

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

NOTICE OF REGULAR MEETING

Date: **January 14, 2016**
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 12, 2015, December 10, 2015 and December 17, 2015)

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

5. Continued Public Hearings

**Case 805-AM-15, 806-S-15 and 807-V-15 Petitioner: Michael Wishall, Jason Wishall, Brian Wishall
d.b.a. Wishall Transport, Wishall Farms &
Transportation, Inc., and Wishall Farms, Inc.**

**Case 805-AM-15 Request: Amend the Zoning Map to change the zoning district designation from the
AG-1, Agriculture Zoning District to the AG-2 Agriculture Zoning
District in order to authorize the use of an existing unauthorized Truck
Terminal as a proposed Special Use in related Zoning Case 806-S-15 and
subject to the requested variance in related zoning case 807-V-15, on the
subject property below:**

***Case 806-S-15 Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a
Special Use on land that is proposed to be rezoned to the AG-2
Agriculture Zoning District from the current AG-1 Agriculture
Zoning District in related zoning Case 805-AM-15 and subject to
the requested variance in related zoning case 807-V-15, on the
subject property below.**

**Part B: Authorize the following waiver to the standard conditions of the
“Truck Terminal” special use as per Section 6.1.3 of the Zoning
Ordinance: A separation distance of 30 feet in lieu of the required
200 feet between any Truck Terminal and any adjacent residential
district or residential use.**

***Case 807-V-15 Request: Authorize the following variance on land proposed to be rezoned to the
AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to
authorize the use of an existing unauthorized Truck Terminal as a
proposed Special Use in related Case 806-S-15 on the subject property
below.**

**Part A: A variance from Section 5.3 of the Zoning Ordinance for a lot size
of 5.68 acres in lieu of the maximum area of 3 acres for lots with
soils that are best prime farmland.**

**Part B: A variance from the Champaign County Stormwater Management
and Erosion Control Ordinance which requires a Stormwater
Drainage Plan and review for lots of 2 to 6.25 acres that have
greater than one acre of impervious surface area.**

**Location: A 5.68 acre tract in Pesotum Township in the Northwest Quarter of the
Northwest Quarter of Section 10 of Township 17 North, Range 8 East of
the Third Principal Meridian and commonly known as Wishall Transport,
Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at
482 and 486 CR 900 East, Tolono.**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
NOTICE OF REGULAR MEETING
JANUARY 14, 2016

Case 819-AT-15 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance as follows:**

Part A: In Section 6.1.3 revise the standard conditions for “Fairground” by adding the following special provision (standard condition): Site design, land management, and storm water management designs and practices shall provide effective site drainage; shall meet or exceed state and federal water quality standards; shall protect downstream drainage patterns; shall provide for stream flows that support healthy aquatic ecosystems; shall minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, wherever possible, shall preserve existing habitat, enhance degraded habitat, and restore habitat.

Part B: 1. In Section 4.2.1 C. add “PARKING LOT and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2”

2. In Section 5.2, add “PARKING GARAGE or LOT” as a Special Use Permit in the CR District and add a footnote stating that “PARKING LOT and related passenger waiting buildings may be authorized in the CR District by SPECIAL USE Permit only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds provided that the Public Fairgrounds were an established use at the subject location on October 10, 1973, and provided that a Public Air must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void and subject to the standard conditions in Section 6.1.3.”

3. In Section 6.1.3 add as a Special Use “PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR DISTRICT” and require no minimum fencing; require the minimum LOT AREA, Width, Maximum HEIGHT, and Required Yards to be the same as in the CR Zoning District; and add the following special provisions (standard conditions):

1. All or part of the parking area(s) may be used for parking not otherwise related to the Fairground and non-Fairground parking may be limited to parking for a single other non-Fairground USE or to multiple other non-Fairground USES and may include the construction and use of related passenger waiting buildings.

2. Traffic impacts shall be considered.

6. New Public Hearings

7. Staff Report

8. Other Business
A. Review of Docket

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

10. Adjournment

* Administrative Hearing. Cross Examination allowed.

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

6
7 **DATE:** December 17, 2015 **PLACE:** John Dimit Meeting Room
8 1776 East Washington Street
9 **TIME:** 6:30 p.m. Urbana, IL 61802

10 **MEMBERS PRESENT:** Catherine Capel, Frank DiNovo, Debra Griest, Marilyn Lee, Brad
11 Passalacqua, Jim Randol
12

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14 **MEMBERS ABSENT :** Eric Thorsland
15

16 **STAFF PRESENT :** Connie Berry, Susan Chavarria, John Hall
17

18 **OTHERS PRESENT :** Matt Waughtel, Scott Harding, Mike Kobel
19

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21 **1. Call to Order**
22

23 The meeting was called to order at 6:33 p.m.
24

25 Ms. Chavarria informed the Board that due to the planned absence of Eric Thorsland, Chair, the Board needs
26 to appoint an Interim Chair for tonight's meeting.
27

28 **Mr. Passalacqua moved, seconded by Mr. Randol to appoint Catherine Capel as the Interim Chair for**
29 **tonight's meeting. The motion carried by voice vote.**
30

31 **2. Roll Call and Declaration of Quorum**
32

33 The roll was called and a quorum declared present with one member absent.
34

35 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the
36 witness register for that public hearing. She reminded the audience that when they sign the witness register
37 they are signing an oath.
38

39 **3. Correspondence**
40

41 None
42

43 **4. Approval of Minutes**
44

45 None
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47 Ms. Capel entertained a motion to rearrange the agenda and hear Case 816-V-15, Matt and Amanda
48 Waughtel d.b.a. Bulldog Bullpen Day Care prior to Case 819-AT-15, Zoning Administrator.

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Ms. Lee moved, seconded by Ms. Griest to rearrange the agenda and hear Case 816-V-15, Matt and Amanda Waughtel d.b.a. Bulldog Bullpen Day Care prior to Case 819-AT-15, Zoning Administrator. The motion carried by voice vote.

5. Continued Public Hearing

Case 819-AT-15 Petitioner: Champaign County Zoning Administrator Request: Amend the Champaign County Zoning Ordinance by adding the following: A. In Section 4.2.1 C. add "HOSPITAL, medical CLINIC, HOSPITAL AND MEDICAL clinic, and/or any use and/or structure that is accessory to a HOSPITAL and/or medical CLINIC may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2" B. In Section 5.2, add "HOSPITAL" as a Special Use Permit in the CR District and add a footnote stating the "HOSPITAL, medical CLINIC, HOSPITAL and medical CLINIC, and/or structure that is accessory to a HOSPITAL and/or medical CLINIC, may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to the standard conditions in Section 6.1.3." C. In Section 5.2, add "Medical and Dental Clinic" as a Special Use Permit in the CR District and make the Special Use Permit subject to the same footnote as for HOSPITAL as a Special Use Permit in the CR District. D. In Section 6.1.3 add "HOSPITAL, medical CLINIC, HOSPITAL and medical CLINIC, and/or any use and/or structure that is accessory to a HOSPITAL and/or medical CLINIC, as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District" and require no minimum fencing; require the minimum LOT AREA, Width, Maximum HEIGHT, and Required Yards to be the same as in the CR Zoning DISTRICT; and add the following special provisions (standard conditions)" 1. The Public Fairgrounds must have been an established use at the subject location on October 10, 1973. 2. Traffic impacts shall be considered. 3. Site design, land management, and storm water management designs and practices shall provide effective site drainage; meet or exceed state and federal water quality standards; protect downstream drainage patterns; minimize impacts on adjacent properties; provide for stream flows that support healthy aquatic ecosystems; and, wherever possible, preserve existing habitat and enhance degraded habitat. 4. A Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void.

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

Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated December 17, 2015, to the Board for review. He said that the description on the front page of the new memorandum is the old description and is not intended to confuse people but the case has not been changed yet. He said that Attachment A. to the new memorandum is the revised proposed amendment. He said that page 2 of the new

1 memorandum includes a summary of the revised proposed amendment and it is being changed in three ways.
2 He said that the only fairgrounds buildings that will be non-fairgrounds buildings will be passenger waiting
3 buildings related to the parking lot. He said that the parking lot itself can be used by a single non-fairground
4 entity or for multiple other uses that would be a function of a special use permit which would provide greater
5 flexibility and use of the parking area.
6

7 Mr. Hall stated that the requirement for site design, land management and storm water management designs
8 and practices should apply to the fairgrounds and not just to the parking area. He said that in the revised
9 proposed amendment on page A-3 in the proposed amendment to Section 6.1.3 the one condition regarding
10 storm water management literally applies to the fairgrounds. He said that the new special use, Parking Lot
11 and related passenger waiting buildings, is an additional principal use or additional principal structure on a
12 Public Fairgrounds in the CR District. He said that this is where it is established that this has to be a
13 fairground that was at the subject property on October 10, 1973, and traffic impacts shall be considered and a
14 public fair must continue to be held at the public fairgrounds or the special use permit shall become void.
15 He said that this is a substantial restructuring of the amendment but the restructuring is necessary to meet the
16 Land Resource Management Plan and to guarantee that the policies in the LRMP are met. He said that as a
17 practical matter he does not believe that it changes anything on any anticipated special use permit because
18 those things were all going to be done anyway. He said that he would like to publish a new legal
19 advertisement.
20

21 Mr. Hall stated that the changes in Section 6.1.3 in regards to how some things apply to the fairgrounds and
22 the others just to the parking lot were not based on any other concerns other than his own. He said that the
23 change regarding the only non-fairground buildings to be allowed would be the passenger waiting buildings
24 related to the parking area was intended to answer the concerns of the City of Urbana staff. He said that the
25 proposed revised amendment meets the needs of the Champaign County Fair Association and it is always
26 better if we can get through these types of changes with the least amount of disagreement.
27

28 Mr. Hall stated that the amendment was circulated to everyone ahead of time and it appeared that it was
29 something that everyone could agree on. He said that he would like to publish a new legal advertisement
30 and have this case continued to the January 14, 2016, meeting. He said that there is a draft Finding of Fact
31 that is attached to the new memorandum and he is not anticipating action tonight but this will give the Board
32 ample time to review this Finding of Fact. He said that the January 14th meeting is already a big meeting and
33 adding this to the end will make it a longer meeting but he would like to have this case in front of ELUC in
34 February if possible and since the Board only has one meeting in January that's the only opportunity for a
35 continuance. He said that a continuance date is entirely up to the Board and if continuing the case to the
36 January 14th meeting is too soon then that is the Board's call but currently this is the state of this case.
37

38 Mr. Passalacqua asked Mr. Hall if he is the only Board member who will be absent from the January 14th
39 meeting.
40

41 Mr. Hall stated yes, at this time.

1
2 Ms. Griest asked Mr. Hall if the restructure will allow a health fair on the fairgrounds.
3
4 Mr. Hall stated yes.
5
6 Ms. Griest asked Mr. Hall if the Board will be far enough along on January 14th that this case will be
7 relatively quick therefore moving it up on the agenda as the first case.
8
9 Mr. Hall stated that he hopes that it will be a quick case and moving the case as the first case of the night
10 would be a reasonable thing to do because the other three cases are not going to be quick. He said that he
11 trusts the Board's judgement of the arrangement of the agenda.
12
13 Ms. Capel asked the Board if there were any additional questions for Mr. Hall.
14
15 Mr. DiNovo stated he would like clarification of the changes in Sections 5.2 and 6.1. He said that the
16 limitation in doing this in conjunction with the fairgrounds is included in Section 6.1 as a standard condition
17 which is waivable. He asked Mr. Hall if Section 5.2 would ensure that the provision could never be used by
18 another parcel of land in the County which is zoned CR.
19
20 Mr. Hall stated that the only things established in Section 5.2 are that the only time that a parking lot is
21 allowed in the CR district is as a conditional principal use on public fairgrounds. He said that one can
22 imagine a new public fairgrounds being created in the CR district in which case the standard condition
23 regarding it being a fairgrounds in existence on October 10, 1973, could be waived. He said that the only
24 way to make it non-waivable would be to write in the fairgrounds being in existence on October 10, 1973, as
25 part of Section 5.2.
26
27 Mr. DiNovo stated that perhaps he is being paranoid as this is a very small issue.
28
29 Mr. Hall stated that it is not a small issue and it is a good point. He said that this change would make it
30 consistent with what we did in the amendment for the Residential Recovery Center because we did not want
31 Residential Recovery Centers popping up any place other than where the Board spent a lot of time listening
32 to good testimony. He said that he appreciates Mr. DiNovo's suggestion and he would go so far as to
33 include the requirement that a public fair must continue to be held at the public fairgrounds. He said that in
34 a zoning interpretation sense that would be a requirement nonetheless but it is better to have it as a
35 requirement in black and white.
36
37 Mr. DiNovo stated that the changes would assure that people don't misunderstand the Ordinance.
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39 Ms. Capel asked the Board if there were any additional questions for staff and there were none.
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41 Ms. Capel called Mike Kobel to testify.

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Mr. Mike Kobel, who resides at 1408 E. Florida Avenue, stated that he is the President of the Champaign County Fair Association Board of Directors. He said that he is present tonight to address any concerns that the Board may have regarding the proposed project. He noted that he is also a fire chief in the County.

Ms. Capel asked the Board if there were any questions for Mr. Kobel and there were none.

Ms. Capel asked if staff had any questions for Mr. Kobel and there were none.

Ms. Capel called Scott Harding to testify.

Mr. Scott Harding, Vice-President of Facilities and Support Services for Carle Hospital, stated that his office is located at 611 West Park, Urbana. He said that he is also present tonight to address any questions or concerns that the Board may have regarding the proposed project. He said that he has been working closely with Mr. Kobel regarding the project.

Ms. Capel asked the Board if there were any questions for Mr. Harding.

Ms. Griest asked Mr. Harding if the proposed changes to the text amendment are acceptable.

Mr. Harding stated yes.

Ms. Capel asked if staff had any questions for Mr. Harding and there were none.

Ms. Capel stated that the Board will now review the Summary Finding of Fact.

Summary Finding of Fact for Case 819-AT-15:

From the documents of record and the testimony and exhibits received at the public hearing conducted on December 10, 2015, and December 17, 2015, the Zoning Board of Appeals of Champaign County finds that:

- 1. Regarding the effect of this amendment on the Land Resource Management Plan (LRMP):
 - A. **Regarding Goal 8 Natural Resources:**
 - This amendment will **HELP ACHIEVE** Objective 8.4 requiring the County to 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 requiring the County to require stormwater management designs and practices that provide effective site drainage, protect downstream drainage patterns, minimize

- 1 **impacts on adjacent properties and provide for stream flows that support healthy aquatic**
- 2 **ecosystems (See Item 13.A.(2)).**
- 3 **· Policy 8.4.5 requiring the County to ensure that non-point discharges from new development**
- 4 **meet or exceed state and federal water quality standards (See Item 13.A.(3)).**
- 5

6 Ms. Capel stated that there are basically no decision points in the Summary Finding of Fact for the Board.

7
8 Mr. Hall stated that there is only a recommendation for everything and Ms. Capel is correct in that there are
9 no apparent decision points for the Board but staff could be wrong with these recommendations and the
10 Board should go back and read items 13.A.(2), 13.A.(3), 13.B.(2). He add that what this boils down to is
11 that the specific requirements from each policy have been written in as standard conditions; therefore, he
12 believes that it is fair to say that it is going to achieve those policies and of course that really depends on any
13 particular special use permit that is approved. He said that all that the text amendment can do is establish a
14 proper structure and that is what it is doing. He said that there is not a lot of evidence in the Finding of Fact
15 and it just simply states that the wording from this policy is verbatim as a standard condition therefore it
16 will achieve it. He said that he did not see any place where he had to recommend anything other than
17 WILL ACHIEVE.

18
19 Ms. Capel asked the Board if they desired to go through the Finding of Fact point by point to review the
20 appropriate LRMP references.

21
22 Mr. Randol stated that he sees no reason to go through it since there are no decision points for the Board.

23
24 Ms. Griest stated that she is happy with the Finding of Fact as it is proposed however the Board may want to
25 wait in taking a final vote on it until the next meeting so that any citizens who attend could present
26 testimony.

27
28 Ms. Capel agreed with Ms. Griest. Ms. Capel said that waiting until the next public hearing for this case
29 would also give the Board additional time to review the findings and the LRMP.

30
31 Mr. Hall stated that in the mailing for the next public hearing for this case the Board will receive a revised
32 draft because he has to change the description of the text amendment on the first page of the finding and the
33 new version will have a copy of the proposed amendment attached. He said that between now and then he
34 does not plan to take any time tickling the finding of fact but he is certainly open to any suggestions that the
35 Board may have.

36
37 Ms. Griest stated that staff should include the footnote change in Section 5.2, Footnote 22.

38
39 Mr. Hall stated that he will be doing that in the morning and will send the new legal advertisement to the
40 newspaper tomorrow for publication.

41

1 Mr. DiNovo asked if the Board will review each item in the Draft Finding of Fact at the next public hearing.

2
3 Ms. Capel stated that the Board will have to accept the revised Draft Finding of Fact and move to the Final
4 Determination. She said that the Board will also have to add to the Documents of Record at the next public
5 hearing.

6
7 Mr. Hall stated that he needs to point out that there may be some disagreement on item 1.(B) of the
8 Summary Finding of Fact. He said that he will not go into it tonight but he is comfortable in recommending
9 HELP ACHIEVE but he could imagine that others might think that HELP ACHIEVE is an overstatement.
10 He said that he tends to overstate what the text amendment might achieve rather than understate and the
11 Board could disagree but he is comfortable enough to recommend HELP ACHIEVE. He said that some
12 Board members might disagree.

13
14 Ms. Capel stated that she thought it was thin but not too thin.

15
16 Ms. Capel entertained a motion to continue Case 819-AT-15 to the January 14, 2016, meeting.

17
18 **Ms. Griest moved, seconded by Mr. Randol to continue Case 819-AT-15 to the January 14, 2016,**
19 **meeting. The motion carried by voice vote.**

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22 **6. New Public Hearing**

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24 **Case 816-V-15 Petitioner: Matt and Amanda Waughtel d.b.a. Bulldog Bullpen Daycare Request to**
25 **authorize the following variances for a Neighborhood Home Occupation in the R-4, Multi-Family**
26 **Residential Zoning District: Part A. The petitioner's home day care to operate from 6:30 a.m. to**
27 **11:00 p.m. in lieu of 6:30 a.m. to 10:00 p.m. as per Subsection 7.1.1F. Part B. Employees of the**
28 **petitioner's home daycare to start as early as 6:30 a.m. in lieu of the required 8:00 a.m. start time**
29 **established in Subsection 7.1.1A. Part C. A maximum of 16 children in lieu of the maximum**
30 **authorized 12 children established in Subsection 7.1.1E.i. Part D. An identification sign for the home**
31 **daycare that is 10 square feet in area in lieu of the required maximum 2 square foot in area. Location:**
32 **A 0.18 acre tract on Lot 101-1 of Siemsen Replat Subdivision in Mahomet Township in the West Half**
33 **of the Southwest Quarter of Section 12, Township 20 North, Range 7 East of the Third Principal**
34 **Meridian and commonly known as 2002 A Middletown Drive, Mahomet.**

35
36 Ms. Capel informed the audience that this is an Administrative Case and as such the County allows anyone
37 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of
38 hands for those who would like to cross examine and each person will be called upon. She requested that
39 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that
40 those who desire to cross examine are not required to sign the witness register but are requested to clearly
41 state their name before asking any questions. She noted that no new testimony is to be given during the

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

3
4 Ms. Capel asked the petitioner if he desired to make a statement outlining the nature of the request.

5
6 Mr. Matt Waughtel, who resides at 2002 A Middletown Drive, Mahomet, stated that they are requesting to
7 change the hours that they are allowed to operate to be more consistent with what their insurance allows
8 them to do and what they cover them for. He said that the daycare starts at 6:30 a.m. and the only time that
9 they need an assistant is when they exceed 12 children at their home during any one time and that time is
10 only before and after school. He said that the Ordinance indicates that they are only allowed to have 12
11 children present at the daycare but their Department of Children and Family Services license allows them to
12 have 16 children present if they are licensed as a Group Daycare Home. He said that they have four children
13 of their own plus the 12 daycare children that they are licensed for thus the need for the Group Daycare
14 Home license with DCFS. He said that there will be times when they do have 16 total children at the house.
15 He said that in regards to the sign request, their daycare is operated a little bit differently than most daycares
16 as they are open on the evenings and weekends. He said that they do not have a huge demand for the
17 evening and weekend services yet but they are not a regular daycare that has clients who come every day. He
18 said that they are the type of a daycare that will also provide a service for people who are not regular
19 customers and only need an occasional night out. He said that the submitted images of the existing banner
20 are a good idea of the sign although the white space will be eliminated.

21
22 Ms. Lee stated that the documentation indicates a maximum of 16 children in lieu of the maximum
23 authorized 12 children established in Subsection 7.1.1E.i. She said that DCFS allows a group daycare to
24 care for up to 16 children if they have a full-time assistant and if at least 4 are school-aged children related to
25 the caregivers. She said that perhaps the language should be modified to be consistent with DCFS
26 regulations and consistent with what the petitioners are actually doing, 12 children not related to the
27 caregivers and 4 children who are related to the caregivers.

28
29 Mr. Waughtel stated that DCFS allows 12 children plus 4 related children of the caregivers. He said that
30 they can have 12 children that fall under a range of ages under 12 that are not school-aged. He said that the
31 plus 4 children does not necessarily mean your own children as it could also include 4 school-aged children
32 which allows them to provide after school daycare.

33
34 Ms. Capel stated that typically it is 12 non-school-aged children and 4 school-aged children regardless of
35 whether they are the caregivers or not.

36
37 Mr. Waughtel stated yes. He said that their 4 children happen to be school-aged children.

38
39 Mr. Passalacqua asked Mr. Waughtel if the daycare operation is currently certified by DCFS.

40
41 Mr. Waughtel stated yes.

