUILDING" is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
 - (5) "BUILDING, DETACHED" is a BUILDING having no walls in common with other BUILDINGS.
 - (6) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (7) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
 - (8) "DWELLING" is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.

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- (9) "FRONTAGE" is that portion of a LOT abutting a STREET or ALLEY.
- (10) "HEIGHT" as applied to a story is the vertical measurement between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the vertical measurement between the surface of the floor and the ceiling next above it.

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

As Applied to an Enclosed or Unenclosed STRUCTURE:

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

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

- (11) "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.
- (12) "LOT, CORNER" is a LOT located:
- (a) at the junction of and abutting two or more intersecting STREETS; or
 - (b) at the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) at and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
- (13) "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.

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- (14) "LOT LINE, REAR" is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
- (15) "LOT LINES" are the lines bounding a LOT.
- (16) "NONCONFORMING LOT, STRUCTURE or USE" is a LOT, SIGN, STRUCTURE, or USE that existed on the effective date of the adoption or amendment of this ordinance which does not conform to the regulations and standards of the DISTRICT in which it is located.
- (17) "OPEN SPACE" is the unoccupied space open to the sky on the same LOT with a STRUCTURE.
- (18) "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.
- (19) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
- (20) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (21) "STORAGE" is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (22) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (23) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (24) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.

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- (25) “YARD” is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
- (26) “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 but a STREET RIGHT-OF-WAY both such YARDS shall be classified as front YARDS.
- (27) “YARD, REAR” is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
- B. 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.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 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.
- D. Minimum FRONT SETBACK from Street centerline in the AG-2 Agriculture District is established in Section 5.3 of the Zoning Ordinance as 55 feet. In no case shall the FRONT YARD, measured from the nearest RIGHT-OF-WAY line, be less than 25 feet from a MINOR STREET.
- E. Minimum SETBACK for a corner lot is a visibility triangle defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection.
- F. Maximum HEIGHT of a residential ACCESSORY BUILDING in the AG-2 Agriculture District is established in Section 5.3 of the Zoning Ordinance as 15 feet on LOTS less than one acre.
- G. Maximum LOT COVERAGE in the AG-2 Residential District is established in Section 5.3 of the Zoning Ordinance as 25%.

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, **"We would like to put all of our stuff that we own in a shed, including a backhoe that I inherited and an enclosed trailer. We would need 14' walls to accommodate a 12' door and we already have trusses that measure 10'-10" to the peak bringing our total average overall height to 18'-8". It would be built at the back of the lot and should not even be visible at the road."**
 - B. Regarding Part 1(a) of the proposed Variance, for a front yard facing Karadan Street of 11 feet in lieu of the minimum required 25 feet: according to the Petitioner's site plan received June 27, 2014, the house is 11 feet from the right-of-way line.

Regarding Part 1(b) of the proposed Variance, for a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection: the existing house already encroaches on the visibility triangle by approximately 4 feet.

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- C. Regarding Part 2 of the proposed Variance, for an existing detached residential accessory building with a front yard facing Karadan Street of 15 feet in lieu of the minimum required 25 feet, the 24 feet by 24 feet garage is 15 feet from the right-of-way line, and
- D. Regarding Part 3 of the proposed Variance, the 18 foot height of the proposed shed exceeds the maximum 15 feet by 3 feet.
- E. Regarding Part 4 of the proposed Variance, the existing lot coverage of the buildings exceeds the maximum lot coverage of 25%. The proposed lot coverage including the porch addition and the shed would comprise 27% of the lot.

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, **“To meet the height requirement of 15’ we would not solve our storage problem (the backhoe and the enclosed trailer specifically) and we would have to purchase all new trusses that could run upward of \$2,000-\$3,000.”**
 - B. Regarding the proposed Variance:
 - (1) Without the proposed variance, the petitioner could not construct the proposed storage shed on the northwest end of the property.
 - (2) Without the proposed variance, the petitioner could not install the proposed covered porch on the southwest side of the existing dwelling.
 - (3) Without the proposed variance, the petitioner’s dwelling and detached garage would not conform to the Zoning Ordinance and if damaged to more than 50% of replacement cost, could not be reconstructed on the existing foundation.

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, **“Yes, we have already purchased trusses we intended to use at a different location.”**
 - B. The existing dwelling and detached garage were constructed prior to the petitioner’s ownership of the property.

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- C. The 18 feet shed height is necessary for the proposed shed to accommodate the inherited backhoe.

