

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **January 15, 2015**
Time: **6:30 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

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

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

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

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (November 13, 2014)
5. Continued Public Hearings

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

NOTE MEETING TIME: 6:30 p.m.

Case 769-AT-13 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by amending the Champaign County Storm Water Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement which can be summarized as follows:**

- I. **Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)**
- II. **Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollutant Discharge System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)**
- III. **Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)**
- IV. **Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)**
- V. **Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion and water quality requirements that are required for all construction or land disturbance.**
- VI. **Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)**
- VII. **Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)**

Case 773-AT-14 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding the following:**
A. **Add a requirement for a Grading and Demolition Permit for any grading or demolition that disturbs one acre or more of land or for any grading or demolition that is part of a larger common plan of development in which one acre or more of land disturbance will occur, and that is not related**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
January 15, 2015

Case 773-AT-14 cont:

- to any proposed construction.
- B. Add fees for Grading and Demolition Permits.
- C. Add required information to be provided in the application for a Grading and Demolition Permit.
- D. Add a requirement that any grading or demolition pursuant to a Grading or Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General Storm Water Permit for Construction.
- E. Add a requirement that any demolition pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- F. Add prohibitions against changing the flow of water and blocking the flow of water.
- G. Add other requirements related to Grading and Demolition Permits

6. New Public Hearings

Case 791-AT-14 Petitioner: Zoning Administrator

Request: Amend the standard conditions and special provisions for a 'heliport restricted landing area' and 'restricted landing area' in Section 6.1.3 of the Champaign County Zoning Ordinance to make permanent and to correct the amendment adopted in Case 768-AT-13 regarding 'heliport restricted landing area' and 'restricted landing area', as follows:

Part A. Revise the standard conditions and special provisions in Section 6.1.3 for a 'Heliport or Heliport Restricted Landing Area' as follows:

1. Replace "runway" with "Final Approach and Takeoff and Takeoff (FATO) Area".
2. Delete the paragraph preceding Standard Condition 2. That limits the time that standard conditions 2. and 3. will be in effect to no more than 365 days from the date that they were adopted.
3. Add a new Standard Condition 2. that indicates that the following Standard Conditions apply only to a HELIPORT-RESTRICTED LANDING AREA.
4. Renumber existing Standard Condition 2. to be new Standard Condition 2.A.
5. Add a new Standard Condition 2.B. that requires that no part of a Final Approach and Takeoff (FATO) Area may be closer than 1,320 feet from the nearest dwelling under different ownership than the HELIPORT-RESTRICTED LANDING AREA.
6. Add a new Standard Condition 2.C. that requires that no part of a Final Approach and Takeoff (FATO) Area may be closer than 280 feet from the nearest property under different ownership than the HELIPORT-RESTRICTED LANDING AREA.
7. Delete existing Standard Condition 3. and add a new Standard Condition 2.D. to provide that the requirement of Section 4.3.8 notwithstanding, any DWELLING or LOT established after a HELIPORT-RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 2.B. or 2.C. for a HELIPORT/RESTRICTED LANDING AREA and no Special Use Permit shall be required.

Part B. Revise the existing standard conditions and special provisions in Section 6.1.3 for a 'Restricted Landing Area' as follows:

1. Replace all references to Section 4.3.7 with references to Section 4.3.8.
2. Replace all references to "Table 5.3 noted (12)" with references to "Footnote 11 in Section 5.3".
3. Delete the paragraph preceding Standard Condition 5. that limits the time that standard conditions 5. and 6. Will be in effect to no more than 365 days from the date that they were adopted.
4. Add a new Standard Condition 6 that requires that no part of a runway may be closer than 1,320 feet from the nearest dwelling under different ownership than the RESTRICTED LANDING AREA.
5. Add a new Standard Condition 7 that requires that no part of a runway may be closer than 280 feet from the nearest property under different ownership than the RESTRICTED LANDING AREA.
6. Delete Standard Condition 6 and add a new Standard Condition 8 to provide that the requirement of Section 4.3.8 notwithstanding any BUILDING or STRUCTURE or USE or LOT established after a RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 6 or 7 for a RESTRICTED LANDING AREA and no Special Use Permit shall be required provided there is compliance with Standard Condition 3 for a RESTRICTED LANDING AREA.

7. Staff Report

8. Other Business

- A. Review of Docket
- B. 2015 Zoning Board of Appeals Calendar

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

10. Adjournment

CASE NO. 769-AT-13

SUPPLEMENTAL MEMORANDUM

January 9, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator
Susan Chavarria, Senior Planner

Request:

Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement (see attached) which can be summarized as follows:

- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)
- II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)
- III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)
- V. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement of Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)
- IV. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion control and water quality requirements that are required for all construction or land disturbance. (Part F of the legal advertisement)
- VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)
- VII. Revise and reformat existing Sections 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)

STATUS

This case is continued from the October 30, 2014, public hearing by way of the December 11, 2014, meeting that was cancelled.

A Preliminary Finding of Fact is attached that incorporates all previously proposed evidence and also includes new evidence indicated by underlining.

STATUS (continued)

A Revised Table of Proposed Requirements and a revised Draft Handout are also attached.

Also attached is a new table summarizing benefits and costs of the proposed amendment.

ATTACHMENTS (* = Attachments lettered consecutively from the Preliminary Memorandum)

A Case Description from Legal Advertisement

*BBB Case 769-AT-14 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements ¹REVISED 12/11/14

*CCC Revised Draft Handout *Erosion Control Requirements in Rural Champaign County* dated January 9, 2015

*DDD Case 769-AT-14 Summary of Proposed Amendment Benefits and Costs DRAFT 12/11/14

*EEE Preliminary Finding of Fact

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amending the Storm Water Management and Erosion Control Ordinance as follows:

Part A. Revise Section 1 Authority by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water.

Part B. Revise Section 2 as follows:

1. Merge existing Intent and Requirements (Sections 3.1) and General Requirements (Section 3.2) with existing Purpose (Section 2).
2. Add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit.

Part C. Add new Section 3 titled Definitions and add definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit.

Part D. Change the title of existing Section 4 to Scope and make the following changes:

1. Add a requirement that Land Disturbance have requirements identified in the Ordinance.
2. Add a requirement that all sections of the Ordinance are applicable to land disturbance activities in the Champaign County MS4 Jurisdictional Area.
3. Add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements.
4. Add a requirement that all Sections except those related to the Land Disturbance Erosion Control Permit (Sections 12, 13, 14, and 15) are only applicable when a land subdivision requires approval of the Champaign County Board and when construction occurs that requires a Zoning Use Permit.
5. Add a requirement that Protect Existing Drainage and Water Resource (Section 6) and Easement (Section 7) are applicable to all subdivisions, zoning use permits and land disturbances regardless of the amount of area involved or percent impervious surface.
6. Add a requirement that Land Disturbance and Erosion Control Requirements (Section 11) are applicable with any Storm Water Drainage Plan or necessary enforcement action.
7. Add a requirement for erosion and sedimentation controls when there is more than 10,000 square feet of land disturbance in total, after the Effective Date.
8. Add exemptions to Land Disturbance Erosion Control Permits.

Part E. Add a new Section 5 titled Authorizations and Project Termination and make the following changes:

1. Relocate existing Reviewing Authorities (existing Section 4.1) and remove Special Use Approvals
2. Relocate existing Authorization to Construct (existing Section 3.3) and add authorizations for Land Disturbance Erosion Control Permits.
3. Relocate existing Requirements for Final Approvals (existing Section 3.4) and rename to Project Termination, and add requirements for Land Disturbance Erosion Control Permits.

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

- Part F. Renumber existing Section 7 to new Section 6 titled Protect Existing Drainage and Water Resource and make the following changes:
1. Add new requirement to prohibit erosion or sedimentation onto adjacent properties.
 2. Add new requirements for discharges from sump pumps.
 3. Add new minimum erosion control and water quality requirements including a minimum requirement for proper disposal of construction waste; minimum requirement for location and control of soil stockpiles; and a requirement to cleanup sediment that enters onto public areas and adjacent properties.
- Part G. Renumber existing Section 9 to new Section 7.
- Part H. Change existing Section 5 to new Section 8 titled Storm Water Drainage System and add a Preferred Hierarchy of Best Management Practices.
- Part I. Change existing Section 6 to new Section 9 titled Storm Water Drainage Plan and merge with existing Section 12.
- Part J. Renumber existing Section 8 to new Section 10.
- Part K. Add new Section 11 titled Land Disturbance and Erosion Control and include the following:
1. Add general requirements for erosion and sediment control operations.
 2. Add list of practices that should be applied to minimize soil erosion.
 3. Add list of practices that should be applied to minimize sediment.
 4. Add requirements for filtering dewatering practices at construction sites.
 5. Add requirements for soil stockpiles.
 6. Add requirements for maintenance of erosion and sediment control measures.
- Part L. Add new Section 12 titled Land Disturbance and Erosion Control Permits and include the following:
1. Add a requirement for Land Disturbance Erosion Control Permits.
 2. Add a requirement that the class of permit Land Disturbance Erosion Control Permit – Minor is required for any land disturbance of less than one acre that is part of a common plan of development or sale of record that is not otherwise exempt.
 3. Add a requirement that the class of permit Land Disturbance Erosion Control Permit – Major is required for any land disturbance of one acre or more that is not otherwise exempt.
 4. Add required forms and procedure requirements for each permit class.
 5. Add that the class of permit Land Disturbance Erosion Control Permit – Major shall comply with current ILR10 requirements.
 6. Add a fee schedule with fees for each class of permit.
 7. Add a requirement that an issued permit authorizes only those activities shown on approved plans.
 8. Add time limitations for Land Disturbance Erosion Control Permits.
 9. Add responsibilities of the holder of the Land Disturbance Erosion Control Permit.
 10. Add requirements for maintenance of erosion control facilities and other drainage structures during and after construction.

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

Part M. Add new Section 13 titled Administration of Land Disturbance and Erosion Control Permits and include the following:

1. Add duties of the Zoning Administrator as established in the Champaign County Zoning Ordinance.
2. Add conditions of Land Disturbance and Erosion Control Permit approval to prevent the creation of a nuisance or unreasonable hazard to persons or to public or private property including specific erosion and sediment controls, safety structures, grading improvements, adequate dust controls, and acceptance of discharges on others property.
3. Add conditions to which a Land Disturbance Erosion Control Permit might be denied if the Erosion and Sediment Control Plan does not meet the requirements of the ordinance and restrictions if the permit is denied.
4. Add conditions to Land Disturbance Erosion Control Permit and plans to ensure that no work occurs without prior written approval, that any changes to plans must be submitted prior to work being conducted, and methods for changing an approved document.
5. Add requirement of site inspections during specific phases of the work to ensure compliance with the conditions of the Ordinance.

Part N. Add new Section 14 titled Liability Related to Land Disturbance and Erosion Control Permits and include a requirement that all responsibilities and liabilities are held by the permit holder and no liability is held by Champaign County.

Part O. Add new Section 15 titled Enforcement of Land Disturbance and Erosion Control Permits and include the following:

1. Add a requirement that work shall be done in accordance with the approved plans, the approved permit, and the Ordinance.
2. Add a classification of deficient sites and the related enforcement activities.
3. Add a classification of Non-Compliance on a sites-and the related enforcement activities.
4. Add a classification of Notice of Violation on a sites and the related enforcement activities.
5. Add that the Zoning Administrator may require activities that shall be undertaken in order to prevent imminent hazards, dangers and adverse effects.
6. Add conditions and procedures that allow the Zoning Administrator to issue a stop-work order and that all work must stop immediately.
7. Add conditions and procedures for initiating legal proceedings.
8. Add penalties for violation of the ordinance at not less than one hundred dollars (\$100.00) per day and not more than five hundred dollars (\$500.00) per day.

Part P. Renumber existing Section 10 to new Section 16.

Part Q. Change existing Section 11 Waivers to new Section 17 titled Appeal, Waiver or Variance and include the following:

1. Add designation that the reviewing authority may issue a waiver or variance to the ordinance except for ILR10 requirements.
2. Add procedure for appealing a decision made by a reviewing authority.

Part R. Add new Effective Date (Section 18).

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

- Part S. Re-letter existing Appendix B to be new Appendix A and re-letter existing Appendix A to be new Appendix B.
- Part T. Add new Appendix C titled Champaign County MS4 Jurisdictional Area to include a map of the Champaign County MS4 Jurisdictional Area.
- Part U. Add new Appendix D titled Technical Manual Minor Land Disturbance Erosion Control Permit Standards and Standard Details and include application templates, erosion control plan examples, and standard construction drawings.
- Part V. Add new Appendix E titled Technical Manual Major Land Disturbance Erosion Control Permit Standards and Standard Details and include application templates, erosion control plan examples, and standard construction drawings.
- Part W. Revise and reformat the text, and update all references to new and renumbered Sections.

**Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements ¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
<i>Agriculture Example:</i> Agriculture ³	STATUTORILY EXEMPT	STATUTORILY EXEMPT	STATUTORILY EXEMPT	STATUTORILY EXEMPT
<i>Grading Example:</i> Mass grading ⁴ not related to other construction	Less than 10,000 SF	NO ZONING USE PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN)	NO PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN) (SEC. 6.4 MINIMUM REQUIREMENTS PROBABLY NOT ENFORCEABLE SINCE NO PERMIT REQUIRED FOR GRADING UNLESS CASE 773-AT-14 IS APPROVED)	NO ZONING USE PERMIT REQUIRED BUT SEC. 6.4 MIN. REQUIREMENTS ⁵ APPLY (OPTIONAL)
	10,000 SF or more but less than 1 AC and not part of a larger common plan of dev.			NO ZONING USE PERMIT REQUIRED BUT SEC. 6.4 MIN. REQUIREMENTS ⁵ APPLY (OPTIONAL)
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more			NO ZONING USE PERMIT REQUIRED BUT SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶			NO ZONING USE PERMIT REQUIRED BUT SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* ILR10 COMPLIANCE REQUIRED BY IEPA			

**Attachment CC. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14**

Type of proposed development or land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements
<p>Construction Example A: Construction of a new home in the rural districts on a "by-right" lot created by any of the following means: (1) a written legal description conforming to the Illinois Plat Act; or</p>	Less than 10,000 SF		<p>Outside the MS4 Area² ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p> <p>Inside the MS4 Area² ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>
<p>(2) a one lot Plat of Subdivision; or</p>	10,000 SF or more but less than 1 AC and not part of a larger common plan of development		<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>
<p>(3) a one lot Plat of Survey.</p>	<p>* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more</p>	ZONING USE PERMIT REQUIRED	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p> <p>OPTIONAL: SEC. 4 & 5 REG. ILR10 COMPLIANCE</p>
	* 1 AC or more ⁶		<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED</p> <p>SEC. 12.1 MINOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED</p>
	* ILR10 COMPLIANCE REQUIRED BY IEPA		<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED</p> <p>SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED</p>

**Attachment CC. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14**

Type of proposed development or land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements
<p>Construction Example B: Construction of a new home in the rural districts on a "by-right" lot created by any of the following means: (1) a Plat of Subdivision of two lots; or (2) a Plat of Survey of two lots; or (3) any Plat of Survey or written legal description pursuant to a land auction diagram that illustrated two lots</p>	<p>Less than 10,000 SF</p>	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>	<p>Inside the MS4 Area² ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>
<p>(1) 10,000 SF or more but less than 1 AC and not part of a larger common plan of development</p>	<p>10,000 SF or more but less than 1 AC and not part of a larger common plan of development</p>	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>
<p>(2) 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more</p>	<p>* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more</p>	<p>ZONING USE PERMIT REQUIRED</p>	<p>ZONING USE PERMIT REQUIRED AND SEC. 12.1 MINOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED</p>
<p>(3) 1 AC or more</p>	<p>* 1 AC or more⁶</p>	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY</p>	<p>ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED</p>
<p>(TOTAL LAND DISTURBANCE AT ONE TIME ON ONE OR ALL LOTS)</p>	<p>* ILR10 COMPLIANCE REQUIRED BY IEPA</p>	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE</p>	<p>ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED</p>

**Attachment CC. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Construction Example C: Construct new dwelling in rural district with establishment of RRO District ⁷ in subdivision with new street	Less than 10,000 SF		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of development		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
(TOTAL LAND DISTURBANCE AT ONE TIME ON ONE OR ALL LOTS)	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	ZONING USE PERMIT REQUIRED	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED AND SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* ILR10 COMPLIANCE REQUIRED BY IEPA		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment CC. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Construction Example D: Construct new building in Residential District ⁶ , or Business ⁸ or Industrial District ⁸	Less than 10,000 SF	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of development		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	ZONING USE PERMIT REQUIRED	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REG. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REG. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* ILR10 COMPLIANCE REQUIRED BY IEPA		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REG. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment CC. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
<i>Demolition Example:</i> Demolition ⁴ of existing building not related to other construction	Less than 10,000 SF			NO ZONING USE PERMIT REQUIRED BUT OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of dev.			NO ZONING USE PERMIT REQUIRED BUT OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more * 1 AC or more * ILR10 COMPLIANCE REQUIRED BY IEPA	NO ZONING USE PERMIT REQUIRED	NO PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN) (SEC. 6.4 MINIMUM REQUIREMENTS PROBABLY NOT ENFORCEABLE SINCE NO PERMIT REQUIRED SINCE NO PERMIT REQUIRED FOR DEMOLITION UNLESS CASE 773-AT-14 IS APPROVED)	NO ZONING USE PERMIT REQUIRED BUT SEC. 12.1 MINOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment CC. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements ¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²

NOTES

- This table does not indicate when a Storm Water Drainage Plan is required, nor does it include information for any rezoning approval, Special Use Permit approval, or subdivision plat approval that may be required. Also does not include approvals related to the Special Flood Hazard Area. Storm Water Drainage Plan requirements are unchanged in the proposed Ordinance. Also see related Case 773-AT-14.
- The MS4 Jurisdictional Area is that portion of Champaign County in which Champaign County has responsibility for a Municipal Separate Storm Sewer System (MS4) under the National Pollutant Discharge Elimination System (NPDES) administered by the Illinois Environmental Protection Agency (IEPA). See the attached map. Other than the (1) "Optional Minimum Requirements" in Section 6 of the Ordinance that are proposed to be required throughout the unincorporated area and (2) the requirement in Sections 4 and 5 requiring ILR10 compliance outside of the MS4 Jurisdictional Area, the proposed Ordinance is the minimum requirement in the MS4 Jurisdictional Area for compliance with IEPA MS4.
- Agriculture as defined in the Champaign County Zoning Ordinance. No change is proposed.
- Mass grading and/ or demolition not related to other construction and not in the Special Flood Hazard Area (floodplain) are not currently regulated by the Zoning Ordinance and no Zoning Use Permit is required for mass grading or demolition under those conditions. Related Case 773-AT-14 proposes to add a permit requirement for mass grading and/or demolition not related to other construction. The LDEC Permit proposed in this Case will also regulate mass grading and/or demolition not related to other construction but only in the MS4 Jurisdictional Area.
- Section 6 of the proposed Ordinance includes General and Minimum Erosion Controls proposed to be required for any land disturbance in the unincorporated area. Requiring the Minimum Erosion Controls in the entire unincorporated area is optional for the County Board but consistent with the Land Resource Management Plan. If the County Board approves the proposed Minimum Erosion Controls those Controls will be required for all future land use permitting.
- The Minimum Erosion Controls are necessary for the MS4 Area and if the Minimum Erosion Controls are not included in Section 6 of the final Ordinance they will have to be added to Section 11 as requirements for LDEC Permits in the MS4 Area.
- USEPA requires that agricultural land (ie, row crop) be vegetated with an appropriate protective land cover prior to conversion to non-agricultural use or the land shall be considered to be in a state of land disturbance. Thus, the basic one acre lot split off of farmland will be considered to be in a state of land disturbance if grass is not established prior to application for a Zoning Use Permit.
- The only location in the MS4 Jurisdictional Area where a municipal comprehensive plan provides for "rural residential development" is northeast of Urbana.
- A new building must connect to a sanitary sewer if feasible and in the MS4 Jurisdictional Area connection to a sewer generally requires annexation or an annexation agreement with a municipality, either which would remove the construction from the County permitting jurisdiction.

Attachment CCC. Case 769-AT-14 Summary of Proposed Amendment Benefits and Costs of DRAFT 12/11/14

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p>Basic amendment</p>	<p>All Sections except those listed below as "optional"</p>	<p>1. Necessary to meet obligations under Clean Water Act and to avoid litigation with the IEPA. See 13.A.(3)a(q) & (s) in the Finding of Fact.</p> <p>2. Necessary to help achieve the LRMP. See LRMP Policy 8.4.5 in the Finding of Fact.</p>	<p>1. There will no added cost to a typical new home outside of the MS4 Jurisdictional Area.</p> <p>2. The cost of erosion controls for a new home in the MS4 Jurisdictional Area is expected to increase by the following amounts:</p> <ul style="list-style-type: none"> ● About \$2,322 to \$3,093 which is about 1.6% to 2.2% of the median sales price for Champaign County, for a typical new home on an assumed typical Champaign County urban lot. See 16.B.(3)b.(b) in the Finding of Fact. ● About \$3,898 and \$5,493 which is about 2.7% to 3.9% of the median sales price for Champaign County, for a typical new home on an assumed typical Champaign County rural lot. See 16.B.(3)b.(b) in the Finding of Fact. <p>3. No additional staffing will be required in the Department of Planning and Zoning, based on the anticipated workload due to the anticipated four "Land Disturbance Erosion Control" permits per year and the additional four inspections per week on average and at least 208 additional inspections per year in total.</p> <p>However, any significant increase in the size of the MS4 Jurisdictional Area (as may occur in 2020 after the decennial Census) will probably require additional staffing. See 16.B.(4)c. & d. in the Finding of Fact.</p>	<p>{RECOMMENDED/ NOT RECOMMENDED}</p>

Attachment CCC. Case 769-AT-14 Summary of Proposed Amendment Benefits and Costs of DRAFT 12/11/14

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p>Optional Minimum Erosion Control and Water Quality Requirements. See 19.A. in the Finding of Fact.</p>	<p>Paragraph 6.1F., all of Sec. 6.4 & 6.5 in Draft Ordinance dated 12/5/14</p>	<ol style="list-style-type: none"> Not necessary to help achieve the LRMP although would provide incrementally greater achievement of LRMP. See LRMP Policy 8.4.2 and LRMP Policy 8.4.5 in the Finding of Fact. Greater achievement of the Zoning Ordinance purpose to promote public health, safety, comfort, morals, and general welfare throughout the COUNTY because the Optional Minimum Requirements would apply throughout 100% of the unincorporated area rather than merely the 1% that is the MS4 Jurisdictional Area. See paragraph 16.E. in the Finding of Fact. 	<ol style="list-style-type: none"> Any additional costs to home owners would be directly related to the damage being prevented because costs may not be incurred except when neighbors complain and the cost would probably be less than the added costs within the MS4 Jurisdictional Area (see above). See paragraph 16.B.(5)a. in the Finding of Fact. No significant impact on staffing in the Department of Planning and Zoning. Any significant increase in time will probably only occur due to any required enforcement and in general, there should be no significant impact on overall staffing. See paragraph 16.B.(5)b. in the Finding of Fact. 	<p>{RECOMMENDED/ NOT RECOMMENDED}</p>
<p>Optional/ILR10 Compliance Outside of the MS4 Jurisdictional Area for County permits See 19.B. in the Finding of Fact.</p>	<p>Paragraph 4.1A.4.c in Draft Ordinance dated 12/5/14</p>	<ol style="list-style-type: none"> Not required by state law or by the Clean Water Act. See 13.A.(3)a(q) & (s) in the Finding of Fact. Not necessary to help achieve the LRMP although may provide incrementally greater achievement of LRMP. See LRMP Policy 8.4.2 in the Finding of Fact. Would not provide greater achievement of Zoning Ordinance purpose. See paragraph 16.E. in the Finding of Fact. 	<ol style="list-style-type: none"> Any additional costs would be incurred by those who would otherwise avoid current IEPA enforcement of existing state law and the cost would probably be comparable to the added costs within the MS4 Jurisdictional Area (see above). See paragraph 16.B.(6)a. in the Finding of Fact. No significant impact on staffing in the Department of Planning and Zoning. See paragraph 16.B.(6)b. in the Finding of Fact. 	<p>{RECOMMENDED/ NOT RECOMMENDED}</p>

Attachment CCC. Case 769-AT-14 Summary of Proposed Amendment Benefits and Costs of DRAFT 12/11/14

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p>Optional \$50 fee is proposed for the Minor LDEC Permit</p>	<p>Paragraph 12.4B.</p>	<p>1. Partially offsets the added staff time required for intake and processing of the Minor LDEC Permit. Note that Case 773-AT-14 includes a \$50 fee for the proposed Grading and Demolition Permits.</p>	<p>1. Adds \$50 application fee in addition to the costs of the erosion controls that are required in the MS4 Area.</p>	<p>{RECOMMENDED/ NOT RECOMMENDED}</p>

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769-AT-13

**FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: January 15, 2015

Petitioner: Zoning Administrator

- Request: Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement (see attached) which can be summarized as follows:
- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)
 - II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)
 - III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)
 - IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement of Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)
 - V. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion control and water quality requirements that are required for all construction or land disturbance. (Part F of the legal advertisement)

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- VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)
 - VII. Revise and reformat existing Sections 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)
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**Note that in the Draft Finding of Fact italicized letters indicate the staff recommendation.*

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 13, 2014; March 13, 2014; May 29, 2014; June 12, 2014; July 13, 2014; September 11, 2014; December 11, 2014; and January 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

SUMMARY OF THE PROPOSED AMENDMENT

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

5. The *Champaign County Land Resource Management Plan (LRMP)* was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
 - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
 - B. The LRMP defines Goals, Objectives, and Policies as follows:
 - (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
 - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

REGARDING LRMP GOALS

6. 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 text amendment will *NOT IMPEDE* the achievement of Goal 1.

7. 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 text amendment will *NOT IMPEDE* the achievement of Goal 2.

8. 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 text amendment *{WILL/ WILL NOT} IMPEDE* the achievement of Goal 3 in a similar manner as for the Purpose of the Zoning Ordinance. See item 16.B.

9. 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 text amendment will *NOT IMPEDE* the achievement of Goal 4.

10. 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 text amendment will *NOT IMPEDE* the achievement of Goal 5 in general.

11. 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 text amendment will *NOT IMPEDE* the achievement of Goal 6.

12. 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 text amendment will *NOT IMPEDE* the achievement of Goal 7.

13. 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 and except as reviewed below will not be impeded by the proposed amendment. The proposed text amendment will *HELP ACHIEVE* Goal 8 for the following reasons:

- A. Objective 8.4 is entitled “Surface Water Protection” and states “**Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.**”

The proposed text amendment will *HELP ACHIEVE* Objective 8.4 because of the following:

- (1) Objective 8.4 has 6 policies. Policies 8.4.1, 8.4.3, 8.4.4, and 8.4.6 are not directly relevant to the proposed text amendment.
- (2) Policy 8.4.2 states “**The County will require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent properties and provide for stream flows that support healthy aquatic ecosystems.**”

The proposed text amendment will *HELP ACHIEVE* Policy 8.4.2

- a. ***IF the Optional Minimum Requirements in Section 6 are approved***, as follows:

- (a) The “minimum erosion control and water quality requirements” in Sections 6.1, 6.4 and 6.5 are proposed to be required in the entire unincorporated area for any land disturbance and/or construction.
- (b) If adopted, the minimum erosion control and water quality requirements will authorize the Zoning Administrator to require actions to be taken for land disturbance pursuant to any Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land and thereby minimize impacts on adjacent properties.

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- b. ***IF ILR10 compliance is required outside of the MS4 Jurisdictional Area*** it would also help achieve Policy 8.4.2 but only for land disturbance of one acre or more.
- (3) Policy 8.4.5 states **“The County will ensure that non-point discharges from new development meet or exceed state and federal water quality standards.”**

The proposed amendment ***WITH OR WITHOUT the Optional Minimum Requirements in Section 6 and WHETHER OR NOT ILR10 compliance will be required by the County outside of the MS4 Jurisdictional Area, WILL ACHIEVE*** Policy 8.4.5, as follows:

- a. Regarding the relevant non-point water quality standard for Champaign County:
- (a) As defined on the USEPA webpage “What is Nonpoint Source Pollution?”, “Non-point source” is defined by the USEPA to mean any source of water pollution that does not meet the legal definition of “point source” in section 502(14) of the Clean Water Act. Nonpoint source pollution (NPS) comes from many diffuse sources and is caused by rainfall or snowmelt moving over and through the ground and the pollutants that are picked up by that runoff and eventually deposited into receiving waters.
- (b) In 1987 Congress amended the Clean Water Act to require implementation of a two phase national program for addressing storm water discharges. The second phase (Phase II) regulations were published in the Federal Register on December 9, 1999. The National Pollution Discharge Elimination System (NPDES) portions of the Code of Federal Regulations (CFR) are contained in 40 CFR Parts 9, 122, 123 and 124. Excerpts of the Phase II Final Rule were included as attachments to the Preliminary Memorandum for this case. The Phase II Final Rule expanded the National Pollutant Discharge Elimination System (NPDES) storm water program to address storm water discharges from small municipal storm water sewer systems (MS4s) and construction sites of one to five acres.
- (c) The regulatory definition of an MS4 (*40 CFR 122.26(b)(8)*) is “a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a state, city, town, borough, county, parish, district, association, or other public body (created to or pursuant to state law) including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into waters of the United States. (ii) Designed or used for collecting or conveying stormwater; (iii) Which is not a

combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2."