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2 Mr. Passalacqua asked Mr. Waughtel how often the license is renewed or the daycare operations are visited
3 for compliance.
4
5 Mr. Waughtel stated that the license is renewed once every three years but the DCFS licenser visits their
6 operation on a regular basis and the visits are random. He said that they are also visited by an agent with the
7 state food program that they are enrolled with.
8
9 Ms. Capel asked Mr. Waughtel to indicate how long he and his wife have been operating the daycare.
10
11 Mr. Waughtel stated that they opened their daycare operation at this location on September 21, 2015. He
12 said that his wife was previously a daycare provider for two years and he finished his MBA at the University
13 of Illinois and wanted to make his own money and start his own business. He said that he loves kids and he
14 has 4 of his own to care for and he is an expert in the super-nanny method of discipline and childrearing so
15 this business was a perfect fit for him and his wife.
16
17 Mr. Randol asked Mr. Waughtel if his property is fenced.
18
19 Mr. Waughtel stated yes.
20
21 Mr. Randol stated that the Sangamon Valley Water District property, located beside the subject property, is
22 also fenced.
23
24 Mr. Waughtel stated that their insurance company originally indicated that they had one year to construct a
25 fence and then soon after the insurance company contacted them indicating that they had 25 days to fence in
26 their property. He said that he and his brother scrambled around and immediately fenced the entire property.
27
28 Mr. Passalacqua asked Mr. Waughtel if he owns the home that has a zero lot line.
29
30 Mr. Waughtel stated yes.
31
32 Mr. Randol asked Mr. Waughtel if they would be using property that is not owned by him and his wife, such
33 as the area, strip of grass, to the west of his house which is owned by the Sangamon Valley Water District.
34
35 Mr. Waughtel stated yes. He said that he has been speaking with the manager of the Sangamon Valley
36 Water District and when Sangamon Valley Water District installed the fence it was their intention to give
37 Mr. and Mrs. Waughtel that strip of grass. He said that in lieu of purchasing the lot they have been mowing
38 the area. He said that for insurance purposes it would be less of a mess if the grass area was transferred to
39 him and his wife so they have been working with the Village of Mahomet to come to a resolution for
40 transferring the property without requiring a subdivision. He said that he is still waiting to hear from the
41 Village of Mahomet regarding what steps need to be taken to accomplish the land transfer. He said that the

- 1 manager for Sangamon Valley Water District desires to just initiate a quit claim deed but Mr. Waughtel
2 wants to make sure that everything is on the right page with the Village of Mahomet.
3
- 4 Mr. Passalacqua asked Mr. Waughtel if the fence will be move to encompass the grass area.
5
- 6 Mr. Waughtel stated that the manager for the Sangamon Valley Water District told him to go ahead and
7 fence in the area so that is what he did although it is only across the front. He said that the back portion of
8 the fence is entirely on his property but the front part of the fence does section off a portion of the SVWD
9 property but if he needs to make a change it could be easily done.
10
- 11 Mr. Passalacqua noted that Mr. Randol is employed by the Sangamon Valley Water District.
12
- 13 Mr. Waughtel stated that he did not know that Mr. Randol was employed by the Sangamon Valley Water
14 District.
15
- 16 Mr. Randol stated that the Sangamon Valley Water District does not have any issue with the variance request
17 before the Board tonight.
18
- 19 Mr. DiNovo stated that the petitioner has a desire to serve the daycare market until 11:00 p.m. He asked Mr.
20 Waughtel if there is a perceived demand or is there a true demand for this service.
21
- 22 Mr. Waughtel stated that he and his wife were single parents for some time and they wished that there was a
23 place that they could take their children for a night so that they could have a night out without them and there
24 were not a lot of licensed facilities as an option. He said that they believe that the service will take off once
25 people are aware that it is available but it hasn't happened yet. He said that they had originally thought about
26 providing overnight weekend daycare so that people could have a weekend without their children. He said
27 that the service is focused mainly on people around Mahomet who do not have family in the area.
28
- 29 Mr. DiNovo asked Mr. Waughtel to indicate when the employees would be at the daycare operation.
30
- 31 Mr. Waughtel stated that during the summer the employees would be at the daycare operation at 6:30 a.m.
32 and will leave at 5:30 p.m. He said that during the school year the employees will be there during a time slot
33 between 8:00 a.m. and 3:30 p.m. when they do not need coverage because their personal children will be in
34 school. He said that when there are 12 daycare children at their facility they will not need an assistant but
35 when they exceed 12 children they do require an assistant which is before and after school during the school
36 year and during the summer all day. He said that they are almost at full capacity but they do have one slot left
37 for a pre-school child.
38
- 39 Ms. Capel asked Mr. Waughtel if the daycare operation is open until 11:00 p.m. during the summer an
40 employee will be necessary.
41

- 1 Mr. Waughtel stated yes. He said that currently they do not because they have not been contacted by any
2 clients but potentially they could require an employee if the weekend concept takes off.
3
- 4 Ms. Capel asked the audience if anyone desired to cross examine Mr. Waughtel and there was no one.
5
- 6 Mr. Randol asked Mr. Waughtel if he has discussed the operation with the fire protection district and do they
7 need to perform an inspection to satisfy any DCFS requirements.
8
- 9 Mr. Waughtel stated that before DCFS allows anyone to have a group daycare operation license the fire
10 marshal has to complete an inspection.
11
- 12 Mr. DiNovo asked Mr. Waughtel why employees are required during the morning.
13
- 14 Mr. Waughtel stated that in a worst case scenario, if they have a lot a children being dropped off between
15 6:30 a.m. and 7:30 a.m. prior to their own children going to school or during the summer time when parents
16 desire to drop their children off early and they exceed 12 children they have to have an assistant present.
17
- 18 Mr. DiNovo asked Mr. Waughtel if he is always present at the daycare.
19
- 20 Mr. Waughtel stated absolutely.
21
- 22 Mr. DiNovo asked Mr. Waughtel to indicate how many children they currently have or expect to have after
23 6:00 p.m.
24
- 25 Mr. Waughtel stated none currently and he does not expect the demand to exceed more than 3 or 4 children.
26 He said that they have spoken with other daycare operators regarding evenings and weekends and they have
27 experienced the same shortage in demand.
28
- 29 Ms. Capel stated that the demand may not be there due to the marketing of the service.
30
- 31 Mr. Waughtel stated that Ms. Capel could be correct. He said that the option of hiring an in-home babysitter
32 is a nice and cheaper option and it allows the children to rest in their own beds and eliminates shuffling them
33 around late at night. He said that it may be more of an option if they were closer to Champaign but they are
34 willing to give it a shot and offer the service. He said that perhaps local businesses may be interested in
35 giving gift certificates away during raffles to get the word out about their services.
36
- 37 Mr. DiNovo asked Mr. Waughtel if Siemsen Replat Subdivision has a homeowner's association.
38
- 39 Mr. Waughtel stated no.
40
- 41 Mr. DiNovo asked Mr. Waughtel if there are any covenants or restrictions regarding the daycare operation.

1
2 Mr. Waughtel stated no.
3
4 Mr. Capel asked the audience if anyone desires to cross examine Mr. Waughtel and there was no one.
5
6 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony regarding
7 this case and there was no one.
8
9 Ms. Capel closed the witness register.
10
11 Ms. Capel stated that there are no proposed special conditions of approval or new Documents of Record.
12
13 Mr. DiNovo asked Ms. Chavarria if staff reviewed the text amendment that developed these standards to
14 determine what the rationale was for these standards. He said that there must be documentation to support
15 the text amendment.
16
17 Ms. Chavarria stated no.
18
19 Mr. DiNovo asked Ms. Chavarria is staff has researched the standards for a daycare operation within the
20 Village of Mahomet.
21
22 Ms. Chavarria stated no. She noted that staff did review the State of Illinois DCFS standards for a group
23 daycare home operation to make sure that the variance was in line with those standards and it was
24 determined that the Champaign County Ordinance was stricter than the DCFS standards.
25
26 Mr. DiNovo asked Ms. Chavarria if staff has any information regarding any future extension of Middletown
27 Drive to the west.
28
29 Ms. Chavarria stated that the Village of Mahomet has indicated that there could be future extension of
30 Middletown Drive.
31
32 Mr. Randol stated that an extension will not happen due to the layout of the land because the building is in
33 line with Middletown Drive therefore it would have to jog to the north if it is expanded.
34
35 Mr. DiNovo asked Ms. Chavarria if the sign will be located in the visibility triangle.
36
37 Ms. Chavarria stated no.
38
39 Mr. DiNovo asked Mr. Waughtel to describe the type of construction for the sign.
40
41 Mr. Waughtel stated that the sign will be constructed of wood and will not have all of the white-space

1 indicated in the photograph. He said that it will have a small base to sit on and will be as visible as the
2 banner. He said that with the white garage door they decided to eliminate the white-space for better
3 visibility.

4
5 Mr. DiNovo asked Mr. Waughtel if the overall area will be less than 10 square feet.

6
7 Mr. Waughtel stated that he is not exactly sure what size it will be and it could be close to the two foot
8 square which is smaller than what they have asked for but the sign is a \$500 investment that has been put off
9 until they received approval of their variance.

10
11 Mr. DiNovo asked Ms. Chavarria if staff has researched the case files for any similar variance request.

12
13 Ms. Chavarria stated that she could not find any variance case files regarding a daycare. She said that sign
14 variances have been requested and approved but none related to a daycare operation.

15
16 **Finding of Fact for Case 816-V-15:**

17
18 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
19 816-V-15 held on December 17, 2015, the Zoning Board of Appeals of Champaign County finds that:

- 20
21 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
22 **structure involved, which are not applicable to other similarly situated land and**
23 **structures elsewhere in the same district.**

24
25 Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to the land or
26 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
27 same district because of the inconsistency with the State of Illinois Department of Children and Family
28 Services' regulations.

29
30 Mr. DiNovo stated that there are some points in the Summary of Evidence which should be adjusted due to
31 the testimony received at tonight's hearing. He said that item 7.C.2. should be revised as follows: In order
32 for clients to be able to drop off their kids before work, in conformance with DCFS regulations, the
33 Petitioners will need the assistance of an employee to help cover while they get their own four children ready
34 for school. He said that item 8.B.(1) should be revised as follows: Without Part A of the proposed variance,
35 the petitioner's daycare would not be able to reach a segment of the market that the business is designed to
36 serve including the weekend and night-time demand.

37
38 Mr. DiNovo stated that he would argue that item 9.D.(1) is not relevant to these circumstances.

39
40 Ms. Chavarria stated that the last sentence of item 9.D.(1) states that the size of this sign should not be
41 justification for the proposed sign. She asked Mr. DiNovo if he would like to eliminate the entirety of item

1 9.D.(1).

2

3 Mr. DiNovo stated that if we believe the last sentence then the entire item should be eliminated. He said that
4 it is not a big deal one way or the other but it is a cleaner document if item 9.D.(1) was not included.

5

6 Mr. DiNovo asked Ms. Chavarria if the variance request is to accommodate the petitioner's own children or
7 4 other school-aged children.

8

9 Ms. Chavarria stated the variance is to accommodate children that are not the petitioners. She said that
10 currently the petitioners have 4 school-aged children but at some time that will not be the case so this would
11 enable them to still have 4 school-aged children other than their own.

12

13 Mr. Passalacqua stated that it is his understanding that the petitioner's school-aged children counted in the
14 tally.

15

16 Ms. Chavarria stated yes, but in the future when the petitioner's children are older and do not require
17 babysitting the variance would allow the petitioners to have 16 children whether they are their children or
18 not.

19

20 Mr. Passalacqua stated that there should be no confusion because it is really only a number.

21

22 Ms. Chavarria stated that DCFS requires that the petitioner's own children be included in the tally.

23

24 Mr. Passalacqua stated that it never states whether the children can be the operator's children or not. He said
25 that it is just a number and it doesn't say including or not including the petitioner's own children therefore he
26 is not sure what needs to be clarified.

27

28 Ms. Chavarria stated that DCFS requires that operator's own children be counted.

29

30 Mr. Hall stated that what is most important is that the Board is clear as to what they are approving. He said
31 that currently the request to approve the maximum number of 16 children.

32

33 Mr. Passalacqua stated that the request is for the approval of a maximum number of 16 children, period with
34 no labels.

35

36 Mr. Hall asked staff if Mr. DiNovo's concerns regarding item 9.D.(1) is clear for the minutes.

37

38 Ms. Berry stated that Mr. DiNovo stated that it was his opinion that item 9.D.(1) was not relevant and staff
39 and the Board agreed to delete the item.

40

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

1 regulations should to be varied WILL prevent reasonable or otherwise permitted use of
2 the land or structure or construction.

3
4 Ms. Griest stated that practical difficulties or hardships created by carrying out the strict letter of the
5 regulations to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or
6 construction because without Part A, the petitioner’s daycare would not be able to reach a segment of the
7 market that the business is designed to serve including the weekend and night-time demand. She said that
8 without Parts B and C, the petitioners would be limited to 8 children in daycare instead of 12 children and
9 without Part D, existing and potential clients might have difficulty finding the subject property.

10
11 3. The special conditions, circumstances, hardships, or practical difficulties DO NOT
12 result from actions of the applicant.

13
14 Ms. Griest stated that special conditions, circumstances, hardships, or practical difficulties DO NOT result
15 from actions of the applicant because the Champaign County Zoning Ordinance is more restrictive than the
16 allowable DCFS regulations.

17
18 4. The requested variance IS in harmony with the general purpose and intent of the
19 Ordinance.

20
21 Mr. DiNovo stated that the requested variance IS in harmony with the general purpose and intent of the
22 Ordinance because it is not disruptive given the adjacent land uses, apartment building and the traffic that it
23 generates and the adjacent industrial use to the west, therefore the level of intensity as proposed will not be
24 out of place for this setting.

25
26 Ms. Capel stated that the variance contributes positively to the economic viability of the business.

27
28 5. The requested variance WILL NOT be injurious to the neighborhood or otherwise
29 detrimental to the public health, safety, or welfare.

30
31 Ms. Griest stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise
32 detrimental to the public health, safety, or welfare because the business is regularly inspected by DCFS and
33 the State Fire Marshal and both the Mahomet Township Highway Commissioner and the Cornbelt Fire
34 Protection District were notified and neither submitted comments.

35
36 Mr. Randol stated that neighbors voiced no objections and signed a letter in favor of the business and
37 signage.

38
39 6. The requested variance IS the minimum variation that will make possible the
40 reasonable use of the land/structure.

1 Ms. Capel stated that the requested variance IS the minimum variation that will make possible the reasonable
2 use of the land/structure.

3
4 **7. No special conditions are hereby imposed.**

5
6 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of
7 Fact as amended.

8
9 **Ms. Griest moved, seconded by Ms. Lee to adopt the Summary of Evidence, Documents of Record and**
10 **Findings of Fact as amended. The motion carried by voice vote.**

11
12 Ms. Capel entertained a motion to move to the Final Determination for Case 816-V-15.

13
14 **Ms. Griest moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 816-V-**
15 **15. The motion carried by voice vote.**

16
17 Ms. Capel informed Mr. Waughtel that currently the Board has one absent Board member therefore it is at
18 his discretion to either continue Case 816-V-15 until a full Board is present or request that the present Board
19 move to the Final Determination. She informed Mr. Waughtel that four affirmative votes are required for
20 approval.

21
22 Mr. Waughtel requested that the present Board move to the Final Determination.

23
24 **Final Determination for Case 816-V-15:**

25
26 **Ms. Griest moved, seconded by Mr. Passalacqua, that the Champaign County Zoning Board of**
27 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
28 **that the requirements for approval in Section 9.1.9C HAVE been met, and pursuant to the authority**
29 **granted by Section 9.1.6B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals**
30 **of Champaign County determines that the Variance requested in Case 816-V-15 is hereby GRANTED**
31 **to the petitioners Matt and Amanda Waughtel, d.b.a. Bulldog Bullpen, to authorize the following**
32 **variances in the R-4 Multi-Family Residence Zoning District:**

- 33
- 34 **Part A: The petitioner’s home daycare to operate from 6:30 a.m. to 11:00 p.m. in lieu of**
- 35 **6:30 a.m. to 10:00 p.m. as per Subsection 7.1.1F.**
- 36 **Part B: Employees of the petitioner’s home daycare to start as early as 6:30 a.m. in lieu**
- 37 **of the required 8:00 a.m. start time established in Subsection 7.1.1A.**
- 38 **Part C: A maximum of 16 children in lieu of the maximum authorized 12 children**
- 39 **established in Subsection 7.1.1E.i.**
- 40 **Part D: An identification sign for the home daycare that is 10 square feet in area in lieu**
- 41 **of the required maximum 2 square feet in area.**

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Ms. Capel requested a roll call vote:

The roll was called as follows:

Lee-yes	Passalacqua-yes	Randol-yes
Thorsland-absent	DiNovo-yes	Griest-yes
Capel-yes		

Ms. Chavarria informed the petitioner that he has received an approval for his request. She said that staff will mail out the appropriate paperwork as soon as possible.

Mr. Waughtel thanked staff and the Board.

Ms. Capel called Case 819-AT-15.

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Hall stated that Ms. Chavarria was very busy this afternoon and took in two new zoning cases which sort of derive from enforcement action. He said that currently we are docketing cases for the March 10, 2016, meeting.

Ms. Capel stated that she may be absent from the first meeting in February due to a pending surgery. She said that she will contact staff as soon as a date for her surgery is confirmed.

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

None

10. Adjournment

Ms. Capel entertained a motion to adjourn the meeting.

Ms. Griest moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by voice vote.

ZBA

DRAFT

SUBJECT TO APPROVAL

DRAFT

12/17/15

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8

The meeting adjourned at 7:45 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

CASE NO. 805-AM-15, 806-S-15, 807-V-15

SUPPLEMENTAL MEMORANDUM #2

JANUARY 6, 2016

Petitioners: Michael Wishall, 547 CR 900 E, Tolono, IL, Jason Wishall, 482 CR 900 East, Tolono, IL, and Brian Wishall, 3514 Village Drive, Anderson, IN, d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc.

Case 805-AM-15

Request: Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15 and subject to the requested variance in related Zoning Case 807-V-15.

Case 806-S-15

Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning Case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15, on the subject property below.

Part B: Authorize the following waiver to the standard conditions of the "Truck Terminal" special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

Case 807-V-15

Request: Authorize the following variance on land proposed to be rezoned to the AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15:

Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.

Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

Location: A tract in Pesotum Township in the Northwest Quarter of the Northwest Quarter of Section 10 of Township 17 N, Range 8 E of the Third Principal Meridian and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.

Site Area: A 5 acre parcel plus approximately 0.68 acres of the adjacent parcel

Time Schedule for Development: Already in use

Prepared by: Susan Chavarria, Senior Planner

John Hall, Zoning Administrator

STATUS

These cases were continued from the October 15, 2015 meeting. Highlights from the meeting can be found below, with the complete approved minutes provided as Attachment A.

Proposed revisions to the Summary Finding of Fact for Case 805-AM-15 are provided as Attachment D. Proposed revisions to the Summaries of Evidence for Cases 806-S-15 and 807-V-15 are provided as Attachments E and F, respectively. All underlined text in these documents is new/revised text.

Attachment G contains revised Case Maps that now detail differences between the 5 acres subject property, smaller Special Use Permit boundary that extends beyond the 5 acres, and the larger Map Amendment boundary that includes the 5 acres plus extended area. These boundaries are provisional and will be finalized based upon an updated legal description that has not yet been received.

HIGHLIGHTS FROM FIRST PUBLIC HEARING

- Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.
- Mr. Matthew Schweighart, attorney for the petitioners, testified that in 2013 a complaint was received by the Petitioners about how their trucks were impacting the adjacent road. The Wishalls spent \$35,000 of their own funds to address those concerns and have a cost share agreement with Pesotum Township for future maintenance of the road.
- Co-petitioner Jason Wishall testified that the property includes a truck repair shop which is used for both ag and trucking related repairs. They do not repair other peoples' vehicles or equipment.
- Co-petitioner Jason Wishall stated that there are 24 trucks and the 2014 aerial photograph is a pretty good representation of what is on their property at any one time. He said that they do not want the drivers to keep the trucks at the subject property, but at their homes so that they have more family time and they put less miles and wear and tear on the trucks.
- Co-petitioner Brian Wishall stated that the farm storage building which is closest to CR 900E is a very old shed and everyone knows that farm equipment was very small back then and today this building now only stores smaller equipment. He said that there is a crib and then another farm storage building and that building is only big enough to store their backhoe. He said that the biggest shed that is in question, indicated on the photograph as 50% trucking company and 50% farm use, and is the one that Ms. Lee asked about was not large enough to hold their combine and corn pickers. He said that it was ironic because they had to work on those pieces of equipment in the cold because their current shed

was not big enough thus the reason for the new shed. He added that they store their sprayer in the 80' x 150' shed and when the sprayer is folded completely out it is 120' long.

STORMWATER MANAGEMENT

During the October 15, 2015 hearing, the Board also discussed stormwater management:

- Mr. Thorsland stated that he would propose waiving the stormwater requirement for the following reasons: 1. the business is 50% of what occurs in the impervious area; and 2. the growth has taken place over time; and the surrounding property is owned by the petitioners; and 3. no complaints have been received due to water and no testimony has been received at the public hearing regarding water. He said that perhaps his comments could be used as justification of waiving the stormwater requirement. He said that it appears that the impervious area is just making the threshold for the requirement. He said that the Board is missing two members who could have concerns and helpful advice regarding this issue and should be included in this conversation. He said that he has voiced his reasons for being comfortable in waiving the requirement in this particular case. He said that this case is fairly unique and the Board has had other special use cases where there is a lot of impervious area and it is pointed to other people who are not in common ownership and there were documented problems and efforts to fix the problems and the Board has had to make them fix it better. He said that in this case he hasn't heard testimony indicating that there is any problem and it is sort of, like the buildings all started to grow slowly.
- Ms. Griest stated that maybe as evidence to support the variance a description of the tile that exists on the farm ground that the subject property drains to is necessary. She said that page 3 of the Natural Resources Report discusses the surface and subsurface drainage. She said that under Water Resource: a) Surface Drainage the report states the following: "The site is on a flat ground, water now travels off the site in all directions. The west has a good road ditch to help with drainage." Ms. Griest stated that the petitioner owns property in all three directions of the subject property.
- Mr. Thorsland stated that the new culvert pipes are there for the road and the Natural Resources Report indicates that the road ditch has good drainage. He said that the Natural Resources Report will be folded in as evidence and the statement that within the last three years the improved road drainage has been installed adjacent to the fourth side of subject property. He said that is it compelling in this particular and unique case to waive the stormwater requirement in this case.

DECISION POINTS FOR CASE 805-AM-15

The following decision points can be found in the Summary Finding of Fact:

- Page 10 Item 13 LRMP Goal 4 Agriculture
Objective 4.1, Policies 4.1.6, 4.1.7
Objective 4.2, Policies 4.2.1, 4.2.2, 4.2.3
Objective 4.3, Policies 4.3.2, 4.3.4, 4.3.5
- Page 22 Item 16 LRMP Goal 7 Transportation
Objective 7.1, Policy 7.1.1

- Page 23 Item 20 Part B: LaSalle Factor - nearby property values
Part D: LaSalle Factor - gain to the public/hardship for the owner
Part E: LaSalle Factor - suitability to zoned purposes
Part G: Sinclair Factor - need and demand for the use
Part H: Sinclair Factor - municipal comprehensive plan
Part I: overall consistency with LaSalle and Sinclair factors

- Page 26 Item 21 Part C: street congestion
Part D: need for stormwater management
Part H: avoiding restrictions of the Zoning Ordinance
Part I: protecting most productive ag lands from urban uses

PROPOSED SPECIAL CONDITIONS

Case 805-AM-15:

- A. LRMP Policy 4.2.3 requires discretionary development and urban development to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land. The following condition is intended to provide for that:

The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).

The above special condition is necessary to ensure the following:
Conformance with policies 4.2.3 and 5.1.5.