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, **“We have spoken to all our neighbors who would be directly impacted and none have any problem with our plan. We also plan to add landscaping, where needed, to screen the building from view.”**
- B. Regarding the requested Variance:
- (1) Part 1(a) of the proposed Variance: according to the Petitioner’s site plan received June 27, 2014, the dwelling is 11 feet from the right-of-way line, a variance of 56%.
 - (2) Regarding Part 1(b) of the Variance, for a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection, the requested variance provides a visibility triangle of approximately 46 feet by 46 feet, equivalent to a 15% reduction in the visibility triangle area.
 - (3) Regarding Part 2 of the proposed Variance, the 24 feet by 24 feet garage is 15 feet from the right-of-way line, a variance of 40%.
 - (4) Regarding Part 3 of the proposed Variance, the 18 foot height of the proposed shed exceeds the maximum 15 feet by 3 feet, a variance of 20%.
 - (5) Regarding Part 4 of the proposed Variance: the proposed lot coverage including the porch addition and the shed would comprise 27% of the lot, a variance of 2%.
- C. Regarding Parts 1(a) and 2 of the Variance:
- (1) The Zoning Ordinance does not clearly state the considerations that underlay the front setback and front yard requirements. Presumably the front setback and front yard are intended to ensure intended to ensure the following:
 - (a) Adequate separation from roads.
 - (b) Allow adequate area for road expansion and right-of-way acquisition.
 - (c) Parking, where applicable.
 - (2) It is unlikely that Karadan Street will be widened or require right of way for utilities, and there is sufficient parking on the subject property.

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- D. Regarding Part 1(b) of the Variance:
- (1) Presumably the visibility triangle requirements are to ensure that there is a sufficient site line for roadway users to safely travel the intersection.
 - (2) Zoning Department staff visited the property on July 21, 2014 and do not believe there will be an issue with visibility for motorists and pedestrians traveling in the area.
- E. Regarding Part 3 of the Variance:
- (1) Presumably the height requirements are to ensure that there are no shadow or vista impediments for adjacent neighbors.
 - (2) The Petitioner stated in their application “we have consulted with our neighbors, we plan to add landscaping, and the building is at the back of the lot and in no way will hinder sight at either Summit Ridge Road or Karadan Street”.
- F. Regarding Part 4 of the Variance:
- (1) Presumably the maximum lot coverage requirements are intended to allow for considerations such as adequate light, air, recreational areas and adequate area for septic systems.
 - (2) According to the Petitioner, the septic system is located on the northeast corner of the subject property; the construction of the shed would not impact the septic system in terms of location or capacity.
 - (3) The petitioner will remove a smaller existing shed upon completion of the proposed shed and that will help minimized the variance.
- G. The requested variance is not prohibited by the *Zoning Ordinance*.

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

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: **“Again, we have consulted with our neighbors, we plan to add landscaping, and the building is at the back of the lot and in no way will hinder sight at either Summit Ridge Road or Karadan Street.”**
 - B. The Township Road Commissioner has been notified of this variance but no comments have been received.

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- C. The Cornbelt Fire Protection District has been notified of this variance but no comments have been received.
- D. The nearest building on neighboring property is approximately 20 feet from the shared property line and the proposed shed would be an additional 17 feet from that property line.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioner has testified on the application: **“We work hard at keeping our home and yard looking nice. It would be nice (not only for us but also for our neighbors) to store everything in the building, out of eye sight.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
No Special Conditions are proposed at this time.

DOCUMENTS OF RECORD

- 1. Variance Application received on June 27, 2014, with attachments:
 - A Site Plan
 - B Cross Section of Proposed Shed
- 2. Note to staff via email from Susan Chavarria to John Hall received July 21, 2014 regarding the location of the Petitioner’s septic system.
- 3. Preliminary Memorandum dated August 5, 2014 with attachments:
 - A Case Maps (Location, Land Use, Zoning, Visibility Triangle)
 - B Site Plan received June 27, 2014
 - C Cross Section of Proposed Shed received June 27, 2014
 - D Annotated Site Plan dated August 5, 2014
 - E Images of Subject Property taken July 21, 2014
 - F Draft Summary of Evidence, Finding of Fact, and Final Determination

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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **783-V-14** held on **August 14, 2014**, 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: _____

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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 FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}*

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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 783-V-14 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Stephanie Amabeli** to authorize the following variances in the AG-2 Agriculture Zoning District:

Authorize the following variance for a residential property in the AG-2 Agricultural Zoning District:

Part 1: an existing dwelling with the following:

- (a) a front yard facing Karadan Street of 11 feet in lieu of the minimum required 25 feet; and
- (b) a setback which falls within, in lieu of outside of, the visibility triangle established for corner lots defined as the area bounded by the street right-of-way lines of corner lots and a straight line joining points along said street right-of-way lines 50 feet from the nearest point of intersection; and

Part 2: an existing detached residential accessory building with a front yard facing Karadan Street of 15 feet in lieu of the minimum required 25 feet; and

Part 3: a proposed residential accessory building with a height of 18 feet instead of the maximum required height of 15 feet; and

Part 4: a lot coverage of 27% instead of the maximum lot coverage of 25%.