- (d) The relevant storm water conveyance system operated by Champaign County consists of County Highways 1, 15, 17 and 18 with drainage systems located in the Champaign Urbanized Area as delineated by the U.S. Census Bureau according to the 2010 Census. A map entitled Champaign County MS4 Jurisdiction was included as Attachment M to the Supplemental Memorandum dated 2/13/14
- (e) The Champaign-Urbana Urbanized Area was included in the list of Urbanized Areas in Appendix 3 to the Preamble of the Phase II Final Rule on p. 68805 of 64 Federal Register 235 (8 December 1999) and Champaign County was included in the list of Governmental Entities Located Fully or Partially Within an Urbanized Area in Appendix 6 to the Preamble of the Phase II Final Rule on p. 68812 of 64 Federal Register 235 (8 December 1999), both
- (f) Small MS4 operators are regulated under the NPDES storm water program unless they qualify for a waiver. The threshold for a waiver of the permit coverage is available if the MS4 serves a population of fewer than 10,000 people and other criteria are met (*40 CFR 122.32(e)*). See p. 68842 of 64 Federal Register 235 (8 December 1999) included in Attachment F to the Preliminary Memorandum. Champaign County does not currently qualify for a waiver from the NPDES storm water program as the population in the MS4 jurisdiction is approximately 11,565.
- (g) The Phase II Final Rule provides that if a regulated small MS4 operator is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated (*40 CFR 122.32(a)*). See p. 68842 of 64 Federal Register 235 (8 December 1999) included in Attachment F to the Preliminary Memorandum. Champaign County operates County Highways outside of the Champaign Urbanized Area and therefore only the unincorporated portions of Champaign County that are within the Champaign Urbanized Area are regulated under the Phase II Final Rule.
- (h) NPDES requirements may apply to land disturbance activities outside of the Urbanized Area and are regulated by the State of Illinois. The County may adopt requirements independent of NPDES based on its authority to control water pollution.
- (i) The Phase II Final Rule requires that a regulated small MS4 must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants to the maximum extent practicable to protect water quality and to satisfy

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the appropriate water quality requirements of the Clean Water Act. Paragraph (b) of 40 CFR 122.34 requires that the storm water management program must at a minimum include the following six control measures:

- Public education and outreach on storm water impacts.
- Public involvement/ participation.
- Illicit discharge detection and elimination.
- Construction site storm water runoff control.
- Post-construction storm water management in new development and redevelopment.
- Pollution prevention/ good housekeeping for municipal operations.

- (j) Regarding the minimum control measure of construction site storm water runoff control required by the Phase II Final Rule, a regulated small MS4 must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Control of storm water discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more or has been designated by the permitting authority. Paragraph (b)(4) of 40 CFR 122.34 requires the minimum construction site storm water runoff control measure to include the following six elements:
- i.* An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance to the extent allowable under law.
 - ii.* Requirements for construction site operators to implement appropriate erosion and sedimentation best management practices.
 - iii.* Requirements for construction site operators to control waste at the construction site that may cause adverse impacts to water quality.
 - iv.* Procedures for site plan review to incorporate considerations of potential water quality impacts.
 - v.* Procedures for receipt and consideration of information submitted by the public.
 - vi.* Procedures for site inspection and enforcement of erosion and sedimentation control measures.

- (~~i~~k) The Illinois Environmental Protection Agency (IEPA) is the relevant permitting authority for National Pollution Discharge Elimination System (NPDES) permits in the State of Illinois. Requirements are detailed in the General NPDES Permit for Discharges from Small Municipal Separate Storm Sewer Systems No. ILR40. The current ILR40 was issued on February 20, 2009, and expired on March 31, 2014. A Final Draft version of a proposed update to the ILR40 is undergoing a public comment period.

- (~~j~~l) ILR40 references the Illinois Pollution Control Board Rules and Regulations (35 IAC Subtitle C Ch. 1) and the Clean Water Act.

- (~~k~~m) Paragraph B in Part I of ILR40 authorizes discharges of storm water from small municipal separate storm sewer systems (MS4s) as defined in the Phase II Final Rule in 40 CFR 122.26(b)(16) as designated for permit authorization pursuant to 40 CFR 122.32. Note that 40 CFR 122.32(a) is that part of the Phase II Final Rule that provides that if a regulated small MS4 operator is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated.

- (~~l~~n) Part IV of ILR40 requires the permittee to develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from the small municipal separate storm sewer system to the maximum extent practicable to satisfy the appropriate requirements of the Illinois Pollution Control Board Rules and Regulations (35 IAC Subtitle C Ch. 1) and the Clean Water Act.

- (~~m~~o) Paragraph B.4. of Part IV of ILR40 requires the permittee to develop, implement, and enforce a storm water management program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre and construction activities that disturbing less than an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more. Paragraph B.4. identifies the same six minimum elements as required by paragraph (b)(4) of 40 CFR 122.34 (the Phase II Final Rule) including an ordinance to require construction site operators to implement appropriate erosion and sedimentation controls and sanctions to ensure compliance and procedures for site plan review and procedures for site inspection and enforcement of control measures except that appropriate erosion and sediment control best management practices shall include green infrastructure storm water management techniques where appropriate and practicable and also includes a seventh required element which is to

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require all regulated construction sites to have a storm water pollution prevention plan that meets the requirements of Part IV (Storm Water Pollution Prevention Plan) of NPDES permit No. ILR10 . Because Paragraph B.4. of Part IV of ILR40 applies to the “small MS4” it apparently applies only to that portion of unincorporated Champaign County that is within the Champaign-Urbana Urbanized Area.

- (~~n~~-p) Paragraph B.5. of Part IV of ILR40 establishes the ILR40 requirements for post-construction storm water management in new development and redevelopment. Paragraph B.5. of Part IV of ILR40 includes eight sub-paragraphs. The fifth sub-paragraph (sub-paragraph e.) requires an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects (apparently a reference to sub-paragraph a. which refers to the “small MS4”), public surfaces (apparently a reference to sub-paragraph c.) and existing developed property (apparently a reference to sub-paragraph d. which refers to the MS4) and to implement strategies which include a combination of structural and/ or non-structural best management practices (BMPs; this is apparently a reference to six strategies included under sub-paragraph b.) that will reduce the discharge of pollutants and the volume and velocity of storm water flow to the maximum extent practicable, as “set forth above” which is apparently a reference to the preceding four sub-paragraphs. Sub-paragraph f. requires “all regulated construction sites to have post-construction management plans that meet or exceed the requirements of Section IV(D)(2)(b) of NPDES Permit No. ILR10 including management practices, etc. at least as protective as the Illinois Urban Manual 2002”. Sub-paragraph f. does not mention MS4 in relation to construction sites but, logically, sub-paragraph f. only applies to construction sites located in that portion of unincorporated Champaign County that is within the Champaign-Urbana Urbanized (ie, MS4 Jurisdictional) Area that result in a land disturbance of greater than or equal to one acre and construction activities that disturbing less than an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more. In paragraph B.5.f. of Part IV of ILR40 the reference to Section IV(D)(2)(b) of NPDES Permit No. ILR10 is confusing for the following reasons:
- i.* There is no Section IV(D)(2)(b) of NPDES Permit No. ILR10 but there is a Section IV. D.2.b. of NPDES Permit No. ILR10.
 - ii.* Section IV. D.2.b. of NPDES Permit No. ILR10 does not regulate post-construction storm water management but does regulate soil stabilization practices in general.

- iii.* Requirements for post-construction storm water management are established by Section IV D.2.h. of NPDES Permit No. ILR10.
 - iv.* The current ILR40 expired on March 31, 2014, and in the Final Draft Update ILR40 circulated on June 9, 2014, paragraph B.5.f. of Part IV has apparently been renumbered B.5.h. and refers to Section IV(D)(2)(h) of the ILR10. In the ILR10 that became effective on August 1, 2013, Section IV.D.2.h. is titled “Best Management Practices for Post-Construction Storm Water Management”.
- (e g) The relevant non-point water quality standard for Champaign County related to a storm water management program that applies to new construction, consists of the following:
- i.* In that portion of unincorporated Champaign County that is within the Champaign-Urbana Urbanized (ie, MS4 Jurisdictional) Area, an ordinance to require a construction site operator of construction that results in a land disturbance of greater than or equal to one acre and construction activities that disturb less than an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more, the requirement is do the following:
 - implement appropriate erosion and sedimentation controls at least as protective as the Illinois Urban Manual 2002 and including green infrastructure storm water management techniques where appropriate and practicable; and
 - control construction site waste; and
 - include sanctions to ensure compliance; and
 - include procedures for site plan review; and
 - include procedures for site inspection and enforcement of erosion and sedimentation control measures; and
 - require the construction site operator to have a storm water pollution prevention plan that meets the requirements of Part IV (Storm Water Pollution Prevention Plan) of NPDES permit No. ILR10.
 - ii.* Also in that portion of unincorporated Champaign County that is within the Champaign-Urbana Urbanized (ie, MS4 Jurisdictional) Area, an ordinance or other regulatory mechanism to require of any construction that results in a land disturbance of greater than or equal to one acre and construction activities that disturb less than an acre if that

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construction activity is part of a larger common plan of development or sale that will disturb one acre or more, to have a post-construction storm water pollution prevention plan that implements strategies which include a combination of structural and/ or non-structural best management practices to minimize storm water runoff and reduce the discharge of pollutants and the volume and velocity of storm water flow to the maximum extent practicable, and that meets or exceeds the requirements of Part IV (Storm Water Pollution Prevention Plan) of NPDES permit No. ILR10.

- (p r) In addition to the above, the Phase II Final Rule and NPDES permit ILR40 establish other requirements for Champaign County related to non-point discharges that will have to be addressed in other ordinances or other regulatory mechanisms including public education and outreach on storm water impacts; public involvement/ participation; illicit discharge detection and elimination; post-construction storm water management to minimize the volume of storm water runoff and pollutants from public surfaces and existing developed property; and pollution prevention/ good housekeeping for County operations.
 - (q s) Note that the relevant non-point water quality standard for Champaign County does not require Champaign County to enforce compliance with the NPDES permit ILR10 outside of the Champaign-Urbana Urbanized (ie, MS4 Jurisdictional) Area.
- b. The existing Champaign County Stormwater Management Policy does not meet the relevant non-point water quality standard for Champaign County for the following reasons:
- (a) The erosion and sediment control standard referenced in the Champaign County Stormwater Management Policy is not the *Illinois Urban Manual* but is the *Procedures and Standards for Urban Soil Erosion and Sedimentation Control in Illinois*, which is a forerunner to the *Illinois Urban Manual*, and is referenced in paragraph 6.2 D. of the Stormwater Management Policy. Paragraph 6.2 D. only requires permanent erosion control measures. Paragraph 6.2 C. requires temporary seeding or other soil stabilization measures but provides no more specific requirement.
 - (b) The Champaign County Stormwater Management Policy only requires construction site operators on sites with an acre or more of impervious area to implement appropriate erosion and sedimentation best management practices and does not require erosion and sedimentation controls if there is a land disturbance of greater than or equal to one acre or if construction activities that disturb less than

an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more.

- (c) The Champaign County Stormwater Management Policy does not require construction site operators to control waste at the construction site that may cause adverse impacts to water quality; and does not require procedures for site plan review to incorporate considerations of potential water quality impacts; and does not require procedures for receipt and consideration of information submitted by the public; and does not require procedures for site inspection and enforcement of erosion and sedimentation control measures; and does not require a post-construction storm water pollution prevention plan that implements strategies which include a combination of structural and/ or non-structural best management practices to minimize storm water runoff and reduce the discharge of pollutants and the volume and velocity of storm water flow to the maximum extent practicable, and that meets or exceeds the requirements of Part IV (Storm Water Pollution Prevention Plan) of NPDES permit No. ILR10, as required by the Phase II Final Rule and ILR40.
- c. Regarding whether or not the proposed amendment will result in meeting or exceeding the relevant non-point water quality standard for Champaign County:
- (a) The proposed amendment references the *Illinois Urban Manual* in paragraph 11.1B.
 - (b) Regarding the requirement to adopt an ordinance to require a construction site operator to implement appropriate erosion and sedimentation controls at least as protective as the *Illinois Urban Manual 2002* and including green infrastructure storm water management techniques where appropriate and practicable, when construction results in a land disturbance of greater than or equal to one acre and construction activities that disturb less than an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more in the MS4 JURISDICTIONAL AREA:
 - i. Proposed paragraph 6.4A. of the proposed amendment requires all construction or land disturbance anywhere in the unincorporated area to be provided with erosion and sedimentation controls as needed to minimize erosion and sedimentation. As originally proposed, paragraph 6.4 A. will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting paragraph 6.4 A.

quality. As originally proposed, this requirement will apply to all construction sites in the unincorporated area but the County Board has the option of making this a requirement only in the MS4 JURISDICTIONAL AREA in which case paragraph 6.4C. will become paragraph 11.1C.

- (e) Regarding requirements and procedures for site inspection and enforcement of erosion and sedimentation control measures for construction with a land disturbance of greater than or equal to one acre and construction activities that disturb less than an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more in the MS4 JURISDICTIONAL AREA:
 - i.* Proposed paragraph 6.5 of the proposed amendment provides for site inspection and enforcement of erosion and sedimentation controls in limited circumstances. As originally proposed, paragraph 6.5 will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting paragraph 6.5.
 - ii.* Proposed subparagraph 12.2 D. and Section 13.5 establish requirements and procedures for site inspection of erosion and sedimentation control measures. These requirements are not optional.
 - iii.* Proposed Section 15 establishes requirements and procedures for enforcement of erosion and sedimentation control measures in addition to relevant parts of the Champaign County Zoning Ordinance. These requirements are not optional.

- (f) Regarding the requirement that any construction in the MS4 JURISDICTIONAL AREA shall have a post-construction management plan that implements strategies which include a combination of structural and/ or non-structural best management practices to minimize storm water runoff and reduce the discharge of pollutants and the volume and velocity of storm water flow to the maximum extent practicable, and that meets or exceeds the requirements of Part IV (Storm Water Pollution Prevention Plan) of NPDES permit No. ILR10 when the construction results in a land disturbance of greater than or equal to one acre and construction activities that disturb less than an acre if that construction activity is part of a larger common plan of development or sale that will disturb one acre or more:

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- i. Proposed Section 6 requires non-erosive velocities and prevents modification of existing perennial streams and these requirements apply throughout the County zoning jurisdiction and not just in the MS4 Area;
- ii. Proposed Sections 8 and 9 require the use of both structural and non-structural Best Management Practices in the design of the drainage system and these requirements apply throughout the County zoning jurisdiction and not just in the MS4 Area;
- iii. Proposed Section 9 requires that post-construction storm water runoff must be less than pre-construction storm water runoff when there is one acre or more of new impervious area (defined as any land cover other than vegetation) and these requirements apply throughout the County zoning jurisdiction and not just in the MS4 Area;
- iv. Proposed Section 11 requires conformance with the Technical Appendices (based on the Illinois Urban Manual) and the Illinois Urban Manual and requires that land disturbance be minimized to the extent practical and these requirements apply throughout the County zoning jurisdiction and not just in the MS4 Area.

B. Objective 8.5 is entitled “Aquatic and Riparian Ecosystems” and states “**Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.**”

The proposed text amendment will *NOT IMPEDE* the achievement of Objective 8.5 because of the following:

- (1) Objective 8.5 has 5 policies. Policies 8.5.3, 8.5.4, and 8.5.5 are not directly relevant to the proposed text amendment.
- (2) Policy 8.5.1 states, “**For discretionary development, the County will require land use patterns, site design standards and land management practices that, wherever possible, preserve existing habitat, enhance degraded habitat and restore habitat.**”

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.5.1 because the erosion and sedimentation controls required by this Case 769-AT-13 are not intended to preserve existing habitat, enhance degraded habitat, or restore habitat. The erosion and sedimentation controls required by this Case 769-AT-13 will at the most minimize damage to habitat caused by erosion and sedimentation from adjacent property.

- (3) Policy 8.5.2 states, **“The County will require in its discretionary review that new development cause no more than minimal disturbance to the stream corridor environment.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.5.2 for the same reasons as for Policy 8.5.1 above.

- C. Objective 8.6 is entitled “Natural Areas and Habitat” and states **“Champaign County will encourage resource management which avoids loss or degradation of areas representative of the pre-settlement environment and other areas that provide habitat for native and game species.”**

The proposed amendment will *NOT IMPEDE* the achievement of Objective 8.6 because of the following:

- (1) Objective 8.6 has 6 policies. Policies 8.6.3, 8.6.4, 8.6.5, and 8.6.6 are not relevant to the proposed text amendment.
- (2) Policy 8.6.1 states **“The County will encourage educational programs to promote sound environmental stewardship practices among private landowners.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.6.1 because the minimum erosion control and water quality requirements of this Case 769-AT-13 are only a very small part of sound environmental stewardship practices and will only be required when there is a complaint about erosion and sedimentation.

- (2). Policy 8.6.2 states as follows:
- a. **“For new development, the County will require land use patterns, site design standards and land management practices to minimize the disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas.**
- b. **With regard to by-right development on good zoning lots, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.6.2 for the same reasons as for Policy 8.6.1 above.

14. 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 text amendment will **NOT IMPEDE** the achievement of Goal 9.

15. 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 text amendment will **NOT IMPEDE** the achievement of Goal 10.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

16. The proposed text 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.

The proposed text amendment is only indirectly related to this purpose to the extent that preventing water pollution is part of securing safety from other dangers.

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

The proposed amendment **WITH OR WITHOUT the Optional Minimum Requirements in Section 6 and WHETHER OR NOT ILR10 compliance will be required by the County outside of the MS4 Jurisdictional Area, {WILL / WILL NOT}** conserve the value of real estate throughout the COUNTY, based on the following:

- (1) The proposed text amendment is only indirectly related to this purpose to the extent that preventing water pollution may help to conserve the value of land throughout the COUNTY and the costs of minimizing water pollution will increase the cost to develop land in the COUNTY and that could also affect the value of land throughout the COUNTY.
- (2) The requirement to establish an MS4 program to minimize erosion and sedimentation due to construction is a mandate by the USEPA and the County has no alternative to establishing such a program regardless of the costs of that program. In 1998 the USEPA prepared a national cost-benefit analysis of the Phase II Rule which was summarized in the record of the Phase II Final Rule. See pages 68791- 68796 of 64 Federal Register 235 (8 December 1999) included in Attachment F to the Preliminary Memorandum. The USEPA determined that for the nation as a whole, the estimated benefits of the Phase II Rule are likely to exceed the estimated costs. The following is a brief overview of the summary as reported in the Phase II Final Rule:

- a. The USEPA estimated both the annual municipal costs of the Phase II program and the annual construction costs of the program.
- b. For annual municipal costs, USEPA estimated approximately \$9 per household to be the annual costs for the Phase II Final Rule program, based on the actual annual costs of 35 Phase I communities. Alternatively, USEPA estimated it would cost approximately \$9.16 per household based on a national survey of Phase II communities and \$298 million in total municipal costs.
- c. USEPA estimated annual construction costs as follows:
 - (a) USEPA followed a basic construction estimating approach using a national construction cost estimate reference and prepared cost estimates for three different sizes of assumed lots (one acre, three acres, and five acres); three different slope variations (3%, 7%, and 12%) and three different soil erosivity conditions (low, medium, and high). USEPA estimated that the average costs for sediment and erosion controls would be \$1,206 for a one acre site and \$4,598 for a three acre site and \$8,709 for a five acre site.
 - (b) USEPA also estimated that the annual administrative costs (providing notice, preparing the storm water pollution prevention plan, and records retention) per construction site would be \$937.
 - (c) USEPA also estimated the potential costs for construction site operators to implement the post-construction minimum measures and also estimated the costs related to the available waivers for construction sites. Average annual costs for post-construction minimum measures were estimated for the three sites of one acre, three acres, and five acres. Nationwide, the annual costs were expected to range from \$44 million to \$178 million.
- d. USEPA estimated the annual federal and state administrative costs to be \$5.3 million.
- e. When all average annual costs were multiplied by the estimated number of annual Phase II construction starts for each lot size category and municipal and state and federal administrative costs are also considered, USEPA estimated the total cost for the Phase II Rule to range from \$847.6 million to \$981.3 million.
- f. USEPA estimated the annual benefits of the Phase II Rule using two different approaches to water quality which are briefly summarized as follows:
 - (a) USEPA used a National Water Pollution Control Assessment Model that estimated water quality changes in five water quality indicators for a total of 632,000 miles of rivers and streams. The value of the changes in water quality was estimated by using a “willingness to

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pay” model based on previous national survey research that found that households were willing to pay from \$158 annually for water quality improvements providing “fishable” water to \$210 annually for water quality improvements providing “boatable” water. Value was also estimated both for local and non-local waters based on research suggesting that most people placed a greater value on the quality of local waters versus non-local waters. The annual value of national water quality benefits estimated using the National Water Pollution Control Assessment Model was \$1,628.5 million.

- (b) USEPA also used a National Water Quality Assessment method to estimate the value of benefits accruing from improvements in the quality of fresh water from municipal measures (other than construction site runoff controls) using the same “willingness to pay” data as used in the previous model; and the value of benefits from improvements in the quality of marine waters (ie, beaches); and the value of benefits from improvements related to erosion and sediment control for construction sites and using data from a second type of “willingness to pay” study. The annual value of national water quality benefits estimated using the National Water Quality Assessment method was \$671.5 million to \$1,096.2 million.
- (3) Regarding the added construction cost that the basic proposed amendment is likely to cause for a typical new home in the Champaign County MS4 Jurisdictional Area unincorporated area:
- a. As reviewed above in Finding of Fact item 16.B.(2)c.(a)., USEPA estimated that the average costs (using 1997 dollars) for sediment and erosion controls would be \$1,206 for a one acre site. The Consumer Price Index Inflation Calculator maintained by the Bureau of Labor Standards (<http://data.bls.gov/cgi-bin/cpicalc.pl?cost1=1206&year1=1987&year2=2014>) shows that \$1,206 in 1997 is comparable to \$1,790 in 2014.
 - b. The City of Bloomington, Illinois Engineering Department prepared an evaluation of the estimated cost for a similar erosion and sedimentation ordinance in 2004. A copy of that evaluation titled “Erosion And Sediment Control Compliance Cost Evaluation” was included as an attachment to the October 29, 2013, ELUC memo which itself was included as Attachment B to the Preliminary Memorandum. Regarding the cost evaluation by the City of Bloomington Engineering Department:
 - (a) The City of Bloomington Engineering Department found that the cost of installation of the erosion and sedimentation controls in that proposed ordinance ranged from \$2,194.70 to \$4,891.10. The assumed lot area was 10,400 square feet with an average lot width of 100 feet.

- (b) Even though the proposed City of Bloomington requirements for erosion and sedimentation were similar to the proposed requirements for Champaign County, there are important differences in the standards and differences between the two settings (urban vs. rural). The attachment to the October 29, 2013, ELUC memo (Attachment B to the Preliminary Memorandum in this case) identified relevant differences between the two sets of requirements and differences based on the two settings and based on those differences, estimated the following costs for the proposed Champaign County requirements:
 - i. For an assumed typical Champaign County urban lot, the proposed erosion and sedimentation controls are estimated to add between \$2,322 and \$3,093 to the cost of construction for a new home.
 - ii. For an assumed typical Champaign County rural lot, the proposed erosion and sedimentation controls are estimated to add between \$3,898 and \$5,493 to the cost of construction for a new home.
 - c. The cost of erosion and sedimentation controls should also be considered in terms of the percent of the total construction cost. There is no identified average cost of a new home for unincorporated Champaign County but the following are two relevant considerations:
 - (a) As reported by the U.S. Census and supported by a review of Zoning Use Permit Applications in the Department of Planning and Zoning in the fall of 2013, by 10/1/13 there had been 12 new permits for new dwellings in unincorporated Champaign County with a reported average cost of construction of \$283,417. The 12 new dwellings were all rural. Based on that average cost, the cost of compliance with the proposed Ordinance for rural dwellings ranges from 1.4% to 1.9%.
 - (b) The Illinois Association of Realtors reports the “median sales price” (includes both new homes and existing homes) of homes in each Illinois county. The Median Sales price in Champaign County for the second quarter of 2013 was \$142,250. Based on that Median Sales Price, the cost of compliance with the proposed Ordinance for rural dwellings ranges from 1.6% to 2.2% for urban dwellings and 2.7% to 3.9% for rural dwellings.
- ~~(4) The ILR10 requirement for erosion and sedimentation controls for construction activities that result in a land disturbance of greater than or equal to one acre is already a statewide requirement enforced by the IEPA.~~

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- ~~(5) As reported in the most recent ILR40 Notice of Intent submitted to the IEPA in October 2013, the Champaign County MS4 Jurisdictional Area is only 10.4 square miles which is about 1% of the total area of Champaign County.~~
- (4) Regarding the added costs to Champaign County government and taxpayers that the basic proposed amendment is likely to cause for adequate staffing in the Department of Planning and Zoning:
- a. The basic proposed amendment will add the following new tasks associated with the new Land Disturbance Erosion Control (LDEC) Permits for the Department of Planning and Zoning:
- (a) The new Land Disturbance Erosion Control (LDEC) Permit requirement will add LDEC permit intake, review, approval, inspection, enforcement, and answering related inquiries. The additional staff time required for intake, review, approval, and inquiry activities related to the LDEC Permit may be comparable to the same amount of time required for a Zoning Use Permit. The additional staff time required for enforcement related to the LDEC Permit is likely to be much greater than the time required for a Zoning Use Permit due to the greater number of inspections and resultant enforcement issues that are likely to arise. The required inspections will add the most tasks because each LDEC Permit will require the following additional inspections with associated written reports:
- i. A pre-CONSTRUCTION meeting on each SITE which has an approved ESCP (see Sec. 13.5. B.).
 - ii. Before GRADING or land disturbing activities begin, there shall be a written inspection approval of the installation of perimeter EROSION and SEDIMENT controls (see Sec. 13.5. C. 1.).
 - iii. Upon completion of stripping and stockpiling of TOPSOIL (see Sec. 13.5. C. 2.);
 - iv. Upon the CONSTRUCTION of temporary EROSION and SEDIMENT control facilities (see Sec. 13.5. C. 2.);
 - v. Upon disposal of all waste material (see Sec. 13.5. C. 2.);
 - vi. At the completion of rough GRADING, but prior to placing TOPSOIL, permanent drainage or other SITE DEVELOPMENT improvements and ground covers (Sec. 13.5. C. 2.).
 - vii. On a weekly basis or after any rainfall event one-half (1/2) inch or greater in twenty-four (24) hours, as recorded on-site, at the nearest United States Geologic Survey or Illinois State Water Survey rain gauge nearest the SITE. Zoning Use Permits are good for one year. Inspections may be reduced to once per month when construction activities have ceased due to frozen

conditions except that an inspection is required if there is one-half (1/2) inch or greater rain event, or snowmelt occurs (Sec. 12.5. G.). .

viii. Upon completion of FINAL STABILIZATION, including GRADING, permanent drainage and EROSION control facilities, including established ground covers and plantings, and all other work of the LDEC PERMIT (Sec. 13.5. C. 3.).

ix. Overall, each LDEC Permit will require at least one inspection per week until the Final Stabilization is achieved with an additional inspection after each ½ inch rainfall.

(b) (Relocate to (5)b. below) If the Optional Minimum Requirements in Section 6 are approved by the County Board, there will be additional permit intake, review, approval, enforcement, and inquiry activities related to those Minimum Requirements. However, in most instances, the additional staff time required for intake, review, approval, and inquiry activities will only be a small increase over the time that is currently required for the Zoning Use Permit. Any significant increase in time will probably only occur due to any required enforcement and in general, there should be no significant impact on overall staffing.

(c) (Relocate to (6)b. below) If ILR10 compliance outside of the MS4 Jurisdictional Area is approved by the County Board, there will be additional permit intake, review, approval, and inquiry activities but no additional inspection or enforcement activities.

- b. Regarding the anticipated volume of the new Land Disturbance Erosion Control (LDEC) Permits:
- (a) The volume of Zoning Use Permits for the period of 12/1/12 through 8/31/14 was as follows:
- i. As reported in the Departmental Monthly Reports which are submitted to the Environment and Land Use Committee monthly, for the entire unincorporated area there were 304 Zoning Use Permits for 245 structures in that 21 month period. Note that during that time period the Department issued 14 permits for reconstruction of storm damaged principal structures and if those permits are excluded from this analysis the net result is 290 permits for 231 structures which is more or less equivalent to 166 Permits for 132 structures within a 12 month period.

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- ii. Of the 231 structures there were 41 structures located in the MS4 Jurisdictional Area and 190 structures located outside of the MS4 Jurisdictional Area.
- iii. Note that land disturbance is not currently reported on any Zoning Use Permit nor is it reported in the Monthly Report. For the purposes of this analysis the following assumptions were made regarding the amount of land disturbance that should be assumed for each Zoning Use Permit:
 - Typical land disturbance likely to result from construction of an entirely new principal structure (ex. a dwelling) was assumed to be one acre or more except for when the total lot area was less than an acre and then it was classified based on lot area.
 - Typical land disturbance likely to result from a relatively small addition to an existing structure or from construction of relatively small accessory structures was assumed to be less than 10,000 square feet.
 - Typical land disturbance likely to result from larger additions and additions in combination with other permitted construction was assumed to be more than 10,000 square feet but less than one acre.
- iv. Of the 41 structures located in the MS4 Jurisdictional Area, 34 of the structures involved less than 10,000 square feet of land disturbance and 2 structures involved more than 10,000 square feet but less than an acre of land disturbance and 5 structures involved an acre or more of land disturbance, based on the assumptions regarding land disturbance. Thus, in the MS4 Jurisdictional Area, 7 structures (or about 3.0% of the total 231 structures) would have required an LDEC Permit in that 21 month period which is more or less equivalent to 4 structures within a 12 month period.
- v. Of the 190 structures located outside of the MS4 Jurisdictional Area, 137 of the structures involved less than 10,000 square feet of land disturbance and 16 structures involved more than 10,000 square feet but less than an acre of land disturbance and 42 structures involved an acre or more of land disturbance, based on the assumptions regarding land disturbance. Thus, if the LDEC Permit were proposed to be required outside of the MS4 Jurisdictional Area (not part of the proposed amendment), 58 structures (or about 25.1% of the total 231 structures) would have required

an LDEC Permit in that 21 month period which is more or less equivalent to 33 structures within a 12 month period.

- c. Regarding the magnitude of new tasks associated with the new Land Disturbance Erosion Control (LDEC) Permits and the likely impact on staffing requirements in the Department of Planning and Zoning:
 - (a) Within the MS4 Jurisdictional Area:
 - i. The proposed amendment is anticipated to result in an additional 4 permits to be approved in a typical year and an additional 4 inspections per week on average and at least 208 additional inspections per year. If enforcement issues arise the number of required inspections will increase.
 - ii. Provided that the number of LDEC Permits within the MS4 Jurisdictional Area does not greatly exceed the amount in recent years, the staffing impact for the Department should be manageable and no additional staffing is likely to be required.
 - iii. Any significant increase in the size of the MS4 Jurisdictional Area (as may occur in 2020 after the decennial Census) will have a significant impact on Department operations and additional staffing will be required.
 - (b) If LDEC Permits were required throughout the entire unincorporated area (and this is not part of the proposed amendment):
 - i. The proposed amendment would be anticipated to result in an additional 33 permits to be approved in a typical year and an additional 33 inspections per week on average and at least 1,716 additional inspections per year. If enforcement issues arise the number of required inspections will increase.
 - ii. The staffing impact for the Department under this scenario would be tremendous with additional staffing being needed for both the intake and review of the additional 33 permits each year and additional staffing needed to conduct the 33 inspections each week on average. The annual average number of permits is about 200 permits per year and those permits are processed by the two Zoning Technicians. An additional 33 permits would equate to an additional staff time of about 1/3 full time equivalent. The additional 33 inspections each week would require at least one additional full time equivalent position.
- d. Regarding the magnitude of new tasks associated with the Applicability of the ILR10 permit (paragraph 4.1A.) and the likely impact on staffing requirements in the Department of Planning and Zoning:
 - (a) Explaining the basic information about Applicability of the ILR10 permit (paragraph 4.1A.) so that Champaign County citizens will

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have a basic understanding of whether the ILR10 applies to their proposed land disturbance (even if not required for the necessary County permit) will add to the work load of the Department particularly during the warm weather construction season but in general, there should be no significant impact on overall staffing.