Case 806-S-15:

- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. **The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:**

- (1) **This condition applies to the Agreement with Pesotum Township Road Commissioner received June 24, 2015, the verbal agreement between the petitioner and the Pesotum Township Road Commissioner that trucks related to the petitioners' trucking business run empty, bobtail, and not to run the tall van trailers, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed agreement shall be filed with the Zoning Administrator.**

- (2) **This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

- C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

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

During the October 15, 2015 hearing, the proposed special conditions were briefly discussed:

- Mr. Jason Wishall stated that, regarding Special Condition B, they have a verbal agreement with the Pesotum Township Highway Commissioner to run empty, bobtail, and not to run the tall van trailers because van trailers tend to scare people. He said that he could obtain this verbal agreement in writing if necessary. Mr. Hall stated that since the petitioners are working with the Pesotum Township Highway Commissioner perhaps proposed Special Condition B. could just be incorporated with proposed Special Condition C., making Special Condition C. the new Special Condition B. He said that staff would be happy to work with the petitioners regarding this matter and when they submit the written agreement staff will just refer to the agreement in the special condition. He said that since this is an agreement between the petitioners and the township it will be noted, thus satisfying the Board's interest in the roads. Mr. Thorsland stated that the trucks only travel as far north as to drive out of the subject property to get onto CR 600N. He said that he agrees with Mr. Hall's recommendation regarding blending Special Conditions B & C. Ms. Griest stated that a notation indicating that CR 600N is County Highway 17 would be appreciated for future reference. Mr. Hall stated that he would really like to only refer to the agreement with the Pesotum Township Highway Commissioner.

ATTACHMENTS

- A Approved minutes from October 15, 2015
- B Excerpt from the Illinois Secretary of State website regarding Commercial and Farm Trucks
- C Copy of Right to Farm Resolution 3425
- D Revised Finding of Fact for Case 805-AM-15 dated January 6, 2016
- E Revised Summary of Evidence for Case 806-S-15 dated January 6, 2016
- F Revised Summary of Evidence for Case 807-V-15 dated January 6, 2016
- G Revised Case Maps dated January 14, 2016

AS APPROVED DECEMBER 10, 2015

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: October 15, 2015

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

TIME: 7:00 p.m.

MEMBERS PRESENT: Debra Griest, Marilyn Lee, Jim Randol, Eric Thorsland

MEMBERS ABSENT : Catherine Capel, Brad Passalacqua

STAFF PRESENT : Connie Berry, John Hall, Susan Chavarria

OTHERS PRESENT : Brian Wishall, Jason Wishall, Kim Wishall, Dave Spillers, Ginger Spillers, Mike Wishall, Megan Spillers, Cecilia Allen, Roger Blakely, Matt Schweighart

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with two members absent and one vacant seat.

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

3. Correspondence

None

4. Approval of Minutes (August 27, 2015 and September 10, 2015)

Mr. Thorsland entertained a motion to approve the August 27, 2015 and table the September 10, 2015, minutes.

Ms. Lee moved, seconded by Ms. Griest to approve the August 27, 2015, minutes as submitted and to table the September 10, 2015, minutes. The motion carried by voice vote.

Mr. Thorsland entertained a motion to rearrange the docket and hear Case 813-V-15, Dave and Ginger

1 Spillars, d.b.a. as Ohana Spas & Billiards, Inc., prior to Cases 805-AM-15, 806-S-15 807-V-15, Michael
2 Wishall, Jason Wishall, Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and
3 Wishall Farms, Inc.

4
5 **Ms. Griest moved, seconded by Ms. Lee to rearrange the docket and hear Case 813-V-15, Dave and**
6 **Ginger Spillars, d.b.a. as Ohana Spas & Billiards, Inc., prior to Cases 805-AM-15, 806-S-15 807-V-15,**
7 **Michael Wishall, Jason Wishall, Brian Wishall d.b.a. Wishall Transport, Wishall Farms &**
8 **Transportation, Inc., and Wishall Farms, Inc. The motion carried by voice vote.**

9
10 **5. Continued Public Hearing**

11
12 None

13
14 **6. New Public Hearings**

15
16 **Cases 805-AM-15, 806-S-15 and 807-V-15 Petitioner: Michael Wishall, Jason Wishall, Brian Wishall**
17 **d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc.**

18
19 **Case 805-AM-15: Request to amend the Zoning Map to change the zoning district designation from**
20 **the AG-1, Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to authorize**
21 **the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case**
22 **806-S-15 and subject to the requested variance in related zoning case 807-V-15.**

23
24 **Case 806-S-15: Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a**
25 **Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the**
26 **current AG-1 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in**
27 **related zoning Case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15;**
28 **and Part B: Authorize the following waiver to the standard conditions of the "Truck Terminal"**
29 **special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the**
30 **required 200 feet between any Truck Terminal and any adjacent residential district or residential use.**

31
32 **Case 807-V-15: Request to authorize the following variance on land proposed to be rezoned to the**
33 **AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an**
34 **existing unauthorized Truck Terminal as a proposed Special Use in related Case 806-S-15: Part A: A**
35 **variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum**
36 **area of 3 acres for lots with soils that are best prime farmland; and Part B: A variance from the**
37 **Champaign County Stormwater Management and Erosion Control Ordinance which requires a**
38 **Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of**
39 **impervious surface area.**

1
2 **Location: A 5.68 acre tract in Pesotum Township in the Northwest Quarter of the Northwest Quarter**
3 **of Section 10 of Township 17 North, Range 8 East of the Third Principal Meridian and commonly**
4 **known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located**
5 **at 482 and 486 CR 900 East, Tolono.**
6

7 Mr. Thorsland informed the audience that Cases 806-S-15 and 807-V-15 are Administrative Cases and as
8 such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time
9 he will ask for a show of hands for those who would like to cross examine and each person will be called
10 upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any
11 questions. He said that those who desire to cross examine are not required to sign the witness register but
12 are requested to clearly state their name before asking any questions. He noted that no new testimony is to
13 be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the
14 ZBA By-Laws are exempt from cross examination.
15

16 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
17 the witness register for that public hearing. He reminded the audience that when they sign the witness
18 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
19 time.
20

21 Mr. Thorsland asked the petitioners if they would like to make a brief statement regarding their request.
22

23 Mr. Matthew Schweighart, attorney for the petitioners, thanked the Board for its time and staff for the
24 informative package that is before everyone tonight. He said that the petitioners are a family farm operation
25 which has been at the subject property since 1939. He said that as a result of the success of the family farm
26 and growth since that time they gradually added trucking operations to their farming operation and as an off-
27 shoot of that they realized that they could haul for other people. He said that the trucking operation was
28 operated by the family farm corporation until 2004 when the trucking operation spun off into a separate
29 entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to
30 grow both of the businesses there was not a lot of consideration in them being separate. He said that the
31 trucking operation is ag related being that predominately 75% of the revenues are from ag related services.
32 He said that the mindset of the petitioners is that the two operations are more or less one in the same and
33 both part of the agricultural nature of the area.
34

35 Mr. Schweighart stated that the trucking operation has been operated without incident until a complaint was
36 filed with the County in 2013 and since the complaint was received the petitioners have spent approximately
37 \$35,000 of their own funds to address concerns with respect to the conditions of the roads and have been
38 very cooperative with their neighbors and government entities. He said that the petitioners have a very good
39 relationship with the Pesotum Township Highway Commissioner and have done everything they can to be

1 good neighbors at this location. He said that the informational packet includes a signed letter of support
2 from the neighbors regarding the trucking business at its current location. He noted that the Pesotum
3 Township Highway Commissioner signed the letter of support and also provided his own letter supporting
4 the trucking operation. Mr. Schweighart stated that the petitioners desire to be good neighbors and to
5 address any concerns that anyone may have.

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

9
10 Mr. Thorsland called John Hall, Zoning Administrator, to testify.

11
12 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated October 15,
13 2015, for the Board's review. He said that the Supplemental Memorandum contains the Natural Resources
14 Report prepared by the Champaign County Soil and Water Conservation District as well as two emails from
15 neighbors. He said that the Natural Resources Report is a standard report as they always report on erosion
16 and sedimentation and surface drainage. He said that the subject property is best prime farmland.

17
18 Mr. Hall stated that the attached emails were received today. He said that the emails are from two neighbors
19 and are very similar. He said that the emails both state that the neighbors have no issue with the trucking
20 operation remaining at its current location, but they do have concerns about safety and maintenance of CR
21 900 East due to the heavy truck traffic from the Wishall business. He said that the neighbors are concerned
22 with the width of the road as well. Mr. Hall noted that one email is from James and Marilyn Chancellor and
23 the other is from Doug and Lori Bartlett.

24
25 Mr. Hall stated that staff had not has sufficient time to summarize the Natural Resources Report in the
26 Summary of Evidence for the special use case but will hopefully have time to do that in the future.

27
28 Ms. Lee asked when the two large metal buildings with white roofs were constructed.

29
30 Mr. Schweighart stated the petitioners would be a better source of information for Ms. Lee's question.

31
32 Mr. Thorsland called Jason Wishall to testify.

33
34 Mr. Jason Wishall, who resides at 4711 Chestnut Grove Drive, Champaign, stated his father could better
35 answer Ms. Lee's question about the specific construction date of the buildings. He said that he does know
36 that one of the buildings is only 8 to 10 years old and the other building is 25 to 30 years old. He said that he
37 was surprised when he received the letter from the Department of Planning and Zoning and sort of expected
38 more than just a letter. He said that the farm has been operating at its current location for numerous years
39 and there is even a rock in the front of the property indicating the date. He said that the farm operation

1 branched off with the trucking company and it has all been tied through the farm as they are both
2 agriculturally related. He said that he and his family are farmers and they enjoy working with farmers
3 because they are easier to work with and they do not have a lot of problems. He said that their employees
4 also enjoy working with the area farmers. He said that they have been blessed by the fact that their business
5 has grown and now they are here.

6
7 Mr. Thorsland asked the Board if there were any questions for Mr. Jason Wishall.

8
9 Ms. Lee stated that the information indicates that the trucking operation was incorporated as Wishall
10 Transport in 2006. She asked Mr. Jason Wishall how long the trucking operation was operated prior to
11 2006.

12
13 Mr. Jason Wishall stated that they have been operating for 18 years but his father has always had trucks that
14 he used for the farm operation. He said that on the off-season the winters were cold and the shop was chilly
15 but the trucks were warm, so they branched out and found area farmers who they could haul for, which was
16 much more comfortable than working on a cold shop floor.

17
18 Mr. Thorsland asked Mr. Jason Wishall to indicate his role in the operations.

19
20 Mr. Jason Wishall stated that he is the President of Wishall Transport and he has a shared ownership in the
21 farm.

22
23 Mr. Thorsland stated that Wishall Transport was incorporated in 2006 and 25% of the business is not related
24 to agriculture. He asked Mr. Jason Wishall to indicate what other type of services are involved in the 25%.

25
26 Mr. Jason Wishall stated that they transport seed for seed companies, which is ag related. He said that they
27 have a few local customers who are not ag related such as wood hauling, construction for local contracts, and
28 transport of waste for the Champaign Urbana Sanitary District for about the last eight to ten years. He said
29 that they are a local operation with a good reputation and they would like to stay where they are.

30
31 Mr. Thorsland asked Mr. Jason Wishall if all of the trucks and trailers were owned by Wishall Transport.

32
33 Mr. Jason Wishall stated that between all of us, yes. He said that the photograph indicates trucks and trailers
34 but it isn't just the trucking operation that is indicated in the photograph but also the farm operation. He said
35 that the farm operation owns a bunch of the trailers just to operate for the farm.

36
37 Mr. Thorsland stated that the farm trailers are folded in with the trucking operation trailers as well. He asked
38 the Board and staff if there were any additional questions for Mr. Jason Wishall.

39

1 Ms. Griest asked Mr. Jason Wishall if the truck shop is only for their own equipment or is it for others as
2 well.

3
4 Mr. Jason Wishall stated that they haul products for other people but the truck shop is only used for their
5 own equipment repairs and maintenance. He said that they do not work on anyone else's equipment.

6
7 Mr. Thorsland asked Mr. Jason Wishall if the building that is being discussed is the building indicated 50%
8 farm and 50% trucking company.

9
10 Mr. Jason Wishall stated yes.

11
12 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Jason Wishall and there was no
13 one.

14
15 Mr. Thorsland called Brian Wishall to testify.

16
17 Mr. Brian Wishall, who resides at 486 CR 900E, Tolono, stated that he lives at the residence with his wife
18 and three-year old daughter. He said that regarding the neighbors that were previously mentioned, one is
19 located 75 feet across the road to the west from his residence and the other neighbor is also located across
20 the road and is 150 feet to the southwest of his residence. He said that the business did start many years ago
21 and they have seen growth. He said that he understands that the Board does not condone growth, look at
22 everything that is happening around Champaign, but that is the American dream and they do want their
23 business to grow while being respectful to their neighbors. He said that the emails are great but if you ask
24 around the community it is their name and how they do business that has allowed that growth. He said that
25 his dad has worked very hard and so has Jason and there are area neighbors who may have wanted to come
26 to this meeting and who may want to come to the next meeting to support the requests. He said that the
27 Wishall family is not looking for support but an end to this and to find out what is right for all parties
28 involved.

29
30 Mr. Thorsland noted that the Board should not be confused with the City of Champaign because this Board
31 is only for the unincorporated areas of the County.

32
33 Mr. Schweighart stated that he believes Mr. Brian Wishall meant to say that the Board does not condemn
34 growth.

35
36 Mr. Brian Wishall agreed.

37
38 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Brian Wishall and there were
39 none.

1
2 Mr. Thorsland asked Mr. Brian Wishall that since he is the resident of the subject property and resides across
3 the road from the neighbors who submitted the emails to staff, does the road suffer from the trucking
4 operation.

5
6 Mr. Brian Wishall stated that 15 years ago the road was a lot worse. He said that the township has 63 miles
7 to maintain therefore if you travel down any roads in Pesotum Township you will find that none of those
8 roads are great. He said that a few of the roads in Pesotum Township are wide and the distance from where
9 his residence is located to the Sadorus Road has been widened by the funds that were spoken about
10 previously from the Wishall operations. He said that the people who widened that road were Mike, Jason
11 and Brian Wishall and the neighbors who witnessed their work stopped to thank them for doing it. He said
12 that there are no great roads in the country and they are all pretty skinny except for their road and a couple of
13 other roads because they have been widened. He said that if you travel north to Tolono Township the roads
14 are wider but as soon as you cross into Pesotum Township they get skinnier but it is his opinion that that is
15 part of living in the area that they do and there are not wide roads. He said that currently their road is 16 feet
16 wide but when you travel south of their residence it goes back to 12 feet.

17
18 Mr. Thorsland stated that the road widening to the north was completed by the petitioners and was funded by
19 the contribution that the petitioners made to the township and the information packet includes documentation
20 pertaining to that.

21
22 Mr. Brian Wishall stated that Mr. Thorsland was correct.

23
24 Mr. Thorsland stated that the petition for support signed by the area neighbors and the documents from the
25 Township Highway Commissioner are included in the information packet and are very helpful to the Board.
26 He asked Mr. Brian Wishall if he is involved in the farm operation, truck operation or both.

27
28 Mr. Brian Wishall stated that they all are involved in both the farm operation and the truck operation. He
29 said that he and his wife are technically Wishall Farms and Transportation, Inc.

30
31 Mr. Thorsland stated that Mr. Brian Wishall and his family are on the scene daily because they reside on the
32 subject property. He asked Mr. Brian Wishall if he knows when the farm/truck shop was constructed.

33
34 Mr. Brian Wishall stated that his dad could provide better construction dates than he could provide.

35
36 Ms. Griest asked Mr. Brian Wishall if the trucks travel north out of the property to 600N, which is also
37 known as the Sadorus slab.

38
39 Mr. Wishall stated yes, every time.

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

4
5 Mr. Thorsland called Michael Wishall to testify.

6
7 Mr. Michael Wishall, who resides at 547 CR 900 E, Tolono, stated that he has lived on the road longer than
8 anyone around there. He said that the truck operation did not start with him or his boys but did start with his
9 grandfather and he still has his grandfather's original 1936 GM truck. He said that his grandfather did all of
10 the corn shelling for the local farmers and some that were not real local but he did what he had to do to feed
11 his family. He said that he increased his grandfather's operation and now over the years his boys have
12 increased the operation. He said that it isn't that the boys started the business or he started the business or
13 his father started the business but it was his grandfather who started it. He said that his grandfather
14 purchased the subject property in 1939 but he does not have record of how long his family farmed the
15 subject property before 1939. He said that the houses that are across the road used to also be family
16 properties. He said that he used to live where Brian and his family currently reside and his grandparents and
17 cousins lived across the road and until approximately 10 years ago those homes were still family properties.
18 He said that everyone in that area is related except for one home.

19
20 Mr. Thorsland stated that the Board has a letter of support which was signed by all of the neighbors. He said
21 that it appears that years ago this area was the Wishall spot on the planet and the other people sort of moved
22 in to the area. He said that the current operations have been going on at some scale since the 1930's and
23 have always been visible and not hidden. He asked Mr. Michael Wishall if there was ever any lull in the
24 operations.

25
26 Mr. Michael Wishall stated that he has lived on that road for over 50 years and the roads are as bad in the
27 exact same spots as they ever were for years. He said that the Pesotum Township Highway Commissioner
28 would come in and rip up the road to try to fix the road and people would complain because the road was
29 rough and so next year the road would be fixed. He said that this road had zero maintenance on it before the
30 people complained about the road because the Highway Commissioner was going to come in and rip up the
31 road and place down gravel and at the end of the day we would have had a nice wide road. He said that
32 when this issue came up the Highway Commissioner, to say it nicely, got upset so the only reason that the
33 road is wider and nicer is because of the Wishall family. He said that the Highway Commissioner indicated
34 that he was too busy so the Wishall operations had to take care of the problem road. He said that the
35 improvements to the road are not due to the Highway Commissioner because the oil company would just
36 drop off a load of patching. He said that he called Jason Wishall to find out why a load of asphalt was
37 dropped off because he thought that someone didn't get their load delivered and Jason indicated that they
38 just dropped it off for the petitioners to fill some holes in the road. Mr. Michael Wishall stated that everyone
39 in the area knew that the road needed maintenance and the road company themselves were part of what was

1 going to fix the road. He said that the road company was going to send down machinery and the petitioners
2 had an operator that was going to operate the machine to grade the road but when this issue all started the
3 work was all stopped.

4
5 Mr. Thorsland asked Mr. Michael Wishall if the Township Highway Commissioner had organized all of the
6 road improvements but when this issue all started the improvement plans were stopped.

7
8 Mr. Michael Wishall stated yes. He said that they had an employee who used to work for Open Road and he
9 was going to run the machine to grade the road.

10
11 Mr. Thorsland noted that all of the preliminary plans for the road improvement were organized by the
12 Pesotum Highway Commissioner.

13
14 Mr. Michael Wishall stated that Mr. Thorsland was correct. He said that when all of this blew up the road
15 improvement plans stopped. He said that they did not know that they were out of compliance and the only
16 correspondence that they received was a letter indicating that they either needed to cease their operations or
17 move to a different location. He said that they never received a phone call or any correspondence indicating
18 that they needed to talk to the County because there might be a problem.

19
20 Mr. Thorsland stated that they should not feel slighted by that particular letter as staff was only following the
21 requirements of the Zoning Ordinance and they are not the first people who have had a business that has
22 been in operation for a very long time and to find out that it is operating illegally. He said that the first
23 notice that is to go out is a letter indicating that the operations are illegal and the letter will provide options
24 to be in compliance. He said that the only way staff finds out about these types of issues is by complaint and
25 that is usually what initiates the letter.

26
27 Mr. Thorsland stated that he wants it to be very clear that the Highway Commissioner had intentions of
28 fixing the road but when this issue came up he ceased those plans therefore the petitioners took on the
29 responsibility to fix the road or did the Highway Commissioner ask them to fix the road for him.

30
31 Mr. Michael Wishall stated that they were working together with the Highway Commissioner but when this
32 issue came up this spring the Highway Commissioner decided that he was too busy and that the petitioners
33 would have to take care of it. Mr. Michael Wishall stated that a couple of years ago his son, Jason Wishall,
34 purchased and hauled in over 100 ton of rock and purchased new culverts and the Highway Commissioner
35 was not getting things done. He said that if he had known that they were going to have to do it and that the
36 Highway Commissioner was okay with them doing it they would have hauled in the rock to bring up the
37 shoulders. He said that he travels CR 900E everyday too and when the interstate is closed there are 100
38 other trucks that travel up and down that road. He said that today, due to an accident, the interstate was
39 closed and 53 foot loaded semi-trucks were traveling up and down that road, CR 900E, from the Monticello

1 Road to Pesotum and that is not the first time that this has happened. He said that Wishall Transportation is
2 not the only trucking operation that uses that road because the fertilizer company uses that road as it is a
3 good road for them to take. He said that another truck operation down the road is building a huge shed and
4 approximately 100 loads of dirt was hauled past the subject property every day and that is why if you
5 continue south on CR 900E you will see that the road is not any better as it is only 12 foot wide.
6

7 Mr. Thorsland asked Mr. Michael Wishall if they agreed to a deal with the Pesotum Township Highway
8 Commissioner and the petitioner's operation agreed to spend a specific amount of money to make the road
9 wider. He asked Mr. Michael Wishall if they worked with the Pesotum Township Highway Commissioner
10 on this project or did they only receive advice from the Pesotum Township Highway Commissioner.
11

12 Mr. Michael Wishall stated that they were only assisting the Pesotum Highway Commissioner and they ran a
13 drag on the sides of the shoulder to level it off and he told the Pesotum Highway Commissioner that he did
14 this because it looked like the road was going to hold water next to the oil and the Pesotum Highway
15 Commissioner agreed. Mr. Michael Wishall stated that he was concerned about someone running into them
16 while they were working on the road as they was not working under the Pesotum Highway Commissioner so
17 it made him really nervous doing anything extra.
18

19 Mr. Thorsland stated that Mr. Michael Wishall may want to ask his attorney who is responsible if someone
20 has an accident due to the road maintenance that was not done by the Pesotum Township Highway
21 Commissioner.
22

23 Mr. Michael Wishall stated that the Pesotum Township Highway Commissioner was the boss of the project
24 and the petitioners were just doing part of the work under his advice.
25

26 Mr. Brian Wishall stated that the gravel that was built up on the shoulder was installed by the Pesotum
27 Township Highway Commissioner but Open Road supplied all of the equipment through the Pesotum
28 Township Highway Commissioner and they oiled and chipped the road. He said that they were only
29 assisting with the gravel on the shoulder due to complaints that the road was not wide enough but they had
30 nothing to do with the road being rebuilt.
31

32 Mr. Thorsland asked Mr. Michael Wishall if he could indicate the age of the buildings on the subject
33 property.
34

35 Mr. Michael Wishall stated that the shop was built in the 1970's and it wasn't built as a shop. He said that
36 the other white building was built in the 1960's and it was the original shop at that time. He said that the
37 newest shed was built approximately 10 or 15 years ago. He said that the silver building was built in 1965
38 and he has a picture of the farm that is dated 1965 and the building was painted onto the picture because it
39 was not there at the time that the picture was taken but it was planned and ordered.

1
2 Ms. Lee stated that the last building to be built was probably built so that the trucking operation could be
3 placed in the other one.

4
5 Mr. Michael Wishall stated that the trucking operation was not very big then.

6
7 Ms. Lee asked Mr. Michael Wishall to clarify the word "then."

8
9 Mr. Michael Wishall stated that the 72' x 128' building only held two or three trucks and that is only if they
10 had that many at the time and two of those three trucks were for the farm operation. He said that currently
11 three of the trucks have farm plates and are not used for commercial use.