{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:

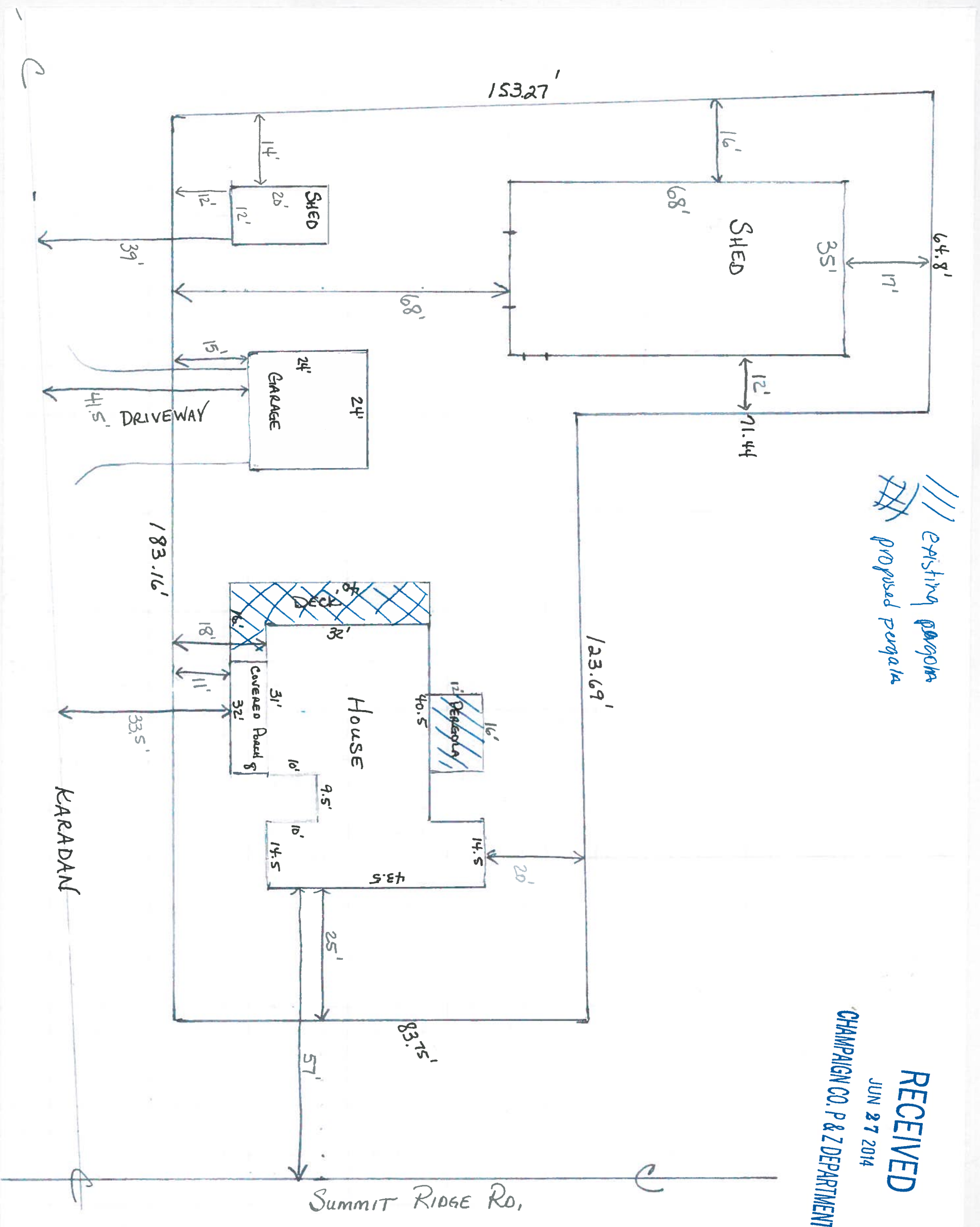
Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date