- (5) Regarding the added cost that the optional “minimum erosion control and water quality requirements” proposed in this amendment in Sections 6.1, 6.4 and 6.5 of the Ordinance are likely to cause for a typical new home in the 99% of the unincorporated area that is outside of the MS4 Jurisdictional Area:
- a. Regarding the added construction cost:
- (a) It is difficult to estimate the added construction costs because the minimum erosion control and water quality requirements required by this Case 769-AT-13 in the 99% of the unincorporated area that is outside of the MS4 Jurisdictional Area will probably only be required when there is a complaint about erosion and sedimentation on adjacent property.
- (b) Any added construction costs will be directly related to minimizing damage to other property and therefore the costs will also be minimized.
- b. Regarding the impact on staffing in the Department of Planning & Zoning:
- (a) (Relocated from (4)a.(b) above) If the Optional Minimum Requirements in Section 6 are approved by the County Board, there will be additional permit intake, review, approval, enforcement, and inquiry activities related to those Minimum Requirements. However, in most instances, the additional staff time required for intake, review, approval, and inquiry activities will only be a small increase over the time that is currently required for the Zoning Use Permit. Any significant increase in time will probably only occur due to any required enforcement and in general, there should be no significant impact on overall staffing.
- (6) Regarding the added cost that could result from requiring ILR10 compliance for County permitting of land disturbance outside of the Champaign County MS4 Jurisdictional Area:
- a. Regarding the added construction cost:
- (a) The ILR10 requirement for erosion and sedimentation controls for construction activities that result in a land disturbance of greater than or equal to one acre is already a statewide requirement enforced by the IEPA and to that extent, one could consider ILR10 compliance as not adding any new costs.
- (b) However, IEPA enforcement of the ILR10 requirement should not be assumed to be perfect and some land disturbance that should comply with the ILR10 probably avoids regulation and the costs of

compliance with ILR10. Requiring ILR10 compliance for County permitting outside of the Champaign County MS4 Jurisdictional Area may result in stronger overall enforcement of the ILR10 requirement and therefore more landowners and contractors being subject to the costs of ILR10 compliance.

- b. Regarding the impact on staffing in the Department of Planning & Zoning:
(a) (Relocated from (4)a.(6) above) If ILR10 compliance outside of the MS4 Jurisdictional Area is approved by the County Board, there will be additional permit intake, review, approval, and inquiry activities but no additional inspection or enforcement activities and in general, there should be no significant impact on overall staffing.

- 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 text amendment is not directly related to this purpose.

- 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 text amendment is only indirectly related to this purpose to the extent that preventing erosion and sedimentation will help avoid hazard to persons and damage to property.

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

The proposed amendment **WITH the Optional Minimum Requirements in Section 6 and disregarding ILR10 compliance outside of the MS4 Jurisdictional Area, WILL promote the public health, safety, comfort, morals, and general welfare throughout the COUNTY, based on the following:**

- (1) The Optional Minimum Requirements do not require erosion and sedimentation controls to be put in place until there is a valid complaint of erosion and/ or sedimentation on adjacent land.
- (2) The Optional Minimum Requirements are not applicable to MS4 compliance or to achieve the LRMP goals and policies.
- (3) The intent of paragraph 6.1F. and subsection 6.4 and 6.5 is to authorize the Zoning Administrator to require actions to be taken for land disturbance pursuant to a Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land. Note that the Zoning Administrator is most likely to become aware of such erosion or sedimentation on adjacent land as a result of a complaint from a neighboring landowner.

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- (4) The Department of Planning and Zoning does not receive many complaints related to erosion and sedimentation but the Department has in the past received some complaints about erosion and sedimentation. The most common complaint about erosion and sedimentation is related to the tracking of sediment and nuisance soil onto the adjacent public street. Complaints about drainage changes and erosion and sedimentation are common enough that the County Board should consider requiring Grading and Demolition Permits.
- (5) Providing the authority to require erosion and sedimentation controls when there is a valid complaint of erosion and/ or sedimentation is in fact promoting the public health, safety, comfort, morals, and general welfare.
- (6) Not providing the authority to require erosion and sedimentation controls (i.e., not approving the Optional Minimum Requirements) when there is a valid need for such controls, in the context of adopting an Ordinance that specifically includes all of the necessary erosion and sedimentation controls, is not promoting the public health, safety, comfort, morals, and general welfare.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

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

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is directly related to this purpose. See the discussion of LRMP Objectives 8.5 and 8.6.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

17. Regarding statutory (legal) authority for the proposed amendment:

- A. Paragraph B.4.a.i. of Part IV of ILR40 requires that a permittee (Champaign County in this instance) must develop, implement, and enforce "...an ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under state or local law" (emphasis added).
- B. Champaign County is not a home rule county and therefore Champaign County only has the statutory powers granted to non-home rule counties.
- C. The Champaign County State's Attorney Office has reviewed Champaign County's statutory authority to adopt an erosion control ordinance. The power to enact an erosion control ordinance derives from a number of enumerated powers, including the authority to adopt zoning (55 ILCS 5/5-12001); the authority to require plats of subdivision (55 ILCS 5/5-1041 and 765 ILCS 205); the authority to adopt a building code (55 ILCS 5/5-1063); the authority to adopt and enforce floodplain regulations (55 ILCS 5/5-40001); the authority to adopt a water supply, drainage, and flood control ordinance (55 ILCS 5/5-15001); and the authority to establish and implement a comprehensive and coordinated erosion and sediment control plan in cooperation with other units of government (70 ILCS 405/3.12).
- D. The Champaign County State's Attorney Office has recommended that the authority granted to the County Board to control water pollution as provided in 55 ILCS 5/5-15015 would provide appropriate authority to amend the Stormwater Management Policy as needed. Regarding the use of authority provided in 55 ILCS 5/5-15015:
- (1) 55 ILCS 5/5-15015 was included as Attachment E to the 10/29/13 ELUC Memorandum which introduced the Draft Storm Water Management and Erosion Control Ordinance which is the subject of Case 769-AT-13.

- (2) 55 ILCS 5/5-15001 authorizes a county board to adopt many different authorities related to provision of water and sewer services, waste management, water and flood control, and water pollution control, but 55ILCS 5-15015 specifically only relates to water pollution control.
- (3) In Section 1 of the Draft Storm Water Management and Erosion Control Ordinance, the Champaign County State's Attorney Office recommends changes subsection 1.2 as follows:

This Ordinance has been adopted pursuant to Champaign County's authority to zone land (55 ILCS 5/5-12001); Champaign County's authority to adopt rules and regulations for subdivisions (55 ILCS 5/5-1041); Champaign County's authority to adopt and enforce floodplain regulations (55 ILCS 5/5-40001); and Champaign County's authority to adopt a water supply, drainage, and flood control ordinance (55 ILCS 5/5-15015); Champaign County's authority to establish and implement a comprehensive and coordinated erosion and sediment control plan in cooperation with other units of government (70 ILCS 405/3.12); and other applicable authority, all as amended from time to time.

- (4) 55 ILCS 5/5-15001 requires a county board to adopt the specific authority (water pollution control in this instance) in a Resolution approved by a two-thirds vote of that county board. Thus, the adoption of such a Resolution by the 22 member Champaign County Board will have to be approved by an affirmative vote of 15 members of the County Board before the Draft Ordinance can be adopted.
 - (5) The Resolution to adopt the water pollution control authority under 55 ILCS 5/5-15015 is not required to have a public hearing. The Draft Resolution should proceed in parallel with the text amendment after the ZBA makes a recommendation regarding the text amendment.
- D. The Champaign County State's Attorney Office has also determined that the best alternative to the use of authority provided in 55 ILCS 5/5-15015 is to enter into an intergovernmental agreement with the Illinois Environmental Protection Agency. Approval of such an agreement would only require a simple majority approval (12 of 22 elected members).

18. Regarding the extent of the Champaign County MS4 Jurisdictional Area:

- A. The current Champaign County MS4 Jurisdictional Area is only 10.3 square miles in area (about 6,592 acres) based on the Champaign Urbanized Area identified in the 2010 Census.
- B. Note that the *Soil Survey of Champaign County, Illinois*, 2003 Edition, indicates there are 638,860 acres in Champaign County which is only about 2/10 of one percent less than 1,000 square miles.

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- C. The Champaign County Land Resource Management Plan reports that in 1999 about 6 percent of the County was in “urban” land cover and 94% of the County (about 600,528 acres) was agricultural, forestland, and wetland. Thus, the current MS4 Jurisdictional Area makes up only about 6,592 acres of that 600,528 acres or about 1% of non-urbanized (rural) Champaign County.
- D. Note that the extent of the Champaign Urbanized Area may vary from Census to Census and even the amount of the unincorporated area included in the Champaign Urbanized Area may vary from Census to Census. In 2003 when the NPDES requirements first became applicable to Champaign County, the Champaign County MS4 Jurisdictional Area was 19.2 square miles in area.

19. Regarding the alternative versions of the text amendment that the County Board may adopt:
- A. As described in the ELUC Memorandum dated 10/29/13, the Draft Ordinance includes certain “minimum erosion control and water quality requirements” in Sections 6.1, 6.4 and 6.5 that are proposed to be required in the entire unincorporated area for any land disturbance and/or construction. These minimum erosion control requirements are not required for compliance with the NPDES requirements outside of the MS4 Jurisdictional Area and that is why the County Board has the option of not requiring these minimums outside of the MS4 Jurisdictional Area. The Zoning Board of Appeals *{HAS / HAS NOT}* included paragraph 6.1F. and Sections 6.4A. and 6.5 in their recommendation to the County Board. The minimum erosion control requirements consist of the following:
- (1) Paragraph 6.1F in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 requires that all construction or land disturbance anywhere in the unincorporated area minimize EROSION on any property and minimize SEDIMENT deposited on any adjacent property. Regarding paragraph 6.1F:
- a. Paragraph 6.1F. in the Draft ordinance dated 12/5/14 was essentially unchanged from Section 6.1 (except for numbering) that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.
- b. Paragraph 6.1 F. will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting paragraph 6.1 F.
- c. The intent of paragraph 6.1F. is that in conjunction with Subsections 6.4 and 6.5 it authorizes the Zoning Administrator to require actions to be taken for land disturbance pursuant to a Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land. Note that the Zoning Administrator is most likely to become aware of such erosion or sedimentation on adjacent land as a result of a complaint from a neighboring landowner.
- d. The requirements of paragraph 6.1F. are not required for compliance with the MS4 requirements in the MS4 Jurisdictional Area. Sections 13 and 15 of the Draft ordinance dated 12/5/14 established a similar but more restrictive requirement for all LDEC Permits within the MS4 Jurisdictional Area and

therefore no other change is required to the Draft ordinance if the County Board chooses to not approve paragraph 6.1F..

- e. Paragraph 6.1 F. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- (1) Paragraph 6.4A. in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 requires all construction or land disturbance anywhere in the unincorporated area to be provided with erosion and sedimentation controls as needed to minimize erosion and sedimentation. Regarding paragraph 6.4A:
- a. Paragraph 6.4A. in the Draft ordinance dated 12/5/14 was essentially unchanged from paragraph 6.4A. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.
 - b. Paragraph 6.4A. will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting paragraph 6.4 A.
 - c. The intent of paragraph 6.4A. is that in conjunction with paragraph 6.5, it authorizes the Zoning Administrator to require erosion and sedimentation controls for land disturbance pursuant to a Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land. Note that the Zoning Administrator is most likely to become aware of such erosion or sedimentation on adjacent land as a result of a complaint from a neighboring landowner.
 - d. The requirements of paragraph 6.4A. are required for compliance with the MS4 requirements in the MS4 Jurisdictional Area. Paragraph 11.2A. in the Draft ordinance dated 12/5/14 established a similar but more restrictive requirement for all LDEC Permits (within the MS4 Jurisdictional Area) and all STORM WATER DRAINAGE PLANS and thus, no other change is required to the Draft ordinance if the County Board chooses to not approve paragraph 6.4A.
 - e. Paragraph 6.4A. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- (2) Paragraph 6.4 B. in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 requires an EROSION AND SEDIMENT CONTROL PLAN only pursuant to either a LAND DISTURBANCE EROSION CONTROL PERMIT (within the MS4 Jurisdictional Area) or a STORM WATER DRAINAGE PLAN or as such controls may be required by the ZONING ADMINISTRATOR pursuant to an enforcement action. Regarding paragraph 6.4B:
- a. Paragraph 6.4B. in the Draft ordinance dated 12/5/14 was essentially unchanged from paragraph 6.4B. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.
 - b. Paragraph 6.4B. will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting paragraph 6.4 B.

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- c. The intent of paragraph 6.4B. is that in conjunction with paragraph 6.5 it authorizes the Zoning Administrator to require an EROSION AND SEDIMENT CONTROL PLAN if land disturbance pursuant to a Zoning Use Permit causes erosion or sedimentation on adjacent land. Note that the Zoning Administrator is most likely to become aware of such erosion or sedimentation on adjacent land as a result of a complaint from a neighboring landowner.
 - d. The requirements of paragraph 6.4B. are not required for compliance with the MS4 requirements in the MS4 Jurisdictional Area because paragraphs 9.5G. and 11.2A. in the Draft ordinance dated 12/5/14 established a similar requirement for all STORM WATER DRAINAGE PLANS and paragraph 12.1L. establishes a similar requirement for any LDEC Permit within the MS4 Jurisdictional Area and thus, no other change is required to the Draft ordinance if the County Board chooses not to approve paragraph 6.4B.
 - e. Paragraph 6.4B. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- (3) Paragraph 6.4C. in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 requires all construction site operators to control waste at the construction site that may cause adverse impacts to water quality. Regarding paragraph 6.4C:
- a. Paragraph 6.4C. in the Draft ordinance dated 12/5/14 was essentially unchanged from paragraph 6.4C. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.
 - b. Paragraph 6.4C. will apply to all construction sites in the unincorporated area.
 - c. The intent of paragraph 6.4C. is that in conjunction with paragraph 6.5 it authorizes the Zoning Administrator to require appropriate control of construction site waste pursuant to a Zoning Use Permit if construction site waste blows or is carried onto adjacent property. Note that the Zoning Administrator is most likely to become aware of blowing or carrying of construction site waste onto adjacent land as a result of a complaint from a neighboring landowner.
 - d. The requirements of paragraph 6.4C. are required for compliance with the MS4 requirements in the MS4 Jurisdictional Area.
 - e. No other paragraph in the Draft ordinance dated 12/5/14 established a similar requirement in the MS4 Jurisdictional Area and therefore, if the County Board chooses not to approve paragraph 6.4C. this paragraph should be relocated and renumbered to become paragraph 11.1C. so that it will be a requirement only in the MS4 Jurisdictional Area.

- f. Paragraph 6.4C. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.

- (4) Paragraph 6.4D. in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 establishes minimum requirements for locations of stockpiles of soil and other erodible building materials. Regarding paragraph 6.4D:
 - a. Paragraph 6.4D. in the Draft ordinance dated 12/5/14 was revised from paragraph 6.4D. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13 as follows:
 - (a) The threshold size of stockpile was increased from 100 cubic yards of material in the 10/29/13 attachment to 150 cubic yards of material in the Draft ordinance dated 12/5/14. This increase in the threshold size may exempt stockpiles of soil for smaller homes with no basement and thereby reduce the cost impacts of the proposed minimum requirements.
 - (b) The required minimum separation of 30 feet from all relevant objects (drainage ditch, roadside ditch, drainage swale, or stream or a drainage ditch easement) in the 10/29/13 attachment was increased in the Draft ordinance dated 12/5/14 to 50 feet from the top of the bank of a drainage ditch or stream and the separation of 30 feet to a property line was added. These changes were made for consistency with other requirements of the Draft Ordinance.
 - (c) The attachment to the ELUC Memorandum dated 10/29/13 required any stockpile with 100 cubic yards of material to be provided with appropriate EROSION and SEDIMENT control consistent with Section 11 of this Ordinance except that the EROSION and SEDIMENT controls shall be in place prior to beginning the stockpile. The Draft ordinance dated 12/5/14 did not require EROSION and SEDIMENT controls but paragraph 6.4A. provides that controls may be required by the ZONING ADMINISTRATOR pursuant to an enforcement action.
 - b. Paragraph 6.4D. will apply to all construction sites in the unincorporated area.
 - c. The intent of paragraph 6.4D. is that in conjunction with paragraph 6.5 it authorizes the Zoning Administrator to require appropriate control of construction site waste pursuant to a Zoning Use Permit if construction site waste blows or is carried onto adjacent property. Note that the Zoning Administrator is most likely to become aware of blowing or carrying of construction site waste onto adjacent land as a result of a complaint from a neighboring landowner.

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- d. The requirements of paragraph 6.4D. are not required for compliance with the MS4 requirements in the MS4 Jurisdictional Area because similar requirements are already included in Section 11.5.
 - e. Paragraph 6.4D. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- (4) Paragraph 6.4E. in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 establishes minimum separations of land disturbance from streams, drainage ditches, and major drainage swales and as proposed, will apply to all construction sites in the unincorporated area. Regarding paragraph 6.4 E.:
- a. Paragraph 6.4E. in the Draft ordinance dated 12/5/14 was revised from paragraph 6.4E. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13 by changing the required minimum separation of 30 feet from all relevant objects (drainage ditch, roadside ditch, drainage swale, or stream or a drainage ditch easement) in the 10/29/13 attachment to 50 feet from the top of the bank of a drainage ditch or stream and the separation of 30 feet to a property line in the Draft ordinance dated 12/5/14. These changes were made for consistency with other requirements of the Draft Ordinance.
 - b. Paragraph 6.4E. will apply to all construction sites in the unincorporated area.
 - c. The requirements of paragraph 6.4E. may not be a clear requirement for compliance with the MS4 requirements in the MS4 Jurisdictional Area but are consistent with the MS4 requirements and are generally considered to be a best practice to reduce water pollution from soil erosion and sedimentation.
 - d. The minimum separations required by paragraph 6.4E. also make sense on similarly situated properties outside the MS4 Jurisdictional Area where erosion and sedimentation controls are only required pursuant to an enforcement action.
 - e. No other paragraph in the Draft ordinance dated 12/5/14 established a similar requirement in the MS4 Jurisdictional Area and therefore, if the County Board chooses not to approve paragraph 6.4E. this paragraph should be relocated and renumbered to become paragraph 11.1D. so that it will be a requirement only in the MS4 Jurisdictional Area.
 - f. Paragraph 6.4E. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.

- (5) Paragraph 6.4F. in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 requires that adjacent streets, sidewalks, and public areas be kept free of sediment and that any soil or SEDIMENT tracked onto a street, sidewalk or public area shall be removed before the end of each workday or sooner if directed by the relevant Authority. Regarding paragraph 6.4 F.:
- a. Paragraph 6.4F. in the Draft ordinance dated 12/5/14 was essentially unchanged from paragraph 6.4F. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.
 - b. Paragraph 6.4F. will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting paragraph 6.4 F.
 - c. The intent of paragraph 6.4F. is that in conjunction with paragraph 6.5, it authorizes the Zoning Administrator to require sediment to be removed from any street, sidewalk or public area pursuant to a Zoning Use Permit if that land disturbance caused sedimentation on the street, sidewalk or public area. Note that the Zoning Administrator is most likely to become aware of such sedimentation as a result of a complaint from a neighboring landowner or relevant highway authority.
 - d. The requirements of paragraph 6.4F. are not required for compliance with the MS4 requirements in the MS4 Jurisdictional Area because Section 11.3 in the Draft ordinance dated 12/5/14 established a similar requirement for all STORM WATER DRAINAGE PLANS and any LDEC Permit within the MS4 Jurisdictional Area and thus, no other change is required to the Draft ordinance if the County Board chooses not to approve paragraph 6.4F.
 - e. Paragraph 6.4F. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- (5) Subsection 6.5 in the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 provides for site inspection and enforcement of erosion and sedimentation controls in limited circumstances for any CONSTRUCTION or LAND DISTURBANCE that is not subject to the requirement for a LAND DISTURBANCE EROSION CONTROL PERMIT. Regarding subsection 6.5:
- a. Subsection 6.5 in the Draft ordinance dated 12/5/14 was essentially unchanged from subsection 6.5 that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.
 - b. Subsection 6.5 will apply to all construction sites in the unincorporated area but the County Board has the option of not adopting subsection 6.5.
 - c. The intent of subsection 6.5 is that in conjunction with paragraphs 6.4 A. through 6.4 F. it authorizes the Zoning Administrator to require actions to be taken for land disturbance pursuant to a Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land. Note that the Zoning Administrator is most likely to become aware of such erosion or

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sedimentation on adjacent land as a result of a complaint from a neighboring landowner.

- d. The requirements of subsection 6.5 are not required for compliance with the MS4 requirements in the MS4 Jurisdictional Area. Sections 13 and 15 of the Draft ordinance dated 12/5/14 established a similar but more restrictive requirement for all LDEC Permits within the MS4 Jurisdictional Area and therefore no other change is required to the Draft ordinance if the County Board chooses to not approve subsection 6.5.
 - e. Subsection 6.5 *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- B. The ELUC Memorandum dated 10/29/13 and the Draft Ordinance that was attached did not adequately address compliance with the Illinois EPA's ILR10 General Stormwater Permit but compliance with the ILR10 Permit was included in the legal advertisement for this text amendment. The County Board has the option of not requiring compliance with the ILR10 outside of the MS4 Jurisdictional Area except for Floodplain Development Permits and the Zoning Board of Appeals *{HAS / HAS NOT}* recommended requiring compliance with the ILR10 outside of the MS4 Jurisdictional Area. Regarding the option of requiring ILR10 compliance outside of the MS4 Jurisdictional Area:
- (1) Paragraph 4.1A. in the Draft ordinance dated 12/5/14 was not included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13. The only information provided in the 10/29/13 Attachment regarding the ILR10 General Stormwater Permit was the definition.
 - (2) Paragraph 4.1A. in the Draft ordinance dated 12/5/14 was added during the public hearing for the following purposes:
 - a. To clarify in general what the ILR10 requirements are and when the ILR10 requirements are triggered. This is provided in subparagraphs 4.1A.1. and 2.
 - b. To require the Zoning Administrator to advise any Applicant when the ILR10 requirements seem to be applicable in general. This is required in subparagraph 4.1A.3.
 - c. To identify when it is necessary to document ILR10 compliance for the purposes of any required County permit. This is accomplished in subparagraphs 4.1 A.4.a., b., and c. as follows:
 - (a) Subparagraph 4.1A.4.a. requires ILR10 compliance for any Major LDEC Permit as authorized under Section 12.3. This is required for the County to meet the MS4 requirements.
 - (b) Subparagraph 4.1A.4.b. requires ILR10 compliance for any Floodplain Development Permit as authorized by the Champaign County *Special Flood Hazard Area Ordinance*. Paragraph 5.G. of the *Special Flood Hazard Area Ordinance* requires the Zoning

Administrator to obtain a copy of all other state permits that may be required for floodplain development and the ILR10 is such a permit.

- (c) Subparagraph 4.1A.4.c. requires ILR10 compliance for any any other LAND DISTURBANCE not exempted by Section 4.2 or Section 4.4.
 - (3) The requirements of sub paragraphs 4.1A.4.a. and b. are required for compliance with the MS4 requirements in the MS4 Jurisdictional Area and required throughout the unincorporated area for compliance with the Champaign County *Special Flood Hazard Areas Ordinance* and therefore subparagraphs 4.1A.4.a. and b. in the 12/5/14 Draft are not optional.
 - (4) The requirement of subparagraph 4.1A.4.c. is not required for compliance with the MS4 requirements and therefore subparagraph 4.1A.4.c. in the 12/5/14 Draft is optional for the County Board to adopt. If the County Board chooses to not require compliance with ILR10 outside of the MS4 Jurisdictional Area, subparagraph 4.1A.4.c. should not be approved.
 - (5) ILR10 compliance is already a requirement throughout the State of Illinois and the County Board could choose not to require ILR10 compliance as a requirement for County permitting other than in the MS4 Jurisdictional Area and as required throughout the unincorporated area for compliance with the Champaign County *Special Flood Hazard Areas Ordinance*.
 - (6) Paragraph 4.1A.3. of the Draft Ordinance requires the Zoning Administrator to make all applicants for County permits aware of the need for an ILR10 permit when the ILR10 seems to be applicable, even if compliance is not required for County permitting.
 - (7) If the County Board chooses to require ILR10 compliance for all County permitting it would ensure greater consistency with state law and would assist the IEPA in prevention of water pollution.
 - (8) Either approach to ILR10 compliance will be consistent with the Land Resource Management Plan.
 - (9) Subparagraph 4.1A.4.c. in the 12/5/14 Draft *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
- C. The ELUC Memorandum dated 10/29/13 and the Draft Ordinance that was attached included an optional \$50 fee for the proposed Minor Land Disturbance Erosion Control (LDEC) Permit. The Zoning Board of Appeals *{HAS / HAS NOT}* recommended requiring a fee for the Minor LDEC Permit. Regarding the option of requiring a fee for the Minor LDEC Permit:
- (1) Paragraph 12.4B. in the Draft ordinance dated 12/5/14 requires a \$50 fee for the proposed Minor Land Disturbance Erosion Control (LDEC) Permit and was essentially identical to paragraph 12.4A. that was included in the Draft Ordinance attachment to the ELUC Memorandum dated 10/29/13.

PRELIMINARY DRAFT

- a. Paragraph 12.4B. will apply only to Minor LDEC Permits in the MS4 Jurisdictional Area.
 - b. The intent of paragraph 12.4B. is only a partial recapture of the extra costs related to the processing and review of the Minor LDEC Permit. The proposed fee is not intended to capture any of the additional costs related to the extra inspections required for the Minor LDEC Permit.
 - e. Paragraph 12.4B. *{IS / IS NOT}* included in the recommendation by the Zoning Board of Appeals.
20. Regarding public outreach to communicate to the public the additional information that will be required for all Zoning Use Permits and Floodplain Development Permits and the proposed Land Disturbance Erosion Control Permits:
- A. The Zoning Board of Appeals has reviewed the following new or revised documents:
 - (1) A proposed Draft handout titled “Erosion Control Requirements in Rural Champaign County”. Regarding this Draft handout:
 - (a) The Draft *Erosion Control Requirements in Rural Champaign County* handout summarizes the proposed amendment including the optional minimum erosion control requirements proposed in Section 6 of the Draft amendment but does not include the optional ILR10 requirement. If the County Board chooses not to adopt the optional minimum erosion control requirements in Section 6 the Draft handout will need to be modified accordingly and if the County Board chooses to require ILR10 compliance outside of the MS4 Jurisdictional Area for more than floodplain development, the Draft handout will also need to be modified accordingly.
 - (b) The Draft *Erosion Control Requirements in Rural Champaign County* handout also includes a brief explanation of the Illinois Environmental Protection Agency’s ILR10 General Stormwater Permit and refers readers to the url for the IEPA website.
 - (c) The Draft *Erosion Control Requirements in Rural Champaign County* handout includes an example residential site plan such as is required for any Zoning Use Permit Application and includes an example erosion and sediment control plan (ESCP) such as will be required for the proposed LDEC Permit.
 - (d) The Draft *Erosion Control Requirements in Rural Champaign County* handout also includes a map of the Champaign County MS4 Jurisdictional Area.
 - (e) The Zoning Board of Appeals has reviewed the Draft handout and found it to be *{ACCURATE / INACCURATE}* in summarizing the proposed amendment and anticipate that the proposed Draft handout will be *{HELPFUL/ UNHELPFUL}* in communicating the erosion and sediment control requirements.

- (2) A Revised Zoning Use Permit Application Form proposed to be titled “Land Disturbance and Zoning Use Permit Application”. Regarding this revised application form:
- (a) The revised application form is based on the current Zoning Use Permit Application form.
 - (b) The revised application form has been modified so that it can also be used for the proposed Land Disturbance Erosion Control (LDEC) Permit and also for the Grading and Demolition permits that are proposed in related Case 773-AT-14. Note that if Case 773-AT-14 is not adopted by the County Board the revised application form will need to be further revised to remove the mention of the Grading and Demolition permit.
 - (c) The Zoning Board of Appeals has reviewed the revised application form and determined that the revised application form should be ***{ADEQUATE / INADEQUATE}*** for use upon adoption of the proposed amendment.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **February 13, 2014; March 13, 2014; May 29, 2014; June 12, 2014; July 13, 2014; September 11, 2014; December 11, 2014; and January 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. Regarding the effect of the proposed text amendment on the Land Resource Management Plan (LRMP):
 - A. Regarding Goal 8 Natural Resources:
 - It will **HELP ACHIEVE** Objective 8.4 that states “**Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.**” because it will **HELP ACHIEVE** the following:
 - Policy 8.4.5 that states “**The County will ensure that non-point discharges from new development meet or exceed state and federal water quality standards.**”, **WITH OR WITHOUT** the Optional Minimum Requirements in Section 6 and **WHETHER OR NOT** ILR10 compliance will be required by the County outside of the MS4 Jurisdictional Area; and
 - Policy 8.4.2 that states “**The County will require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent properties and provide for stream flows that support healthy aquatic ecosystems.**” but **ONLY IF**
 - **the Optional Minimum Requirements in Section 6 are approved; or**
 - **ILR10 compliance is required outside of the MS4 Jurisdictional Area, which is optional.**
 - 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 8 Natural Resources.**
 - B. The proposed text amendment will **NOT IMPEDE** the following LRMP goal(s):
 - **Goal 1 Planning and Public Involvement**
 - **Goal 2 Governmental Coordination**
 - **Goal 3 Prosperity**
 - **Goal 4 Agriculture**
 - **Goal 5 Urban Land Use**
 - **Goal 6 Public Health and Safety**
 - **Goal 7 Transportation**
 - **Goal 9 Energy Conservation**
 - **Goal 10 Cultural Amenities**
 - C. Overall, the proposed text amendment will **HELP ACHIEVE** the Land Resource Management Plan.