12
13 Ms. Lee asked Mr. Michael Wishall to indicate how many trucks he has that are not used for the farm
14 operation.

15
16 Mr. Michael Wishall stated that he has zero commercial trucks but the boys do have commercial trucks.

17
18 Mr. Thorsland asked Mr. Michael Wishall if the aerial sketch plan dated September 17, 2015, is a fair
19 representation of when all of the trucks and trailers are present on the subject property.

20
21 Mr. Michael Wishall stated that the picture is fairly accurate in regards of the trailers but there are only three
22 trucks indicated. He said that Jason and Brian could indicate the number of trucks that are involved in the
23 trucking operation.

24
25 Ms. Lee asked Mr. Michael Wishall why he didn't obtain a permit when he first started operating the non-
26 farm trucking operation.

27
28 Mr. Thorsland stated that buildings get built on farms because they are ag exempt and often times a Zoning
29 Use Permit is not requested. He said that it is not typical for any farm construction to appear in any
30 permitting documentation. He said that equipment tends to accumulate and Mr. Michael Wishall testified
31 that he still has his grandfather's truck from the 1930's. He said that as Mr. Schweighart testified this
32 operation has had organic growth. Mr. Thorsland said that there is a fairly good record in the information
33 packet as to when the trucking company became big enough that it was separated from the farm operation.
34 He said that later during the meeting he will call Brian and/or Jason Wishall to the witness microphone to
35 indicate the number of trucks and trailers involved in the trucking operation.

36
37 Mr. Hall stated staff has not bothered to document the number of trucks and has only concentrated on the
38 number of acres that are currently be used and how many acres will be required in the future. He said that if
39 the Board desires information regarding the number of trucks and trailers for the operation then staff can

1 obtain that information.

2

3 Mr. Thorsland asked the Board if there is any additional information required regarding the trucking
4 operation.

5

6 Ms. Griest stated that the trucks which have farm plates are not the subject of this case and are excluded
7 from the count that staff will complete.

8

9 Mr. Hall stated that he is not knowledgeable about what can and cannot be done with a truck with farm
10 plates but he would assume that you can haul grain for other people under a farm plate. He said that we are
11 not here tonight due to the hauling of grain and we would not be having this meeting if that was the concern.

12

13 Ms. Griest stated that the Board is not looking at the transportation element of the farm operation but the
14 Board is looking at the commercial trucking operation for hire for other entities.

15

16 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Michael Wishall and there was no
17 one.

18

19 Mr. Michael Wishall noted that three trucks and 10 trailers indicated in the photograph are for the farm.

20

21 Mr. Thorsland asked Mr. Michael Wishall if those trucks and trailers have farm plates.

22

23 Mr. Michael Wishall stated that the three trucks have farm plates but there is no difference in the plates that
24 are required for the trailers.

25

26 Mr. Thorsland called Jason Wishall to testify.

27

28 Mr. Jason Wishall stated that there are 24 trucks and the photograph is a pretty good representation of what
29 is on their property at any one time, unless it is Christmas as they try to not have anyone working on
30 Christmas. He said that they do not want the drivers to keep the trucks at the subject property, but at their
31 homes so that they have more family time and they put less miles and wear and tear on the trucks. He said
32 that the number of trucks owned by the operation should not be an issue as the photograph is a good
33 representation of what is on the lot at any given time.

34

35 Mr. Thorsland stated that the real concern appears to revolve around the condition of the road and the factor
36 of how many trucks go up and down it. He said that testimony has been given that there are other people
37 who use this road but currently the petitioners are the ones before the Board. He said that Mr. Jason Wishall
38 has testified that it is preferred that the drivers take the trucks home so not all of the trucks come back to the
39 subject property every day and some may not come back for some time. He said that not all Wishall

1 Transport trucks travel up and down CR 900E every morning and afternoon.

2

3 Mr. Jason Wishall stated that Mr. Thorsland was correct.

4

5 Mr. Thorsland asked Mr. Jason Wishall if the trucks and trailers which come back to the subject property are
6 empty.

7

8 Ms. Griest indicated that whether the trucks and trailers and loaded or unloaded is not relevant.

9

10 Mr. Thorsland stated that his question is relevant as it has to do with the weight of the truck and trailer while
11 traveling down CR 900E.

12

13 Ms. Griest stated that if the trucks and trailers are hauling their own grain it is not relevant. She clarified Mr.
14 Thorsland's question and asked Mr. Jason Wishall if the trucks and trailers are loaded or unloaded when they
15 arrive at the subject property.

16

17 Mr. Jason Wishall stated that the trucks and trailers are unloaded when they arrive at the subject property
18 although there is a rare occasion when they have to come to the property loaded. He said that they do not
19 want the loaded trucks and trailers destroying the road by coming to the subject property.

20

21 Mr. Thorsland stated that none of the other services occur at the subject property so when trucks go to the
22 subject property they are empty and headed home.

23

24 Mr. Jason Wishall stated that Mr. Thorsland was correct.

25

26 Mr. Thorsland stated the 24 trucks can only pull 24 trailers and they are not coming and going from the
27 subject property everyday therefore the count of trips is probably lower than what the photograph would lead
28 the Board to believe. He asked Mr. Jason Wishall how they ended up paying for part of the road repair that
29 was under the control of the Pesotum Township Highway Commissioner.

30

31 Mr. Jason Wishall stated the road improvements were already planned by the Pesotum Township Highway
32 Commissioner and not a lot of the work had been done to the road. He said that part of the reason why the
33 work had not been completed was because of the future plans to repair the road in the right way. He said
34 that once complaints were filed and the letter was received the road repair plans stopped. He said that the
35 written agreement was the initial verbal agreement with Pesotum Township. He said that they use the road
36 for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road,
37 especially since the townships do not have a lot of money and can barely take care of the roads that they
38 have. He said that since they do use the road they wanted to assist the township in getting it back into shape.
39 He said that they paid for the repair of one and one-quarter miles of the road.

1
2 Mr. Thorsland stated that his township is down to properly maintaining three miles of its 80 miles of road
3 per year.

4
5 Ms. Griest asked if the amount paid was 100% of the cost or just their 50%.

6
7 Mr. Jason Wishall stated that the agreement states that they pay for 50% of the cost to oil and chip the road.
8 He said that their check went to Illiana Construction Co. for the oil so yes, they paid for all of the oil.

9
10 Mr. Thorsland stated that it was pre-arranged for the petitioners to pay for some of the supplies for the road
11 maintenance.

12
13 Mr. Jason Wishall stated yes. He said that all of this went through the Pesotum Township Highway
14 Commissioner.

15
16 Mr. Thorsland stated that the Pesotum Township Highway Commissioner acted as the contractor for the road
17 maintenance.

18
19 Mr. Jason Wishall stated yes.

20
21 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Jason Wishall and
22 there were none.

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

26
27 Mr. Thorsland stated that at this point the Board has a lot of stuff that could be worked through but if the
28 Board has questions or desires additional information then this is the time to indicate such so that either staff
29 or the petitioners can address those questions or obtain additional information.

30
31 Ms. Griest stated that staff needs additional time to summarize the Natural Resources Report although she
32 does not see any information that is lacking or requires further clarification. She said that the information
33 packet is a great packet.

34
35 Mr. Thorsland stated that he is reluctant to go through everything tonight because two members who are
36 absent have really good insight into these matters and Mr. Hall will have time to incorporate the Natural
37 Resources Report into the Summary of Evidence. He said that he has a pet peeve in that if he receives a
38 memorandum which is more than three pages on the night of the meeting he does not want to finish the case
39 until he has adequate time to review the memorandum. He said that another thing that would be nice would

1 be if the people who signed the letter of support could attend the meeting and speak to the Board. He said
2 that he would like to continue the case so that the petitioners have the luxury of a larger Board because if the
3 Board went to final determination tonight the petitioner would have to obtain four affirmative votes from a
4 bare minimum quorum.

5
6 Mr. Thorsland asked the petitioners if there was any additional information that they would like to add to the
7 record. He said that the petitioners' operations can continue as they are currently because they are in the
8 process with the County of obtaining the appropriate approvals.

9
10 He asked Mr. Jason Wishall if there was anything that he would like to add and Mr. Jason Wishall stated not
11 at this time.

12
13 Mr. Thorsland called Brian Wishall to testify.

14
15 Mr. Brian Wishall stated that the farm storage building which is closest to CR 900E is a very old shed and
16 everyone knows that farm equipment was very small back then and today this building now only stores
17 smaller equipment. He said that there is a crib and then another farm storage building and that building is
18 only big enough to store their backhoe. He said that the biggest shed that is in question, indicated on the
19 photograph as 50% trucking company and 50% farm use, and is the one that Ms. Lee asked about was not
20 large enough to hold their combine and corn pickers. He said that it was ironic because they had to work on
21 those pieces of equipment in the cold because their current shed was not big enough thus the reason for the
22 new shed.

23
24 Ms. Lee stated that initially she thought that the trucking company forced them to build the 80' x 150' shed.

25
26 Mr. Brian Wishall stated that Ms. Lee was not accurate.

27
28 Mr. Thorsland stated that every year the farm equipment gets bigger and they get taller too. He said that ag
29 buildings continue to get bigger and bigger because they have to in order to store today's equipment. He
30 said that the petitioners have a large farm operation which involves large equipment.

31
32 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Brian Wishall and
33 there were none.

34
35 Mr. Randol stated that he does not need to hear any more information regarding the road.

36
37 Mr. Brian Wishall added that they store their sprayer in the 80' x 150' shed and when the sprayer is folded
38 completely out it is 120' long.

39

1 Mr. Thorsland stated that it appears that there are no future assignments for the petitioners for the next
2 meeting other than perhaps asking the people who signed the letter of support to attend the meeting.

3
4 Ms. Griest requested that the Board review the proposed Special Conditions before the case is continued.

5
6 Mr. Thorsland read the proposed Special Conditions as follows:

7
8 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case
9 805-AM-15 by the County Board.**

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

11 **The establishment of the proposed use shall be properly documented as required by the
12 Zoning Ordinance.**

13
14 **B. All inbound and outbound trucks associated with the Special Use shall not use CR 900
15 East north of CR 600 North.**

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

17 **To prevent additional deterioration of the road.**

18
19 **C. The Special Use shall be void if the owner/operator fails to comply with the road
20 agreement with Pesotum Township regarding an annual road maintenance fee,
21 provided as follows:**

22 **(1) This condition applies to the Agreement with Pesotum Township Road
23 Commissioner received June 24, 2015, or to any subsequent road agreement
24 between the petitioner and Pesotum Township, provided that a fully executed
25 agreement shall be filed with the Zoning Administrator.**

26
27 **(2) This condition shall be cancelled if the Pesotum Township Highway
28 Commissioner relieves the Petitioners of the road maintenance agreement
29 obligations.**

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

31 **That any additional highway maintenance due to the truck traffic generated by the
32 proposed Special Use is reimbursed by the petitioner.**

33
34 **D. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the
35 proposed Truck Terminal until the petitioner has demonstrated that the proposed
36 Special Use complies with the Illinois Accessibility Code.**

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

38 **That the proposed Special Use meets applicable state requirements for accessibility.**
39

1 Ms. Griest asked Mr. Hall if proposed Special Condition C.(1) should indicate the road maintenance
2 agreement dated December 23, 2104 and not June 24, 2015. She asked Mr. Hall if there is a second
3 agreement in the packet that she is overlooking.

4
5 Mr. Hall stated that the proposed Special Condition C.(1) references the received date.

6
7 Mr. Thorsland asked if the petitioners had any questions or concerns regarding the proposed Special
8 Conditions as read.

9
10 Mr. Jason Wishall stated that, regarding Special Condition B, they have a verbal agreement with the
11 Pesotum Township Highway Commissioner to run empty, bobtail, and not to run the tall van trailers because
12 van trailers tend to scare people. He said that he could obtain this verbal agreement in writing if necessary.

13
14 Mr. Hall stated that since the petitioners are working with the Pesotum Township Highway Commissioner
15 perhaps proposed Special Condition B. could just be incorporated with proposed Special Condition C.,
16 making Special Condition C. the new Special Condition B. He said that staff would be happy to work with
17 the petitioners regarding this matter and when they submit the written agreement staff will just refer to the
18 agreement in the special condition. He said that since this is an agreement between the petitioners and the
19 township it will be noted, thus satisfying the Board's interest in the roads.

20
21 Ms. Lee asked Mr. Jason Wishall how the trucks will travel if they will not travel beyond CR 600N on CR
22 900E.

23
24 Mr. Jason Wishall stated that the trucks travel north out of the subject property to CR 600N, County
25 Highway 17 or also known as the Sadorus slab, traveling east to Route 45 where they travel north to the
26 Monticello Road, County Highway 18.

27
28 Ms. Lee thanked Mr. Wishall.

29
30 Mr. Thorsland stated that the trucks only travel as far north as to drive out of the subject property to get onto
31 CR 600N. He said that he agrees with Mr. Hall's recommendation regarding blending Special Conditions B
32 & C.

33
34 Ms. Griest stated that a notation indicating that CR 600N is County Highway 17 would be appreciated for
35 future reference.

36
37 Mr. Hall stated that he would really like to only refer to the agreement with the Pesotum Township Highway
38 Commissioner.

39

1 Mr. Hall stated that the petitioners expect staff to provide useful guidance regarding their requests. He said
2 that the request which causes him the most difficulty is Part B. of Case 807-V-15 regarding a variance from
3 the Champaign County Stormwater Management and Erosion Control Ordinance. He said that if the Board
4 has any thoughts regarding this variance and whether or not it seems reasonable due to the organic growth of
5 the trucking operation at the farm operation location or whether as organic as it may be the petitioners can
6 still provide stormwater detention. He said that there has only been one other variance from the Stormwater
7 Management Policy and that variance was approved so he does not have a lot of history to work from.

8
9 Ms. Lee asked Mr. Hall to indicate the variance case that was approved.

10
11 Mr. Thorsland stated that the previous case is not relevant to this case.

12
13 Mr. Hall stated that the previous case was a completely different situation.

14
15 Mr. Thorsland pointed out that the petitioners own the property to the east and they farm that acreage. He
16 said that the Board is not indicating that the petitioners have to do any further improvements to handle the
17 runoff from the non-permeable areas. He said that since it appears that Mr. Michael Wishall has lived in the
18 area for a very long time, he may know which way the water flows and why the newest building is located in
19 its current location. He asked the Board if they are uncomfortable in not requiring any stormwater
20 management for this particular property given the peculiarity.

21
22 Mr. Hall asked the Board if they are comfortable granting a variance with little or no technical justification
23 as to why stormwater management should not be provided.

24
25 Mr. Thorsland stated that the information indicates that the buildings have been in place for some time now
26 with no noticeable issues regarding water.

27
28 Mr. Randol stated yes. He said that the structures have been there for a number of years therefore if there
29 was a problem the petitioners have probably already dealt with it. He said that it is obviously not affecting
30 the road so the water is not draining that way and causing any problems. He said that he does not believe
31 that this is an issue.

32
33 Mr. Hall clarified that the water is draining towards the road. He said that once the Board makes its decision
34 he will know what to tell future applicants if they do not want to provide stormwater detention.

35
36 Mr. Thorsland stated that the petitioners testified that they had culverts delivered to be installed before the
37 progress was stopped and the culverts have now been installed.

38
39 Mr. Jason Wishall stated that the culverts have been installed.

1
2 Mr. Thorsland asked Mr. Jason Wishall if drainage improvements were made when the road was improved.

3
4 Mr. Jason Wishall stated yes.

5
6 Ms. Griest stated that she does not have a problem with the variance request in Part B. She said that less
7 than two acres of the parcel is dedicated to the trucking operation therefore it is her rationale that even
8 though overall we have talked about 5.68 acres some of it is not solely dedicated to the trucking operation.
9 She said that she really does not think that when we are looking at a 50/50 ratio on the areas and buildings
10 that are being shared, if we went with the 50% of the area was completely dedicated to the truck operation,
11 that we are exceeding the three acres for the special use portion and the rest of it falls over to the farm
12 operation. She said that she is opposed to taking ground out of production to provide stormwater detention
13 when it is not necessary when the dated historical aerials included in the packet do not indicate apparent
14 ponding or flooding adjacent to or on the subject property. She said that she has no issue with the requested
15 variance as this is a unique situation and it would be different if the use was just being proposed from scratch
16 with no documentation of flooding, then this discussion would be different. She said that this use has
17 evolved from a farm operation into a trucking operation and the petitioners did not change the profile of the
18 property.

19
20 Mr. Thorsland stated that he agrees with Ms. Griest and asked if it is made clear that some recent drainage
21 upgrades were made and no significant changes have taken place since well before the incorporation of the
22 trucking operation. He said that the newest building is not located on the subject property.

23
24 Ms. Lee stated that if you look at where the .4 acres which has all of the trailers parked upon and eliminate
25 the 72' x 128' building, you still have one acre that is between the two parcels that is involved in the
26 trucking operation. She said that there is still over one acre applicable to the Stormwater Management
27 Policy.

28
29 Mr. Randol stated that it is not in one particular area and is in spots on the property. He said that the largest
30 area is one acre that is drawn where the trucks are parked. He asked how many acres are involved in the
31 entire subject property.

32
33 Mr. Thorsland stated that the subject property consists of 5.68 acres.

34
35 Mr. Randol stated that not even one-fifth of the subject property is for the trucking operation.

36
37 Ms. Lee stated that basically there is still more than one acre that is impervious area that is for the trucking
38 operation.

39

1 Mr. Thorsland stated that the dotted line that wraps around the 50/50 building indicates one acre.

2
3 Mr. Hall stated that Board members should not focus on the dotted area because the dotted areas can only be
4 used once you get to them. He said that the area outside of the dotted area is absolutely necessary for the
5 trucking operation and our policy requires that if there is one acre of impervious area in any 90,000 square
6 feet area then stormwater detention must be provided and that is what the Ordinance indicates. He said that
7 if all of the impervious area was added up for the trucking operation and the general maneuver areas were
8 only used half of the time or 40% trucking and 60% farm there is still almost two acres for trucking.

9
10 Mr. Thorsland asked Mr. Hall if we are counting gravel as impervious area.

11
12 Mr. Hall stated that gravel has always been counted as impervious area. He said that gravel is gravel when
13 designing stormwater management, but for purposes of the threshold anything that is not grass is impervious.
14 He said that he does think that there are a lot of compelling reasons due to the organic growth from the
15 farming operation but this is not one-half of an acre that the Board will write off but is two acres that the
16 Board will let be developed in the AG-1 district with no required detention.

17
18 Mr. Thorsland asked Mr. Hall if the rule for AG-2 is the same.

19
20 Mr. Hall stated yes. He said that the point is that this use is surrounded by the AG-1 district and two acres of
21 impervious area has been placed on the subject property and the Board may say that there is nothing to worry
22 about.

23
24 Ms. Griest stated that the impervious area is not being placed there now but already exists as a result of the
25 farming operation and it is shared with the trucking operation. She said that the farm operation does not have
26 to have the detention.

27
28 Mr. Thorsland stated that he would propose waiving the stormwater requirement for the following reasons:
29 1. the business is 50% of what occurs in the impervious area; and 2. the growth has taken place over time;
30 and the surrounding property is owned by the petitioners; and 3. no complaints have been received due to
31 water and no testimony has been received at the public hearing regarding water. He said that perhaps his
32 comments could be used as justification of waiving the stormwater requirement. He said that it appears that
33 the impervious area is just making the threshold for the requirement. He said that the Board is missing two
34 members who could have concerns and helpful advice regarding this issue and should be included in this
35 conversation. He said that he has voiced his reasons for being comfortable in waiving the requirement in
36 this particular case. He said that this case is fairly unique and the Board has had other special use cases
37 where there is a lot of impervious area and it is pointed to other people who are not in common ownership
38 and there were documented problems and efforts to fix the problems and the Board has had to make them fix
39 it better. He said that in this case he hasn't heard testimony indicating that there is any problem and it is sort

1 of, like the buildings all started to grow slowly.

2
3 Ms. Griest stated that maybe as evidence to support the variance a description of the tile that exists on the
4 farm ground that the subject property drains to is necessary. She said that page 3 of the Natural Resources
5 Report discusses the surface and subsurface drainage. She said that under Water Resource: a) Surface
6 Drainage the report states the following: "The site is on a flat ground, water now travels off the site in all
7 directions. The west has a good road ditch to help with drainage." Ms. Griest stated that the petitioner owns
8 property in all three directions of the subject property.

9
10 Mr. Thorsland stated that the new culvert pipes are there for the road and the Natural Resources Report
11 indicates that the road ditch has good drainage. He said that at the Natural Resources Report will be folded
12 in as evidence as testimony and the statement that within the last three years the improved road drainage has
13 been installed adjacent to the fourth side of subject property. He said that is it compelling in this particular
14 and unique case to waive this in this case

15
16 Mr. Michael Wishall stated that his parents did their estate planning 20 or 30 years ago and he did not find
17 out about their wills until his father passed away. He said that at the time of the estate planning their
18 attorney told them that that the subject property had to be five acres. Mr. Michael Wishall stated that if the
19 lot only had to be three acres it would have saved him a lot of money as he would not have had to buy five
20 acres from his brother and sister. He said that the newest shed was built in its current location because he
21 owned the land that the new shed is sitting on and if he had not owned the five acres he would have had to
22 buy it again from his brother and sister and did not desire to do so. He said that he just wanted to inform the
23 Board and staff as to why the five acres is what it is and why the building was built on the adjacent farm
24 land.

25
26 Mr. Thorsland stated that he and Ms. Griest are traveling down the same path and hopefully staff is feeling
27 more comfortable. He said that this discussion will be in the minutes and hopefully staff can summarize this
28 discussion as evidence.

29
30 Ms. Griest asked Mr. Michael Wishall if he had any field tile maps of the subject property.

31
32 Mr. Michael Wishall stated that he did not have any field tile maps of the subject property. He said that his
33 grandfather laid the field tile many, many years ago. He said that he does know where some of the mains are
34 located for the field tiles.

35
36 Ms. Lee stated that the Farm Bureau created some maps years ago.

37
38 Mr. Michael Wishall stated that he has copies of those maps and they are really just an educated guess and
39 was not a science that proved out.