/// existing property
/// proposed property

RECEIVED
JUN 27 2014
CHAMPAIGN CO. P & Z DEPARTMENT

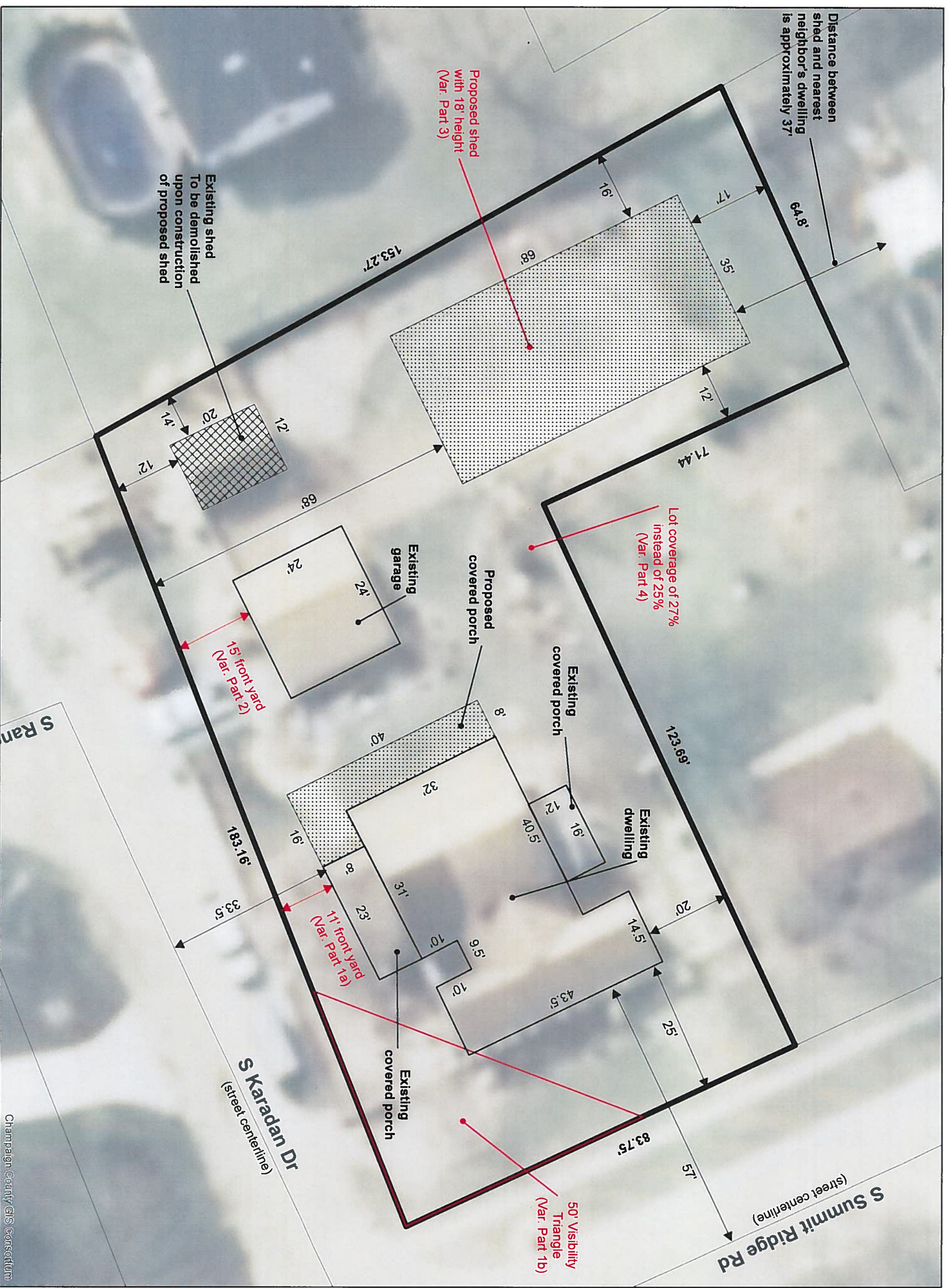


Summit Ridge Rd.

KARADANI

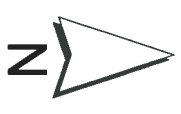
Annotated Site Plan

Case 783-V-14
August 14, 2014



Note:
Annotated measurements provided by the Petitioner; building shapes are not necessarily to scale.

Legend
[Stippled Box] Subject Property
[Grid Box] Parcels



Champaign County GIS Consortium