2. The proposed Zoning Ordinance text amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance because:
 - The proposed amendment **WITH OR WITHOUT the Optional Minimum Requirements in Section 6 and WHETHER OR NOT ILR10 compliance will be required by the County outside of the MS4 Jurisdictional Area, {WILL / WILL NOT}** conserve the value of real estate throughout the COUNTY (Purpose 2.0 (b); see Item 16.B.).
 - The proposed amendment **WITH the Optional Minimum Requirements in Section 6 and disregarding ILR10 compliance outside of the MS4 Jurisdictional Area, WILL** promote the public health, safety, comfort, morals, and general welfare throughout the (Purpose 2.0 (e); see Item 16.E.).
3. Regarding the alternative version of the text amendment:
 - A. The Zoning Board of Appeals **{HAS / HAS NOT}** recommended the optional “minimum erosion control and water quality requirements” included paragraph 6.1F. and Sections 6.4 and 6.5 in their recommendation to the County Board.
 - B. The Zoning Board of Appeals **{HAS / HAS NOT}** recommended requiring compliance with the ILR10 outside of the MS4 Jurisdictional Area and subparagraph 4.1A.4.c. in the 12/5/14 Draft **{IS / IS NOT}** included in the recommendation to the County Board.
 - C. The Zoning Board of Appeals **{HAS / HAS NOT}** recommended requiring a fee for the Minor Land Disturbance Erosion Control Permit and paragraph 12.4B. **{IS / IS NOT}** included in the recommendation to the County Board.
4. Regarding public outreach to implement the amendment:
 - A. The Zoning Board of Appeals has reviewed a Draft handout for the proposed amendment and found it to be **{ACCURATE / INACCURATE}** in summarizing the proposed amendment and anticipate that the proposed Draft handout will be **{HELPFUL/ UNHELPFUL}** in communicating the erosion and sediment control requirements.
 - B. The Zoning Board of Appeals has reviewed the revised Land Disturbance and Zoning Use Permit application form and determined that the revised application form should be **{ADEQUATE / INADEQUATE}** for use upon adoption of the proposed amendment.

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated February 6, 2014, with Attachments (* attachments handed out at the meeting):
 - A Case Description from Legal Advertisement
 - B ELUC Memorandum dated 10/29/13 with attachments except Att. F Draft *Storm Water Management and Erosion Control Ordinance* (with new text underlined)
 - C ELUC Memorandum dated 12/30/13 with attachments
 - D Revised Draft *Storm Water Management and Erosion Control Ordinance* dated 2/6/14 (with new text underlined)
 - *E Champaign County Stormwater Management Policy As Amended 2/20/03
 - *F “National Pollutant Discharge Elimination System-Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule Report to Congress on the Phase II Storm Water Regulations; Notice,” 64 Federal Register 235 (8 December 1999), pp. 68722 - 68723, 68751, 68791 – 68796, 68804 - 68805, 68812, 68815, 68842 - 68846
 - *G Stormwater Phase II Final Rule Small MS4 Stormwater Program Overview. United States Environmental Protection Agency Office of Water Fact Sheet 2.0. January 2000 (revised December 2005)
 - *H Stormwater Phase II Final Rule Who’s Covered? Designation and Waivers of Regulated Small MS4s. United States Environmental Protection Agency Office of Water Fact Sheet 2.1. January 2000 (revised December 2005)
 - *I Stormwater Phase II Final Rule Construction Site Runoff Control Minimum Control Measure. United States Environmental Protection Agency Office of Water Fact Sheet 2.6. January 2000 (revised December 2005)
 - *J Stormwater Phase II Final Rule Small Construction Program Overview. United States Environmental Protection Agency Office of Water Fact Sheet 3.0. January 2000 (revised December 2005)
 - *K General NPDES Permit No. ILR 40 for Discharges from Small Municipal Separate Storm Sewer Systems (Expiration Date March 31, 2014)
 - *L General NPDES Permit No. ILR 10 for Storm Water Discharges From Construction Site Activities (Expiration Date July 31, 2018)

2. Supplemental Memorandum dated February 13, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *M 2010 Census- Urbanized Area Reference Map- Champaign IL
 - *N LRMP Land Use Goals, Objectives, and Policies & Appendix
 - *O Model Erosion and Sediment Control Ordinance. Northeastern Illinois Planning Commission. September 1991.
 - *P City of Urbana Ordinance No. 2007-11-133 Erosion and Sediment Control Ordinance
 - *Q City of Urbana Class 1 & 3 Erosion Control Permit Standard Details (manual of practice)
 - *R City of Urbana Class 2 Erosion Control Permit Standard Details (manual of practice)
 - *S Chapter 40 McLean County, Illinois Zoning Ordinance Article 205
 - *T Macon County, Illinois Stormwater Ordinance. Amended January 2011
 - *U Woodford County, Illinois Single Family Dwelling Permit Requirements handout
 - *V Woodford County, Illinois Erosion Prevention Plan and Permit Application
 - *W Woodford County, Illinois Erosion, Sediment and Storm Water Control Ordinance Amended 12/19/06 with Appendix A
 - *X Comparison of Draft SWMEC Ordinance to City of Urbana Erosion and Sediment Control Ordinance
3. Supplemental Memorandum dated March 13, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *Y Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements ¹ *REVISED* 3/13/14
4. Supplemental Memorandum dated May 1, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *Z Comments received from Berns, Clancy and Associates on February 13, 2014
 - *AA Comments received from Berns, Clancy and Associates on March 13, 2014
5. Supplemental Memorandum dated May 23, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *BB Minutes of 3/13/14 public hearing for Case 769-AT-13 (included separately)
 - *CC Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements ¹ *REVISED* 5/23/14

6. Supplemental Memorandum dated May 29, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *DD Revised Draft Storm Water Management and Erosion Control Ordinance dated 5/29/14 (with new or changed text indicated with double underlining)
7. Table of Public Comments Received on the Draft Ordinance dated June 12, 2014 (handout at the June 12, 2014, public hearing; Tab EE in consecutive lettering of attachments)
8. Supplemental Memorandum dated September 11, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *FF Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of May 29, 2014 (included separately)
 - *GG Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of June 12, 2014 (included separately)
 - *HH. Draft Evidence Regarding Achievement of Policy 8.4.5
 - *II. Draft Evidence Regarding Cost Impact
 - *JJ. Draft Illustration of Example Zoning Use Permit Site Plan for a New Home on a Typical Rural Lot (included separately)
 - *KK Draft Illustration of Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot (Example 1. Grass already established) (included separately)
 - *LL Draft Illustration of Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot (Example 2. All soil disturbed on property) (included separately)
9. Draft Handout *Erosion Control Requirements in Champaign County* (handout at the September 11, 2014, public hearing; Tab MM in consecutive lettering of attachments)
10. Supplemental Memorandum dated December 5, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *NN Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of June 12, 2014
 - *OO Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of September 11, 2014
 - *PP. Revised Section 4.1 Applicability
 - *QQ. Revised Sections 5.2 Authorizations and 5.3 Project Termination
 - *RR. Revised Section 6.1 General Requirement

- *SS. Revised Paragraphs 6.4A. and 6.4D. Minimum Erosion Control and Water Quality Requirements
 - *TT Draft Evidence Regarding Cost Impact Related to Staffing
 - *UU Draft Evidence Regarding Statutory Authority
 - *VV Draft Evidence Regarding County Board Options
 - *WW. Draft Evidence Regarding Public Outreach
 - *XX. Revised First Page of the Draft Handout *Erosion Control Requirements in Rural Champaign County*
 - *YY. Champaign County Zoning Use Permit Application Form (current version; included separately)
 - *ZZ. Draft Champaign County Land Disturbance and Zoning Use Permit Application
 - *AAA. Revised Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 (with annotations; included separately)
11. Powerpoint presentation for the Draft Storm Water Management and Erosion Control Ordinance given February 13, 2014
 12. Preliminary Memorandum for Case 773-AT-14 dated May 23, 2014, with Attachment:
 - A Proposed Amendment
 13. Supplemental Memorandum for Case 769-AT-13 dated January 9, 2015, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *BBB Case 769-AT-14 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements 1 REVISED 12/11/14
 - *CCC Revised Draft Handout Erosion Control Requirements in Rural Champaign County
 - *DDD Case 769-AT-14 Summary of Proposed Amendment Benefits and Costs DRAFT 12/11/14
 - *EEE Preliminary Finding of Fact
 14. Supplemental Memorandum for Case 773-AT-14 dated January 9, 2014, with Attachments:
 - A Revised Amendment
 - B Case 773-AT-14 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements and Related Case 769-AT-13¹ REVISED 12/11/14
 - C Preliminary Finding of Fact

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 Text Amendment requested in **Case 769-AT-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

Proposed Amendment

- 1. Revise Section 4.3.10 of the Zoning Ordinance to be as follows:**

4.3.10 Storm Water Management and Erosion Control Ordinance

- A.** Any USE or CONSTRUCTION for which a Zoning Use Permit is required shall also comply with the relevant requirements of the *Champaign County Storm Water Management and Erosion Control Policy*.
 - B.** The limits on maximum LOT COVERAGE contained in Section 5.3 notwithstanding, no more than 16 percent of the surface of any LOT or LOTS in common ownership on January 1, 1998 shall consist of impervious area, including paving consisting of gravel and rock and including any specific impervious area addition to adjacent public STREETS that is required to accommodate the USE or CONSTRUCTION, unless the LOT is exempt pursuant to, or complies with, the *Storm Water and Erosion Control Policy*.
- 2. Change the title of the Champaign County Stormwater Management Policy to be Champaign County Storm Water Management and Erosion Control Ordinance and revise the text to be as follows:**

CASE NO. 773-AT-14

SUPPLEMENTAL MEMORANDUM

January 9, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator
Susan Chavarria, Senior Planner

Request:

Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject of a separate Zoning Case 769-AT-13, by adding the following:

- A. Add a requirement for a Grading and Demolition Permit for any grading or demolition that disturbs one acre or more of land or for any grading or demolition that is part of a larger common plan of development in which one acre or more of land disturbance will occur, and that is not related to any proposed construction.
- B. Add fees for Grading and Demolition Permits.
- C. Add required information to be provided in the application for a Grading and Demolition Permit.
- D. Add a requirement that any grading or demolition pursuant to a Grading or Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR10 General Storm Water Permit for Construction.
- E. Add a requirement that any demolition pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- F. Add prohibitions against changing the flow of water and blocking the flow of water.
- G. Add other requirements related to Grading and Demolition Permits.

STATUS

This case is continued from the October 30, 2014, public hearing by way of the December 11, 2014, meeting that was cancelled.

A Revised Amendment is attached that incorporates the exemptions added to the 5/29/14 and 12/5/14 versions of related Case 769-AT-13.

A version of the table comparing the "Proposed Requirements for Typical Land Disturbance" from Case 769 is attached for this Case but limited only to grading and demolition.

A Preliminary Finding of Fact is also attached.

ATTACHMENTS

- A Revised Amendment (Annotated)**
- B Case 773-AT-14⁶ Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements and Related Case 769-AT-13¹ REVISED 12/11/14**
- C Preliminary Finding of Fact**

Proposed Amendment (Annotated as noted)

1. Add the following to Sec. 3 Definitions:

DEMOLITION PERMIT: A permit for DEMOLITION activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

GRADING PERMIT: A permit for GRADING activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

2. Add the following to Sec. 4.:

4.5 GRADING and DEMOLITION PERMIT Exemptions

All GRADING and DEMOLITION meeting the following conditions are exempt from the requirement for a GRADING PERMIT and/or a DEMOLITION PERMIT:

- A. ~~AGRICULTURE~~ Any GRADING or DEMOLITION pursuant to any of the exempted activities listed in Section 4.2.
- B. GRADING and/or DEMOLITION that is not part of or related to other CONSTRUCTION and that will result in less than one acre of LAND DISTURBANCE and that is not part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD.
- C. ~~Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards.~~
- D. ~~GRADING or DEMOLITION on LOTS subject to annexation agreements.~~
- E. ~~GRADING or DEMOLITION pursuant to a statewide or regional permit administered by the Illinois Department of Natural Resources Office of Water Resources (IDNR/OWR) and provided that information sufficient to document compliance with the relevant statewide or regional permit is submitted to the ZONING ADMINISTRATOR at least one week prior to the start of LAND DISTURBANCE. This exemption is only applicable to that portion of CONSTRUCTION or LAND DISTURBANCE that is eligible for the statewide or regional permit.~~
- F. ~~Any CONSTRUCTION, GRADING, DEMOLITION, and/or LAND DISTURBANCE occurring either in a public street right of way or a railroad right of way, that is done by or for either the unit of government that has maintenance authority of that street right of way or for any utility that is authorized to use any portion of the public street right of way or the railroad that has the use of that railroad right of way.~~
- C. GRADING and/or DEMOLITION that is related to and authorized in a ZONING USE PERMIT or a Floodplain Development Permit.

3. Add the following to 5.2:

- 5G. Approval of any required GRADING PERMIT or DEMOLITION PERMIT outside of the MS4 JURISDICTIONAL AREA.

4. Add the following to Sec. 6:

6.6 DEMOLITION PERMIT and GRADING PERMIT

- A. DEMOLITION or GRADING that will result in one acre or more of LAND DISTURBANCE or that is part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD which will disturb one acre or more of land, and that is not part of or related to other CONSTRUCTION and that is not located in the Champaign County MS4 JURIDICTIONAL AREA shall be subject to the requirement for either a DEMOLITION PERMIT or a GRADING PERMIT, whichever is applicable.
- B. GRADING that is related to DEMOLITION shall be authorized as part of a DEMOLITION PERMIT.
- C. Application for a DEMOLITION PERMIT or a GRADING PERMIT shall be filed in written form with the ZONING ADMINISTRATOR on such forms as the ZONING ADMINISTRATOR prescribes and shall include the following information:
 - 1. Name and address of the OWNER, the APPLICANT, contractor, engineer and architect when applicable;
 - 2. Location, including township and section, street number, lot block and or tract comprising the legal description of the site;
 - 3. Permanent Index Number (PIN);
 - 4. LOT Area;
 - 5. ZONING DISTRICT;
 - 6. Special Flood Hazard Area, if applicable;
 - 7. USE of existing property and structures;
 - 8. Proposed USE and any proposed structures;
 - 9. Estimated cost of proposed construction, GRADING, and/or DEMOLITION;
 - 10. SITE PLAN indicating all existing and proposed USES and structures;
 - 11. Extent and nature of proposed LAND DISTURBANCE.
 - ~~12. A copy of the ILR10 NOTICE OF INTENT.~~
- D. In addition to the application information required by paragraph 6.6 C. for a DEMOLITION PERMIT, each application for a DEMOLITION PERMIT and each application for DEMOLITION pursuant to a LDEC PERMIT shall provide a copy of the completed State of Illinois Demolition/Renovation/Asbestos Project Notification Form. All DEMOLITION authorized under a DEMOLITION PERMIT or pursuant to a LDEC PERMIT shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.

Case 773-AT-14
Attachment A Revised Amendment
JANUARY 9, 2015

- E. At the time the application is filed for a DEMOLITION PERMIT or a GRADING PERMIT a fee of \$50 shall be paid.

- ~~F. All GRADING or DEMOLITION pursuant to a GRADING PERMIT or DEMOLITION PERMIT shall comply at all times with the ILR10.~~

**Attachment B. Case 773-AT-14⁶ Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements and Related Case 769-AT-13¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Agriculture Example: Agriculture ³	STATUTORILY EXEMPT	STATUTORILY EXEMPT	STATUTORILY EXEMPT	STATUTORILY EXEMPT
Grading Example: Mass grading ⁴ not related to other construction	Less than 10,000 SF	NO ZONING USE PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN)	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: OPTIONAL SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of dev.		NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: OPTIONAL SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more		NO ZONING USE PERMIT REQUIRED BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC 6.6 GRADING PERMIT REQUIRED	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.1 MINOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more		NO ZONING USE PERMIT REQUIRED BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC 6.6 GRADING PERMIT REQUIRED AND IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more		NO ZONING USE PERMIT REQUIRED BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more		NO ZONING USE PERMIT REQUIRED BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC 6.6 GRADING PERMIT REQUIRED AND IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more		NO ZONING USE PERMIT REQUIRED BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment B. Case 773-AT-14⁶ Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements and Related Case 769-AT-13¹ REVISED 12/11/14**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
<i>Demolition Example:</i> Demolition ⁴ of existing building not related to other construction	Less than 10,000 SF		NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY	NO ZONING USE PERMIT REQUIRED BUT OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of dev.		NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY	NO ZONING USE PERMIT REQUIRED BUT OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS⁵ APPLY
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	NO ZONING USE PERMIT REQUIRED	NO ZONING USE PERMIT REQUIRED <u>BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND</u> OPTIONAL: SEC 6.6 DEMOLITION PERMIT REQUIRED AND IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.1 MINOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED
* 1 AC or more			NO ZONING USE PERMIT REQUIRED BUT ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC 6.6 DEMOLITION PERMIT REQUIRED AND IN RELATED CASE 769: OPTIONAL: SEC. 6.4 MIN. REQUIREMENTS⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	NO ZONING USE PERMIT REQUIRED BUT IN RELATED CASE 769: SEC. 12.2 MAJOR LDEC PERMIT REQUIRED⁵ AND ILR10 COMPLIANCE REQUIRED
* ILR10 COMPLIANCE REQUIRED BY IEPA				

**Attachment B. Case 773-AT-14⁶ Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements and Related Case 769-AT-13¹ REVISED 12/11/14**

NOTES

1. This table does not indicate when a Storm Water Drainage Plan is required, nor does it include information for any rezoning approval, Special Use Permit approval, or subdivision plat approval that may be required. Also does not include approvals related to the Special Flood Hazard Area. Storm Water Drainage Plan requirements are unchanged in the proposed Ordinance.
2. The MS4 Jurisdictional Area is that portion of Champaign County in which Champaign County has responsibility for a Municipal Separate Storm Sewer System (MS4) under the National Pollutant Discharge Elimination System (NPDES) administered by the Illinois Environmental Protection Agency (IEPA). See the attached map. Other than the (1) "Optional Minimum Requirements" in Section 6 of the Ordinance that are proposed to be required throughout the unincorporated area and (2) the requirement in Sections 4 and 5 requiring ILR10 compliance outside of the MS4 Jurisdictional Area, the proposed Ordinance is the minimum requirement in the MS4 Jurisdictional Area for compliance with IEPA MS4.
3. Agriculture as defined in the Champaign County Zoning Ordinance. No change is proposed.
4. Mass grading and/ or demolition not related to other construction and not in the Special Flood Hazard Area (floodplain) are not currently regulated by the Zoning Ordinance and no Zoning Use Permit is required for mass grading or demolition under those conditions. This Case 773-AT-14 proposes to add a permit requirement for mass grading and/or demolition not related to other construction. The Land Disturbance Erosion Control (LDEC) Permits proposed in related Case 769-AT-13 will also regulate mass grading and/or demolition not related to other construction but only in the MS4 Jurisdictional Area.
5. Section 6 of the proposed Ordinance includes General and Minimum Erosion Controls proposed to be required for any land disturbance in the unincorporated area. Requiring the Minimum Erosion Controls in the entire unincorporated area is optional for the County Board but consistent with the Land Resource Management Plan. If the County Board approves the proposed Minimum Erosion Controls those Controls will be required for all future land use permitting.

The Minimum Erosion Controls are necessary for the MS4 Area and if the Minimum Erosion Controls are not included in Section 6 of the final Ordinance they will have to be added to Section 11 as requirements for LDEC Permits in the MS4 Area.
6. Case 773-AT-14 does not change any requirements for land disturbance and permits related to other construction. See related Case 769-AT-13 for all requirements related to land disturbance pursuant to other construction.

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773-AT-14

**FINDING OF FACT
AND FINAL DETERMINATION
of**

Champaign County Zoning Board of Appeals

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

Date: January 15, 2015

Petitioner: Zoning Administrator

- Request:
- A. Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject of a separate Zoning Case 769-AT-13, by adding the following:
 - A. Add a requirement for a Grading and Demolition Permit for any grading or demolition that disturbs one acre or more of land or for any grading or demolition that is part of a larger common plan of development in which one acre or more of land disturbance will occur, and that is not related to any proposed construction.
 - B. Add fees for Grading and Demolition Permits.
 - C. Add required information to be provided in the application for a Grading and Demolition Permit.
 - D. Add a requirement that any grading or demolition pursuant to a Grading or Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR10 General Storm Water Permit for Construction.
 - E. Add a requirement that any demolition pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
 - F. Add prohibitions against changing the flow of water and blocking the flow of water.
 - G. Add other requirements related to Grading and Demolition Permits.

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****Note that in the Draft Finding of Fact italicized letters indicate the staff recommendation.***

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 29, 2014; June 12, 2014; July 13, 2014; September 11, 2014; December 11, 2014; and January 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

SUMMARY OF THE PROPOSED AMENDMENT

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
 - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
 - B. The LRMP defines Goals, Objectives, and Policies as follows:
 - (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
 - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

REGARDING LRMP GOALS

6. 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 text amendment will *NOT IMPEDE* the achievement of Goal 1.

7. 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 text amendment will *NOT IMPEDE* the achievement of Goal 2.

8. 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 text amendment *{WILL/ WILL NOT} IMPEDE* the achievement of Goal 3 in a similar manner as for the Purpose of the Zoning Ordinance. See item 16.B.

9. 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 text amendment will *NOT IMPEDE* the achievement of Goal 4.

10. 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 text amendment will *NOT IMPEDE* the achievement of Goal 5 in general.

11. 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 text amendment will *NOT IMPEDE* the achievement of Goal 6.

12. 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 text amendment will *NOT IMPEDE* the achievement of Goal 7.

13. 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 and except as reviewed below will not be impeded by the proposed amendment. The proposed text amendment will *HELP ACHIEVE* Goal 8 for the following reasons:

- A. Objective 8.4 is entitled “Surface Water Protection” and states “**Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.**”

The proposed text amendment will *HELP ACHIEVE* Objective 8.4 because of the following:

- (1) Objective 8.4 has 6 policies. Policies 8.4.1, 8.4.3, 8.4.4, and 8.4.6 are not directly relevant to the proposed text amendment.
- (2) Policy 8.4.2 states “**The County will require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent properties and provide for stream flows that support healthy aquatic ecosystems.**”

The proposed text amendment will *HELP ACHIEVE* Policy 8.4.2 but *ONLY IF the Optional Minimum Requirements in Section 6 of related Case 769-AT-13 are approved*, as follows:

- a. The “minimum erosion control and water quality requirements” proposed in related Case 769-AT-13 in Sections 6.1, 6.4 and 6.5 are proposed to be required in the entire unincorporated area for any land disturbance and/or construction.
- b. If adopted, the minimum erosion control and water quality requirements will authorize the Zoning Administrator to require actions to be taken for land disturbance pursuant to any Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land and thereby minimize impacts on adjacent properties.
- c. This Case 773-AT-14 proposes a requirement for Grading and/ or Demolition Permits outside of the MS4 Jurisdictional Area which if

approved would provide an additional means to minimize impacts on adjacent properties.

- (3) Policy 8.4.5 states **“The County will ensure that non-point discharges from new development meet or exceed state and federal water quality standards.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.4.5, as follows:

- a. Item 13.A.(3) in the Finding of Fact for related Case 769-AT-13 establishes that the relevant non-point water quality standard for Champaign County applies only to that portion of the unincorporated area that is inside the MS4 Jurisdictional Area. The current MS4 Jurisdictional Area makes up only about 1% of non-urbanized (rural) Champaign County.
- b. This Case 773-AT-14 is not required to meet the relevant non-point water quality standard for Champaign County.

- B. Objective 8.5 is entitled “Aquatic and Riparian Ecosystems” and states **“Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Objective 8.5 because of the following:

- (1) Objective 8.5 has 5 policies. Policies 8.5.3, 8.5.4, and 8.5.5 are not directly relevant to the proposed text amendment.
- (2) Policy 8.5.1 states, **“For discretionary development, the County will require land use patterns, site design standards and land management practices that, wherever possible, preserve existing habitat, enhance degraded habitat and restore habitat.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.5.1 because the grading and drainage permits required by this Case 773-AT-14 and the erosion and sedimentation controls required pursuant to related Case 769-AT-13 are not intended to preserve existing habitat, enhance degraded habitat, or restore habitat. The grading and drainage permits required by this Case 773-AT-14 and the erosion and sedimentation controls required pursuant to related Case 769-AT-13 will at the most minimize damage to habitat caused by erosion and sedimentation from adjacent property.

- (3) Policy 8.5.2 states, **“The County will require in its discretionary review that new development cause no more than minimal disturbance to the stream corridor environment.”**

The proposed text amendment will *NOT IMPEDE* the achievement of Policy 8.5.2 because the erosion and sedimentation controls required pursuant to related Case 769-AT-13 will probably only be required for the grading and drainage permits required by this Case 773-AT-14 when there is a complaint about erosion and

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sedimentation and it should not be assumed that will minimize erosion or sedimentation disturbance to the stream corridor environment.

- C. Objective 8.6 is entitled “Natural Areas and Habitat” and states “**Champaign County will encourage resource management which avoids loss or degradation of areas representative of the pre-settlement environment and other areas that provide habitat for native and game species.**”

The proposed text amendment will **NOT IMPEDE** the achievement of Objective 8.6 because of the following:

- (1) Objective 8.6 has 6 policies. Policies 8.6.3, 8.6.4, 8.6.5, and 8.6.6 are not relevant to the proposed text amendment.

- (2) Policy 8.6.1 states:
The County will encourage educational programs to promote sound environmental stewardship practices among private landowners.

The proposed text amendment will **NOT IMPEDE** the achievement of Policy 8.6.1 because the erosion and sedimentation controls required pursuant to related Case 769-AT-13 are only a very small part of sound environmental stewardship practices and will only be required when there is a complaint about erosion and sedimentation for the grading and drainage permits required by this Case 773-AT-14.

- (3) Policy 8.6.2 states:
- a. **“For new development, the County will require land use patterns, site design standards and land management practices to minimize the disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas.**
 - b. **With regard to by-right development on good zoning lots, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas.”**

The proposed text amendment will **NOT IMPEDE** the achievement of Policy 8.6.2 for the same reasons as for Policy 8.6.1 above.

14. 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 text amendment will **NOT IMPEDE** the achievement of Goal 9.

15. 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 text amendment will *NOT IMPEDE* the achievement of Goal 10.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

16. The proposed text amendment appears to *HELP ACHIEVE* the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed text amendment is only indirectly related to this purpose to the extent that preventing water pollution is part of securing safety from other dangers.

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

The proposed amendment will *HELP ACHIEVE* this purpose but only if **the Optional Minimum Requirements in Section 6 of related Case 769-AT-13 are approved**. The Zoning Board of Appeals *{HAS / HAS NOT}* included Sections 6.1, 6.4 and 6.5. in their recommendation to the County Board in related Case 769-AT-13. Regarding the Optional Minimum Requirements in Section 6 of related Case 769-AT-13 and their relationship to this amendment:

- (1) From the Draft Finding of Fact for related Case 769-AT-13:
 - a. The Optional Minimum Requirements do not require erosion and sedimentation controls to be put in place until there is a valid complaint of erosion and/ or sedimentation on adjacent land.
 - b. The Optional Minimum Requirements are not required for MS4 compliance or to achieve the LRMP goals and policies.
 - c. It is difficult to estimate the added construction costs because the minimum erosion control and water quality requirements required by this Case 769-AT-13 in the 99% of the unincorporated area that is outside of the MS4 Jurisdictional Area will probably only be required when there is a complaint about erosion and sedimentation on adjacent property.
 - d. Any added costs will be directly related to minimizing damage to other property and therefore the costs will also be minimized.
- (2) This Case 773-AT-14 proposes a requirement for Grading and/ or Demolition Permits outside of the MS4 Jurisdictional Area and if approved this amendment will only require require erosion and sedimentation controls to be put in place if there is a valid complaint of erosion and/ or sedimentation on adjacent land.

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(3) Any added costs will be directly related to minimizing damage to other property and therefore the costs will also be minimized under this proposed amendment.

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 text amendment is not directly related to this purpose.

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 text amendment is only indirectly related to this purpose to the extent that preventing erosion and sedimentation will help avoid hazard to persons and damage to property.

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

The proposed amendment will **HELP ACHIEVE** this purpose but **ONLY IF the Optional Minimum Requirements in Section 6 of related Case 769-AT-13 are approved**, as follows:

- (1) From the Draft Finding of Fact for related Case 769-AT-13:
 - a. The Optional Minimum Requirements do not require erosion and sedimentation controls to be put in place until there is a valid complaint of erosion and/ or sedimentation on adjacent land.
 - b. The Optional Minimum Requirements are not required for MS4 compliance or to achieve the LRMP goals and policies.
 - c. The intent of paragraph 6.1F. and subsection 6.4 and 6.5 is to authorize the Zoning Administrator to require actions to be taken for land disturbance pursuant to a Zoning Use Permit if that land disturbance causes erosion or sedimentation on adjacent land. Note that the Zoning Administrator is most likely to become aware of such erosion or sedimentation on adjacent land as a result of a complaint from a neighboring landowner.
 - d. The Department of Planning and Zoning does not receive many complaints related to erosion and sedimentation but it is not unusual for the Department to receive such complaints. The most common complaint about erosion and sedimentation is related to the tracking of sediment and nuisance soil onto the adjacent public street. Complaints about drainage changes and erosion and sedimentation are common enough that the County Board should consider requiring Grading and Demolition Permits.

- e. Providing the authority to require erosion and sedimentation controls when there is a valid complaint of erosion and/ or sedimentation is in fact promoting the public health, safety, comfort, morals, and general welfare.
 - f. Not providing the authority to require erosion and sedimentation controls (i.e., not approving the Optional Minimum Requirements) when there is a valid need for such controls, in the context of adopting an Ordinance that specifically includes all of the necessary erosion and sedimentation controls, is not promoting the public health, safety, comfort, morals, and general welfare.
- (2) Adding a requirement for Grading and/ or Demolition Permits outside of the MS4 Jurisdictional Area could provide a means for more uniform enforcement of the “minimum erosion control and water quality requirements” in Case 769-AT-13 for all land disturbances and not just those required for a Zoning Use Permit or a Floodplain Development Permit. Therefore, approval of Case 773-AT-14 would also help further promote the public health, safety, comfort, morals, and general welfare.
- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of buildings and structures hereafter to be erected.
- The proposed text amendment is not directly related to this purpose.
- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.
- The proposed text amendment is not directly related to this purpose.
- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures.
- The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).
- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses.
- The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

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- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed text amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is directly related to this purpose. See the discussion of LRMP Objectives 8.5 and 8.6.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

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

The proposed text amendment is not directly related to this purpose.