1
2 Mr. Thorsland agreed.
3

4 Mr. Thorsland asked the Board and staff if there were any additional questions or concerns and there were
5 none.
6

7 Mr. Thorsland stated that the Board needs to discuss a continuance date for these cases.
8

9 Mr. Hall stated that he does not have an impression that a great amount of work is required therefore he
10 recommended the first meeting in January 2016. He said that significant cases have been docketed for the
11 October 29th and November 12th meetings, and later on during the meeting staff will be requesting that the
12 Board consider holding a special meeting on December 3rd.
13

14 Mr. Thorsland noted that he will be absent from any December meetings.
15

16 Ms. Lee asked Mr. Hall if Case 792-V-14 will be ready on October 29th for the Board's review.
17

18 Mr. Hall stated that it would be great if petitioners got items to staff two weeks ahead of time but no one in
19 the history of the ZBA has ever done that so it is unknown.
20

21 Mr. Thorsland asked if there is any reason why these cases cannot be continued to the first meeting in
22 January (14th).
23

24 Mr. Michael Wishall stated that he will check to see if he will be back in town for the first meeting in
25 January 2016.
26

27 Mr. Thorsland stated that the reason that the meeting date is tentative is because the County Board has yet to
28 approve their 2016 calendar. He said that the November meetings are both booked solid and the October
29 29th meeting is too soon. He said that the ZBA has been requested to have fewer meetings, if possible, as it
30 costs the County money to have these meetings. He said that the December 3rd meeting is not official yet
31 and the petitioners would not have a full Board in attendance as he will be absent.
32

33 Mr. Hall stated that if the petitioner is open to continuing their cases to the first meeting in January then that
34 is the date that he would recommend although it is a possibility that one of the petitioners may not be able to
35 attend the meeting.
36

37 Mr. Michael Wishall stated that he has lived at his residence for over 50 years and his phone number has
38 never changed so if there are any questions that he needs to answer the Board or staff can just call him.
39

1 Mr. Thorsland stated that perhaps the answers to the questions that were deferred to Mr. Michael Wishall
2 could be passed on to Jason and Brian so that they can address any further questions that the Board may
3 have. He asked the petitioners if they agreed to a tentative continuance date of January 14, 2016.
4

5 The petitioners agreed to a tentative continuance date of January 14, 2016.
6

7 Mr. Thorsland entertained a motion to continue Cases 805-AM-15, 806-S-15 and 807-V-15 to the tentative
8 January 14, 2016, meeting.
9

10 Ms. Griest suggested that the motion only indicate the first meeting in January in lieu of a tentative date.
11

12 Mr. Thorsland agreed.
13

14 **Ms. Griest moved, seconded by Mr. Randol to continue Cases 805-AM-15, 806-S-15 and 807-V-15 to**
15 **the first meeting in January, 2016. The motion carried by voice vote.**
16

17 **Case 813-S-15: Petitioner: David and Ginger Spillars, d.b.a. Ohana Pools, Spas & Billiards, Inc.**
18 **Request to authorize the conversion of an existing single family dwelling to a two-family dwelling by**
19 **the addition of a second dwelling in the AG-2 Agriculture Zoning District. Location: Lot 2 of Hudson**
20 **Acres Subdivision, in the Southeast Quarter of the Southwest Quarter of Section 11 in Urbana**
21 **Township and commonly known as the residence at 3710 East University Avenue, Urbana.**
22

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

32 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
33 the witness register for that public hearing. He reminded the audience that when they sign the witness
34 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
35 time.
36

37 Mr. Thorsland asked the petitioners if they would like to make a brief statement regarding their request.
38

39 Mr. David Spillars, who resides at 1605 Nottingham Drive, St. Joseph, stated that he is requesting a Special

1 Use Permit for the conversion of an existing single family dwelling to a two-family dwelling by the addition
2 of a second dwelling. He said that he isn't adding a second dwelling but trying to obtain a Zoning Use
3 Permit for an existing second dwelling that was illegally constructed without a Zoning Use Permit.
4

5 Mr. Thorsland stated that the Preliminary Memorandum indicates that a sunroom is being constructed to
6 connect the two dwellings.
7

8 Mr. Spillars stated that he is trying to rehabilitate the property in making it structurally safe and compliant to
9 the required codes.
10

11 Mr. Thorsland asked the Board if there were any questions for Mr. Spillars and there were none.
12

13 Mr. Thorsland asked Mr. Spillars if he would like to provide any specific details regarding the request. Mr.
14 Thorsland informed Mr. Spillars that since this is a Special Use case there are criteria that must be met
15 therefore he may want to indicate why this use is necessary for the public convenience at this site.
16

17 Mr. Spillars stated that this was a distressed property when they purchased the property and there are two or
18 three other properties in the subdivision which are also in a distressed state. He said that the rest of the area
19 is really pretty nice rural residential area with a grandfather clause regarding home based businesses. He said
20 that his parcel had a home based business on it for years and he can remember visiting the property as a
21 child. He said that the other home businesses in the area include an accounting office and an artist studio.
22 He said that as far as he knows the garage was converted into a "mother-in-law" suite and the property was
23 presented to him and his wife as a two dwelling property with a home business that had been grandfathered
24 which they thought was a great aspect of the property.
25

26 Mr. Thorsland asked Mr. Spillars if the property had been abandoned or were the homes only unoccupied at
27 the time.
28

29 Mr. Spillars stated that the property was for sale for some time and was in disrepair and yes both homes were
30 unoccupied.
31

32 Mr. Thorsland asked Mr. Spillars if it was his understanding that the two homes were allowed on the
33 property.
34

35 Mr. Spillars stated yes. He said that the two homes have been on the property for almost 40 years and during
36 his rehabilitation of the property he found the years 1974 and 1975 written on the walls, which is when he
37 believes that the garage was converted into a second dwelling.
38

39 Mr. Thorsland noted that the Zoning Ordinance was adopted on October 10, 1973, which is before the dates

1 on the wall.

2

3 Mr. Spillars stated that he noticed that the information indicated a discrepancy regarding the date of
4 conversion and obviously it was never permitted. He said that there appears to be a lot of things on the
5 property which were done by the seat of the previous owner's pants which is why he is trying to bring
6 everything up to code making the structures safe so that the dwellings are livable units. He said that if the
7 zoning has to be changed to allow for a duplex then he is good with it as he is willing to do whatever he has
8 to do to bring this property into compliance.

9

10 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Spillars and there were none.

11

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

13

14 Mr. Thorsland asked Ginger Spillars if she would like to present any testimony to the Board.

15

16 Ms. Ginger Spillars, who resides at 1605 Nottingham, St. Joseph, stated that they purchased the property
17 with two homes and had no clue that the property was in violation. She said that this property is where they
18 plan to reside with their kids therefore they are trying to make it nice. She said that they were totally
19 shocked when they found out the issues with the property but they are business people and they realize that
20 people do things without permission. She said that she and her husband are the type of people who obtain
21 required permits for construction and they are trying to get their property in compliance because they plan on
22 living there for a very long time.

23

24 Mr. Thorsland asked Ms. Spillars if she already owned the property when she found out that the property
25 was in violation.

26

27 Ms. Spillars stated yes. She said that they were remodeling the property and when her husband was
28 completing upgrades for the plumbing to the septic system they decided to add on to the structure. She said
29 that she visited the Department of Planning and Zoning to acquire a permit for the addition and was
30 informed that the property was in violation.

31

32 Mr. Thorsland stated that it is good that the Spillars decided to acquire a permit for the additions.

33

34 Ms. Spillars stated that it was good that they were trying to comply but unfortunately they discovered that
35 there were a lot of things on the property which did not obtain permits or approval by the County.

36

37 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Spillars and there were none.

38

39 Mr. Thorsland stated that there is one proposed special condition indicated on Page 14 of the Preliminary

1 Draft Summary of Evidence. He read the proposed special condition as follows:
2

- 3 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
4 **until the petitioner has demonstrated that any new proposed exterior lighting**
5 **on the subject property will comply with the lighting requirements of Section**
6 **6.1.2.**

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

8 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**
9

10 Mr. Hall explained that for any Special Use Permit the lighting is supposed to be full cut-off. He said that
11 hopefully the petitioners have not added any exterior lighting yet but if they have or plan to, staff would be
12 happy to review the manufacturer's data sheet for the fixture to assure that it is full cut-off.
13

14 Mr. David Spillars asked if full cut-off means horizontal lighting which stops at the fixture.
15

16 Mr. Thorsland stated that full cut-off lights should only produce light on the subject property and not upon
17 the neighbor's property.
18

19 Mr. and Mrs. Spillars stated that they are planning on taking down some lights therefore they have no issue
20 with the proposed special condition.
21

22 Mr. Thorsland read the proposed special condition again as follows:
23

- 24 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
25 **until the petitioner has demonstrated that any new proposed exterior lighting**
26 **on the subject property will comply with the lighting requirements of Section**
27 **6.1.2.**

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

29 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**
30

31 Mr. Thorsland asked Mr. and Mrs. Spillars if they agreed to the Special Condition A.
32

33 Mr. and Mrs. Spillars indicated that they agreed to Special Condition A.
34

35 Mr. Thorsland entertained a motion to approve Special Condition A.
36

37 **Ms. Griest moved, seconded by Mr. Randol to approve Special Condition A. The motion carried by**
38 **voice vote.**
39

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

2
3 **Finding of Fact for Case 813-V-13:**

4
5 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
6 813-V-15 held on October 15, 2015, the Zoning Board of Appeals of Champaign County finds that:

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

10
11 Mr. Randol stated that the requested Special Use Permit IS necessary for the public convenience at this
12 location to bring the property into compliance and to provide the community with adequate and
13 habitable living quarters.

- 14
15
16 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
17 **IMPOSED HEREIN is so designed, located, and proposed to be operated so that it**
18 **WILL NOT be injurious to the district in which it shall be located or otherwise**
19 **detrimental to the public health, safety, and welfare because:**

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

23
24 Ms. Griest stated that the street has ADEQUATE traffic capacity and the entrance location has
25 ADEQUATE visibility.

- 26
27 **b. Emergency services availability is ADEQUATE.**

28
29 Ms. Griest stated that emergency services is ADEQUATE.

- 30
31 **c. The Special Use WILL be compatible with adjacent uses.**

32
33 Ms. Lee stated that the Special Use WILL be compatible with adjacent uses.

- 34
35 **d. Surface and subsurface drainage will be ADEQUATE.**

36
37 Ms. Griest stated that surface and subsurface drainage will be ADEQUATE.

38
39

1 **e. Public safety will be ADEQUATE.**

2
3 Ms. Lee stated that public safety will be ADEQUATE.
4

5
6 **f. The provisions for parking will be ADEQUATE.**

7
8 Mr. Randol stated that the provisions for parking will be ADEQUATE.
9

10
11 **g. The property IS WELL SUITED OVERALL for the proposed**
12 **improvements.**

13
14 Mr. Randol stated that the property IS WELL SUITED OVERALL for the proposed improvements.
15

16 **h. Existing public services ARE available to support the proposed**
17 **SPECIAL USE without undue public expense.**

18
19 Ms. Griest stated that existing public services ARE available to support the proposed SPECIAL USE
20 without undue public expense.
21

22
23 **i. Existing public infrastructure together with the proposed development IS**
24 **adequate to support the proposed development effectively and safely**
25 **without undue public expense.**

26
27 Ms. Griest stated that existing public infrastructure together with the proposed development IS adequate
28 to support the proposed development effectively and safely without undue public expense.
29

30 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
31 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
32 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety
33 and welfare.
34

35 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS,**
36 **IMPOSED HEREIN DOES conform to the applicable regulations and standards of**
37 **the DISTRICT in which it is located.**
38

1 Ms. Griest the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED
2 HEREIN DOES conform to the applicable regulations and standards of the DISTRICT in which it is
3 located.

4
5 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
6 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
7 **which it is located because:**

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

11
12 Mr. Randol stated that the Special Use will be designed to CONFORM to all relevant County ordinances
13 and codes.

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

16
17 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

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

20
21 Ms. Griest stated that public safety will be ADEQUATE.

22
23 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
24 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

25
26 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
27 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the**
28 **Ordinance because:**

29
30 **a. The Special Use is authorized in the District.**

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

34
35 Ms. Griest stated that the requested Special Use Permit IS necessary for the public convenience at this
36 location.

37
38 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL**
39 **CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to**

1 **be operated so that it WILL NOT be injurious to the district in which it shall**
2 **be located or otherwise detrimental to the public health, safety, and welfare.**

3
4 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITION
5 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
6 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
7 and welfare.

8
9 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL**
10 **CONDITIONS IMPOSED HEREIN, DOES preserve the essential character**
11 **of the DISTRICT in which it is located.**

12
13 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
14 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

15
16 Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL
17 CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the
18 Ordinance.

19
20 **5. The requested Special Use IS NOT an existing nonconforming use.**

21
22 **6. THE SPECIAL CONDITIONS IMPOSED HEREIN IS REQUIRED TO ENSURE**
23 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND**
24 **FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**

25
26 **A. The Zoning Administrator shall not authorize a Zoning Compliance**
27 **Certificate until the petitioner has demonstrated that any new or proposed**
28 **exterior lighting on the subject property will comply with the lighting**
29 **requirements of Section 6.1.2.**

30
31 The special conditions stated above are required to ensure the following:
32 **That any proposed exterior lighting is in compliance with the Zoning**
33 **Ordinance.**

34
35 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
36 of Fact as amended.

37
38 **Ms. Lee moved, seconded my Mr. Randol to adopt the Summary of Evidence, Documents of Record**
39 **and Findings of Fact as amended. The motion carried by voice vote.**

1
2 Mr. Thorsland entertained a motion to move to the Final Determination for Case 813-S-15.
3

4 **Ms. Lee moved, seconded by Mr. Randol to move to the Final Determination for Case 813-S-15. The**
5 **motion carried by voice vote.**
6

7 Mr. Thorsland informed Mr. and Mrs. Spillars that currently the Board has one vacant Board seat and two
8 absent Board members therefore it is at their discretion to either continue Case 813-S-15 until a full Board is
9 present or request that the present Board move to the Final Determination. He informed Mr. and Mrs.
10 Spillars that four affirmative votes are required for approval.
11

12 Mr. and Mrs. Spillars requested that the present Board move to the Final Determination.
13

14 **Final Determination for Case 813-S-15:**
15

16 **Ms. Griest moved, Ms. Lee seconded that the Champaign County Zoning Board of Appeals finds that,**
17 **based upon the application, testimony, and other evidence received in this case, the requirements of**
18 **Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6**
19 **B. of the Champaign County Zoning Ordinance, determines that:**
20

21 **The Special Use requested in Case 813-S-15 is hereby GRANTED WITH SPECIAL**
22 **CONDITIONS to the applicants David and Ginger Spillars, to authorize the following:**
23

24 **Authorize a Special Use Permit in the AG-2 Agriculture Zoning District for**
25 **the conversion of an existing single family dwelling to a two-family dwelling by the**
26 **addition of a second dwelling.**
27

28 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**
29

- 30 **A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
31 **until the petitioner has demonstrated that any new or proposed exterior lighting on**
32 **the subject property will comply with the lighting requirements of Section 6.1.2.**
33

34 **The special conditions stated above are required to ensure the following:**
35 **That any proposed exterior lighting is in compliance with the Zoning**
36 **Ordinance.**
37

38 Mr. Thorsland requested a roll call vote.
39

1 The roll call vote was called as follows:

2

3

Lee-yes

Passalacqua-absent

Randol-yes

4

Capel-absent

Griest-yes

Thorsland-yes

5

6 Mr. Hall informed Mr. and Mrs. Spillars that they have received an approval of their request and staff will
7 send the final paperwork as soon as possible. He requested that Mr. and Mrs. Spillars contact the office with
8 any questions.

9

10 Mr. Thorsland stated that the Board will now hear Cases 805-AM-15, 806-S-15 and 807-V-15, Michael
11 Wishall, Jason Wishall, Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation, Inc., and
12 Wishall Farms, Inc.

13

14

15 **7. Staff Report**

16

17 Mr. Hall stated that prior to the explosion in zoning cases this month Ms. Chavarria has been doing excellent
18 work in assisting with enforcement cases. He said that he should have commended Ms. Chavarria for her
19 work at the last meeting as this has been going on for a couple of months. He said that there have not been a
20 great number of enforcement cases resolved but there have been some and there has been contact made for a
21 great many of those enforcement cases. He said that we have finally achieved, to a degree, having the
22 current planner assisting with enforcement.

23

24 **8. Other Business**

25

A. Review of Docket

26

27 Mr. Thorsland stated that he will be absent from all of the December meetings as he will be out of the
28 country.

29

30 Mr. Randol stated that it is a possibility that he will not be attending the November 12, 2015, public hearing.

31

32 Ms. Griest stated that she will be absent from the first meeting in February, 2016.

33

34 Mr. Hall stated that the December 17th meeting is over docketed and Case 802-AT-15 can be placed on a
35 different docket date. He said that Case 819-AT-15 needs to be done because it is holding up a development
36 and even if that case gets decided early, a minimum of four months, it will lead to a follow up case that will
37 take a couple of months to work through. He said that currently the December 17th meeting includes Cases
38 818-S-15 Woods Edge MFH Park and 819-AT-15, Zoning Administrator and those two cases will include a
39 lot of information and he knows that the text amendment will not be finalized at that meeting. He said that

1 the petitioners for Case 818-S-15 would like to see a final determination in calendar year 2015 but it is
2 unknown if that will be possible. He said that the Board does not often have the opportunity to hold special
3 meetings when the docket is so loaded but it is the Board's decision.

4
5 Mr. Thorsland asked Mr. Hall if he is hoping that some of the cases currently on the December 17th docket
6 could drift on to the December 3rd special meeting date, if the Board chooses to approve a special meeting
7 date.

8
9 Mr. Hall stated that he would not drift Case 802-AT-15 backwards to the proposed December 3rd special
10 meeting but he would drift Cases 818-S-15, Woods Edge MFH Park and Case 819-AT-15, Zoning
11 Administrator.

12
13 Mr. Thorsland asked Mr. Hall if the Board could do that now.

14
15 Mr. Hall stated that the Board could if there is a proposed special meeting on December 3rd.

16
17 Mr. Thorsland stated yes that would be the first thing but are any of the cases ready enough to be moved
18 forward to a closer date.

19
20 Mr. Hall stated that who knows how much meeting time there will be at the October 29th meeting but he
21 would predict that the Board will have at least two full hours of meeting time. He said that on November
22 12th the Board will be doing very well to deal with all of those cases at that meeting. He said that he does
23 not want to move any of the cases from the December 17th meeting to the November 12th meeting.

24
25 Mr. Thorsland stated that if the Board decides to have a special meeting could Case 818-S-15, Woods Edge
26 MFH Park be moved to that meeting.

27
28 Mr. Hall stated that the December 3rd special meeting, if approved, would probably consist of Cases 816-V-
29 15, Waughtel, 818-S-15, Woods Edge MFH Park leaving Case 819-AT-15 on the December 17th meeting.
30 He said that Case 802-AT-15, Zoning Administrator could remain on the December 17th meeting and if the
31 Board does not get to it then it will be continued.

32
33 Ms. Griest asked Mr. Hall if it is his preference that the Board schedules a special meeting on December 3rd
34 and in approving that special meeting it would not overload staff.

35
36 Mr. Hall stated that is his preference.

37
38 Ms. Griest asked Mr. Hall if Case 819-AT-15 could be placed on the December 3rd agenda so that staff could
39 at least introduce the case to the Board.

1
2 Mr. Thorsland asked if the docket placement for the proposed December 3rd meeting could be at staff's
3 discretion for moving cases to it.
4
5 Ms. Griest asked if the cases are generally scheduled on the docket in numerical order.
6
7 Mr. Hall stated that when it is a text amendment he will take the liberty of delaying it if it helps out private
8 citizens.
9
10 Ms. Lee asked Mr. Hall to indicate his preference regarding the December 3rd special meeting.
11
12 Mr. Hall stated that he would like to have a special meeting held on December 3rd if the Board is willing to
13 do it. He said that he doesn't really want to add another meeting but he does feel that it is worth doing given
14 the situation that we have with these cases. He said that it is not fun and it isn't what he prefers but it is what
15 the public would want to do.
16
17 Mr. Thorsland entertained a motion to hold a special meeting on December 3rd.
18
19 **Mr. Randol moved, seconded by Ms. Griest to hold a special ZBA meeting on December 3, 2015. The**
20 **motion carried by voice vote.**
21
22 **9. Audience Participation with respect to matters other than cases pending before the Board**
23
24 None
25
26 **10. Adjournment**
27
28 Mr. Thorsland entertained a motion to adjourn the meeting.
29
30 **Ms. Griest moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**
31
32 The meeting adjourned at 8:59 p.m.
33
34
35
36 Respectfully submitted
37
38
39



Commercial and Farm Trucks

Apportioned Plates

The International Registration Plan (IRP) is a registration reciprocity agreement among 49 jurisdictions states of the United States and 10 provinces of Canada providing for payment of license fees on the basis of total distance operated. Apportionment is required for vehicles operating in two or more International Registration Plan (IRP) member jurisdictions that have a combined gross weight or used in combination where the weight exceeds of more than 26,000 pounds including the weight of the vehicle and the maximum load, or is a power unit having three or more axles, regardless of weight. Commercial vehicles weighing less than 26,000 pounds operating intrastate in two or more jurisdictions must also apportion. Apportioned power units (truck, tractor, truck tractor, buses, mobile home trailers, power wreckers) do not have to be titled in Illinois to purchase apportioned plates. Trailers registered in Illinois must be titled in Illinois. A fleet is defined as one or more Apportionable Vehicles registered in the same jurisdictions.

Apportioned Tow Trucks and Household Goods Carriers

Special insurance requirements are in effect for Tow Trucks. Household Goods Carriers have specific instructions for showing the Carrier or Service Provider name on their registrations. For more information regarding tow trucks and household goods carriers, please contact the Commercial & Farm Truck Division at 217-785-1800.

New Applicants

All new applicants are required to pay by secured funds for the first three years of registration. Acceptable forms of payment are cash, money order, credit/debit card or certified check. A company or personal check may only be accepted with an irrevocable letter guaranteeing payment from your financial institution. Credit/debit card payments may be made by telephone or in person. To apply for first time issuance of IRP plates you must bring:

- Proof of ownership of the vehicle. Acceptable forms of proof include a copy of the title in the owner's name, copies of both sides of the assigned title, a ST-556 tax form, an invoice or bill of sale from a dealer signed by both the seller and buyer not more than six months old.
- Receipted FORM 2290 Schedule 1 (Heavy Vehicle Use Tax). If the for the current tax year if the vehicle is being registered at a gross vehicle weight of 55,000 pounds or more and it has been more than 60 days from the date of purchase.
- USDOT Number (if you are not the carrier, then the USDOT Number of the carrier responsible for safety.)
- Proof of an established place of business. You must submit four documents, one of which must be a current phone bill. Bills must not be more than 60 days old. Other acceptable forms are an Illinois driver's license, rental or lease contract for the location, real estate tax bill, utility bills, and insurance documents, and corporation papers.
- Corporation documents proving "Good Standing" for either domestic or foreign corporation or limited liability companies.
- Completed [International Registration Plan Application](#).
- Completed [Schedule "G" for First-Year Applicants form](#). This form describes applicant, registration and vehicle history. It explains your business plan, intent of operations and choices of jurisdictions for operation. This form is required and must be answered in its entirety.

New applicants will be required to use either the distances published in the International Registration Plan Instruction Manual or on the Average Per Vehicle Distance Chart (VSD 646) as estimates for their first year of operation or provide actual distances accrued during the respective distance reporting period, depending on how the vehicles were previously registered or based upon previous operations.

Renewal Applications

Applicants will be sent a renewal letter, if they have less than 250 vehicles in their fleet. This letter will contain the PIN for renewal and specific instructions for the distance reporting period. Trailer fleets are no longer sent renewal notices or letters as they are permanent registration.

All distances accrued during the reporting period shown in the renewal letter must be reported on the renewal application or using the web service to renew.