17. Regarding the purpose and intent of the proposed amendment in Case 773-AT-14 and its relationship to Zoning Case 769-AT-13:

- A. Related Zoning Case 769-AT-13 is a proposed amendment to the Champaign County Zoning Ordinance and the Champaign County Stormwater Management Policy. Item 13.A.(3) in the Finding of Fact for Case 769-AT-13 reviews the history of that proposed amendment including the following:
- (1) In 1987 Congress amended the Clean Water Act to require implementation of a two phase national program for addressing storm water discharges. The second phase (Phase II) regulations were published in the Federal Register on December 9, 1999. The Phase II Final Rule expanded the National Pollutant Discharge Elimination System (NPDES) storm water program to address storm water discharges from small municipal storm water sewer systems (MS4s) and construction sites of one to five acres.
 - (2) The Phase II Final Rule requires that a regulated small MS4 must develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants to the maximum extent practicable to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act. Paragraph (b) of 40 CFR 122.34 requires that the storm water management program must at a minimum include six required control measures and one of those required measures is to develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre.
 - (3) The Champaign-Urbana Urbanized Area was included in the list of Urbanized Areas in Appendix 3 to the Preamble of the Phase II Final Rule on p. 68805 of 64 Federal Register 235 (8 December 1999) and Champaign County was included in the list of Governmental Entities Located Fully or Partially Within an Urbanized Area in Appendix 6 to the Preamble of the Phase II Final Rule on p. 68812 of 64 Federal Register 235 (8 December 1999).
 - (4) The primary purpose of Zoning Case 769-AT-13 is to amend the existing Champaign County Stormwater Management Policy so that Policy will meet the relevant non-point water quality standard for Champaign County.

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- (5) As originally proposed in an ELUC Memorandum dated 10/29/13, Case 769-AT-13 also includes certain “minimum erosion control and water quality requirements” in Sections 6.1, 6.4 and 6.5 of the proposed Ordinance that are proposed to be required in the entire unincorporated area for any land disturbance and/or construction. These minimum erosion control requirements are not required for compliance with the NPDES requirements outside of the MS4 Jurisdictional Area but were proposed so as to provide some protection for neighbors that experience erosion or sedimentation from land disturbance activities on adjacent property. The Department of Planning and Zoning does not receive many complaints related to erosion and sedimentation but the Department has in the past received some complaints about erosion and sedimentation. ELUC authorized Case 769-AT-13 to proceed to a public hearing with the proposed “minimum erosion control and water quality requirements” but with no guarantee of final approval.
 - B. During the public hearing for Case 769-AT-13 the Zoning Administrator realized that the legal advertisement for Case 769-AT-13 did not mention any requirement for a Grading Permit or a Demolition Permit and that adding a requirement for Grading and/ or Demolition Permits outside of the MS4 Jurisdictional Area could provide a means for more uniform enforcement of the “minimum erosion control and water quality requirements” for all land disturbances and not just those required to get a Zoning Use Permit or a Floodplain Development Permit. With that realization the Zoning Administrator initiated Case 773-AT-14 to add requirements for Grading and Demolition permits outside of the MS4 Jurisdictional Area because the legal advertisement for this small zoning case was much cheaper than re-advertising Case 769-AT-13.
 - C. Cases 769-AT-13 and 773-AT-14 are related by virtue of the “minimum erosion control and water quality requirements” and should proceed together to the County Board. However, if the County Board does not adopt the “minimum erosion control and water quality requirements” included in Case 769-AT-13 in Sections 6.1, 6.4 and 6.5 of the Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14, there would be little benefit in approving Case 773-AT-14.
 - D. The revised amendment in Case 773-AT-14 dated 1/09/15 does not presume or require that the Grading or the Demolition permit will be compliant with the Illinois Environmental Protection Agency’s ILR10 General Stormwater Permit. Compliance with the ILR10 is an option for the County Board to require in Case 769-AT-13 and the revised amendment in Case 773-AT-14 dated 1/09/15 will work with or without ILR10 compliance being required in Case 769-AT-13.
18. Statutory (legal) authority for the adoption of Case 773-AT-14 is the same as that for related Case 769-AT-14. Provided that the recommendations for statutory authority in related Case 769-AT-14 are adopted there are no additional requirements necessary for the statutory authority to adopt Case 773-AT-14.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 29, 2014; June 12, 2014; July 13, 2014; September 11, 2014; December 11, 2014; and January 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. Regarding the effect of the proposed text amendment on the Land Resource Management Plan (LRMP):
 - A. **Regarding Goal 8 Natural Resources:**
 - ***IF* the Optional Minimum Requirements in Related Case 769-AT-13 are approved, It *WILL HELP ACHIEVE* Objective 8.4 that states “Champaign County will work to ensure that new development and ongoing land management practices maintain and improve surface water quality, contribute to stream channel stability, and minimize erosion and sedimentation.” because it *WILL HELP ACHIEVE* the following:**
 - Policy 8.4.2 that states “The County will require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent properties and provide for stream flows that support healthy aquatic ecosystems.”
 - 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 8 Natural Resources.**
 - B. The proposed text amendment will ***NOT IMPEDE*** the following LRMP goal(s):
 - **Goal 1 Planning and Public Involvement**
 - **Goal 2 Governmental Coordination**
 - **Goal 3 Prosperity**
 - **Goal 4 Agriculture**
 - **Goal 5 Urban Land Use**
 - **Goal 6 Public Health and Safety**
 - **Goal 7 Transportation**
 - **Goal 9 Energy Conservation**
 - **Goal 10 Cultural Amenities**
 - C. Overall, ***IF* the Optional Minimum Requirements in Related Case 769-AT-13 are approved**, the proposed text amendment will ***HELP ACHIEVE*** the Land Resource Management Plan.
2. The proposed Zoning Ordinance text amendment will ***HELP ACHIEVE*** the purpose of the Zoning Ordinance but only ***IF* the Optional Minimum Requirements in Related Case 769-AT-13 are approved**, because:
 - The proposed text amendment will ***HELP*** conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY (Purpose 2.0 (b); see Item 16.B.).
 - The proposed text amendment will ***HELP*** promote the public health, safety, comfort, morals, and general welfare (Purpose 2.0 (e); see Item 16.E.).

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated May 23, 2014, with Attachment:
 - A Proposed Amendment
2. Supplemental Memorandum dated January 9, 2015, with Attachments:
 - A Revised Amendment
 - B Preliminary Finding of Fact
3. Supplemental Memorandum for Case 769-AT-13 dated May 23, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *BB Minutes of 3/13/14 public hearing for Case 769-AT-13 (included separately)
 - *CC Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements ¹ *REVISED* 5/23/14
4. Supplemental Memorandum for Case 769-AT-13 dated May 29, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *DD Revised Draft Storm Water Management and Erosion Control Ordinance dated 5/29/14 (with new or changed text indicated with double underlining)
5. Table of Public Comments Received on the Draft Ordinance for Case 769-AT-13 dated June 12, 2014 (handout at the June 12, 2014, public hearing; Tab EE in consecutive lettering of attachments)
6. Supplemental Memorandum for Case 769-AT-13 dated September 11, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *FF Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of May 29, 2014 (included separately)
 - *GG Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of June 12, 2014 (included separately)
 - *HH. Draft Evidence Regarding Achievement of Policy 8.4.5
 - *II. Draft Evidence Regarding Cost Impact
 - *JJ. Draft Illustration of Example Zoning Use Permit Site Plan for a New Home on a Typical Rural Lot (included separately)
 - *KK Draft Illustration of Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot (Example 1. Grass already established) (included separately)
 - *LL Draft Illustration of Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot (Example 2. All soil disturbed on property) (included separately)

7. Draft Handout *Erosion Control Requirements in Champaign County* for Case 769-AT-13 (handout at the September 11, 2014, public hearing; Tab MM in consecutive lettering of attachments)
8. Supplemental Memorandum for Case 769-AT-13 dated December 5, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *NN Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of June 12, 2014
 - *OO Excerpt of Minutes for Cases 769-AT-14 and 773-AT-14 from the of the Approved Minutes of September 11, 2014
 - *PP. Revised Section 4.1 Applicability
 - *QQ. Revised Sections 5.2 Authorizations and 5.3 Project Termination
 - *RR. Revised Section 6.1 General Requirement
 - *SS. Revised Paragraphs 6.4A. and 6.4D. Minimum Erosion Control and Water Quality Requirements
 - *TT Draft Evidence Regarding Cost Impact Related to Staffing
 - *UU Draft Evidence Regarding Statutory Authority
 - *VV Draft Evidence Regarding County Board Options
 - *WW. Draft Evidence Regarding Public Outreach
 - *XX. Revised First Page of the Draft Handout *Erosion Control Requirements in Rural Champaign County*
 - *YY. Champaign County Zoning Use Permit Application Form (current version; included separately)
 - *ZZ. Draft Champaign County Land Disturbance and Zoning Use Permit Application
 - *AAA. Revised Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 (with annotations; included separately)
9. Supplemental Memorandum for Case 769-AT-13 dated January 9, 2015, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *BBB Case 769-AT-14 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements 1 REVISED 12/11/14
 - *CCC Revised Draft Handout *Erosion Control Requirements in Rural Champaign County*
 - *DDD Case 769-AT-14 Summary of Proposed Amendment Benefits and Costs DRAFT 12/11/14
 - *EEE Preliminary Finding of Fact

10. Supplemental Memorandum for Case 773-AT-14 dated January 9, 2014, with Attachments:
 - A Revised Amendment
 - B Case 773-AT-14 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements and Related Case 769-AT-13¹
REVISED 12/11/14
 - C Preliminary Finding of Fact

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 Text Amendment to amend the Storm Water Management and Erosion Control Ordinance requested in **Case 773-AT-14** 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

Proposed Amendment

1. Add the following to Sec. 3 Definitions of the Champaign County Storm Water Management and Erosion Control Ordinance:

DEMOLITION PERMIT: A permit for DEMOLITION activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

GRADING PERMIT: A permit for GRADING activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

2. Add the following to Sec. 4. of the Champaign County Storm Water Management and Erosion Control Ordinance:

4.5 GRADING and DEMOLITION PERMIT Exemptions

All GRADING and DEMOLITION meeting the following conditions are exempt from the requirement for a GRADING PERMIT and/or a DEMOLITION PERMIT:

- A. Any GRADING or DEMOLITION pursuant to any of the exempted activities listed in Section 4.2.
- B. GRADING and/or DEMOLITION that is not part of or related to other CONSTRUCTION and that will result in less than one acre of LAND DISTURBANCE and that is not part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD.
- C. GRADING and/or DEMOLITION that is related to and authorized in a ZONING USE PERMIT or a Floodplain Development Permit.

3. Add the following to 5.2 of the Champaign County Storm Water Management and Erosion Control Ordinance:

5G. Approval of any required GRADING PERMIT or DEMOLITION PERMIT outside of the MS4 JURISDICTIONAL AREA.

4. Add the following to Sec. 6 of the Champaign County Storm Water Management and Erosion Control Ordinance:

6.6 DEMOLITION PERMIT and GRADING PERMIT

- A. DEMOLITION or GRADING that will result in one acre or more of LAND DISTURBANCE or that is part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD which will disturb one acre or more of land, and that is not part of or related to other CONSTRUCTION and that is not located in the Champaign County MS4 JURISDICTIONAL AREA shall be subject to the requirement for either a DEMOLITION PERMIT or a GRADING PERMIT, whichever is applicable.
- B. GRADING that is related to DEMOLITION shall be authorized as part of a DEMOLITION PERMIT.
- C. Application for a DEMOLITION PERMIT or a GRADING PERMIT shall be filed in written form with the ZONING ADMINISTRATOR on such forms as the ZONING ADMINISTRATOR prescribes and shall include the following information:

1. Name and address of the OWNER, the APPLICANT, contractor, engineer and architect when applicable;
 2. Location, including township and section, street number, lot block and or tract comprising the legal description of the site;
 3. Permanent Index Number (PIN);
 4. LOT Area;
 5. ZONING DISTRICT;
 6. Special Flood Hazard Area, if applicable;
 7. USE of existing property and structures;
 8. Proposed USE and any proposed structures;
 9. Estimated cost of proposed construction, GRADING, and/or DEMOLITION;
 10. SITE PLAN indicating all existing and proposed USES and structures;
 11. Extent and nature of proposed LAND DISTURBANCE.
- D. In addition to the application information required by paragraph 6.6 C. for a DEMOLITION PERMIT, each application for a DEMOLITION PERMIT and each application for DEMOLITION pursuant to a LDEC PERMIT shall provide a copy of the completed State of Illinois Demolition/Renovation/Asbestos Project Notification Form. All DEMOLITION authorized under a DEMOLITION PERMIT or pursuant to a LDEC PERMIT shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- E. At the time the application is filed for a DEMOLITION PERMIT or a GRADING PERMIT a fee of \$50 shall be paid.

EROSION CONTROL REQUIREMENTS IN RURAL CHAMPAIGN COUNTY

REVISED DRAFT Jan. 9, 2015

Soil erosion and sedimentation (E&S) can damage property and pollute streams. Disturbance of one acre or more of land by construction and earth moving activities (or less than an acre if it is part of a “common plan of development or sale of record” that ultimately disturbs one acre or greater) is regulated in the State of Illinois by the Illinois Environmental Protection Agency (IEPA) through the “ILR10” Permit.

An ILR10 Permit with the IEPA is required if there is disturbance of one acre or more of land or less than an acre if it is part of a “common plan of development or sale of record” that ultimately disturbs one acre or greater. Application is made by filing a Notice of Intent with the IEPA. Appropriate E&S controls are required and IEPA fees apply. See www.epa.state.il.us/water/permits/storm-water/construction.html.

Champaign County also regulates erosion and sedimentation (E&S) caused by non-agricultural activities. E & S requirements are in the *Champaign County Storm Water Management and Erosion Control Ordinance* enforced by the Department of Planning and Zoning (zoningdept@co.champaign.il.us or 384-3708). E&S requirements may be summarized as follows:

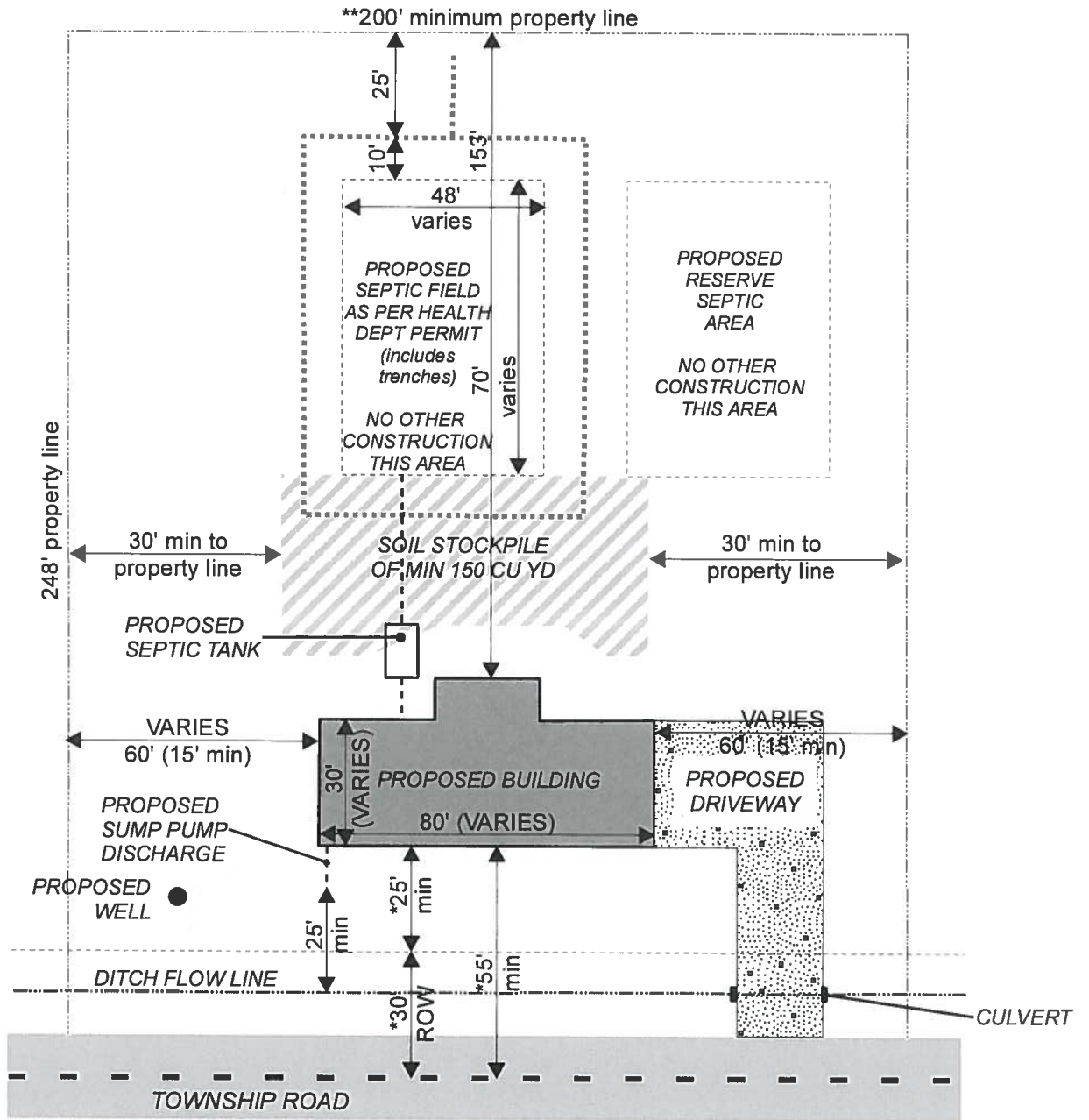
- **In most of rural (unincorporated) Champaign County, E&S controls must only be provided as necessary to minimize erosion and sedimentation***. Consult with your contractor or builder. A Zoning Use Permit is required and other permits, approvals, and fees may also be required.
- **The following E&S related requirements apply throughout the rural (unincorporated) area:**
 - **New sump pump or private wastewater system discharges shall not discharge in such a way to create a nuisance condition or cause erosion or discharge directly into or within 25 feet of a roadside ditch, off-site drainage swale, stream, or property line.**
 - **Construction waste must be properly disposed of and prevented from being carried off-site by wind or water.***
 - **Permits are required for Grading and/ or Demolition that disturbs one acre or more of land.***
 - **Stockpiles of soil and other erodible material (such as sand) with a total volume of 150 cubic yards or more shall not be located in a drainage ditch easement or less than 50 feet from the top of bank of a drainage ditch or stream or 30 feet from the centerline of a swale or roadside ditch or property line.*** See the attached example Zoning Use Permit Site Plan.
 - **Any soil or sediment tracked onto a street, sidewalk or public area shall be removed before the end of each workday or sooner if directed by the relevant Authority.***
 - **If erosion or sedimentation does occur on adjacent land then E&S controls may be required.***
- **Additional Erosion Control Requirements in the 100-year Floodplain:**
 - **If there is one acre or more of land disturbance in the 100-year floodplain, a Notice of Intent to comply with the ILR10 Permit must be filed with the IEPA and a copy of the NOI must be provided as part of the required Champaign County Floodplain Development Permit and Zoning Use Permit. The ILR10 Permit requires appropriate E&S controls and ILR10 fees apply.**
- **Additional Erosion Control Requirements in the Champaign County MS4 Area:**

“Land Disturbance Erosion Control” (LDEC) permits are required in the Champaign County MS4 Jurisdictional Area in addition to a Zoning Use Permit. See the attached map of the Champaign County MS4 Jurisdictional Area. The LDEC Permit requirements may be summarized as follows:

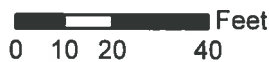
 - **Any Land Disturbance in the MS4 Jurisdictional Area requires a LDEC Permit but certain exemptions apply.** Contact the Department of Planning and Zoning (zoningdept@co.champaign.il.us or 384-3708). A Zoning Use Permit and other approvals and fees may also be required.
 - **If there is disturbance of one acre or more of land (or less if part of a “common plan of development or sale of record” that ultimately disturbs one acre or greater), a Notice of Intent (NOI) to comply with the ILR10 permit must be filed with the IEPA and copies of the NOI and all other ILR10 documents must be provided to Champaign County. ILR10 fees also apply.**
 - **An Erosion and Sedimentation Control Plan is required.** See the Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot in the MS4 Area.
 - **E & S controls (such as a silt fence or stabilized construction entrance) must be in place before construction is authorized and extra inspections are required and additional fees apply.***

* indicates proposed “optional minimum requirements” in Section 6 of the Draft Ordinance

Example Zoning Use Permit Site Plan for a New Home on a Typical Rural Lot



* minimum setback varies depending on street classification
 ** minimum lot width in AG-1 and CR Districts



Legend

- Curtain Drain
- Septic Field
- Reserve Septic Field
- ▨ Soil Stockpile Area
- ▤ Proposed Driveway
- ▭ Residence
- ▭ Property Line
- ▭ Township Road

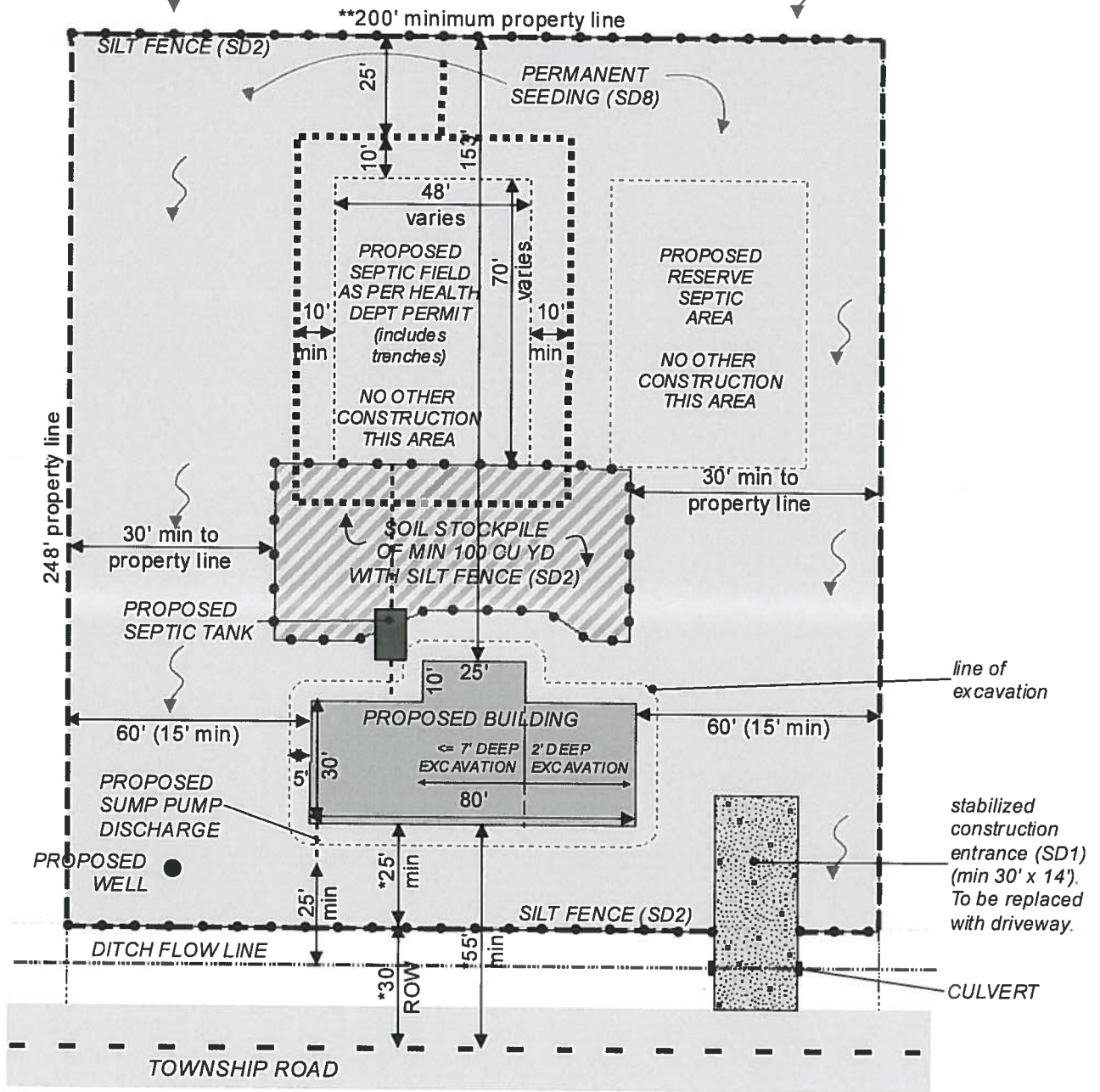
Champaign County
 Department of

PLANNING &
 ZONING

DRAFT Dec 201

Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot in MS4 Area

Example 2: All soil disturbed on property



* minimum setback varies depending on street classification
 ** minimum lot width in AG-1 and CR Districts

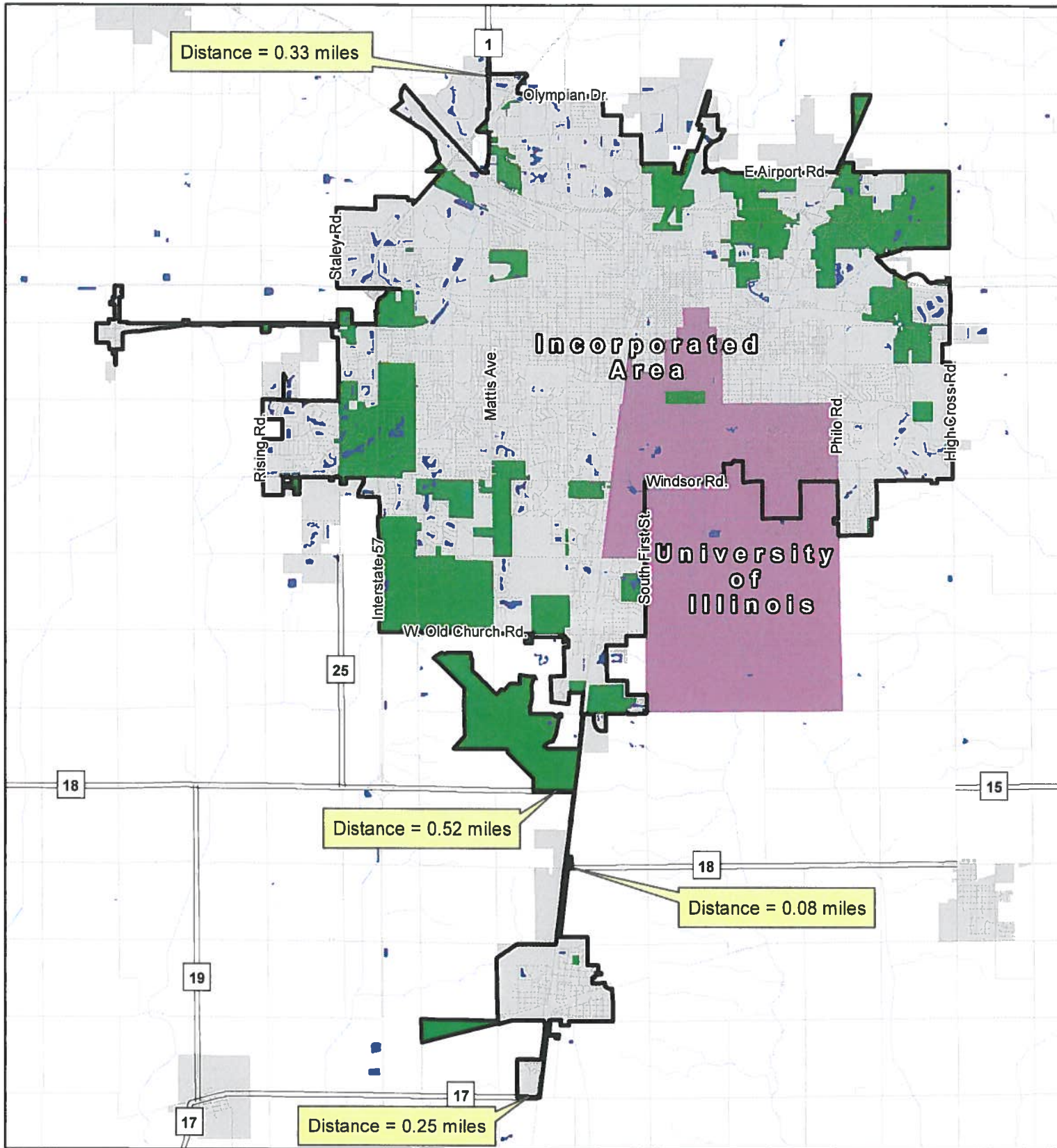
Notes:

- ESCP may be prepared on a photocopy of the Zoning Use Permit Site Plan provided by the Department of Planning & Zoning.
- For general construction sequence see General Notes in Technical Appendix D of the Stormwater Management and Erosion Control Ordinance
- SD1, SD2, and SD8 are Standard Details in Technical Appendix D of the Stormwater Management and Erosion Control Ordinance



Legend

- | | | |
|--|--|---------------------|
| LIMIT OF SOIL DISTURBANCE (indicate by pencil shading or use of highlighter, etc.) | Curtain Drain | Soil Stockpile Area |
| SILT FENCE (SD2) | Septic Field | Residence |
| Direction of Drainage | Reserve Septic Field | Property Line |
| | Stabilized Construction Entrance (SD1) | Township Road |



Champaign County MS4 Jurisdiction

Urbanized Area based on the 2010 Census

This map shows the defined MS4 jurisdiction including 10.4 square miles of unincorporated County. Location and size of County stormwater facilities are noted (Ex: Distance = 0.25 miles).