Replacement plates may be ordered using the renewal process. You may also purchase Special Hauling Vehicle Permits (SHV) for the next registration year during renewal.

Applicants are advised to check any information listed on the renewal and make corrections where corrections can be made. Please check any listing of a Fuel Tax number, Interstate Commerce Commission number, Illinois Commerce Commission number, Corporation number or Driver's License number. These should be for the registrant, not whom you may be leased to. Corporations will not have Driver's License numbers. Please enter a special mailing address in its entirety, if necessary.

Address changes or vehicle information changes may not be made using the web renewal service. Corrections to distance entry or weight group activation may be reset by contacting the Commercial & Farm Truck Division. You may stop and start the renewal process on the web site at any time until an invoice has been calculated. Once the invoice has been calculated you may only obtain a copy of the invoice as no other activity is allowed.

Supplemental Applications

Supplemental applications may be processed after the initial (original) application or renewal. They may be completed for additions, transfers, replacement plates, adding jurisdictions, reclassing weights, duplicate and corrected cab cards and the purchase of Special Hauling Vehicle Permits (SHV).

- Vehicles cannot be downgraded to lower weights
- Proof of ownership is required to change the lessor name
- Unit numbers may be changed but cannot be duplicated or re-used during the registration year
- IRP plates may be transferred to new units, however, a different unit number is required. You must provide proof of ownership and the FORM 2290, Schedule 1 if purchased over 60 days from the date of registration and the gross weight exceeds 55,000 pounds

Payment and Processing

Apportioned plates are only sold at the Commercial & Farm Truck Division in Springfield. There are three options to process your application or make payment. Applications cannot be faxed to the Commercial & Farm Truck Division for processing.

- Mail the application or payment to Springfield (allow 2-3 weeks for processing time).
- Submit an application or payment by a remittance agent. Remittance agents are bonded and licensed with the Secretary of State's Office to process applications and submit payment.
- Make an appointment and come to Springfield. Appointments are available from 8:30 a.m. to noon on weekdays. An appointment is not required when only making payments, unless it is 100 units or more. Please check the [holiday closings](#).

Each jurisdiction has its own fee schedule and depending on the jurisdictions, the cost varies. After submitting an application, you will be provided with an invoice of the fees owed which will reflect the fee for each jurisdiction. The total amount due will be shown at the bottom of the invoice. The Illinois portion of the registration may be paid by an installment method for any vehicles being charged for a 10-, 11-, or 12-month registration, all foreign fees and additional Illinois fees must be paid with the initial invoice. The second installment is due October 1. An installment bond or a certificate of deposit not to exceed \$250,000 per financial institution is required for the second installment. Illinois statutes do not allow a refund on the remainder of unused Apportioned Registrations (IRP).

At certain times of the year, fees are credited from a Flat Weight Tax Registration to IRP fees. When making your initial application, indicate that you have a Flat Weight Registration and would like credit, if possible.

Renewal invoices should be paid prior to the April 1st effective date of the registration to avoid enforcement issues. If paying by mail, your check for renewal fees should be received no later than March 1st to ensure ample time for processing and return of credentials before March 31st.

If you do not renew, you must account for your license plates. They may be returned or you may file the [Request for Cancellation of Illinois Apportioned \(IRP\) Plates](#) by April 15th following expiration.

45-Day Temporary Apportionment Authorization Permit

Once the original invoice and the IRP file in good standing, a 45-Day Temporary Apportionment Authorization Permit can be purchased. The purpose of this permit is for temporary operations until the permanent credential can be obtained.

Once a 45-Day Temporary Apportionment Authorization has been issued, it is the responsibility of the applicant to submit the application for the reason of the permit within 5 days of the issuance of the permit. Failure to timely submit can cause the applicant to forfeit the privilege of future temporary permits.

Farm Plates

Farm Registration allows reduced fees for farmers who haul their own commodities in a not-for-hire operation and certain for-hire purposes. No surety bond is required. Farm Plates may be used for trucks, truck tractors and trailers used in various farming operations. Farm Vehicles may be operated out-of-state on a limited basis. Illinois Farm Registration is recognized by most states. Before entering another state, however, truck operators should check with that state.

Farm Plates may be issued to any vehicle that is used exclusively for the owner's agricultural, horticultural or livestock operations and not-for-hire. Farm Plates may also be issued to for-hire vehicles only in the transportation of seasonal, fresh, perishable fruit or vegetables from the farm to the point of first processing. An applicant is limited to five sets of plates for power units, of which only two sets of plates may exceed 59,500 pounds plus two Farm Trailer Plates.

A UCR# is required if your commodity that you are moving using the Farm Plate crosses jurisdictional boundaries or is taken out of state. You may deliver to a local elevator or processing station, but if that commodity is further shipped out of state, a UCR# may be required. The UCR# is actually a USDOT number. Please contact the Illinois Commerce Commission for further information on the UCR program.

Farm plates may be purchased at the Commercial and Farm Truck Division office in Springfield and [Level 3 Secretary of State facilities](#).

Flat Weight Tax Registration (Fiscal)

Flat Weight Tax Registration is based on the combined gross weight of the vehicle. There is a limited liability to operate in other jurisdictions based upon weight, number of axles or intra/interstate operation. For information regarding trip permits, contact the jurisdiction of travel.

A USDOT# is not required for fiscal Flat Weight Registrations at this time. Rules and regulations are being reviewed and may be mandated by the United States Department of Transportation at a future period. You will need a USDOT# to comply with the UCR (Unified Carrier Registration) requirements if the commodity you are carrying is taken out of state after your initial delivery. Please contact the Illinois Commerce Commission for information.

Heavy Vehicle Use Tax (FORM 2290)

The FORM 2290, or HVUT (Heavy Vehicle Use Tax) Schedule 1, is a form used to prove that the Internal Revenue Service has received payment or suspension for taxes as required on vehicles registered at 55,000 pounds and more. The form indicates if the tax was paid or suspended for the reasons allowed by the IRS. The acceptable tax year form is equal to or greater than the registration year depending on the time within the year for registration. Altered tax forms are not acceptable even if they were altered by the IRS. The name on the tax form should match the name of the vehicle's owner (or at least have a visible connection).

A 2290 Form is required of every vehicle registered at 55,000 pounds or more if purchased more than 60 days from the date being registered. The FORM 2290, Schedule 1 may be obtained by contacting the IRS. For information regarding how to obtain a form, paying the tax or other information, please contact the IRS at 800-829-1040 or www.irs.gov.

A previous owner's tax payment cannot be used as proof of payment or suspension for your vehicle(s). A vehicle owner is entitled to a refund of the remaining months for the tax period when selling the vehicle during the tax year. The new owner is responsible for the payment of the tax upon taking possession of the vehicle. Please contact the IRS for further information and/or clarification.

Mileage Plates Tax Registration

Mileage Tax Registration allows reduced fees depending on the weight of the vehicle and the number of miles operated. Illinois law allows these vehicles to be operated in Illinois for a limited number of miles, and operators are charged less registration fees than those of long-distance carriers. Mileage Tax Registration does not allow out-of-state operation. There is no restriction on the load and a \$500 surety bond is required.

Mileage Tax Registration is binding for the fiscal year. Therefore, reclassing to a Flat Weight Tax Registration is not permitted during the effective year. Mileage Tax registration may be upgraded to a higher weight during the registration year. Additional fees will apply.

Because of mileage requirements, vehicles with a Mileage Tax Registration must have working odometers. Trailers are required to have hub-o-meters. Mileage Tax Registrations are subject to suspension or revocation for failure to report mileage, as well as operating vehicles with disconnected or broken odometers or hub-o-meters.

The combined gross weight of a vehicle will determine the number of miles allowed to be driven and the fees assessed. Because of the bonding requirements, Mileage Tax plates are only available at the Commercial and Farm Truck Division, 501 S. Second St., Room 300, Springfield.

Surety bonds of \$500 per Mileage Tax plate are required by the Secretary of State's office as a guarantee of payment of excess fees. The bonds must be from surety companies approved by the Illinois Department of Insurance ([Schedule Bond CFT IT 8.4](#)).

At this time, we will not require a USDOT# for Mileage Tax Registrations. Rules and regulations are being reviewed and may be mandated by the United States Department of Transportation at a future period. You may need a USDOT# to comply with the UCR (Unified Carrier Registration) requirements if the commodity you are carrying is taken out of state after your initial delivery. Please contact the Illinois Commerce Commission for information.

Mileage tax reporting is due by July 10 following the expiration of the license plate. For convenience to registrants, an on-line Mileage Reporting process has been developed to replace outdated paper reports. This on-line process will be available from June 1 to July 30 annually to comply with the statutory reporting requirements. After the web based process has been closed, registrants must contact the Commercial & Farm Truck Division for a paper report to be immediately filed. Failure to report odometer readings will constitute grounds for revocation action on all Mileage Weight Tax Registrations and any other registrations in matching names.

Special Hauling Vehicle Permit

A Special Hauling Vehicle Permit (SHV) allows certain vehicles to be exempt from the federal bridge formula while operating on Illinois highways. The SHV Permit allows a certain amount of weight for a certain configuration of a vehicle(s). The SHV Permit also allows an overweight ticket for a specific purpose instead of dropping a portion of the load. The Special Hauling Vehicle Permit Application specifically states the purposes and benefits of an SHV Permit. The following vehicles qualify for an SHV Permit:

- Tractor-trailer combinations that have a short trailer (usually no more than 28 feet in length maximum) measuring 42 feet or less from the center of the steering hub to the center of the rear tandem. A minimum of 18 feet 6 inches is required between sets of tandems.
- Trucks measuring more than 72 inches but less than 96 inches between the wheels on the tandem.
- Concrete mixers, with the trailing 4th axle engaged, measuring more than 72 inches but less than 96 inches, or measuring more than 40 inches but less than 72 inches.
- Trucks carrying asphalt or concrete in its plastic state (not yet solidified, just left the concrete plant or the hot mix plant and on the way to a job).

SHV Permits may be purchased at the Commercial and Farm Truck Division office in Springfield and at [select Secretary of State facilities](#). SHV Permits may be purchased for Apportioned Plates at the time of renewal by using the SHV Application, an IRP Application or the online renewal service. Fees will be included on your renewal invoice. The permit costs \$125 and can be transferred at no fee. The Secretary of State's office no longer issues the SHV sticker or decals. The proof of purchase of the SHV Permit will be on the registration card of the apportioned cab card.

If you purchased a SHV Permit at a Secretary of State facility and it is not indicated on the IRP Cab Card, you may attach the permit to your cab card and carry it in your vehicle or you may apply for a corrected IRP Cab Card and have the SHV information included. There is a \$3 fee for the corrected cab card if a supplemental application is submitted for the correction.

The SHV Permit is not for overweight purposes. The SHV Permit application explains the permit's specific uses and purposes. Depending on the configuration of the vehicle, the maximum weight with an SHV Permit is 72,000 pounds. The SHV Permit does have a provision allowing overweight up to 4,000 pounds for vehicles hauling concrete or asphalt in its plastic state without shifting or reducing the load. The vehicle will still be ticketed for overweight if it is registered at 80,000 pounds and the vehicle configuration does not meet the definitions provided. In that case, the SHV Permit may not be applicable for your vehicle. If you are making an overweight operation, please contact the Illinois Department of Transportation at 217-782-6271 for instructions.

Out-of-State IRP registrants may purchase an SHV Permit if the following applies:

- Illinois must be shown on the IRP Cab Card (copy required).
- The trailer (if this applies) must have Apportioned Trailer Registration. Out-of-state base registration for the trailer is not acceptable. The trailer would be required to be dual registered in Illinois with an "ST" license plate. A copy of the out-of-state base registration, a copy of the title in the registrant's name, application, and a \$19 fee is required for dual registration.
- The trailer must display the Illinois "ST" license plate while operating as an SHV combination.

Covered Farm Vehicle Permits

Under the provisions of MAP 21 rules from the Federal Government, certain vehicles may be designated by states as "Covered Farm Vehicles" for the exemptions and benefits stated within the program. Vehicles with a registered weight 12,000 pounds or less qualify for this permit. In Illinois, vehicles with B, D or MD registrations may purchase a permit for an additional \$10 annually designating that vehicle as a "Covered Farm Vehicle" subject to the limitations and rules of similarly plated farm registrations. Permits are available at any facility where a sticker can be purchased over the counter. A form to apply is available prior to permit purchase.

RESOLUTION NO. 3425

**A RESOLUTION PERTAINING TO THE
RIGHT TO FARM IN CHAMPAIGN COUNTY**

WHEREAS, the Chairman and the Board of Champaign County have determined that it is in the best interest of the residents of Champaign County to enact a Right to Farm Resolution which reflects the essence of the Farm Nuisance Suit Act as provided for in the Illinois Compiled Statutes, 740 ILCS 70 (1992); and

WHEREAS, the County wishes to conserve, protect, and encourage development and improvement of its agricultural land for the production of food and other agricultural products; and

WHEREAS, when nonagricultural land uses extend into agricultural areas, farms often become the subject of nuisance suits. As a result, farms are sometimes forced to cease operations. Others are discouraged from making investments in farm improvements.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Chairman and the Board of Champaign County as follows:

1. That the purpose of this resolution is to reduce the loss to the county of its agricultural resources by limiting the circumstances under which farming operations are deemed a nuisance.

2. That the term "farm" as used in this resolution means that part of any parcel of land used for the growing and harvesting of crops, for the feeding, breeding, and management of livestock; for dairying or other agricultural or horticultural use or combination thereof.

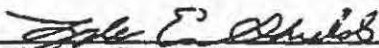
3. That no farm or any of its appurtenances should be or become a private or public nuisance because of any changed conditions in the surrounding area occurring after the farm has been in operation for more than one year, when such farm was not a nuisance at the time it began operation.

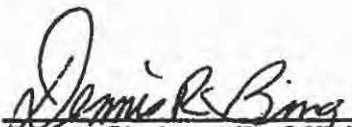
RESOLUTION NO. 3425

Page 2

4. That these provisions shall not apply whenever a nuisance results from the negligent or improper operation of any farm or its appurtenances.

PRESENTED, ADOPTED, APPROVED AND RECORDED this 24th day of May, A.D., 1994.


Chairman, County Board of the
County of Champaign, Illinois

ATTEST: 
County Clerk and Ex-Officio
Clerk of the County Board

REVISED DRAFT 01/06/16

805-AM-15

**FINDING OF FACT
AND FINAL DETERMINATION**

**of
Champaign County Zoning Board of Appeals**

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

Date: ***{January 14, 2016}***

Petitioners: **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**

Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15 and subject to the requested variance in related Zoning Case 807-V-15, on the subject property described below.**

Table of Contents

Finding of Fact 1 - 30
Documents of Record..... 31 - 32
Case 805-AM-15 Summary Finding of Fact 33 - 36
Case 805-AM-15 Final Determination37

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015** and **January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 806-S-15)

- *1. Michael Wishall and sons Jason and Brian Wishall are the co-petitioners and all are engaged in the family farm corporation and a trucking operation. Jason Wishall is the President of Wishall Transport and Brian Wishall and his wife are Wishall Farms and Transportation, Inc. The Petitioners Michael Wishall, Jason Wishall, and Brian Wishall own the subject property.
- *2. The subject property is a 5 acre parcel plus approximately 0.68 acres of the adjacent parcel in the Northwest Quarter of the Northwest Quarter of Section 10 of Pesotum Township and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the Village of Tolono but the Village is located more than 1.5 miles from the subject property.
 - *B. The subject property is located within Pesotum Township, which does not have a Planning Commission.
4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated: **"A change in conditions has occurred since the present Ordinance was approved. Petitioners' farm trucking operation has expanded into a successful, profitable and job creating trucking operation, and the present map does not reflect the change in condition."**
5. Regarding comments by the petitioner when asked on the petition what other circumstances justify the rezoning the petitioner has indicated the following: **"A) Petitioners' trucking business provides approximately 30 jobs to local employees; and B) Over 80% of the business is agricultural or ag-related and is not dissimilar to several other trucking operations currently ongoing in the area surrounding the subject property"**.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *6. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The subject property is a 5.68 acre tract and is currently zoned AG-1 Agriculture. Uses on site include a dwelling, farm, and non-farm trucking operation. The non-farm trucking operation is not authorized in the AG-1 District and the petitioners are seeking a map amendment, special use permit, and a variance based upon the Final Notice of Violation dated June 5, 2015.

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 3 of 37**

- *B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
- * (1) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - * (2) Land to the west is residential in use, surrounded by agricultural land in production.
- *7. Regarding the site plan and proposed operations of the subject property:
- *A. The site plan received October 2, 2015 indicates the following existing and proposed improvements:
- * (1) Existing buildings shown on the aerial photograph include:
 - *a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *b. A 42 feet by 78 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *c. A 40 feet by 42 feet crib north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *d. A 36 feet by 48 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *e. A 128 feet by 72 feet truck shop east of the residence, constructed between 1988 and 2002 according to aerial photography;
 - *f. Two 36 foot diameter grain bins on the northeast corner of the property, constructed between 2002 and 2005 according to aerial photography; and
 - *g. An 80 feet by 150 feet farm storage shed east of the property line, constructed between 2008 and 2011 according to aerial photography, owned by the Petitioners and connected with the agricultural uses on the property.
 - * (2) There is no construction proposed for the subject property.
- *B. The 5-acre parcel was created in 2013.
- *C. As per Champaign County aerial photography, operations at the property appear to expand between 2008 and 2011, noted by the addition of the east Farm Storage Shed and ten additional trailers parked just east of the 5 acre parcel.
- *D. Regarding the non-farm trucking operation:
- * (1) Co-petitioner Jason Wishall stated that they have been operating for 18 years but his father has always had trucks that he used for the farm operation. He said that on the off-

REVISED DRAFT 01/06/16

season the winters were cold and the shop was chilly but the trucks were warm, so they branched out and found area farmers who they could haul for.

- * (2) Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.
- * (3) Co-petitioner Jason Wishall stated that they transport seed for seed companies, which is ag related. He said that they have a few local customers who are not ag related such as wood hauling, construction for local contracts, and transport of waste for the Champaign Urbana Sanitary District for about the last eight to ten years. He said that they are a local operation with a good reputation and they would like to stay where they are.
- * (4) Co-petitioner Jason Wishall stated that they haul products for other people but the truck shop is only used for their own equipment repairs and maintenance. He said that they do not work on anyone else's equipment.
- * (5) Co-petitioner Jason Wishall stated that there are 24 trucks and the photograph is a pretty good representation of what is on their property at any one time. Co-petitioner Michael Wishall testified that currently three of the trucks have farm plates and are not used for commercial use.
- * (6) Co-petitioner Jason Wishall stated that they do not want the drivers to keep the trucks at the subject property, but at their homes so that they have more family time and they put less miles and wear and tear on the trucks. He said that the number of trucks owned by the operation should not be an issue as the photograph is a good representation of what is on the lot at any given time. He stated that the trucks and trailers are unloaded when they arrive at the subject property although there is a rare occasion when they have to come to the property loaded. He said that they do not want the loaded trucks and trailers destroying the road by coming to the subject property.
- * (7) Mr. Schweighart, attorney for the petitioners, stated that the trucking operation has been operated without incident until a complaint was filed with the County in 2013 and since the complaint was received the petitioners have spent approximately \$35,000 of their own funds to address concerns with respect to the conditions of the roads and have been very cooperative with their neighbors and government entities. He said that the petitioners have a very good relationship with the Pesotum Township Highway Commissioner and have done everything they can to be good neighbors at this location.

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 5 of 37**

*(8) Mr. Jason Wishall said that they use the road for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road, especially since the townships do not have a lot of money and can barely take care of the roads that they have. He stated that the agreement states that they pay for 50% of the cost to oil and chip the road.

*E. There are no previous Zoning Use Permits on the subject property.

GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS

***8. Regarding the existing and proposed zoning districts:**

***A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:**

***(1) The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.**

***(2) The AG-2, Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development.**

B. Regarding the general locations of the existing and proposed zoning districts:

(1) The AG-1 DISTRICT is generally located throughout the county in areas which have not been placed in any other Zoning Districts.

(2) The AG-2 DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

(3) The subject property is 1.6 miles from the Village of Tolono.

(4) The Zoning Map has always contained locations of the AG-2 District that are more than one and one-half miles from existing municipalities.

C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:

(1) There are 11 types of uses authorized by right in the AG-1 District and there are 13 types of uses authorized by right in the AG-2 District:

a. All 11 uses authorized by right in the AG-1 District are also authorized by right in the AG-2 District:

- (a) Single family dwelling;**
- (b) Subdivisions totaling three lots or less;**
- (c) Agriculture, including customary accessory uses;**
- (d) Roadside stand operated by farm operator;**

REVISED DRAFT 01/06/16

- (e) Minor rural specialty business;
 - (f) Plant nursery;
 - (g) Township Highway maintenance garage;
 - (h) Christmas tree sales lot;
 - (i) Off-premises sign within 660 feet of the edge of the right-of-way of an interstate highway;
 - (j) Off-premises sign along federal highways except interstate highways; and
 - (k) Temporary uses.
- b. The following two uses are authorized by right in the AG-2 District and not at all in the AG-1 District:
- (a) Country club or golf course, and
 - (b) Commercial breeding facility.
- c. There are no uses that are authorized by right in the AG-2 District but require a Special Use Permit in the AG-1 District.
- (2) There are 53 types of uses authorized by Special Use Permit (SUP) in the AG-1 District (including the 11 uses authorized by right in the AG-2 District, see above) and 35 types of uses authorized by SUP in the AG-2 District:
- a. The following 42 uses may be authorized by SUP in the both the AG-1 District and AG-2 District:
 - (a) Hotel – no more than 15 lodging units;
 - (b) Residential Planned Unit Development;
 - (c) Subdivisions totaling more than three lots or with new streets or private accessways (SUP requires approval by County Board);
 - (d) Major rural specialty business;
 - (e) Artificial lake of 1 or more acres;
 - (f) Mineral extraction, quarrying, topsoil removal and allied activities;
 - (g) Elementary school, Jr. High school, or High school;
 - (h) Church, temple, or church related temporary uses on church property;
 - (i) Municipal or government building;
 - (j) Adaptive reuse of government buildings for any use permitted by right in B-1, B-2, B-3, B-4, B-5 and I-1;
 - (k) Penal or correctional institution;
 - (l) Police station or fire station;
 - (m) Library, museum or gallery;
 - (n) Public park or recreational facility;
 - (o) Sewage disposal plant or lagoon;
 - (p) Private or commercial transmission and receiving towers (including antennas) over 100 feet in height;
 - (q) Radio or television station;
 - (r) Electrical substation;
 - (s) Telephone exchange;
 - (t) Residential airports;

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 7 of 37**

- (u) Restricted landing areas;
 - (v) Heliport-restricted landing areas;
 - (w) Farm chemicals and fertilizer sales including incidental storage and mixing of blended fertilizer;
 - (x) Livestock sales facility and stockyards;
 - (y) Slaughter houses;
 - (z) Grain storage elevator and bins;
 - (aa) Riding stable;
 - (bb) Commercial fishing lake;
 - (cc) Cemetery or crematory;
 - (dd) Pet cemetery;
 - (ee) Kennel;
 - (ff) Veterinary hospital;
 - (gg) Off-premises sign beyond 660 feet of the edge of the right-of-way of an interstate highway;
 - (hh) Contractors facilities (with no outdoor storage nor outdoor operations);
 - (ii) Contractors facilities with outdoor storage and/or outdoor operations;
 - (jj) Agricultural drainage contractor facility with no outdoor storage and/or outdoor operations;
 - (kk) Agricultural drainage contractor facility with outdoor storage and/or outdoor operations;
 - (ll) Small scale metal fabricating shop;
 - (mm) Gas turbine peaker;
 - (nn) Big wind turbine tower (1-3 big wind turbine towers);
 - (oo) Sawmills and planning mills, and related activities; and
 - (pp) Pre-existing industrial uses (existing prior to October 10, 1973).
- b. The following use may be authorized by Special Use Permit in the AG-1 District and not at all in the AG-2 District:
- (1) Wind Farm (requires SUP approval by County Board).
- c. The following 35 uses may be authorized by SUP in the AG-2 District and not at all in the AG-1 District:
- (a) Two family dwelling;
 - (b) Home for the aged;
 - (c) Nursing home;
 - (d) Travel trailer camp;
 - (e) Commercial greenhouse;
 - (f) Greenhouse (not exceeding 1,000 square feet);
 - (g) Garden shop;
 - (h) Water treatment plant;
 - (i) Public fairgrounds;
 - (j) Motor bus station;
 - (k) Truck terminal;
 - (l) Railroad yards and freight terminals;
 - (m) Airport;

REVISED DRAFT 01/06/16

- (n) Heliport/helistops;
- (o) Mortuary or funeral home;
- (p) Roadside produce sales stand;
- (q) Feed and grain (sales only);
- (r) Artist studio;
- (s) Residential recovery center;
- (t) Antique sales and service;
- (u) Amusement park;
- (v) Resort or organized camp;
- (w) Bait sales;
- (x) Country club clubhouse;
- (y) Lodge or private club;
- (z) Outdoor commercial recreational enterprise (except amusement park);
- (aa) Private indoor recreational development;
- (bb) Public camp or picnic area;
- (cc) Seasonal hunting or fishing lodge;
- (dd) Stadium or coliseum;
- (ee) Outdoor theatre;
- (ff) Aviation sales, service or storage;
- (gg) Self-storage warehouses, not providing heat/utilities to individual units;
- (hh) Landscape waste processing facilities; and
- (ii) Wood fabricating shop and related activities.