MS4 Related Boundaries

-  Streets
-  Urbanized Area 2010
-  County MS4 Area 2012



Map Created
7/17/14

N





CASE NO. 791-AT-14

PRELIMINARY MEMORANDUM
January 9, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall, Zoning Administrator**
Susan Monte, RPC Planner

Request: **Amend Champaign County Zoning Ordinance Section 6.1.3 as follows:**

Part A: Revise the standard conditions and special provisions in Section 6.1.3 for a 'Heliport-Heliport-Restricted Landing Area' as follows:

1. **Replace "runway" with "Final Approach and Takeoff (FATO) Area".**
2. **Delete the explanation preceding Standard Condition 2.**
3. **Add a new Standard Condition 2. that indicates that the following Standard Conditions apply only to a HELIPORT-RESTRICTED LANDING AREA.**
4. **Renumber existing Standard Condition 2. to be new Standard Condition 2.A.**
5. **Add a new Standard Condition 2.B. that requires that no part of a Final Approach and Takeoff (FATO) Area may be closer than 1,320 feet from the nearest dwelling under different ownership than the HELIPORT-RESTRICTED LANDING AREA.**
6. **Add a new Standard Condition 4 2.C. that requires that no part of a Final Approach and Takeoff (FATO) Area may be closer than 280 feet from the nearest property under different ownership than the HELIPORT-RESTRICTED LANDING AREA.**
7. **Delete existing Standard Condition 3. and add a new Standard Condition 2.D. to provide that the requirement of Section 4.3.8 notwithstanding, any DWELLING or LOT established after a HELIPORT-RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 2.B. or 2.C. for a HELIPORT-RESTRICTED LANDING AREA and no Special Use Permit shall be required.**

Part B: Revise the existing standard conditions and special provisions in Section 6.1.3 for a 'Restricted Landing Area' as follows:

1. **Replace all references to Section 4.3.7 with references to Section 4.3.8.**
2. **Replace all references to "Table 5.3 note (12)" with references to "Footnote 11 in Section 5.3".**
3. **Remove the explanation preceding Standard Condition 5.**
4. **Add a new Standard Condition 6 that requires that no part of a runway may be closer than 1,320 feet from the nearest dwelling under different ownership than the RESTRICTED LANDING AREA.**
5. **Add a new Standard Condition 7 that requires that no part of a runway may be closer than 280 feet from the nearest property under different ownership than the RESTRICTED LANDING AREA.**
6. **Delete Standard Condition 6 and add a new Standard Condition 8 to provide that the requirement of Section 4.3.8 notwithstanding, any BUILDING or STRUCTURE or USE or LOT established after a**

Case 791-AT-14

January 9, 2015

RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 6 or 7 for a RESTRICTED LANDING AREA and no Special Use Permit shall be required provided there is compliance with Standard Condition 3 for a RESTRICTED LANDING AREA.

BACKGROUND

Case 768-AT-13 amended the Zoning Ordinance by adding new minimum required separations for both a restricted land area (RLA) and a heliport-restricted landing area (HRLA). Case 768-AT-13 was intended to be a temporary amendment for one year that would be replaced with a permanent amendment before that one year expiration. The As-Approved Finding of Fact for Case 768-AT-13 is included as Attachment A. Ordinance No. 944 was the actual amendment in Case 768-AT-13 and was adopted on April 24, 2014. See Attachment B. This Case 791-AT-14 is the permanent amendment and will hopefully be adopted by the County Board before Ordinance No. 944 expires on April 24, 2015. This amendment retains the same minimum required separations as Case 768-AT-13 and Ordinance No. 944 (see Attachments C and D) but does correct what can best be described as “errors” in Case 768-AT-13 (see below).

The ZBA must take final action on this case no later than February 12, 2015, in order for the County Board to adopt this amendment at the April 23, 2015, County Board meeting.

ERRORS IN CASE 768-AT-13

This amendment also corrects the following errors in Case 768-AM-13:

- **Minimum separations were mixed with SUP exceptions.** As originally proposed at the 11/07/13 ELUC meeting and as described in the legal advertisement for Case 768-AM-13, Case 768 was supposed to include minimum separations of 1,320 feet to the nearest dwelling under other ownership and 300 feet to the nearest property under different ownership (reduced to 280 feet in the public hearing) for both a restricted land area (RLA) and a heliport-restricted landing area (HRLA). These separations were included in the Preliminary Memorandum for Case 768-AM-13 but the amendment became muddled in the Supplemental Memorandums dated 1/16/14 and 2/06/14 when these separations became mixed with the SUP exemption for certain buildings and structures from the requirement for a Special Use Permit in Section 4.3.7. (actually 4.3.8). Case 768 also did not specify that compliance with RLA Standard Condition 3 was still required. The muddled separation and combined exemption have been clarified in this amendment and compliance with Standard Condition 3 is made clear.

Also, note that the combined exemption in the text of As-Approved Case 768-AT-13 for both the Restricted Landing Area (Condition #6) and the Heliport-Restricted Landing Area (Condition #3) each included the separation to the CR District even though the exemption had nothing to do with any separation to a Zoning District and was only relevant to the separation to certain uses and structures. Ordinance #944 did not include that part of the combined exemption.

- **Error inserting text of Ordinance #944.** When the text of Ordinance #944 was inserted into the Zoning Ordinance a portion of the text was accidentally omitted and quality assurance reviews missed that error. As a result, the separation to the CR District is

overstated in the current Zoning Ordinance and is much larger than what was actually adopted in Ordinance No. 944. Ordinance No. 944 is correct and the Zoning Ordinance simply needs to be corrected. Case 791 includes the text that was approved in Ordinance No. 944. The portion of text that was omitted is indicated below in underlining:

5. The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the end of the runway and 500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.

REVISITING THE MINIMUM REQUIRED SEPARATION TO A DWELLING UNDER OTHER OWNERSHIP

Items 16.E.(6) and (7) in the attached Preliminary Finding of Fact briefly review the ZBA's consideration of the minimum required separation to a dwelling under other ownership in Case 768-AT-13. The minimum required separation to a dwelling under other ownership was apparently the only requirement in Case 768-AT-13 that the ZBA specifically intended to examine at greater length in the final amendment.

ATTACHMENTS

- A Zoning Case 768-AT-13 As-Approved Finding of Fact
- B Champaign County Ordinance No. 944 adopted April 24, 2014
- C Diagram of proposed minimum separation and setback standard conditions: heliport-restricted landing area (Attachment M to the Preliminary Memorandum of Case 768-AT-13)
- D Diagram of proposed minimum separation and setback standard conditions: restricted landing area (Attachment M to the Preliminary Memorandum of Case 768-AT-13)
- E Strikeout Copy of Case 791-AT-14 Proposed Text Amendment
- F Preliminary Draft Finding of Fact (included separately)

AS APPROVED

768-AT-13

**FINDING OF FACT
AND FINAL DETERMINATION
of**

Champaign County Zoning Board of Appeals

Final Determination: **RECOMMEND ENACTMENT**

Date: February 13, 2014

Petitioner: Zoning Administrator

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

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

- (1) Number the existing standard condition and special provision 1.
- (2) Add the following standard conditions and special provisions for a limited time not to exceed 365 days from the date of adoption:
 - (a) Add a standard condition and special provision to require the Final Approach and Takeoff Area to be no closer than 800 feet from the nearest CR District when measured in a straight line from the Final Approach and Takeoff Area in an approach/ takeoff path and no closer than 500 feet when measured from the Final Approach and Takeoff Area in other than an approach/ takeoff path and that no part of the approach/ takeoff path may be less than 100 feet above the nearest CR District.
 - (b) Add a standard condition and special provision to require that the Final Approach and Takeoff Area may be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport- restricted landing area.
 - (c) Add a standard condition and special provision to require that the Final Approach and Takeoff Area may be no closer than 280 feet from the nearest property under different ownership than the heliport- restricted landing area.

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

- (1) Number the existing standard conditions and special provisions 1 through 4.

AS APPROVED

- (2) Add the following standard conditions and special provisions for a limited time not to exceed 365 days from the date of adoption:
 - (a) Add a standard condition and special provision to require the end of the runway to be at least 1,500 feet from the nearest CR District when measured in a straight line from the end of the runway and not less than 500 feet when measured from the edge of the runway and that no part of the approach surface may be less than 100 feet above the nearest CR District.
 - (b) Add a standard condition and special provision to require that the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area.
 - (c) Add a standard condition and special provision to require that the runway may be no closer than 280 feet from the nearest property under different ownership than the restricted landing area.

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**Note that in the Draft Finding of Fact italicized letters indicate the staff recommendation.*

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 16, 2014; January 30, 2014; and February 13, 2014**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
 - A. At the September 5, 2013, Environment and Land Use Committee (ELUC) meeting a group of neighboring landowners to previous zoning cases 687-AM-11 and 688-S-11 requested that the Zoning Ordinance be amended by adding proposed minimum separations between restricted landing areas (RLA) and helicopter- restricted landing areas (H-RLA) and other RLAs and H-RLAs; and between an RLA and/or H-RLA and the CR District; and property under different ownership than the proposed RLA or H-RLA; and dwellings under different ownership than the proposed RLA or H-RLA. Cases 687-AM-11 and 688-S-11 were proposed to authorize a combined RLA and H-RLA on property that was current zoned CR Conservation Recreation. The ZBA had denied Case 688-S-11 and recommended denial of Case 687-AM-11 and the recommendation was eventually upheld by the County Board. The Committee voted to consider the requested text amendment at the next available ELUC meeting. The minutes of the ELUC meeting can be reviewed on the County website.
 - B. At the November 7, 2013, ELUC meeting the Committee reviewed a text amendment proposed by the Zoning Administrator to add minimum separations between restricted landing areas (RLA) and/ or helicopter- restricted landing areas (H-RLA) and the CR District; and property under different ownership than the proposed RLA or H-RLA; and dwellings under different ownership than the proposed RLA or H-RLA. The Zoning Administrator proposal was somewhat different than the amendment that had been requested at the 9/5/13 meeting. The Committee voted to allow the proposed amendment to proceed to public hearing with one change to the proposed separation from the CR District. The minutes of the ELUC meeting can be reviewed on the County website.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

SUMMARY OF THE PROPOSED AMENDMENT

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies,

which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:

A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”

B. The LRMP defines Goals, Objectives, and Policies as follows:

(1) Goal: an ideal future condition to which the community aspires

(2) Objective: a tangible, measurable outcome leading to the achievement of a goal

(3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives

C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

REGARDING LRMP GOALS

6. 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 amendment will **NOT IMPEDE** the achievement of Goal 1.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

Goal 2 has two objectives and three policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 2.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

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

Goal 3 has three objectives and no policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 3.

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

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

Goal 4 has 9 objectives and 22 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 4.

10. 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 is **NOT RELEVANT** to Goal 5 in general.

11. 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 amendment will **NOT IMPEDE**.

12. 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 amendment will **NOT IMPEDE** Goal 7.

13. 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 and except as reviewed below will not be impeded by the proposed amendment. The proposed amendment will **HELP ACHIEVE** Goal 8 for the following reasons:

- A. Objective 8.5 is entitled “Aquatic and Riparian Ecosystems” and states “**Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.**”

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The proposed rezoning will **HELP ACHIEVE** Objective 8.5 because of the following:

- (1) Objective 8.5 has 5 policies. Policies 8.5.3, 8.5.4, and 8.5.5 are not directly relevant to the proposed amendment rezoning.
- (2) Policy 8.5.1 states, **“For discretionary development, the County will require land use patterns, site design standards and land management practices that, wherever possible, preserve existing habitat, enhance degraded habitat and restore habitat.”**

The proposed rezoning will **HELP ACHIEVE** Policy 8.5.1 because of the following:

- a. Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a Restricted Landing Area, the end of the runway shall be at least 1,500 feet from the nearest CR District when measured in a straight line from the end of the runway and that no part of the approach surface may be less than 100 feet above the nearest CR District:
 - (a) The Illinois Department of Transportation Division of Aeronautics enforces aviation safety rules and those rules are established in 92 Ill. Adm. Code 14, titled Aviation Safety, and Subpart G of those rules regulate restricted landing areas (RLA). Minimum RLA obstruction clearance standards are illustrated in Illustration G-1 of Subpart G.
 - (b) Illustration G-1 of Subpart G of 92 Ill. Adm. Code 14 prohibits obstructions from penetrating the approach area at the end of an RLA runway. Illustration G-1 was included as an Attachment to the Preliminary Memorandum. Illustration G-1 indicates the following:
 - i. The minimum runway area for an RLA is 100 feet wide by 1,600 feet in length.
 - ii. The approach area for an RLA runway is a trapezoidal shaped area that is 100 feet wide at the end of the runway and rises at a slope of 15 units horizontal to 1 unit vertical for a distance of 3,000 feet from the end of the runway. The width of the trapezoidal shaped approach area increases in an arc of 5 degrees 42 minutes on each side of the runway until the approach area is 699 feet wide at a distance of 3,000 feet from the runway end.
 - (c) Section 14.730 of Subpart G of 92 Ill. Adm. Code 14 states that in order for an RLA to be eligible for a Certificate of Approval the RLA must initially and continually be free of obstructions such as trees.

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- (d) Section 5.1 of the Zoning Ordinance states that the CR Conservation Recreation Zoning District is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- (e) Trees are understood to be an important element of the “natural and scenic areas generally along the major stream networks of the County”.
- (f) RLAs are not authorized in the CR District but the Ordinance does not require any minimum separation from an RLA in the AG-1 or AG-2 Districts and any nearby portions of the CR District. An RLA proposed in the AG-1 or AG-2 District such that the Approach Area would overlay the CR District could be incompatible with the CR District if the Approach Area would be subject to penetration by trees in the CR District. Thus, a minimum required separation intended to minimize the impact of an RLA in the AG-1 or AG-2 Districts on the CR District should accommodate the normal height of trees that commonly grow in the CR District.
- (g) Regarding the normal height of trees that commonly grow in the CR District, the following evidence is excerpted from Summary of Evidence Item 8.T.(2) in Zoning Case 688-S-11 (*indicates numbering from Case 688-S-11):
 - *(2) Regarding the height of trees that may be growing in the CR District on the west side of the East Branch of the Embarrass River:
 - *(a) The 2003 update of the *Soil Survey of Champaign County, Illinois* indicates that for the relevant portion of the CR District on the west side of the East Branch of the Embarrass River the predominant soils are map units 3107A Sawmill silty clay loam, 0 to 2 percent slope, frequently flooded and 570C2 Martinsville loam 5 to 10% slopes, eroded. Table 11 provides relevant data regarding forestland management and productivity for each soil map unit, and is summarized as follows for the relevant soils:
 - *i. Common trees and their site index (average height) found on 570C2 Martinsville soil are White oak (80), Sweetgum (76), and Tulip tree (98).
 - *ii. Common trees and their site index (average height) found on 3107A Sawmill soil are Pin oak (90), American sycamore (---), Eastern

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cottonwood (---), and Sweetgum (---). Note that the site index (average height) for a given species may vary depending on the soil type and the symbol (---) apparently indicates no average height has been determined for that species on that soil type.

- * (b) The petitioner's wife, Sarabeth Jones, testified at the December 13, 2012, public hearing that to her knowledge there are no Sycamore trees on their property but there are White oak trees.
- * (c) If there are White oak trees on the petitioner's property there likely are White oak trees on the land on the west side of the East Branch of the Embarrass River.
- * (d) Excerpts from the *Field Guide to Native Oak Species of Eastern North America* by the USDA Forest Service were included as an Attachment to the Supplemental Memorandum dated 3/8/13 and state that the White oak tree grows to 100 feet tall.
- * (e) An excerpt from the Native Trees of the Midwest that is maintained on the website of the Morton Arboretum located in Lisle, Illinois indicates that a tree in its native habitat may reach much greater height than the same tree growing in a home landscape and the heights of trees indicated in Native Trees of the Midwest reflect the average size in the home landscape. White Oak trees are indicated to have a mature height of 50 feet to 80 feet in Native Trees of the Midwest but that height reflects the average size in the home landscape and not the native habitat. The *Field Guide to Native Oak Species of Eastern North America* by the USDA Forest Service (see above) indicates that the White oak tree grows to 100 feet tall in the native habitat. The 2003 update of the *Soil Survey of Champaign County, Illinois* indicates that the average height of White oak trees found on 570C2 Martinsville soil is 80 feet.
- * (f) If there are White Oak trees on the west side of the East Branch of the Embarrass River located beneath the Approach Area of the proposed RLA the White oak trees are likely to be on higher ground elevations

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than the river bottom and may already penetrate the proposed Approach Area.

- (h) The slope of the Approach Area off the end of an RLA is 15 feet horizontal to one foot vertical and therefore, the end of a runway at an RLA should be at least 1,500 feet from the closest CR District so that the height of the Approach Surface is more than 100 feet in order to prevent trees in the CR District from penetrating into the Approach Surface. Note that differences in topographic elevation of the ground between the RLA runway and nearby portions of the CR District can lead to shorter separations (when the elevation of the runway is above the ground elevation in the CR District) or greater separations (when the ground elevation in the CR District is higher than the ground elevation at the RLA runway).
 - (i) An RLA petitioner may propose less separation than the minimum required 1,500 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (j) The proposed standard condition and special provision to require that for a Restricted Landing Area, the end of the runway shall be at least 1,500 feet from the nearest CR District when measured in a straight line from the end of the runway and that no part of the approach surface may be less than 100 feet above the nearest CR District will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.
- b. Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 800 feet from the nearest CR District when measured in a straight line from the Final Approach and Takeoff Area in an approach/ takeoff path path and that no part of the approach/ takeoff path may be less than 100 feet above the nearest CR District:
- (a) The Illinois Department of Transportation Division of Aeronautics enforces aviation safety rules and those rules are established in 92 Ill. Adm. Code 14, titled Aviation Safety, and Subpart H of those rules regulate restricted landing area heliport. Minimum obstruction clearance standards for a restricted landing area heliport are

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illustrated in Illustration H-2 of Subpart H. Note that the Final Approach and Takeoff Area for a restricted landing area heliport serves the same function as a runway does for a restricted landing area.

- (b) Illustration H-2 of Subpart H of 92 Ill. Adm. Code 14 prohibits obstructions from penetrating the approach/ take off path at the end of a restricted landing area heliport. Illustration H-2 was included as an Attachment to the Preliminary Memorandum. Illustration H-2 indicates the following:
 - i. The minimum final approach and take off area (FATO) for a restricted landing area heliport is 100 feet wide by 100 feet in length.
 - ii. The approach/ takeoff path for a restricted landing area heliport is a trapezoidal shaped area that is 100 feet wide at the edge of the final approach and take off area (FATO) and the approach/ takeoff path rises at a slope of 8 units horizontal to 1 unit vertical for a distance of 4,000 feet from the edge of the FATO. The width of the trapezoidal shaped approach area increases to 500 feet wide at a distance of 4,000 feet from the edge of the FATO.
- (c) Section 14.830 of Subpart H of 92 Ill. Adm. Code 14 states that in order for a restricted landing area heliport to be eligible for a Certificate of Approval the restricted landing area heliport approach/ takeoff path must initially and continually be free of obstructions such as trees.
- (d) Section 5.1 of the Zoning Ordinance states that the CR Conservation Recreation Zoning District is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- (e) Trees are understood to be an important element of the “natural and scenic areas generally along the major stream networks of the County”.
- (f) The Zoning Ordinance uses the term “heliport-restricted landing area” to refer to what the Illinois Department of Transportation Division of Aeronautics terms a “restricted landing area heliport”.
- (g) A heliport- restricted landing area is not authorized in the CR District but the Ordinance does not require any minimum separation from a restricted landing area heliport in the AG-1 or AG-2 Districts

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and any nearby portions of the CR District. A restricted landing area heliport proposed in the AG-1 or AG-2 District such that the approach/ take off path would overlay the CR District could be incompatible with the CR District if the approach/ take off path would be subject to penetration by trees in the CR District. Thus, a minimum required separation intended to minimize the impact of a restricted landing area heliport in the AG-1 or AG-2 Districts on the CR District should accommodate the normal height of trees that commonly grow in the CR District. Relevant evidence regarding the normal height of trees that commonly grow in the CR District is reviewed in Finding of Fact item 13.A.(2)a.(g).

- (h) The slope of the restricted landing area heliport approach/ takeoff path is 8 feet horizontal to one foot vertical and therefore, the edge of the final approach and take off area (FATO) should be at least 800 feet from the closest CR District so that the height of the restricted landing area heliport approach/ takeoff path is more than 100 feet in order to prevent trees in the CR District from penetrating into the restricted landing area heliport approach/ takeoff path. Note that differences in topographic elevation of the ground between the final approach and take off area (FATO) and nearby portions of the CR District can lead to shorter separations (when the elevation of the final approach and take off area (FATO) is above the ground elevation in the CR District) or greater separations (when the ground elevation in the CR District is higher than the ground elevation at the final approach and take off area (FATO)).
- (i) A petitioner for a heliport- restricted landing area may propose less separation than the minimum proposed 800 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
- (j) The proposed standard condition and special provision to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 800 feet from the nearest CR District when measured in a straight line from the Final Approach and Takeoff Area in an approach/ takeoff path, will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.

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- c. Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a Restricted Landing Area, the runway shall not be less than 500 feet from the nearest CR District when measured from the edge of the runway:
- (a) Illustration G-1 of Subpart G of 92 Ill. Adm. Code 14 prohibits obstructions from penetrating the side transition area of an RLA runway. Illustration G-1 was included as an Attachment to the Preliminary Memorandum. As illustrated in Illustration G-1, the side transition area extends only 85 feet on either side of the runway.
 - (b) Under the current Zoning Ordinance, an RLA runway located in the AG-1 or AG-2 District could be located as little as 85 feet from a nearby CR District.
 - (c) The sound emanating from an RLA in the vicinity of the CR District may also disturb the peace of the CR District that is essential to the natural and scenic quality of the CR District. The closer to the CR District the more disturbance there will be.
 - (d) The minimum required separation to the CR District should logically be greater than the minimum required separation from property under different ownership. The proposed minimum separation to the nearest property under different ownership than the restricted landing area is 280 feet.
 - (e) A minimum separation of 500 feet from the nearest CR District when measured from the edge of the runway is one average lot width (200 feet) greater than the proposed minimum separation to the nearest property under different ownership.
 - (f) An RLA petitioner may propose less separation than the minimum required 500 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (g) The proposed standard condition and special provision to require that for a Restricted Landing Area, the runway shall not be less than 500 feet from the nearest CR District when measured from the edge of the runway will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification

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thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.

- d. Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 500 feet from the nearest CR District when measured in a straight line from other than an approach/ takeoff path:
 - (a) Illustration H-2 of Subpart H of 92 Ill. Adm. Code 14 does not indicate a side transition area for a restricted landing area heliport. Illustration H-2 was included as an Attachment to the Preliminary Memorandum. Note that the Final Approach and Takeoff Area for a restricted landing area heliport serves the same function as a runway does for a restricted landing area.
 - (b) Relevant evidence regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a Restricted Landing Area, the runway shall not be less than 500 feet from the nearest CR District when measured from the edge of the runway is reviewed in Finding of Fact item 13.A.(2)c. and similar considerations apply to the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 500 feet from the nearest CR District when measured in a straight line from other than an approach/ takeoff path.
- (3) Policy 8.5.2 states, **“The County will require in its discretionary review that new development cause no more than minimal disturbance to the stream corridor environment.”**

The proposed rezoning will **HELP ACHIEVE** Policy 8.5.2 for the same reasons as for Policy 8.5.1 above.

- B. Objective 8.6 is entitled “Natural Areas and Habitat” and states **“Champaign County will encourage resource management which avoids loss or degradation of areas representative of the pre-settlement environment and other areas that provide habitat for native and game species.”**

The proposed rezoning will **HELP ACHIEVE** Objective 8.6 because of the following:

- (1) Objective 8.6 has 6 policies. Policies 8.6.1, 8.6.5, and 8.6.6 are not relevant to the proposed rezoning.
- (2) Policy 8.6.2 states:
 - a. **“For new development, the County will require land use patterns, site design standards and land management practices to minimize the**

disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas.

- b. **With regard to by-right development on good zoning lots, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas.”**

The proposed rezoning will **HELP ACHIEVE** Policy 8.6.2 for the same reasons as for Policy 8.5.1 above.

14. 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 amendment will **NOT IMPEDE** the achievement of Goal 9.

15. 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. Goal 10 is **NOT RELEVANT** to the proposed amendment in general.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

16. The proposed amendment appears to **HELP ACHIEVE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is directly related to this purpose because of the following:

- (1) The amendment should reduce the possible impact of RLAs and H-RLAs on values of neighboring structures and properties in the CR, AG-1, and AG-2 Districts.

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- (2) The amendment is a temporary change to the Zoning Ordinance that allows time for a more permanent amendment to be adopted.

- 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 amendment is not directly related to this purpose.

- 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 amendment is not directly related to this purpose.

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

The proposed amendment is directly related to this purpose because of the following:

- (1) Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area:
- a. The Illinois Department of Transportation Division of Aeronautics does not require any minimum separation to a dwelling under different ownership than the restricted landing area.
 - b. Note that Section 6.1.3 of the Zoning Ordinance already contains a standard condition for an RLA that requires the following:

No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located: 1) within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or 2) the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the primary surface 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.

- c. The following evidence was excerpted from item 8.S. of Case 688-S-11 (*indicates numbering from Case 688-S-11):
 - * (6) On December 13, 2012, the petitioner's attorney, Alan Singleton, submitted a list of 16 RLA's in and around Champaign County as evidence that "...all of them operating with no apparent problem for

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the neighborhoods and their residents.” Regarding that list of RLA’s in and around Champaign County and their proximities to dwellings under different ownership:

- * (a) Eight of the RLA’s were indicated as not being located in Champaign County and six of those are located in counties that have not even adopted a zoning ordinance. A ninth RLA, the Clapper RLA, was indicated on the list as being located in Champaign County but is in fact located in Piatt County. For these properties located outside of Champaign County there was not enough time for staff to gather all of the information necessary to fully evaluate ownership and relations between adjacent properties

- * (b) Day Aero-Place was originally developed as a “residential airport” and included a runway and was therefore intended to be marketed towards owners who desired a close proximity to a landing area. Five of the 10 homes in the development border the runway and their proximity to the runway varies between 85 feet and 135 feet. See the Attachment to the Supplemental Memorandum dated 3/8/13.

- * (c) Regarding the other six RLAs and their proximity to the nearest dwelling under different ownership:
 - *i. The Justus RLA appears to be about 130 feet from the nearest dwelling that is located on a separate tax parcel however the name of the owner of that parcel also has the last name “Justus” and so it not clear exactly what the relationship is between the two landowners.

 - *ii. The Litchfield RLA appears to be about 300 feet from the nearest dwelling that is located on a separate tax parcel however the owner of that dwelling has testified in previous Champaign County Zoning Cases regarding his use of the Litchfield RLA and so the relationship is not the same as proposed in this zoning case.

 - *iii. The remaining four RLAs all appear to be at least ¼ mile from the nearest dwelling under different ownership.

- d. An RLA petitioner may propose less separation than the minimum required 1,320 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general

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purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.

- e. The proposed standard condition and special provision to require that for a Restricted Landing Area, the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area, will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.
- (2) Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that that the Final Approach and Takeoff Area for a heliport- restricted landing area may be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport- restricted landing area:
 - a. Relevant evidence regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a restricted landing area the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area is reviewed in Finding of Fact item 16.E.a. and similar considerations apply to the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport- restricted landing area except that Section 6.1.3 of the Ordinance does not require a Primary Surface or a Runway Clear Zone for a heliport-restricted land area and therefore there are no prohibitions associated with either a Primary Surface or a Runway Clear Zone for a heliport-restricted land area.
 - (3) Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that a restricted landing area (RLA) runway may be no closer than 280 feet from the nearest property under different ownership than the RLA:
 - a. The proposed 280 feet separation applies to separation from both the end of an RLA runway and the edge of an RLA runway.
 - b. The minimum RLA obstruction clearance requirements enforced by the Illinois Department of Transportation Division of Aeronautics are illustrated in Illustrations G-1 and G-2 of 92 Ill. Adm. Code 14 Subpart G.
 - c. The minimum separation from a RLA runway to a property under different ownership than the RLA required by the Zoning Ordinance currently is the following:
 - (a) Clearance for the side transition area at a slope of 7 to 1 for a horizontal distance of 84 feet and a height of 12 feet. Requiring only 84 feet of separation to property under other ownership may

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impact the existing use of that property and also the “by right” rural residential development potential of the other property. An RLA may also parallel a street and in those situations the separation between the RLA and the street should be such that landing and takeoff activities do not distract the street traffic.

- (b) The minimum required clearance at the ends of the RLA runway is 265 feet based on the required 240 feet “runway safety area” required as a standard condition in Section 6.1.3 and the minimum required front or rear yard of 25 feet required by Section 5.3. The 265 feet of horizontal separation at the end of the runway provides for a vertical clearance of only about 17 feet 8 inches beneath the approach area. If there is an electrical utility line at either end the minimum separation is 300 feet from the utility line, assuming the utility line is at least 20 feet above the ground. If there is a railroad at either end of the runway the minimum separation is 345 feet based on the minimum 23 feet of clearance over all railroads required by Illustration G-1 of 92 Ill. Adm. Code 14 Subpart G. Note that even more separation may be required depending upon the difference in topographic elevation between the RLA and the railroad.
- d. The proposed 280 feet separation to other property at both the end of an RLA runway and the edge of an RLA runway will ensure adequate separation for a typical 20 feet high electrical utility line.
- e. The proposed 280 feet separation means that the minimum total width of property required for a RLA runway will be 660 feet and could be accommodated by the typical long (half mile) narrow (660 feet) 40 acre parcel.
- f. An RLA petitioner may propose less separation than the minimum proposed 280 feet from the nearest property under different ownership than the RLA and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
- g. The proposed standard condition and special provision to require that a restricted landing area (RLA) runway may be no closer than 280 feet from the nearest property under different ownership than the RLA, will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.

- (4) Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 280 feet from the nearest property under different ownership than the heliport- restricted landing area:
- a. Relevant evidence regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that a restricted landing area (RLA) runway may be no closer than 280 feet from the nearest property under different ownership than the RLA is reviewed in Finding of Fact item 16.E.c. and similar considerations apply to the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 280 feet from the nearest property under different ownership than the heliport- restricted landing area except that there is no side transition for a heliport- restricted land area nor is there a runway safety area required by Section 6.1.3 of the Ordinance for a heliport-restricted land area.
 - b. Note that the proposed 280 feet separation provides for a vertical clearance of about 35 feet beneath the approach/ takeoff path for a restricted landing area heliport.
- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of buildings and structures hereafter to be erected.
- The proposed amendment is not directly related to this purpose.
- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.
- The proposed amendment is not directly related to this purpose.
- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures.
- The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).
- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the

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location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e).