- (4) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

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

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

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

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

- (1) Goal: an ideal future condition to which the community aspires
- (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
- (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 9 of 37**

- 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 RELEVANT LRMP GOALS & POLICIES

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

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

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 is always relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions but the proposed rezoning will ***NOT IMPEDE*** the achievement of Goal 1.

11. LRMP Goal 2 is entitled “Governmental Coordination” and states:

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.

12. LRMP Goal 3 is entitled “Prosperity” and states:

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 HELP ACHIEVE*** Goal 3 for the following reasons:

- A. The three objectives are:

- (1) Objective 3.1 is entitled “Business Climate” and states: Champaign County will seek to ensure that it maintains comparable tax rates and fees, and a favorable business climate relative to similar counties.
- (2) Objective 3.2 is entitled “Efficient County Administration” and states: “Champaign County will ensure that its regulations are administered efficiently and do not impose undue costs or delays on persons seeking permits or other approvals.”
- (3) Objective 3.3 is entitled “County Economic Development Policy” and states: “Champaign County will maintain an updated Champaign County Economic Development Policy that is coordinated with and supportive of the LRMP.”

- B. Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of these objectives, the proposed rezoning will allow the Petitioners to grow their trucking business on the subject property with proper zoning and to continue to serve residents of Champaign County and therefore the proposed rezoning can be said to **HELP ACHIEVE** Goal 3.

13. LRMP Goal 4 is entitled "Agriculture" and states:

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 / WILL NOT} **HELP ACHIEVE** Goal 4 for the following reasons:

- A. Objective 4.1 is entitled "Agricultural Land Fragmentation and Conservation" and states: "Champaign County will strive to minimize the fragmentation of the County's agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland."

The proposed rezoning {WILL / WILL NOT} **HELP ACHIEVE** Objective 4.1 because of the following:

- (1) Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, ~~4.1.7~~, 4.1.8, and 4.1.9 do not appear to be relevant to the proposed rezoning.
- (2) Policy 4.1.1 states, "**Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.**"

The proposed rezoning will **HELP ACHIEVE** Policy 4.1.1 because the Site Plan received October 2, 2015 will remove no additional land from agricultural production.

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

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 11 of 37**

- b) **On best prime farmland, the County may authorize non-residential discretionary development; or**
- c) **The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.1.6 for the following reasons:

- a. The soil on the subject property is best prime farmland and consists of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- b. Regarding compliance with policies having to do with the suitability of the site for the proposed use, the ZBA has recommended that the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.3.2 regarding site suitability on best prime farmland and {WILL/ WILL NOT} HELP ACHIEVE Policy 4.3.5.”
- c. Regarding compliance with policies having to do with the adequacy of infrastructure and public services for the proposed use, the ZBA has recommended that the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.3.3 regarding public services and Policy 4.3.4 regarding infrastructure.
- d. Regarding compliance with policies having to do with minimizing conflict with agriculture, the ZBA has recommended that the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.2.1, Policy 4.2.2, Policy 4.2.3, and Policy 4.2.4 regarding minimizing conflict with agriculture.
- e. Regarding compliance with policies having to do with minimizing the conversion of best prime farmland, the ZBA has recommended that the proposed rezoning [WILL / WILL NOT] HELP ACHIEVE Policy 4.1.7.

~~There are no relevant policies having to do with minimizing the conversion of farmland but the proposed development as per the Site Plan received October 2, 2015 will remove no additional farmland from production.~~
- f. Regarding compliance with policies having to do with minimizing the disturbance of natural areas, there are no natural areas on the subject property and the proposed amendment **WILL NOT IMPEDE** the achievement of Goal 8.

(4) Policy 4.1.7 states “To minimize the conversion of best prime farmland, the County will require a maximum lot size limit on new lots established as by right development on best prime farmland.”

REVISED DRAFT 01/06/16

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.1.7 for the following reasons:

- a. The soil on the subject property is best prime farmland and consists of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- b. The Petitioner's truck terminal is located at a pre-existing 5 acre farmstead that was {GRANTED / DENIED} a variance for lot area in related Zoning Case 807-V-15 and even though the lot area exceeds the 3 acre maximum lot area that is otherwise required, co-locating with the farmstead allows significant amounts of lot area to serve both the truck terminal and the farming activities which helps to minimize the total land area occupied by both uses.

- B. Objective 4.2 is entitled "Development Conflicts with Agricultural Operations" and states, "Champaign County will require that each *discretionary review* development will not interfere with agricultural operations."

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Objective 4.2 because of the following:

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

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.2.1 for the following reasons:

- a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
- b. As reviewed in Item 8 of this Finding of Fact, the land uses authorized by right in the AG-1 District are almost identical to those authorized by right in the AG-2 District and therefore, considering only the land uses authorized by-right, the proposed rezoning WILL HELP ACHIEVE Policy 4.2.1.

The proposed development in related Case 806-S-15 and 807-V-15 DOES support agriculture.

- c. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. Nonetheless, on the basis of the existing and proposed development in related Cases 806-S-15 and 807-V-15 that was {GRANTED / DENIED} by the Zoning Board of Appeals, the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.2.1 based on the following:

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 13 of 37**

- (a) The existing and proposed development in related Case 806-S-15 and 807-V-15 DOES support agriculture to some extent but is not limited to only that purpose.
- (b) The existing and proposed development in related Cases 806-S-15 and 807-V-15 {IS/ IS NOT} a service better provided in a rural area based on the following:
- i. The Petitioner has testified on the application as follows: “Over 80% of the business is agricultural or ag-related and is not dissimilar to several other trucking operations currently ongoing in the area surrounding the subject property.”
 - ii. Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.
 - iii. The proposed Special Use Permit makes use of existing buildings that are no longer adequate to house modern agricultural machinery and does not include any proposed new non-agricultural buildings.
 - iv. The Petitioner’s truck terminal is located at a pre-existing 5 acre farmstead that was {GRANTED / DENIED} a variance for lot area in related Zoning Case 507-V-15 and even though the lot area exceeds the 3 acre maximum lot area that is otherwise required, co-locating with the farmstead allows significant amounts of lot area to serve both the truck terminal and the farming activities which helps to minimize the total land area occupied by both uses.
 - v. The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity.
 - vi. There is no evidence to support the petitioners’ claim that the proposed development is “...not dissimilar to several other

REVISED DRAFT 01/06/16

trucking operations currently ongoing in the area surrounding the subject property.”

- d. Regarding whether the proposed development in related Cases 806-S-15 and 807-V-15 is a service better provided in a rural area:
- (a) The Petitioner ~~s~~ **has** testified on the application as follows: **“Over 80% of the business is agricultural or ag-related and is not dissimilar to several other trucking operations currently ongoing in the area surrounding the subject property.”**
 - (b) The proposed Special Use Permit makes use of existing buildings and does not include any new buildings.
 - (c) The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity.
- (2) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
- a) **is a type that does not negatively affect agricultural activities; or**
 - b) **is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**
 - c) **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.”**

The proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.2.2 for the following reasons:

- a. As reviewed in Item 8 of this Finding of Fact, the land uses authorized by right in the AG-1 District are almost identical to those authorized by right in the AG-2 District and therefore, considering only the land uses authorized by-right, the proposed rezoning **WILL HELP ACHIEVE** Policy 4.2.2.
- b. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. Nonetheless, on the basis of the existing and proposed development in related Cases 806-S-15 and 807-V-15, the proposed rezoning that was **{GRANTED / DENIED}** by the Zoning Board of Appeals. **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.2.2 based on the following:
 - (a) The existing and proposed use of the subject property **{DOES / DOES NOT}** negatively affect agricultural activities because it provides trucking services to a primarily agricultural customer base. For consideration of possible effects of existing and proposed truck traffic on agricultural activities see the discussion of rural roads below.

REVISED DRAFT 01/06/16

**Cases 805-AM-15
Page 15 of 37**

- (b) The existing and proposed use of the subject property IS NOT negatively affected by surrounding agricultural activities.
- (c) The existing and proposed use of the subject property {WILL / WILL NOT} interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems based on the following:
- i. No development has occurred in the last decade on the property that would impact agricultural drainage patterns.
 - ii. The Natural Resource Report by the Champaign County Soil and Water Conservation District received October 15, 2015 indicates the following:
 - “The site is on flat ground, water now travels off the site in all directions. The west has a good road ditch to help with drainage”.
 - “It is likely that this site contains agricultural tile; if any tile is found care should be taken to maintain the tile in working order. Severe ponding, along with wetness may be a limitation associated with the soil types on the site.
 - iii. At the October 15, 2015 public hearing, the following evidence was provided:
 - Co-petitioner Michael Wishall stated that the Wishalls installed new culvert pipes and improved the road such that drainage from the subject property toward the road should not be an issue.
 - Evidence provided by staff shows that the Wishalls own the land adjacent to the other three sides of the subject property. Mr. Randol stated that if there was a problem the petitioners have probably already dealt with it.
 - iv. At the October 15, 2015 public hearing, ZBA members noted the following factors that would be in favor of waiving the Stormwater Management and Erosion Control Ordinance requirements for this particular case:
 - At least half of the impervious area on the subject property is for farming;
 - Surrounding land belongs to the Petitioners;
 - None of the complaints received had to do with water;
 - There was no testimony prior to the October 15, 2015 public hearing about water or drainage; and

REVISED DRAFT 01/06/16

- The Wishalls trucking business has gone through a slow, organic growth over the years.

(d) The existing and proposed use of the subject property {WILL / WILL NOT} interfere with agricultural activities or damage or negatively affect rural roads based on the following:

- i. The traffic generated by the proposed use will likely increase as the business grows.
- ii. In 2013, a complaint was received by the Zoning Department regarding the bad road conditions created by trucks traveling in and out of the subject property. The Petitioners have signed a Road Maintenance Agreement with Pesotum Township Highway Commissioner Steve Miller received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North (County Highway 17) and the Petitioner's property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015.
- iii. On October, 15, 2015, the Zoning Department received an email from neighbors James and Marilyn Chancellor, 483 CR 900 E, and Doug Bartlett Jr. and Lori Bartlett, 481 CR 900 E, both indicating that they support keeping the Wishall trucking business at the current location, but request that if they do continue operating from that location, that strong consideration be given to both current and long-term upkeep and maintenance of CR 900 E.
- iv. The Petitioners submitted a letter of support signed by six neighbors in the CR 400-600 North portion of CR 900 East stating "they welcome our company to stay in the current location" (see attachment). The following parties signed the petition:
 - William Bialeschki, 455 CR 900 East
 - Mark F. Bates, 450 CR 900 East
 - James Chancellor, 483 CR 900 East
 - Doug Bartlett, 481 CR 900 East
 - Marilyn Hoch, 502 CR 900 East
 - Linden Warfel, 581 CR 900 East
 - Steve Miller, Pesotum Township
- v. Steve Miller, Pesotum Township Commissioner, wrote a letter of support received June 24, 2015 for the Petitioners' applications for zoning map amendment, special use permit, and variance (see attachment).

REVISED DRAFT 01/06/16

**Cases 805-AM-15
Page 17 of 37**

vi. The Final Determination in related Zoning Case 806-S-15 included a special condition that required ongoing compliance with the road agreement with the Pesotum Township Highway Commissioner.

(e) Regarding whether the proposed development in related Case 806-S-15 and 807-V-15 The existing and proposed use of the subject property {WILL / WILL NOT} damage or negatively affect the operation of agricultural drainage systems, rural roads, or other agriculture-related infrastructure.

- (3) **Policy 4.2.3 states, “The County will require that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.”**

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.2.3 for the following reason:

- a. The Petitioners have farmland adjacent to the subject property and understand that this is a rural area where agricultural activities take place.

b. A special condition has been added to the map amendment regarding Champaign County’s Right to Farm Resolution.

- (4) **Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all *discretionary review* consider whether a buffer between existing agricultural operations and the proposed development is necessary.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.4 for the following reasons:

- a. The use on the subject property is intended to benefit from the adjacent agricultural activities and a buffer between the use and nearby agriculture is not warranted.

- C. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states: “Champaign County will require that each discretionary review development is located on a suitable site.”

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Objective 4.3 because of the following:

- (1) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.”**

The proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.3.2 because the proposed site {IS / IS NOT} WELL SUITED OVERALL for the development proposed in related Cases 806-S-15 and 807-V-15 for the following reasons:

REVISED DRAFT 01/06/16

- a. The soil on the subject property is best prime farmland consisting of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- b. No development has occurred in the last decade on the property that would impact agricultural drainage patterns.
- ~~c. The proposed Special Use Permit makes use of existing buildings that are no longer adequate to house modern agricultural machinery and does not include any proposed new non-agricultural buildings.~~
- ~~d. The Petitioner's truck terminal is located at a pre-existing 5 acre farmstead that was {GRANTED / DENIED} a variance for lot area in related Zoning Case 507-V-15 and even though the lot area exceeds the 3 acre maximum lot area that is otherwise required, co-locating with the farmstead allows significant amounts of lot area to serve both the truck terminal and the farming activities which helps to minimize the total land area occupied by both uses.~~
- ~~e. The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity.~~
- ~~f. In 2013, a complaint was received by the Zoning Department regarding the bad road conditions created by trucks traveling in and out of the subject property. The Petitioners have signed a Road Maintenance Agreement with Pesotum Township Highway Commissioner Steve Miller received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North (County Highway 17) and the Petitioner's property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015. The Final Determination in related Zoning Case 806-S-15 included a special condition that required ongoing compliance with the road agreement with the Pesotum Township Highway Commissioner.~~
- ~~e. The proposed Special Use Permit uses existing buildings and does not include any new buildings.~~
- ~~d. The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity.~~
- ~~e. Any proposed Special Use Permit can be evaluated on a case-by-case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.~~

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 19 of 37**

- (2) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.3.3 for the following reasons:

a. The subject property is located approximately 3.5 miles from the Pesotum Fire Protection District Station. A notice of these related zoning cases was sent to the Pesotum Fire Protection District but no comments have been received.

~~b. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.~~

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

The proposed rezoning **{WILL / WILL NOT}** **HELP ACHIEVE** Policy 4.3.4 for the following reasons:

a. In 2013, a complaint was received by the Zoning Department regarding the bad road conditions created by trucks traveling in and out of the subject property. The Petitioners have signed a Road Maintenance Agreement with Pesotum Township Highway Commissioner Steve Miller received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North (County Highway 17) and the Petitioner’s property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015. The Final Determination in related Zoning Case 806-S-15 included a special condition that required ongoing compliance with the road agreement with the Pesotum Township Highway Commissioner.

b. Steve Miller, Pesotum Township Commissioner, wrote a letter of support received June 24, 2015 for the Petitioners’ applications for zoning map amendment, special use permit, and variance (see attachment).

c. In item 13.B.(2) of this Finding of Fact the Zoning Board of Appeals has recommended that the existing and proposed use of the subject property **{WILL / WILL NOT}** damage or negatively affect the operation of agricultural drainage systems, rural roads, or other agriculture-related infrastructure.

~~a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see~~

REVISED DRAFT 01/06/16

~~attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Petitioner's property.~~

~~b. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.~~

- (4) **Policy 4.3.5 states, "On best prime farmland, the County will authorize a business or other non-residential use only if:**
- a) **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**
 - b) **The use is otherwise appropriate in a rural area and the site is very well suited to it."**

The proposed rezoning *{WILL / WILL NOT} HELP ACHIEVE* Policy 4.3.5 for the following reasons:

- a. The proposed use in related Case 806-S-15 and 807-V-15 **DOES** serve surrounding agricultural land uses or an important public need to some extent but is not limited to that purpose.
- b. The proposed use in related Case 806-S-15 and 807-V-15 **CANNOT** be located in an urban area or on a less productive site because of the following:
 - (a) Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.
 - (b) Co-locating the truck terminal with the farmstead allows significant amounts of lot area to serve both the truck terminal and the farming activities which helps to minimize the total land area occupied by both uses and allows the proposed Special Use Permit to make use of existing buildings that are no longer adequate to house modern agricultural machinery and does not include any proposed new non-agricultural buildings.

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 21 of 37**

- c. ~~The proposed development in related Case 806-S-15 and 807-V-15 {IS / IS NOT} otherwise appropriate in a rural area based on the following: Regarding whether the proposed development in related Case 806 S 15 and 807-V 15 {IS / IS NOT} otherwise appropriate in a rural area:~~
- (a) ~~In item 13.B.(1)c. of this Finding of Fact the Zoning Board of Appeals has recommended that the existing and proposed development in related Cases 806-S-15 and 807-V-15 {IS/ IS NOT} a service better provided in a rural area.~~
- (b) ~~In item 13.B.(2)b.(a) of this Finding of Fact the Zoning Board of Appeals has recommended that the existing and proposed use of the subject property {DOES / DOES NOT} negatively affect agricultural activities.~~
- (c) ~~In item 13.B.(2)b.(b) of this Finding of Fact the Zoning Board of Appeals has recommended that the existing and proposed use of the subject property IS NOT negatively affected by surrounding agricultural activities; and~~
- (d) ~~In items 13.B.(2)b.(c), (d), and (e) of this Finding of Fact the Zoning Board of Appeals has recommended that the existing and proposed use of the subject property {WILL / WILL NOT} damage or negatively affect the operation of agricultural drainage systems, rural roads, or other agriculture-related infrastructure.~~
- (a) ~~The Petitioners testified on the application as follows: “A) Petitioners’ trucking business provides approximately 30 jobs to local employees; and B) Over 80% of the business is agricultural or ag-related and is not dissimilar to several other trucking operations currently ongoing in the area surrounding the subject property.”.~~
- (b) ~~The subject property is approximately 4 miles from the I-57 exit at Pesotum and is located on a public road that has adequate traffic capacity and is jointly maintained by Pesotum Township and the petitioners.~~
- d. Regarding whether the site is very well suited to the proposed land use, the ZBA has recommended that the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.3.2 regarding whether the site with proposed improvements is well-suited overall for the proposed land use.
- e. Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

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

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

Goal 5 has 3 objectives and 15 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 5 for the following reasons:

- A. The Land Resource Management Plan defines “urban land use” as generally any land use that is connected and served by a public sanitary system and “urban development” is defined as the construction, extension, or establishment of a land use that requires or is best served by a connection to a public sanitary system.
- B. The subject property is not serviced by sanitary sewer or a public water supply.
- C. A truck terminal such as is proposed in related Case 806-S-15 does not need access to a sanitary sewer or a public water supply and should not be considered to be “urban development”.

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

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

Goal 6 has 4 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 6.

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

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

Goal 7 has 2 objectives and 7 policies. The proposed amendment {WILL / WILL NOT} **HELP ACHIEVE Goal 7** for the following reasons:

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

The proposed rezoning {WILL / WILL NOT} **HELP ACHIEVE** Objective 7.1 because of the following:

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

The proposed rezoning {WILL / WILL NOT} **CONFORM** to Policy 7.1.1 because:

- a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road and County Highway 17) and the Wishall property.

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 23 of 37**

- b. The subject property fronts the east side of CR 900 East. As reviewed in related Case 806-S-15 regarding the general traffic conditions on CR 900 East at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (a) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2011 in the vicinity of the subject property. CR 900 East had an ADT of 150 near the subject property.
 - (b) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. There is 2 feet of gravel shoulder on both sides of the 14 foot wide road.
 - (c) The pavement surface of CR 900 E in the vicinity of the subject property is oil and chip. The pavement width is about 14 feet, which would equate to a maximum recommended traffic volume of no more than 250 ADT.
 - (d) The subject property is located about 4 miles north of the I-57 interchange at Pesotum and is about 1.5 miles west of US45 South which is heavily traveled.
- c. The Petitioners and Pesotum Township Road Commissioner Steve Miller signed a Road Maintenance Agreement received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North (County Highway 17) and the Petitioner's property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015
- d. On October, 15, 2015, the Zoning Department received an email from the petitioners' neighbors, James and Marilyn Chancellor, 483 CR 900 E. and Doug Bartlett Jr. and Lori Bartlett, 481 CR 900 E. both indicating that they support keeping the Wishall trucking business at the current location, but request that if they do continue to operate out of the current location, that strong consideration be given to both current and long-term upkeep and maintenance of CR 900 E.
- e. At the October 15, 2015 public hearing, petitioner Jason Wishall testified that most trucks related to the trucking business remain at the drivers' homes after work such that it is rare for full trucks to enter or leave the subject property.
- B. The proposed amendment **WILL NOT IMPEDE** the achievement of Objective 7.2 and Policies 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, and 7.2.6.

17. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.

The proposed amendment **WILL NOT IMPEDE** the achievement of Goal 8.

18. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

The proposed amendment **WILL NOT IMPEDE** the achievement of Goal 9.

19. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

The proposed amendment **WILL NOT IMPEDE** the achievement of Goal 10.