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

AS APPROVED

The proposed amendment is directly related to this purpose to the same extent as LRMP Goal 8. See item 13 of the Finding of Fact.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on, **January 16, 2014; January 30, 2014; and February 13, 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 8:**
 - Objective **8.5 requiring the County to encourage the maintenance and enhancement of aquatic and riparian habitats** because while it will either not impede or is not relevant to the other Objectives and Policies under this goal it, will **HELP ACHIEVE** the following:
 - Policy **8.5.1 requiring discretionary development to preserve existing habitat, enhance degraded habitat and restore habitat (see Item 18.A.(2)).**
 - Policy **8.5.2 requiring discretionary development to cause no more than minimal disturbance to the stream corridor environment (see Item 18.A.(3)).**
 - Objective **8.6 that avoids loss or degradation of habitat** because it will **HELP ACHIEVE** the following:
 - Policy **8.6.2 requiring new development to minimize the disturbance of habitat or to mitigate unavoidable disturbance of habitat (see Item 18.B.(2)).**
 - 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 8 Natural Resources.**
 - B. 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 4 Agriculture**
 - **Goal 5 Urban Land Use**
 - **Goal 6 Public Health and Safety**
 - **Goal 7 Transportation**
 - **Goal 9 Energy Conservation**
 - **Goal 10 Cultural Amenities**
 - C. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource Management Plan.
2. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance because:
 - The proposed text amendment **WILL** conserve the value of land, **BUILDINGS**, and **STRUCTURES** throughout the **COUNTY** (Purpose 2.0 (b); see Item 16.B.).
 - The proposed text amendment **WILL** promote the public health, safety, comfort, morals, and general welfare (Purpose 2.0 (e); see Item 16.E.).

- The proposed text amendment **WILL** regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures (Purpose 2.0 (h); see Item 16.H.).
- The proposed text amendment **WILL** classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses (Purpose 2.0 (i); see Item 16.I.).
- The proposed text amendment **WILL** divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance (Purpose 2.0 (j); see Item 16.J.).
- The proposed text amendment **WILL** fix regulations and standards to which buildings, structures, or uses therein shall conform (Purpose 2.0 (k); see Item 16.K.).
- The proposed text amendment **WILL** prohibit uses, buildings, or structures incompatible with the character of such districts (Purpose 2.0 (l); see Item 16.L.).
- The proposed text amendment **WILL** protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses (Purpose 2.0 (n); see Item 16.N.).
- The proposed text amendment **WILL** protect natural features such as forested areas and watercourses (Purpose 2.0 (o) see Item 16.O.).

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated January 8, 2014, with Attachments:
 - A Champaign County Environment and Land Use Committee Memorandum dated October 28, 2013, with attachments:
 - A Strikeout version of proposed amendment
 - B Memorandum dated October 28, 2013, received from Larry Hall, Julia Hall, Mark Fisher, and Jean Fisher
 - C Strikeout version of proposed standard conditions
 - D Acronyms and defined terms
 - E 92 Ill. Adm. Code 14 Subpart G (included separately)
 - F Illustrations G-1 and G-2 of 92Ill. Adm. Code 14 Subpart G (included separately)
 - G 92 Ill. Adm. Code 14 Subpart H (included separately)
 - H Illustration H-2 of 92Ill. Adm. Code 14 Subpart H (included separately)
 - I RLAs in and around Champaign County (various maps and images) received in Case 688-S-11 handout from Petitioner's Attorney Alan Singleton received at December 13, 2012, public hearing (included separately)
 - J Excerpts including Sheet 82 of 85 and pps. 137-138 and Table 11 from the *Soil Survey of Champaign County, Illinois*. United States Department of Agriculture Natural Resources Conservation Service. 2003. (included separately)
 - K pp. 8,9, 54, 55 from *Field Guide to Native Oak Species of Eastern North America*, Stein, John and Denise Binion and Robert Acciavatti. USDA Forest Service. January 2003. (included separately)
 - L Native Trees of the Midwest from the Morton Arboretum located in Lisle, Illinois. (included separately)
 - M Diagram of proposed minimum separation and setback standard conditions: heliport-restricted landing area
 - N Diagram of proposed minimum separation and setback standard conditions: restricted landing area
 - O Preliminary Draft Finding of Fact (included separately)

2. Supplemental Memorandum dated January 16, 2014, with Attachments:
 - A McCulley RLA Separations (included separately)
 - B Schmidt RLA Separations (included separately)
 - C Busboom RLA Separations (included separately)
 - D Moment RLA Separations (included separately)
 - E Schwenk RLK Separations (included separately)
 - F Routh RLA Separations (included separately)
 - G Ordinance No. 328 (Case 654-AT-88)

3. Supplemental Memorandum dated February 6, 2014, with Attachments:
 - A Revised Finding of Fact Items 16.E.(3) and (4)
 - B Diagrams of Revised Minimum Separations
 - C Revised Amendment

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 768-AT-13** should **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

Proposed Amendment

A. Revise Section 4.3.8 to read as follows:

No part of a BUILDING or STRUCTURE intended for regular human occupancy in a R or B DISTRICT nor a Public ASSEMBLY or INSTITUTIONAL USE not in existence or for which no Zoning USE Permit was issued on or before December 20, 1988 shall be located within the required separation distance or exclusion area as specified in the Explanatory or Special Provisions of Table 6.1.3, unless a SPECIAL USE Permit is granted per Section 9.1.11. except as specifically exempted in Table 6.1.3. from the requirement for a SPECIAL USE Permit.

B. In Section 6.1.3 revise the use category “HELIPORTS or HELIPORT/RESTRICTED LANDING AREAS” to “HELIPORT or HELIPORT/RESTRICTED LANDING AREA” and revise the Explanatory or Special Provisions to read as follows:

- (1) Must meet the requirements for “Approach and Departure Protection Areas” of Paragraph 25 of the Federal Aviation Administration Circular Number 150/5390-2 and requirements of the Illinois Department of Transportation, Division of Aeronautics. HELIPORTS atop BUILDINGS are exempt from the minimum area standard.

The following standard conditions apply only to a heliport-restricted landing area and shall be in effect for a limited time not to exceed 365 days from the date they are adopted:

- (2) The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 800 linear feet measured outward from the end of the Final Approach and Takeoff Area in the approach/takeoff path, and 500 linear feet measured outward from the side edge of the Final Approach and Takeoff Area.
- (3) The requirement of Section 4.3.8 notwithstanding, a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT or any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located in the following required separation distances without being subject to the requirement for a SPECIAL USE Permit:
 - (a) The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the end of the runway and 500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.
 - (b) No part of the runway may be closer than 1,320 feet from the nearest DWELLING under different ownership than the RESTRICTED LANDING AREA.
 - (c) No part of the runway may be closer than 280 feet from the nearest PROPERTY under different ownership than the RESTRICTED LANDING AREA.

B. In Section 6.1.3 revise the use category “RESTRICTED LANDING AREAS” to “RESTRICTED LANDING AREA” and revise the Explanatory or Special Provisions to read as follows:

- (1) Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
- (2) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.
- (3) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located: 1) within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or 2) the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the primary surface 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the Primary Surface.
- (4) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.

The following standard conditions shall be in effect for a limited time not to exceed 365 days from the date they are adopted:

- (5) The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the end of the runway and 500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.
- (6) The requirement of Section 4.3.8 notwithstanding, a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT or any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located in the following required separation distances without being subject to the requirement for a SPECIAL USE Permit:
 - (a) The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the end of the runway and 500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.
 - (b) No part of the runway may be closer than 1,320 feet from the nearest DWELLING under different ownership than the RESTRICTED LANDING AREA.
 - (c) No part of the runway may be closer than 280 feet from the nearest PROPERTY under different ownership than the RESTRICTED LANDING AREA.

**ORDINANCE NO. 944
ORDINANCE AMENDING ZONING ORDINANCE**

ZONING CASE 768-AT-13

WHEREAS, the Champaign County Zoning Board of Appeals held a public hearing, made a formal recommendation for approval, and forwarded to this Board Case Number 768-AT-13;


WHEREAS, the Champaign County Board believes it is for the best interests of the County and for the public good and welfare to amend the Champaign County Zoning Ordinance in a manner hereinafter provided;

NOW, THEREFORE BE IT ORDAINED, by the Champaign County Board, Champaign County, Illinois, that Resolution No. 971, *The Zoning Ordinance of the County of Champaign, Illinois* be amended in the manner attached hereto.


PRESENTED, PASSED, APPROVED, AND RECORDED this 24th day of April, A.D. 2014.

SIGNED:

ATTEST:



Jonathan Schroeder, Vice-Chair
Champaign County Board
Champaign, Illinois



Gordy Hulten, County Clerk and *Ex Officio*
Clerk of the Champaign County Board

A. Revise Section 4.3.8 to read as follows:

No part of a BUILDING or STRUCTURE intended for regular human occupancy in a R or B DISTRICT nor a Public ASSEMBLY or INSTITUTIONAL USE not in existence or for which no Zoning USE Permit was issued on or before December 20, 1988 shall be located within the required separation distance or exclusion area as specified in the Explanatory or Special Provisions of Table 6.1.3 ,unless a SPECIAL USE Permit is granted per Section 9.1.11. except as specifically exempted in Table 6.1.3. from the requirement for a SPECIAL USE Permit.

B. In Section 6.1.3 revise the use category “HELIPORTS or HELIPORT/RESTRICTED LANDING AREAS” to “HELIPORT or HELIPORT/RESTRICTED LANDING AREA” and revise the Explanatory or Special Provisions to read as follows:

- (1) Must meet the requirements for “Approach and Departure Protection Areas” of Paragraph 25 of the Federal Aviation Administration Circular Number 150/5390-2 and requirements of the Illinois Department of Transportation, Division of Aeronautics. HELIPORTS atop BUILDINGS are exempt from the minimum area standard.

The following standard conditions apply only to a heliport-restricted landing area and shall be in effect for a limited time not to exceed 365 days from the date they are adopted:

- (2) The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 800 linear feet measured outward from the end of the Final Approach and Takeoff Area in the approach/takeoff path, and 500 linear feet measured outward from the side edge of the Final Approach and Takeoff Area.
- (3) The requirement of Section 4.3.8 notwithstanding, a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT or any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located in the following required separation distances without being subject to the requirement for a SPECIAL USE Permit:
 - (a) No part of the runway may be closer than 1,320 feet from the nearest DWELLING under different ownership than the RESTRICTED LANDING AREA.
 - (b) No part of the runway may be closer than 280 feet from the nearest PROPERTY under different ownership than the RESTRICTED LANDING AREA.

C. In Section 6.1.3 revise the use category “RESTRICTED LANDING AREAS” to “RESTRICTED LANDING AREA” and revise the Explanatory or Special Provisions to read as follows:

- (1) Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
- (2) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.

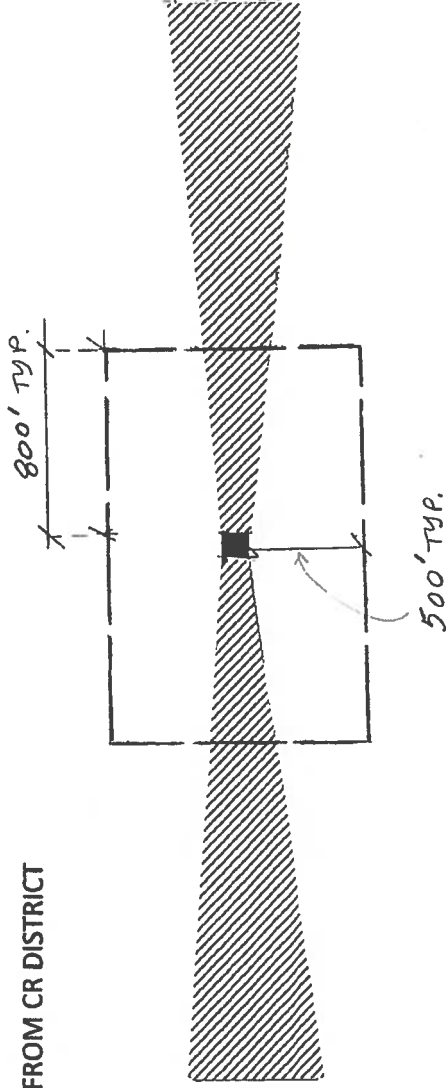
- (3) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located: 1) within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or 2) the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the primary surface 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the Primary Surface.
- (4) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.

The following standard conditions shall be in effect for a limited time not to exceed 365 days from the date they are adopted:

- (5) The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the end of the runway and 500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.
- (6) The requirement of Section 4.3.8 notwithstanding, a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT or any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located in the following required separation distances without being subject to the requirement for a SPECIAL USE Permit:
 - (a) No part of the runway may be closer than 1,320 feet from the nearest DWELLING under different ownership than the RESTRICTED LANDING AREA.
 - (b) No part of the runway may be closer than 280 feet from the nearest PROPERTY under different ownership than the RESTRICTED LANDING AREA.

Diagram of Proposed Minimum Separation and Setback Standard Conditions

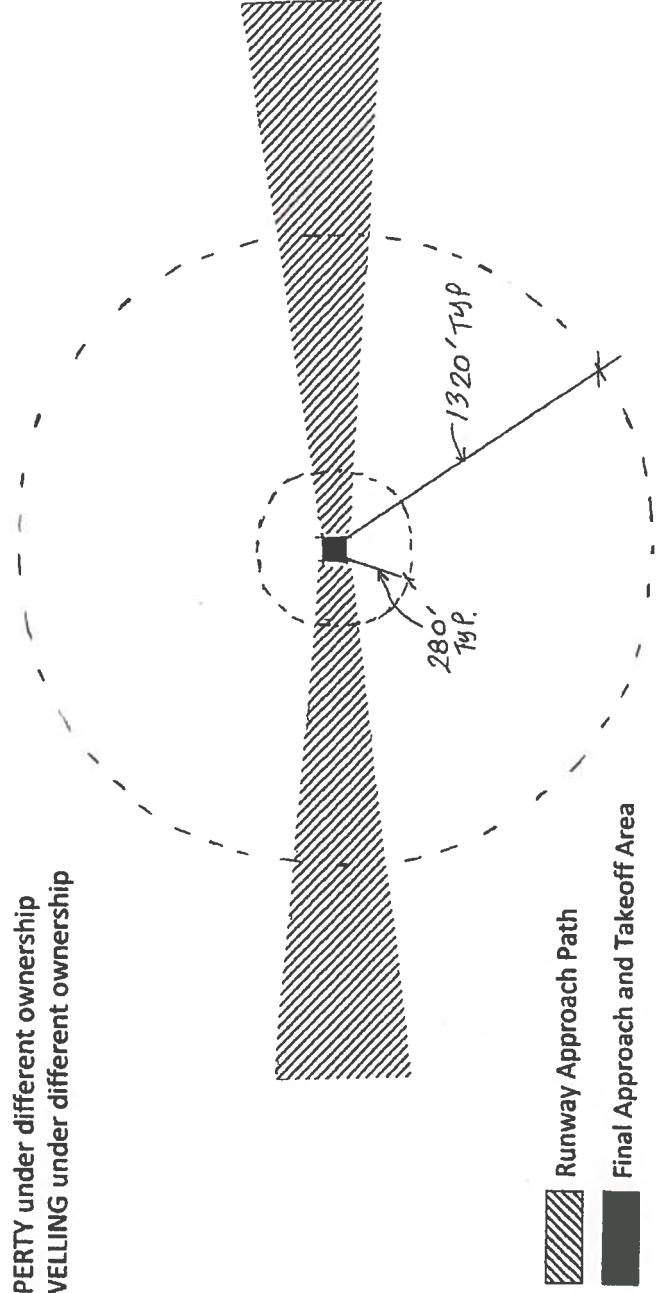
Heliport-Restricted Landing Area



MINIMUM SEPARATION FROM CR DISTRICT

MINIMUM SETBACK

280 linear feet from nearest PROPERTY under different ownership
1,320 linear feet from nearest DWELLING under different ownership



Scale: 1" = 800 linear feet

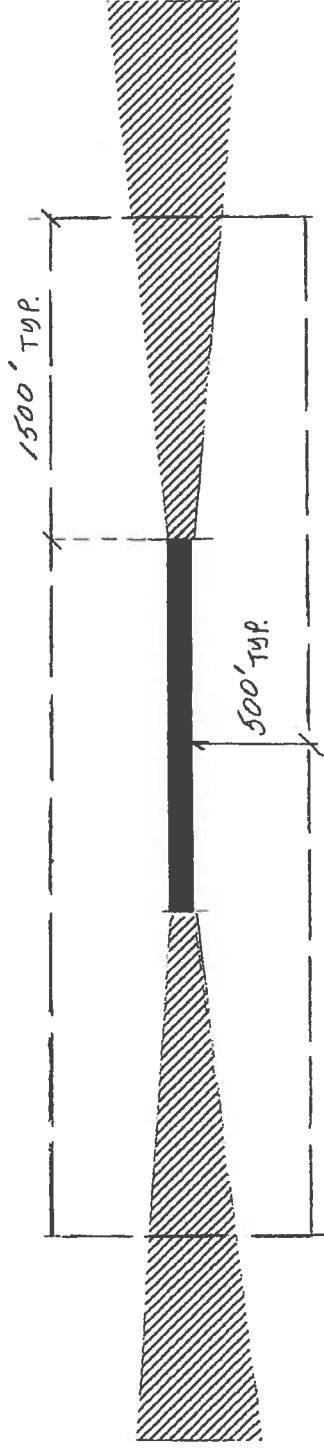
Runway Approach Path

Final Approach and Takeoff Area

Diagram of Proposed Minimum Separation and Setback Standard Conditions

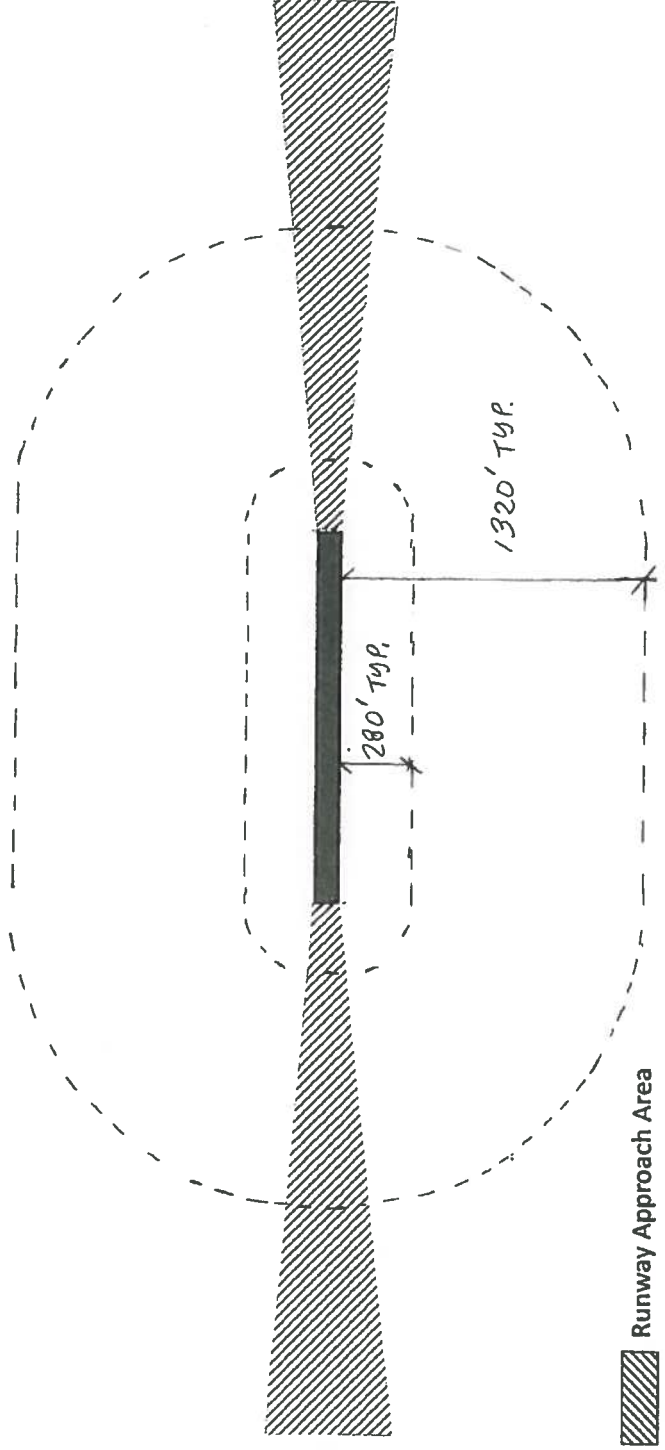
Restricted Landing Area

MINIMUM SEPARATION FROM CR DISTRICT



MINIMUM SETBACK

280 linear feet from nearest PROPERTY under different ownership
1,320 linear feet from nearest DWELLING under different ownership



Runway Approach Area

Runway

Scale: 1" = 800 linear feet

revised 2/4/2014

1. Revise the standard conditions and special provisions in Section 6.1.3 for a 'Heliport or Heliport- Restricted Landing Area' to read as follows:

- *1. Must meet the requirements for "Approach and Departure Protection Areas" of Paragraph 25 of the Federal Aviation Administration Circular Number 150/5390-2 and requirements of the Illinois Department of Transportation, Division of Aeronautics. HELIPORTS atop BUILDINGS are exempt from the minimum area standard.

~~The following standard conditions apply only to a HELIPORT/RESTRICTED LANDING AREA and shall be in effect for a limited time not to exceed 365 days from the date they are adopted (April 24, 2014).~~

2. The following standard conditions apply only to a HELIPORT-RESTRICTED LANDING AREA:

A. The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 800 linear feet measured outward from the side edge of the Final Approach and Takeoff Area in the approach/takeoff path, and 500 linear feet measured outward from the side edge of the Final Approach and Takeoff Area.

B. No part of a Final Approach and Take Off (FATO) Area may be closer than 1,320 feet from the nearest dwelling under different ownership than the HELIPORT- RESTRICTED LANDING AREA.

C. No part of a Final Approach and Take Off (FATO) Area may be closer than 280 feet from the nearest property under different ownership than the HELIPORT- RESTRICTED LANDING AREA.

- ~~3. The requirement of Section 4.3.8. notwithstanding, a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT or any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located in the following required separation distances without being subject to the requirement for a SPECIAL USE Permit:~~

~~A. No part of the runway may be closer than 1,320 feet from the nearest DWELLING under different ownership than the RESTRICTED LANDING AREA.~~

~~B. No part of the runway may be closer than 280 feet from the nearest PROPERTY under different ownership than the RESTRICTED LANDING AREA.~~

D. The requirement of Section 4.3.8 notwithstanding, any DWELLING or LOT established after a HELIPORT- RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 2.B. or 2.C. for a HELIPORT- RESTRICTED LANDING AREA and no Special Use Permit shall be required.

2) Revise the existing standard conditions and special provisions in Section 6.1.3 for a 'Restricted Landing Area' to read as follows:

- *1. Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
2. The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.
3. No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located: 1) within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or 2) the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the primary surface 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the Primary Surface.

Case 791-AT-14
Attachment E Strike-out Amendment
JANUARY 9, 2015

-
4. After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 ~~4.3.8~~ and Table 5.3 ~~note (12)~~ Footnote 11 in Section 5.3 shall apply.

~~The following standard conditions shall be in effect for a limited time not to exceed 365 days from the date they are adopted (April 24, 2014):~~

5. The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the end of the runway and 500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.

6. No part of a runway may be closer than 1,320 feet from the nearest dwelling under different ownership than the RESTRICTED LANDING AREA.

7. No part of a runway may be closer than 280 feet from the nearest property under different ownership than the RESTRICTED LANDING AREA.

6. ~~The requirement of Section 4.3.8 notwithstanding, a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT or any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located in the following required separation distances without being subject to the requirement for a SPECIAL USE Permit:~~

- ~~— A. No part of the runway may be closer than 1,320 feet from the nearest DWELLING under different ownership than the RESTRICTED LANDING AREA.~~
- ~~— B. No part of the runway may be closer than 280 feet from the nearest PROPERTY under different ownership than the RESTRICTED LANDING AREA.~~

8. The requirement of Section 4.3.8 notwithstanding, any BUILDING or STRUCTURE or USE or LOT established after a RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 6 or 7 for a RESTRICTED LANDING AREA and no Special Use Permit shall be required provided there is compliance with Standard Condition 3 for a RESTRICTED LANDING AREA.

PRELIMINARY
791-AT-14
FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals

Final Determination: **RECOMMEND ENACTMENT**

Date: January 15, 2015

Petitioner: Zoning Administrator

Request: Amend standard conditions and special provisions for 'helicopter restricted landing area' and 'restricted landing area' in Section 6.1.3 of the Champaign County Zoning Ordinance to make permanent and to correct the amendment adopted in Case 768-AT-13 regarding 'helicopter restricted landing area' and 'restricted landing area', as follows:

Part A: Revise the standard conditions and special provisions in Section 6.1.3 for a 'Helicopter or Helicopter-Restricted Landing Area' as follows:

1. Replace "runway" with "Final Approach and Takeoff (FATO) Area".
2. Delete the paragraph preceding Standard Condition 2. that limits the time that standard conditions 2. and 3. will be in effect to no more than 365 days from the date that they were adopted.
3. Add a new Standard Condition 2. that indicates that the following Standard Conditions apply only to a HELICOPTER- RESTRICTED LANDING AREA.
4. Renumber existing Standard Condition 2. to be new Standard Condition 2.A.
5. Add a new Standard Condition 2.B. that requires that no part of a Final Approach and Takeoff (FATO) Area may be closer than 1,320 feet from the nearest dwelling under different ownership than the HELICOPTER- RESTRICTED LANDING AREA.
6. Add a new Standard Condition 2.C. that requires that no part of a Final Approach and Takeoff (FATO) Area may be closer than 280 feet from the nearest property under different ownership than the HELICOPTER- RESTRICTED LANDING AREA.
7. Delete existing Standard Condition 3. and add a new Standard Condition 2.D. to provide that the requirement of Section 4.3.8

PRELIMINARY

notwithstanding, any DWELLING or LOT established after a HELIPORT- RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 2.B. or 2.C. for a HELIPORT/ RESTRICTED LANDING AREA and no Special Use Permit shall be required.

Part B: Revise the existing standard conditions and special provisions in Section 6.1.3 for a 'Restricted Landing Area' as follows:

1. Replace all references to Section 4.3.7 with references to Section 4.3.8.
2. Replace all references to "Table 5.3 note (12)" with references to "Footnote 11 in Section 5.3".
3. Delete the paragraph preceding Standard Condition 5. that limits the time that standard conditions 5. and 6. will be in effect to no more than 365 days from the date that they were adopted.
4. Add a new Standard Condition 6 that requires that no part of a runway may be closer than 1,320 feet from the nearest dwelling under different ownership than the RESTRICTED LANDING AREA.
5. Add a new Standard Condition 7 that requires that no part of a runway may be closer than 280 feet from the nearest property under different ownership than the RESTRICTED LANDING AREA.
6. Delete Standard Condition 6 and add a new Standard Condition 8 to provide that the requirement of Section 4.3.8 notwithstanding, any BUILDING or STRUCTURE or USE or LOT established after a RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 6 or 7 for a RESTRICTED LANDING AREA and no Special Use Permit shall be required provided there is compliance with Standard Condition 3 for a RESTRICTED LANDING AREA.

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FINAL DETERMINATION.....page 25
PROPOSED AMENDMENT.....page 26 - 27

**Note that in the Draft Finding of Fact italicized letters indicate the staff recommendation.*

PRELIMINARY

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 15, 2015**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The amendment is intended to make permanent and correct certain portions of Ordinance No. 944 (Case 768-AT-13) that expires on April 24, 2015. Case 768-AT-13 had originally been intended to be a temporary amendment that would be in place for one year to allow time for a permanent amendment to be adopted and Case 791-AT-14 is that permanent amendment.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. No comments have been received to date.

SUMMARY OF THE PROPOSED AMENDMENT

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
 - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows:”
 - B. The LRMP defines Goals, Objectives, and Policies as follows:
 - (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
 - C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.

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REGARDING LRMP GOALS

6. 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 amendment will *NOT IMPEDE* the achievement of Goal 1 the same as for the previous and related Case 768-AT-13.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

Goal 2 has two objectives and three policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 2 the same as for the previous and related Case 768-AT-13.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

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

Goal 3 has three objectives and no policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 3 the same as for the previous and related Case 768-AT-13.

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

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

Goal 4 has 9 objectives and 22 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 4 the same as for the previous and related Case 768-AT-13.

10. 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 is *NOT RELEVANT* to Goal 5 in general the same as for the previous and related Case 768-AT-13.

11. 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.

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Goal 6 has 4 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 6 the same as for the previous and related Case 768-AT-13.

12. 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 amendment will **NOT IMPEDE** the achievement of Goal 7 the same as for the previous and related Case 768-AT-13.

13. 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 and except as reviewed below will not be impeded by the proposed amendment. The proposed amendment will **HELP ACHIEVE** Goal 8 for the following reasons which are the same as for the previous and related Case 768-AT-13:

- A. Objective 8.5 is entitled “Aquatic and Riparian Ecosystems” and states “**Champaign County will encourage the maintenance and enhancement of aquatic and riparian habitats.**”

The proposed amendment will **HELP ACHIEVE** Objective 8.5 the same as for the previous and related Case 768-AT-13, because of the following:

- (1) Objective 8.5 has 5 policies. Policies 8.5.3, 8.5.4, and 8.5.5 are not directly relevant to the proposed amendment rezoning.
- (2) Policy 8.5.1 states, “**For discretionary development, the County will require land use patterns, site design standards and land management practices that, wherever possible, preserve existing habitat, enhance degraded habitat and restore habitat.**”

The proposed amendment will **HELP ACHIEVE** Policy 8.5.1 the same as for the previous and related Case 768-AT-13, because of the following (†= evidence from the previous related Case 768-AT-13):

- †a. Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a Restricted Landing Area, the end of the runway shall be at least 1,500 feet from the nearest CR District when measured in a straight line from the end of the runway and that no part of the approach surface may be less than 100 feet above the nearest CR District:

- †(a) The Illinois Department of Transportation Division of Aeronautics enforces aviation safety rules and those rules are established in 92 Ill. Adm. Code 14, titled Aviation Safety, and Subpart G of those rules regulate restricted landing areas (RLA). Minimum RLA

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obstruction clearance standards are illustrated in Illustration G-1 of Subpart G.

- †(b) Illustration G-1 of Subpart G of 92 Ill. Adm. Code 14 prohibits obstructions from penetrating the approach area at the end of an RLA runway. Illustration G-1 was included as an Attachment to the Preliminary Memorandum. Illustration G-1 indicates the following:
 - †i. The minimum runway area for an RLA is 100 feet wide by 1,600 feet in length.
 - †ii. The approach area for an RLA runway is a trapezoidal shaped area that is 100 feet wide at the end of the runway and rises at a slope of 15 units horizontal to 1 unit vertical for a distance of 3,000 feet from the end of the runway. The width of the trapezoidal shaped approach area increases in an arc of 5 degrees 42 minutes on each side of the runway until the approach area is 699 feet wide at a distance of 3,000 feet from the runway end.
- †(c) Section 14.730 of Subpart G of 92 Ill. Adm. Code 14 states that in order for an RLA to be eligible for a Certificate of Approval the RLA must initially and continually be free of obstructions such as trees.
- †(d) Section 5.1 of the Zoning Ordinance states that the CR Conservation Recreation Zoning District is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- †(e) Trees are understood to be an important element of the “natural and scenic areas generally along the major stream networks of the County”.
- †(f) RLAs are not authorized in the CR District but the Ordinance does not require any minimum separation from an RLA in the AG-1 or AG-2 Districts and any nearby portions of the CR District. An RLA proposed in the AG-1 or AG-2 District such that the Approach Area would overlay the CR District could be incompatible with the CR District if the Approach Area would be subject to penetration by trees in the CR District. Thus, a minimum required separation intended to minimize the impact of an RLA in the AG-1 or AG-2 Districts on the CR District should accommodate the normal height of trees that commonly grow in the CR District.

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- †(g) Regarding the normal height of trees that commonly grow in the CR District, the following evidence is excerpted from Summary of Evidence Item 8.T.(2) in Zoning Case 688-S-11 (*indicates numbering from Case 688-S-11):
- †*(2) Regarding the height of trees that may be growing in the CR District on the west side of the East Branch of the Embarrass River:
- †*(a) The 2003 update of the *Soil Survey of Champaign County, Illinois* indicates that for the relevant portion of the CR District on the west side of the East Branch of the Embarrass River the predominant soils are map units 3107A Sawmill silty clay loam, 0 to 2 percent slope, frequently flooded and 570C2 Martinsville loam 5 to 10% slopes, eroded. Table 11 provides relevant data regarding forestland management and productivity for each soil map unit, and is summarized as follows for the relevant soils:
- †*i. Common trees and their site index (average height) found on 570C2 Martinsville soil are White oak (80), Sweetgum (76), and Tulip tree (98).
- †*ii. Common trees and their site index (average height) found on 3107A Sawmill soil are Pin oak (90), American sycamore (---), Eastern cottonwood (---), and Sweetgum (---). Note that the site index (average height) for a given species may vary depending on the soil type and the symbol (---) apparently indicates no average height has been determined for that species on that soil type.
- †*(b) The petitioner's wife, Sarabeth Jones, testified at the December 13, 2012, public hearing that to her knowledge there are no Sycamore trees on their property but there are White oak trees.
- †*(c) If there are White oak trees on the petitioner's property there likely are White oak trees on the land on the west side of the East Branch of the Embarrass River.
- †*(d) Excerpts from the *Field Guide to Native Oak Species of Eastern North America* by the USDA Forest Service were included as an Attachment to the

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Supplemental Memorandum dated 3/8/13 and state that the White oak tree grows to 100 feet tall.

- †*(e) An excerpt from the Native Trees of the Midwest that is maintained on the website of the Morton Arboretum located in Lisle, Illinois indicates that a tree in its native habitat may reach much greater height than the same tree growing in a home landscape and the heights of trees indicated in Native Trees of the Midwest reflect the average size in the home landscape. White Oak trees are indicated to have a mature height of 50 feet to 80 feet in Native Trees of the Midwest but that height reflects the average size in the home landscape and not the native habitat. The *Field Guide to Native Oak Species of Eastern North America* by the USDA Forest Service (see above) indicates that the White oak tree grows to 100 feet tall in the native habitat. The 2003 update of the *Soil Survey of Champaign County, Illinois* indicates that the average height of White oak trees found on 570C2 Martinsville soil is 80 feet.
- †*(f) If there are White Oak trees on the west side of the East Branch of the Embarrass River located beneath the Approach Area of the proposed RLA the White oak trees are likely to be on higher ground elevations than the river bottom and may already penetrate the proposed Approach Area.
- †(h) The slope of the Approach Area off the end of an RLA is 15 feet horizontal to one foot vertical and therefore, the end of a runway at an RLA should be at least 1,500 feet from the closest CR District so that the height of the Approach Surface is more than 100 feet in order to prevent trees in the CR District from penetrating into the Approach Surface. Note that differences in topographic elevation of the ground between the RLA runway and nearby portions of the CR District can lead to shorter separations (when the elevation of the runway is above the ground elevation in the CR District) or greater separations (when the ground elevation in the CR District is higher than the ground elevation at the RLA runway).
- †(i) An RLA petitioner may propose less separation than the minimum required 1,500 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning

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Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.

- †(j) The proposed standard condition and special provision to require that for a Restricted Landing Area, the end of the runway shall be at least 1,500 feet from the nearest CR District when measured in a straight line from the end of the runway and that no part of the approach surface may be less than 100 feet above the nearest CR District will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.

- †b. Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 800 feet from the nearest CR District when measured in a straight line from the Final Approach and Takeoff Area in an approach/ takeoff path path and that no part of the approach/ takeoff path may be less than 100 feet above the nearest CR District:
 - †(a) The Illinois Department of Transportation Division of Aeronautics enforces aviation safety rules and those rules are established in 92 Ill. Adm. Code 14, titled Aviation Safety, and Subpart H of those rules regulate restricted landing area heliport. Minimum obstruction clearance standards for a restricted landing area heliport are illustrated in Illustration H-2 of Subpart H. Note that the Final Approach and Takeoff Area for a restricted landing area heliport serves the same function as a runway does for a restricted landing area.

 - †(b) Illustration H-2 of Subpart H of 92 Ill. Adm. Code 14 prohibits obstructions from penetrating the approach/ take off path at the end of a restricted landing area heliport. Illustration H-2 was included as an Attachment to the Preliminary Memorandum. Illustration H-2 indicates the following:
 - †i. The minimum final approach and take off area (FATO) for a restricted landing area heliport is 100 feet wide by 100 feet in length.

 - †ii. The approach/ takeoff path for a restricted landing area heliport is a trapezoidal shaped area that is 100 feet wide at the edge of the final approach and take off area (FATO) and the approach/ takeoff path rises at a slope of 8 units horizontal to 1 unit vertical for a distance of 4,000 feet from the edge of the FATO. The width of the trapezoidal shaped

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approach area increases to 500 feet wide at a distance of 4,000 feet from the edge of the FATO.

- †(c) Section 14.830 of Subpart H of 92 Ill. Adm. Code 14 states that in order for a restricted landing area heliport to be eligible for a Certificate of Approval the restricted landing area heliport approach/ takeoff path must initially and continually be free of obstructions such as trees.
- †(d) Section 5.1 of the Zoning Ordinance states that the CR Conservation Recreation Zoning District is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- †(e) Trees are understood to be an important element of the “natural and scenic areas generally along the major stream networks of the County”.
- †(f) The Zoning Ordinance uses the term “heliport-restricted landing area” to refer to what the Illinois Department of Transportation Division of Aeronautics terms a “restricted landing area heliport”.
- †(g) A heliport- restricted landing area is not authorized in the CR District but the Ordinance does not require any minimum separation from a restricted landing area heliport in the AG-1 or AG-2 Districts and any nearby portions of the CR District. A restricted landing area heliport proposed in the AG-1 or AG-2 District such that the approach/ take off path would overlay the CR District could be incompatible with the CR District if the approach/ take off path would be subject to penetration by trees in the CR District. Thus, a minimum required separation intended to minimize the impact of a restricted landing area heliport in the AG-1 or AG-2 Districts on the CR District should accommodate the normal height of trees that commonly grow in the CR District. Relevant evidence regarding the normal height of trees that commonly grow in the CR District is reviewed in Finding of Fact item 13.A.(2)a.(g).
- †(h) The slope of the restricted landing area heliport approach/ takeoff path is 8 feet horizontal to one foot vertical and therefore, the edge of the final approach and take off area (FATO) should be at least 800 feet from the closest CR District so that the height of the restricted landing area heliport approach/ takeoff path is more than 100 feet in order to prevent trees in the CR District from penetrating into the restricted landing area heliport approach/ takeoff path. Note that differences in topographic elevation of the ground between the

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final approach and take off area (FATO) and nearby portions of the CR District can lead to shorter separations (when the elevation of the final approach and take off area (FATO) is above the ground elevation in the CR District) or greater separations (when the ground elevation in the CR District is higher than the ground elevation at the final approach and take off area (FATO)).

- †(i) A petitioner for a heliport- restricted landing area may propose less separation than the minimum proposed 800 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
- †(j) The proposed standard condition and special provision to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 800 feet from the nearest CR District when measured in a straight line from the Final Approach and Takeoff Area in an approach/ takeoff path, will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.
- †c. Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a Restricted Landing Area, the runway shall not be less than 500 feet from the nearest CR District when measured from the edge of the runway:
 - †(a) Illustration G-1 of Subpart G of 92 Ill. Adm. Code 14 prohibits obstructions from penetrating the side transition area of an RLA runway. Illustration G-1 was included as an Attachment to the Preliminary Memorandum. As illustrated in Illustration G-1, the side transition area extends only 85 feet on either side of the runway.
 - †(b) Under the current Zoning Ordinance, an RLA runway located in the AG-1 or AG-2 District could be located as little as 85 feet from a nearby CR District.
 - †(c) The sound emanating from an RLA in the vicinity of the CR District may also disturb the peace of the CR District that is essential to the natural and scenic quality of the CR District. The closer to the CR District the more disturbance there will be.
 - †(d) The minimum required separation to the CR District should logically be greater than the minimum required separation from property

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under different ownership. The proposed minimum separation to the nearest property under different ownership than the restricted landing area is 280 feet.

- †(e) A minimum separation of 500 feet from the nearest CR District when measured from the edge of the runway is one average lot width (200 feet) greater than the proposed minimum separation to the nearest property under different ownership.
 - †(f) An RLA petitioner may propose less separation than the minimum required 500 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - †(g) The proposed standard condition and special provision to require that for a Restricted Landing Area, the runway shall not be less than 500 feet from the nearest CR District when measured from the edge of the runway will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.
- †d. Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 500 feet from the nearest CR District when measured in a straight line from other than an approach/ takeoff path:
- †a) Illustration H-2 of Subpart H of 92 Ill. Adm. Code 14 does not indicate a side transition area for a restricted landing area heliport. Illustration H-2 was included as an Attachment to the Preliminary Memorandum. Note that the Final Approach and Takeoff Area for a restricted landing area heliport serves the same function as a runway does for a restricted landing area.
 - †(b) Relevant evidence regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a Restricted Landing Area, the runway shall not be less than 500 feet from the nearest CR District when measured from the edge of the runway is reviewed in Finding of Fact item 13.A.(2)c. and similar considerations apply to the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and

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Takeoff Area shall be no closer than 500 feet from the nearest CR District when measured in a straight line from other than an approach/ takeoff path.

- e. There have been no RLAs or H-RLAs proposed in Champaign County since the adoption of Case 768-AT-13 in Ordinance No. 944. (Note: In this Preliminary Finding of Fact underlining is used to indicate new evidence that was not part of the previous related Case 768-AT-13)
- f. This Case 791-AT-14 does not propose any substantive changes to the requirements that were established in the previous related Case 768-AT-13 and adopted in Ordinance No. 944. However, this Case 791-AT-14 does propose the following changes to Ordinance No. 944:
 - (a) For Restricted Landing Area, separate the text establishing the minimum required separations from a dwelling and from the nearest property under other ownership from the text establishing the exemptions from the Special Use Permit required pursuant to Section 4.3.8.
 - (b) For Restricted Landing Area, clarify the requirement for compliance with Standard Condition 3.

- (3) Policy 8.5.2 states, **“The County will require in its discretionary review that new development cause no more than minimal disturbance to the stream corridor environment.”**

The proposed amendment will *HELP ACHIEVE* Policy 8.5.2 for the same reasons as for Policy 8.5.1 above which are the same as for the previous and related Case 768-AT-13.

- B. Objective 8.6 is entitled “Natural Areas and Habitat” and states **“Champaign County will encourage resource management which avoids loss or degradation of areas representative of the pre-settlement environment and other areas that provide habitat for native and game species.”**

The proposed amendment will *HELP ACHIEVE* Objective 8.6 because of the following which are the same as for the previous and related Case 768-AT-13:

- (1) Objective 8.6 has 6 policies. Policies 8.6.1, 8.6.5, and 8.6.6 are not relevant to the proposed rezoning.
- (2) Policy 8.6.2 states:
 - a. **“For new development, the County will require land use patterns, site design standards and land management practices to minimize the disturbance of existing areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance to such areas.**

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- b. **With regard to by-right development on good zoning lots, or the expansion thereof, the County will not require new zoning regulations to preserve or maintain existing onsite areas that provide habitat for native and game species, or new zoning regulations that require mitigation of impacts of disturbance to such onsite areas.”**

The proposed amendment will *HELP ACHIEVE* Policy 8.6.2 for the same reasons as for Policy 8.5.1 above.

14. 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 amendment will *NOT IMPEDE* the achievement of Goal 9 the same as for the previous and related Case 768-AT-13.

15. 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. Goal 10 is *NOT RELEVANT* to the proposed amendment in general the same as for the previous and related Case 768-AT-13.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

16. The proposed amendment appears to *HELP ACHIEVE* the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons which are the same as for the previous and related Case 768-AT-13:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is directly related to this purpose the same as for the previous related Case 768-AT-13 because of the following(†= evidence from the previous related Case 768-AT-13):

- †(1) The amendment should reduce the possible impact of RLAs and H-RLAs on values of neighboring structures and properties in the CR, AG-1, and AG-2 Districts.

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†(2) The amendment is a temporary change to the Zoning Ordinance that allows time for a more permanent amendment to be adopted.

- 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 amendment is not directly related to this purpose.

- 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 amendment is not directly related to this purpose.

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

The proposed amendment is directly related to this purpose the same as for the previous and related Case 768-AT-13 because of the following (†= evidence from the previous related Case 768-AT-13):

† (1) Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area:

†a. The Illinois Department of Transportation Division of Aeronautics does not require any minimum separation to a dwelling under different ownership than the restricted landing area.

†b. Note that Section 6.1.3 of the Zoning Ordinance already contains a standard condition for an RLA that requires the following:

No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
1) within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or 2) the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the primary surface 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.

†c. The following evidence was excerpted from item 8.S. of Case 688-S-11 (*indicates numbering from Case 688-S-11):

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- †*(6) On December 13, 2012, the petitioner's attorney, Alan Singleton, submitted a list of 16 RLA's in and around Champaign County as evidence that "...all of them operating with no apparent problem for the neighborhoods and their residents." Regarding that list of RLA's in and around Champaign County and their proximities to dwellings under different ownership:
- †*(a) Eight of the RLA's were indicated as not being located in Champaign County and six of those are located in counties that have not even adopted a zoning ordinance. A ninth RLA, the Clapper RLA, was indicated on the list as being located in Champaign County but is in fact located in Piatt County. For these properties located outside of Champaign County there was not enough time for staff to gather all of the information necessary to fully evaluate ownership and relations between adjacent properties
- †*(b) Day Aero-Place was originally developed as a "residential airport" and included a runway and was therefore intended to be marketed towards owners who desired a close proximity to a landing area. Five of the 10 homes in the development border the runway and their proximity to the runway varies between 85 feet and 135 feet. See the Attachment to the Supplemental Memorandum dated 3/8/13.
- †*(c) Regarding the other six RLAs and their proximity to the nearest dwelling under different ownership:
- †*i. The Justus RLA appears to be about 130 feet from the nearest dwelling that is located on a separate tax parcel however the name of the owner of that parcel also has the last name "Justus" and so it not clear exactly what the relationship is between the two landowners.
- †*ii. The Litchfield RLA appears to be about 300 feet from the nearest dwelling that is located on a separate tax parcel however the owner of that dwelling has testified in previous Champaign County Zoning Cases regarding his use of the Litchfield RLA and so the relationship is not the same as proposed in this zoning case.
- †*iii. The remaining four RLAs all appear to be at least ¼ mile from the nearest dwelling under different ownership.

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- †d. An RLA petitioner may propose less separation than the minimum required 1,320 feet and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - †e. The proposed standard condition and special provision to require that for a Restricted Landing Area, the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area, will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.
- †(2) Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that that the Final Approach and Takeoff Area for a heliport- restricted landing area may be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport- restricted landing area:
- †a. Relevant evidence regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that for a restricted landing area the runway may be no closer than 1,320 feet from the nearest dwelling under different ownership than the restricted landing area is reviewed in Finding of Fact item 16.E.a. and similar considerations apply to the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 1,320 feet from the nearest dwelling under different ownership than the heliport- restricted landing area except that Section 6.1.3 of the Ordinance does not require a Primary Surface or a Runway Clear Zone for a heliport-restricted land area and therefore there are no prohibitions associated with either a Primary Surface or a Runway Clear Zone for a heliport-restricted land area.
- †(3) Regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that a restricted landing area (RLA) runway may be no closer than 280 feet from the nearest property under different ownership than the RLA:
- †a. The proposed 280 feet separation applies to separation from both the end of an RLA runway and the edge of an RLA runway.
 - †b. The minimum RLA obstruction clearance requirements enforced by the Illinois Department of Transportation Division of Aeronautics are illustrated in Illustrations G-1 and G-2 of 92 Ill. Adm. Code 14 Subpart G.

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- †c. The minimum separation from a RLA runway to a property under different ownership than the RLA required by the Zoning Ordinance currently is the following:
 - †(a) Clearance for the side transition area at a slope of 7 to 1 for a horizontal distance of 84 feet and a height of 12 feet. Requiring only 84 feet of separation to property under other ownership may impact the existing use of that property and also the “by right” rural residential development potential of the other property. An RLA may also parallel a street and in those situations the separation between the RLA and the street should be such that landing and takeoff activities do not distract the street traffic.
 - †(b) The minimum required clearance at the ends of the RLA runway is 265 feet based on the required 240 feet “runway safety area” required as a standard condition in Section 6.1.3 and the minimum required front or rear yard of 25 feet required by Section 5.3. The 265 feet of horizontal separation at the end of the runway provides for a vertical clearance of only about 17 feet 8 inches beneath the approach area. If there is an electrical utility line at either end the minimum separation is 300 feet from the utility line, assuming the utility line is at least 20 feet above the ground. If there is a railroad at either end of the runway the minimum separation is 345 feet based on the minimum 23 feet of clearance over all railroads required by Illustration G-1 of 92 Ill. Adm. Code 14 Subpart G. Note that even more separation may be required depending upon the difference in topographic elevation between the RLA and the railroad.
- †d. The proposed 280 feet separation to other property at both the end of an RLA runway and the edge of an RLA runway will ensure adequate separation for a typical 20 feet high electrical utility line.
- †e. The proposed 280 feet separation means that the minimum total width of property required for a RLA runway will be 660 feet and could be accommodated by the typical long (half mile) narrow (660 feet) 40 acre parcel.
- †f. An RLA petitioner may propose less separation than the minimum proposed 280 feet from the nearest property under different ownership than the RLA and in that instance the ZBA will have to approve a waiver of this standard condition. Approval of a waiver of a standard condition requires a finding that such waiver is in accordance with the general purpose and intent of the Zoning Ordinance and will not be injurious to the neighborhood or to the public health, safety, and welfare.

PRELIMINARY

- †g. The proposed standard condition and special provision to require that a restricted landing area (RLA) runway may be no closer than 280 feet from the nearest property under different ownership than the RLA, will only be effective for a limited time not to exceed 365 days from the date of adoption and thereafter, the proposed standard condition and special provision or some modification thereof will presumably be made part of a permanent amendment to the Zoning Ordinance.
- †(4) Regarding the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 280 feet from the nearest property under different ownership than the heliport- restricted landing area:
 - †a. Relevant evidence regarding the proposed standard condition and special provision in Part B of the proposed amendment to require that a restricted landing area (RLA) runway may be no closer than 280 feet from the nearest property under different ownership than the RLA is reviewed in Finding of Fact item 16.E.c. and similar considerations apply to the proposed standard condition and special provision in Part A of the proposed amendment to require that for a heliport- restricted landing area the Final Approach and Takeoff Area shall be no closer than 280 feet from the nearest property under different ownership than the heliport- restricted landing area except that there is no side transition for a heliport- restricted land area nor is there a runway safety area required by Section 6.1.3 of the Ordinance for a heliport-restricted land area.
 - †b. Note that the proposed 280 feet separation provides for a vertical clearance of about 35 feet beneath the approach/ takeoff path for a restricted landing area heliport.
- (5) There have been no RLAs or H-RLAs proposed in Champaign County since the adoption of Case 768-AT-13 in Ordinance No. 944. (Note: In this Preliminary Finding of Fact underlining is used to indicate new evidence that was not part of the previous related Case 768-AT-13)
- (6) Regarding the 1,320 feet minimum required separation to a dwelling under other ownership that was established in the previous and related Case 768-AT-13, the following text is from the January 16, 2014, Supplemental Memorandum for Case 768-AT-13:
 - d. A staff analysis of the four RLAs referred to in Case 688-S-11 and item 16.E.(1)c. of this Finding of Fact, and two additional RLAs that were not included in Case 688-S-11, was documented in the Supplemental Memorandum dated 1/16/14 as follows:

PRELIMINARY

RLA Owner's Name (Township Section; Case Number if applicable)	Separation to Nearest Dwelling Under Other Ownership	Separation to Nearest Property Line
McCulley (Hensley 1)	760 feet ±	30 feet ±
Schmidt (Rantoul 29)	590 feet ±	10 feet ±
Busboom (St. Joseph 16)	1,600 feet ±	295 feet ±
Moment (Sidney 7; Case 672-S-88)	825 feet ±	150 feet ±
Schwenk (Pesotum 21; Case 724-S-90)	970 feet ±	270 feet ±
Routh (St. Joseph 36; Case 750-S-91)	900 feet ±	265 feet ±
AVERAGE	940.8 feet	170.0 feet
MINIMUM	590 feet ±	10 feet ±

- (7) Regarding the minimum required separation to a dwelling under other ownership:
- a. In the previous and related Case 768-AT-13 the ZBA did not reduce the proposed minimum required separation to a dwelling under other ownership from the advertised 1,320 feet even though the average separation of existing RLAs appeared to be 941 feet because the advertised 1,320 feet would provide a higher degree of separation and since Case 768 was only an interim measure, the ZBA would examine the requirement further to see if a reduced separation could be provided in the final Ordinance. See the minutes of the 1/30/14 ZBA meeting.
 - b. In this Case 791-AT-14 there has been no evidence presented that would cause the ZBA to reduce the 1,320 feet minimum required separation to a dwelling under other ownership.
- (8) This Case 791-AT-14 does not propose any substantive changes to the requirements that were established in the previous related Case 768-AT-13 and adopted in Ordinance No. 944.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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

PRELIMINARY

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e) the same as for the previous and related Case 768-AT-13.

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

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e) the same as for the previous and related Case 768-AT-13.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e) the same as for the previous and related Case 768-AT-13.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which buildings, structures, or uses therein shall conform.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e) the same as for the previous and related Case 768-AT-13.

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit uses, buildings, or structures incompatible with the character of such districts.

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e) the same as for the previous and related Case 768-AT-13.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is directly related to this purpose to the same extent as paragraph 2.0 (e) the same as for the previous and related Case 768-AT-13.

PRELIMINARY

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

The proposed amendment is directly related to this purpose to the same extent as LRMP Goal 8 the same as for the previous and related Case 768-AT-13. See item 13 of the Finding of Fact.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on, **January 15, 2015**, 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 8:**
 - Objective **8.5 requiring the County to encourage the maintenance and enhancement of aquatic and riparian habitats** because while it will either not impede or is not relevant to the other Objectives and Policies under this goal, it will **HELP ACHIEVE** the following the same as for the previous and related Case 768-AT-13:
 - Policy **8.5.1 requiring discretionary development to preserve existing habitat, enhance degraded habitat and restore habitat (see Item 18.A.(2)).**
 - Policy **8.5.2 requiring discretionary development to cause no more than minimal disturbance to the stream corridor environment (see Item 18.A.(3)).**
 - Objective **8.6 that avoids loss or degradation of habitat** because it will **HELP ACHIEVE** the following the following the same as for the previous and related Case 768-AT-13:
 - Policy **8.6.2 requiring new development to minimize the disturbance of habitat or to mitigate unavoidable disturbance of habitat (see Item 18.B.(2)).**
 - 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 8 Natural Resources** the same as for the previous and related Case 768-AT-13.
 - B. The proposed amendment will **NOT IMPEDE** or is **NOT RELEVANT TO** the following LRMP goal(s):
 - **Goal 1 Planning and Public Involvement**
 - **Goal 2 Governmental Coordination**
 - **Goal 3 Prosperity**
 - **Goal 4 Agriculture**
 - **Goal 5 Urban Land Use**
 - **Goal 6 Public Health and Safety**
 - **Goal 7 Transportation**
 - **Goal 9 Energy Conservation**
 - **Goal 10 Cultural Amenities**
 - C. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource Management Plan.
2. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance the same as for the previous and related Case 768-AT-13 because:
 - The proposed text amendment **WILL** conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (b); see Item 16.B.).

PRELIMINARY

- The proposed text amendment **WILL** promote the public health, safety, comfort, morals, and general welfare the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (e); see Item 16.E.).
- The proposed text amendment **WILL** regulate and limit the intensity of the use of lot areas, and regulating and determining the area of open spaces within and surrounding buildings and structures the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (h); see Item 16.H.).
- The proposed text amendment **WILL** classify, regulate, and restrict the location of trades and industries and the location of buildings, structures, and land designed for specified industrial, residential, and other land uses the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (i); see Item 16.I.).
- The proposed text amendment **WILL** divide the entire County into districts of such number, shape, area, and such different classes according to the use of land, buildings, and structures, intensity of the use of lot area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (j); see Item 16.J.).
- The proposed text amendment **WILL** fix regulations and standards to which buildings, structures, or uses therein shall conform the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (k); see Item 16.K.).
- The proposed text amendment **WILL** prohibit uses, buildings, or structures incompatible with the character of such districts the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (l); see Item 16.L.).
- The proposed text amendment **WILL** protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (n); see Item 16.N.).
- The proposed text amendment **WILL** protect natural features such as forested areas and watercourses the same as for the previous and related Case 768-AT-13 (Purpose 2.0 (o) see Item 16.O.).

PRELIMINARY

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated January 9, 2015, with Attachments:
 - A Zoning Case 768-AT-13 As-Approved Finding of Fact
 - B Champaign County Ordinance No. 944 adopted April 24, 2014
 - C Diagram of proposed minimum separation and setback standard conditions: heliport-restricted landing area (Attachment M to the Preliminary Memorandum of Case 768-AT-13)
 - D Diagram of proposed minimum separation and setback standard conditions: restricted landing area (Attachment M to the Preliminary Memorandum of Case 768-AT-13)
 - E Strikeout Copy of Case 791-AT-14 Proposed Text Amendment
 - F Preliminary Draft Finding of Fact

PRELIMINARY

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 791-AT-14** should ***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

Proposed Amendment

- 1. Revise the standard conditions and special provisions in Section 6.1.3 for a ‘Heliport or Heliport-Restricted Landing Area’ to read as follows:**
 1. Must meet the requirements for “Approach and Departure Protection Areas” of Paragraph 25 of the Federal Aviation Administration Circular Number 150/5390-2 and requirements of the Illinois Department of Transportation, Division of Aeronautics. HELIPORTS atop BUILDINGS are exempt from the minimum area standard.
 2. The following standard conditions apply only to a HELIPORT-RESTRICTED LANDING AREA:
 - A. The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 800 linear feet measured outward from the side edge of the Final Approach and Takeoff Area in the approach/takeoff path, and 500 linear feet measured outward from the side edge of the Final Approach and Takeoff Area.
 - B. No part of a Final Approach and Take Off (FATO) Area may be closer than 1,320 feet from the nearest dwelling under different ownership than the HELIPORT- RESTRICTED LANDING AREA.
 - C. No part of a Final Approach and Take Off (FATO) Area may be closer than 280 feet from the nearest property under different ownership than the HELIPORT- RESTRICTED LANDING AREA.
 - D. The requirement of Section 4.3.8 notwithstanding, any DWELLING or LOT established after a HELIPORT- RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 2.B. or 2.C. for a HELIPORT- RESTRICTED LANDING AREA and no Special Use Permit shall be required.
- 2) Revise the existing standard conditions and special provisions in Section 6.1.3 for a ‘Restricted Landing Area’ to read as follows:**
 1. Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
 2. The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.
 3. No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B DISTRICT nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located: 1) within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or 2) the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the primary surface 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the Primary Surface.
 4. After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.8 and Footnote 11 in Section 5.3 shall apply.
 5. The minimum separation to the nearest CR DISTRICT shall be a rectangular area encompassing 1,500 linear feet measured outward from the side edge of the runway extended by 1,500 feet.
 6. No part of a runway may be closer than 1,320 feet from the nearest dwelling under different ownership than the RESTRICTED LANDING AREA.
 7. No part of a runway may be closer than 280 feet from the nearest property under different ownership than the RESTRICTED LANDING AREA.

PRELIMINARY

8. The requirement of Section 4.3.8 notwithstanding, any BUILDING or STRUCTURE or USE or LOT established after a RESTRICTED LANDING AREA is established is not required to comply with Standard Conditions 6 or 7 for a RESTRICTED LANDING AREA and no Special Use Permit shall be required provided there is compliance with Standard Condition 3 for a RESTRICTED LANDING AREA.

2015 CHAMPAIGN COUNTY PLANNING & ZONING CALENDAR

Brookens Administrative Center
 1776 E. Washington Street
 Urbana, IL 61802
 Phone: (217) 384-3708
 FAX: (217) 819-4021

JANUARY						
S	M	T	W	Th	F	S
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JULY						
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County Holiday
 (Office Closed)



Zoning Board of Appeals
 April – October: 7:00 p.m.
 November – March: 6:30 p.m.
 (Meeting times vary based on Daylight Savings Time. Check with the Department)



FEBRUARY						
S	M	T	W	Th	F	S
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AUGUST						
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Environment and Land Use Committee 6:30 p.m.
Agenda Item Deadline:
 Check with the Zoning Dept.



MARCH						
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Champaign County Board 6:30 p.m.
 All meetings are held in the
Lyle Shields Meeting Room
 (formerly Meeting Room One) at the
Brookens Administrative Center



APRIL						
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Note: No entrance to building from Washington Street parking lot after 4:30 p.m. Use Northeast parking lot via Lierman Av. and enter building through Northeast door.

MAY						
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MEETING DATES AND TIMES ARE SUBJECT TO CHANGE

DRAFT 12/19/14

JUNE						
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DECEMBER						
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