GENERALLY REGARDING THE LASALLE FACTORS

20. In the case of *LaSalle National Bank of Chicago v. County of Cook* the Illinois Supreme Court reviewed previous cases and identified six factors that should be considered in determining the validity of any proposed rezoning. Those six factors are referred to as the *LaSalle* factors. Two other factors were added in later years from the case of *Sinclair Pipe Line Co. v. Village of Richton Park*. The *Champaign County Zoning Ordinance* does not require that map amendment cases be explicitly reviewed using all of the *LaSalle* factors but it is a reasonable consideration in controversial map amendments and any time that conditional zoning is anticipated. The proposed map amendment compares to the *LaSalle* and *Sinclair* factors as follows:

A. **LaSalle factor: The existing uses and zoning of nearby property.** Table 1 below summarizes the land uses and zoning of the subject property and nearby properties.

Table 1. Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	<u>dwelling, farm, and non-farm trucking operation</u>	AG-1 Agriculture (Proposed rezoning to AG-2)
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Residential, Agriculture	AG-1 Agriculture
South	Agriculture	AG-1 Agriculture

B. **LaSalle factor: The extent to which property values are diminished by the particular zoning restrictions.** Regarding this factor:

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 25 of 37**

- (1) It is impossible to establish values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
 - (2) This area is primarily an agricultural area and the subject property has been a farmstead and trucking company for years.
 - (3) In regards to the value of nearby residential properties, the requested map amendment **{WILL / WILL NOT} AFFECT** nearby residential property values. Regarding the effect on nearby properties:
 - a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road and County Highway 17) and the Wishall property.
 - b. The Petitioners submitted a letter of support signed by six neighbors in the County Road 400-600 North portion of County Road 900 East stating “they welcome our company to stay in the current location” (see attachment).
 - c. On October, 15, 2015, the Zoning Department received an email from neighbors James and Marilyn Chancellor, 483 CR 900 E, and Doug Bartlett Jr. and Lori Bartlett, 481 CR 900 E, both indicating that they support keeping the Wishall trucking business at the current location, but request that if they do continue operating from that location, that strong consideration be given to both current and long-term upkeep and maintenance of CR 900 E.
- C. **LaSalle factor: The extent to which the destruction of property values of the plaintiff WILL promote the health, safety, morals, and general welfare of the public.** Regarding this factor:
- (1) There has been no evidence submitted regarding property values.
 - (2) This area is primarily an agricultural area and the subject property has been a farmstead and trucking company for years.
- D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.** Regarding this factor:
- (1) The gain to the public of the proposed rezoning **{WILL / WILL NOT} BE POSITIVE** because: as per a letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015 “the proposed amendment would allow the Petitioner to continue being a significant local employer that purchases parts and equipment from local suppliers and has increased the tax base of the Township” (see attachment).
 - (2) The Petitioners and Pesotum Township Road Commissioner Steve Miller signed a Road Maintenance Agreement received June 24, 2015 to evenly split the cost to apply oil and chip the Township road between CR 600 North (County Highway 17) and the

REVISED DRAFT 01/06/16

Petitioner's property at 486 CR 900 East. No end date is indicated in the Agreement. The first maintenance under this Agreement was completed in 2014 and 2015.

- (3) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.
- E. **LaSalle factor: The suitability of the subject property for the zoned purposes.** Regarding whether the site is well suited to the proposed land use, the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.3.2 regarding whether the site with proposed improvements is well-suited overall for the proposed land use.
- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.** Regarding this factor:
- (1) The subject property continues to be in use as a farm and unauthorized trucking terminal.
 - (2) The subject property and its vicinity have maintained the same uses for years.
- G. **Sinclair factor: The need and demand for the use.** Regarding this factor:
- (1) The Petitioner testified in the application that **"the trucking operation has expanded into a successful, profitable, and job creating trucking operation...that provides approximately 30 jobs to local employees"**.
 - (2) The ZBA has recommended that the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE Policy 4.2.1 regarding whether the proposed use IS a service better provided in a rural area.
 - (3) In the review of Policy 4.3.5 the ZBA has recommended the following:
 - a. The proposed use **DOES** serve surrounding agricultural land uses or an important public need.
 - b. The proposed development {IS / IS NOT} otherwise appropriate in a rural area.
 - (4) Any proposed Special Use Permit can be evaluated on a case by case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.** The ZBA has recommended that the proposed rezoning {WILL / WILL NOT} HELP ACHIEVE the Champaign County Land Resource Management Plan.

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 27 of 37**

- I. Overall, the proposed map amendment **{IS / IS NOT} CONSISTENT** with the LaSalle and Sinclair factors.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

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

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

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.

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

The proposed rezoning **WILL** conserve the value of real estate throughout the **COUNTY**, based on the following:

- (1) It is not clear whether or not the proposed rezoning will have any impact on the value of nearby properties without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- (2) The proposed rezoning could only have an effect on the value of real estate in the immediate vicinity. Regarding the effect on the value of real estate in the immediate vicinity other than the subject property:
 - a. A Truck Terminal is authorized by Special Use Permit in the AG-2 Zoning District and therefore the Zoning Ordinance apparently has a presumption of no inherent incompatibilities between agricultural and residential use and a Truck Terminal. Provided that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent properties, there should be no significant effect on the value of nearby properties.
- (3) In regards to the value of the subject property it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property:
 - a. The subject property has been a farmstead and trucking business for many years and if the rezoning is denied it can continue to be used as a farmstead or as simply a single family residence.

- 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.

REVISED DRAFT 01/06/16

The proposed rezoning {**WILL / WILL NOT**} lessen and avoid congestion in the public streets as follows:

- (1) Probable traffic impacts are reviewed under Policy 7.1.1. ~~The traffic generated by the proposed use is not expected to change significantly due to the proposed Special Use.~~

- 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 rezoning {**WILL / WILL NOT**} trigger the need for stormwater management.

- 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 rezoning **WILL** promote the public health, safety, comfort, morals, and general welfare as follows:

- (1) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- (2) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

- F. Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

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

REVISED DRAFT 01/06/16

**Cases 805-AM-15
Page 29 of 37**

one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

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

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

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District; the specific types of uses and the proposed Special Use **{WILL / WILL NOT} HELP ACHIEVE** those requirements.

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

The proposed rezoning **{WILL / WILL NOT}** protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses as follows:

- (1) The proposed Special Use in related Case 806-S-15 does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.
- (2) The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Goal 4 Agriculture of the Champaign County Land Resource Management Plan, although the proposed Special Use Permit is not urban in use.

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

The subject property does not contain any natural features.

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

The proposed Special Use in related Case 806-S-15 does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

REVISED DRAFT 01/06/16

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

The proposed use will not take any land out of production.

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

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

REGARDING SPECIAL CONDITIONS OF APPROVAL

22. Proposed Special Conditions of Approval:

- A. LRMP Policy 4.2.3 requires discretionary development and urban development to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land. The following condition is intended to provide for that:

The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).

The above special condition is necessary to ensure the following:

Conformance with policies 4.2.3 and 5.1.5.

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 31 of 37****DOCUMENTS OF RECORD**

1. First Notice of Violation dated April 21, 2014
2. Final Notice of Violation dated June 5, 2015
3. Application for Map Amendment received June 24, 2015, with attachments:
 - A Property description
 - B Road Maintenance Agreement
 - C Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - D Letter of support signed by neighbors, received June 24, 2015
 - E Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - F Preliminary Sketch Plan of subject property, received June 24, 2015
4. Application for Special Use Permit received June 24, 2015, with same attachments as Application for Map Amendment
5. Application for Variance Permit received June 24, 2015, with same attachments as Application for Map Amendment
6. Email from Attorney Matt Schweighart received September 17, 2015
7. Site Plan received October 2, 2015
8. Email from neighbors James and Marilyn Chancellor, received October 15, 2015
9. Email from neighbors Doug Bartlett, Jr. and Lori Bartlett, received October 15, 2015
10. Natural Resources Report from Champaign County Soil and Water Conservation District received October 15, 2015
11. Preliminary Memorandum dated October 7, 2015 for Cases 805-AM-15, 806-S-15, and 807-V-15, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B LRMP Land Use Goals, Objectives, and Policies
 - C LRMP Appendix of Defined Terms
 - D First Notice of Violation dated April 21, 2014
 - E Final Notice of Violation dated June 5, 2015
 - F Road Maintenance Agreement dated December 23, 2014
 - G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - H Letter of support signed by neighbors, received June 24, 2015
 - I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - J Email from Attorney Matt Schweighart received September 17, 2015
 - K Site Plan received October 2, 2015
 - L Natural Resources Report from Champaign County Soil and Water Conservation District received October 15, 2015

- M Site Images packet
- N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
- O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
- P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

12. Supplemental Memorandum #1 dated October 15, 2015, with attachments:

- A Attachment L to the Preliminary Memorandum dated October 7, 2015: Natural Resources Report from Champaign County Soil and Water Conservation District, received October 15, 2015
- B Email from neighbors James and Marilyn Chancellor, received October 15, 2015
- C Email from neighbors Doug Bartlett, Jr. and Lori Bartlett, received October 15, 2015

13. Supplemental Memorandum #2 dated January 6, 2016, with attachments:

- A Approved minutes from October 15, 2015
- B Excerpt from the Illinois Secretary of State website regarding Commercial and Farm Trucks
- C Copy of Right to Farm Resolution 3425
- D Revised Finding of Fact for Case 805-AM-15 dated January 6, 2016
- E Revised Summary of Evidence for Case 806-S-15 dated January 6, 2016
- F Revised Summary of Evidence for Case 807-V-15 dated January 6, 2016
- G Revised Case Maps dated January 14, 2016

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 33 of 37****SUMMARY FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015** and **January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance map amendment **{WILL / WILL NOT} HELP ACHIEVE** the Land Resource Management Plan because:
 - A. Regarding Goal 3:
 - (1) Although the proposed rezoning is ***NOT DIRECTLY RELEVANT*** to any of the Goal 3 objectives, the proposed rezoning will allow the petitioner to utilize the property somewhat more intensively and continue business operations in Champaign County.
 - (2) Based on achievement of the above and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment ***WILL HELP ACHIEVE*** Goal 3 Prosperity.
 - B. Regarding Goal 4:
 - (1) It **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
 - a. Policy 4.1.1, which states that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils (see Item 13.A.(2)).
 - b. Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 13.A.(3)).
 - c. Policy 4.1.7 requiring a maximum lot size limit on new lots established as by right development on best prime farmland (see Item 13.A.(4)).
 - (2) It **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.2 requiring discretionary development to not interfere with agriculture because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
 - a. Policy 4.2.1 requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area (see Item 13.B.(1)).
 - b. Policy 4.2.2 requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure (see Item 13.B.(2)).

REVISED DRAFT 01/06/16

Cases 805-AM-15
Page 34 of 37

- c. Policy 4.2.3 requiring that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land (see Item 13.B.(3)).
 - d. Policy 4.2.4 requiring that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary (see Item 13.B.(4)).
- (3) It **{WILL / WILL NOT} HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because it **{WILL / WILL NOT} HELP ACHIEVE** the following:
- a. Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 13.C.(1)).
 - b. Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 13.C.(2)).
 - c. Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 13.C.(3)).
 - d. Policy 4.3.5 requiring that a business or non-residential use establish on best prime farmland only if it serves surrounding agriculture or is appropriate in a rural area (see Item 13.C.(4)).
- (4) Based on achievement of the above Objectives and Policies, the proposed map amendment **{WILL / WILL NOT} HELP ACHIEVE** Goal 4 Agriculture.
- C. Regarding Goal 7:
- (1) The proposed amendment **{WILL / WILL NOT} HELP ACHIEVE** Goal 7 Transportation because it **{DOES / DOES NOT} CONFORM** to the following:
 - a. Policy 7.1.1 requiring traffic impact analyses for projects with significant traffic generation.
- D. The proposed amendment **WILL NOT IMPEDE** the following LRMP goal(s):
- Goal 1 Planning and Public Involvement
 - Goal 2 Governmental Coordination
 - Goal 5 Urban Land Use
 - Goal 6 Public Health and Public Safety
 - Goal 8 Natural Resources
 - Goal 9 Energy Conservation
 - Goal 10 Cultural Amenities

REVISED DRAFT 01/06/16**Cases 805-AM-15
Page 35 of 37**

- E. Overall, the proposed map amendment **{WILL / WILL NOT} HELP ACHIEVE** the Land Resource Management Plan.
2. The proposed Zoning Ordinance map amendment **{IS / IS NOT}** consistent with the *LaSalle* and *Sinclair* factors because of the following:
- A. This area is primarily an agricultural area and the subject property has been a farmstead and trucking business for years.
- B. It is impossible to establish property values without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- C. There has been no evidence submitted regarding property values. This area is primarily an agricultural area and the subject property has been a farmstead and trucking business for many years.
- D. The gain to the public of the proposed rezoning would be positive because: the proposed amendment would allow the Petitioner to continue being a significant local employer that purchases parts and equipment from local suppliers and has increased the tax base of the Township, as per a letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015 (see attachment).
- E. The subject property is occupied and in use as a farm and unauthorized trucking terminal.
- F. The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Policy 4.2.1 regarding whether the proposed use is a service better provided in a rural area.
- G. The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** the Champaign County Land Resource Management Plan.
3. The proposed Zoning Ordinance map amendment **{WILL / WILL NOT} HELP ACHIEVE** the purpose of the Zoning Ordinance because:
- A. Establishing the special use as originally proposed by the Petitioner, which requires rezoning to AG-2, **{WILL / WILL NOT}** lessen and avoid congestion in the public streets (Purpose 2.0 (c) see Item 21.C.).
- B. Establishing the AG-2 District at this location **{WILL / WILL NOT}** help classify, regulate, and restrict the location of the uses authorized in the AG-2 District (Purpose 2.0 (i) see Item 21.G.).
- C. Establishing the AG-2 District in this location **{WILL / WILL NOT}** help protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses ((Purpose 2.0 (n) Item 21.I).
- D. Establishing the AG-2 District at this location **WILL** maintain the rural character of the site (Purpose 2.0 (q) Item 21.L).

E. The proposed rezoning and proposed Special Use ***WILL NOT*** hinder the development of renewable energy sources (Purpose 2.0(r) Item 21.M).

4. The proposed Zoning Ordinance map amendment is subject to the following special condition:

A. LRMP Policy 4.2.3 requires discretionary development and urban development to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land. The following condition is intended to provide for that:

The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).

The above special condition is necessary to ensure the following:

Conformance with policies 4.2.3 and 5.1.5.

REVISED DRAFT 01/06/16

**Cases 805-AM-15
Page 37 of 37**

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 805-AM-15 should *{BE ENACTED / NOT BE ENACTED}* by the County Board in the form attached hereto.

SUBJECT TO THE FOLLOWING SPECIAL CONDITION:

A. LRMP Policy 4.2.3 requires discretionary development and urban development to explicitly recognize and provide for the right of agricultural activities to continue on adjacent land. The following condition is intended to provide for that:

The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).

The above special condition is necessary to ensure the following:

Conformance with policies 4.2.3 and 5.1.5.

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

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REVISED DRAFT 01/06/16

806-S-15

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

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

Date: ***{January 14, 2016}***

Petitioners: **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**

Request: Part A: Authorize the use of an existing unauthorized Truck Terminal as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning Case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15.

Part B: Authorize the following waiver to the standard conditions of the “Truck Terminal” special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

Table of Contents

General Application Information 2 - 3
Specific Ordinance Requirements 3 - 9
Special Use Evidence 9 - 23
Documents of Record 24 - 26
Case 806-S-15 Finding of Fact.....27 - 28
Case 806-S-15 Final Determination29 - 30

REVISED DRAFT 01/06/16**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015** and **January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 805-AM-15)

- *1. Michael Wishall and sons Jason and Brian Wishall are the co-petitioners and all are engaged in the family farm corporation and a trucking operation. Jason Wishall is the President of Wishall Transport and Brian Wishall and his wife are Wishall Farms and Transportation, Inc. The Petitioners Michael Wishall, Jason Wishall, and Brian Wishall own the subject property.
- *2. The subject property is a 5 acre parcel plus approximately 0.68 acres of the adjacent parcel in the Northwest Quarter of the Northwest Quarter of Section 10 of Pesotum Township and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the Village of Tolono but the Village is located more than 1.5 miles from the subject property.
 - *B. The subject property is located within Pesotum Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *4. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The subject property is a 5.68 acre tract and is currently zoned AG-1 Agriculture. Uses on site include a dwelling, farm, and non-farm trucking operation. The non-farm trucking operation is not authorized in the AG-1 District and the petitioners are seeking a map amendment, special use permit, and a variance based upon the Final Notice of Violation dated June 5, 2015.
 - *B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
 - * (1) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - * (2) Land to the west is residential in use, surrounded by agricultural land in production.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the site plan and operations of the proposed Special Use:
 - *A. The site plan received October 2, 2015 indicates the following existing and proposed improvements:
 - * (1) Existing buildings shown on the aerial photograph include:

REVISED DRAFT 01/06/16

- *a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *b. A 42 feet by 78 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *c. A 40 feet by 42 feet crib north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *d. A 36 feet by 48 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *e. A 128 feet by 72 feet truck shop east of the residence, constructed between 1988 and 2002 according to aerial photography;
 - *f. Two 36 foot diameter grain bins on the northeast corner of the property, constructed between 2002 and 2005 according to aerial photography; and
 - *g. An 80 feet by 150 feet farm storage shed east of the property line, constructed between 2008 and 2011 according to aerial photography, owned by the Petitioners and connected with the agricultural uses on the property.
- * (2) There is no construction proposed for the subject property.
- *B. The 5-acre parcel was created in 2013.
- *C. As per Champaign County aerial photography, operations at the property appear to expand between 2008 and 2011, noted by the addition of the east Farm Storage Shed and ten additional trailers parked just east of the 5 acre parcel.
- *D. Regarding the non-farm trucking operation:
- (1) Co-petitioner Jason Wishall stated that they have been operating for 18 years but his father has always had trucks that he used for the farm operation. He said that on the off-season the winters were cold and the shop was chilly but the trucks were warm, so they branched out and found area farmers who they could haul for.
 - (2) Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.

REVISED DRAFT 01/06/16

- *(3) Co-petitioner Jason Wishall stated that they transport seed for seed companies, which is ag related. He said that they have a few local customers who are not ag related such as wood hauling, construction for local contracts, and transport of waste for the Champaign Urbana Sanitary District for about the last eight to ten years. He said that they are a local operation with a good reputation and they would like to stay where they are.
- *(4) Co-petitioner Jason Wishall stated that they haul products for other people but the truck shop is only used for their own equipment repairs and maintenance. He said that they do not work on anyone else's equipment.
- *(5) Co-petitioner Jason Wishall stated that there are 24 trucks and the photograph is a pretty good representation of what is on their property at any one time. Co-petitioner Michael Wishall testified that currently three of the trucks have farm plates and are not used for commercial use.
- *(6) Co-petitioner Jason Wishall stated that they do not want the drivers to keep the trucks at the subject property, but at their homes so that they have more family time and they put less miles and wear and tear on the trucks. He said that the number of trucks owned by the operation should not be an issue as the photograph is a good representation of what is on the lot at any given time. He stated that the trucks and trailers are unloaded when they arrive at the subject property although there is a rare occasion when they have to come to the property loaded. He said that they do not want the loaded trucks and trailers destroying the road by coming to the subject property.
- *(7) Mr. Matthew Schweighart, attorney for the petitioners, stated that the trucking operation has been operated without incident until a complaint was filed with the County in 2013 and since the complaint was received the petitioners have spent approximately \$35,000 of their own funds to address concerns with respect to the conditions of the roads and have been very cooperative with their neighbors and government entities. He said that the petitioners have a very good relationship with the Pesotum Township Highway Commissioner and have done everything they can to be good neighbors at this location. Mr. Jason Wishall said that they use the road for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road, especially since the townships do not have a lot of money and can barely take care of the roads that they have. He stated that the agreement states that they pay for 50% of the cost to oil and chip the road.
- *(8) Mr. Jason Wishall said that they use the road for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road, especially since the townships do not have a lot of money and can barely take care of the roads that they have. He stated that the agreement states that they pay for 50% of the cost to oil and chip the road.

***DE.** There are no previous Zoning Use Permits on the subject property.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 5 of 30****GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for a “Truck Terminal” in the AG-2 Agriculture Zoning DISTRICT in the *Zoning Ordinance*:
- A. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer’s documentation of the full-cutoff feature for all exterior light fixtures.
 - (2) Subsection 6.1.3 establishes the following standard conditions for Truck Terminals:
 - a. A separation distance of 200 feet between any R DISTRICT or residential USE.
- B. Section 7.4.1C.3.e. states that commercial establishments not specified otherwise will have one parking space for every 200 square feet of floor area or portion thereof.
- C. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) “ACCESSORY BUILDING” is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) “ACCESSORY USE” is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.

REVISED DRAFT 01/06/16

- (3) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry, and the keeping, raising, and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting, and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning, or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
- (4) “AREA, BUILDING” is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and non-permanent CANOPIES and planters.
- (5) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
- a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;
 - b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;
 - c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
- (6) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
- (7) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
- (8) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 7 of 30**

- (9) "COVERAGE" is the percentage of the LOT AREA covered by the BUILDING AREA.
- (10) "DISCRETIONARY DEVELOPMENT" is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations
- (11) "ESTABLISHMENT" is a business, retail, office, or commercial USE. When used in the singular this term shall be construed to mean a single USE, BUILDING, STRUCTURE, or PREMISES of one of the types here noted.
- (12) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
- (13) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (14) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
- (a) MAJOR STREET: Federal or State highways.
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (15) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (16) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (17) "SUITED OVERALL" is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be SUITED OVERALL if the site meets these criteria:
- a. The site features or site location will not detract from the proposed use;
 - b. The site will not create a risk to health, safety or property of the occupants, the neighbors or the general public;
 - c. The site is not clearly inadequate in one respect even if it is acceptable in other respects;
 - d. Necessary infrastructure is in place or provided by the proposed development; and

REVISED DRAFT 01/06/16

- e. Available public services are adequate to support the proposed development effectively and safely.
- (18) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.
 - (19) WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
 - a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
 - b. The site is reasonably well-suited in all respects and has no major defects.
- C. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
 - a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 9 of 30**

- (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- D. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
- a. That the waiver is in accordance with the general purpose and intent of the ordinance; and
 - b. That the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
- (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
- a. Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
 - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- E. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioners testified on the application, **“Proposed use as trucking terminal allows a profitable business operation to remain in Champaign County, employing 30 jobs to local employees and a benefit to the tax base of the County”**.
 - B. The subject property is less than 4 miles from the I-57 interchange at Pesotum and less than 2 miles from US45 South.

REVISED DRAFT 01/06/16

C. Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.

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

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

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioners have testified on the application, ***"Petitioners have entered in a Road Maintenance Agreement with the highway commissioner to ensure that the use is not injurious to the roads. Petitioners have created a sketch plan showing the minimal amount of impervious space attributable to the trucking operation Petitioners have designed truck routes to minimize the impact of residents of the District"***.
- B. Regarding surface drainage:
- (1) The Natural Resource Report by the Champaign County Soil and Water Conservation District received October 15, 2015 indicates the following:
- a. "The site is on flat ground, water now travels off the site in all directions. The west has a good road ditch to help with drainage".
- b. "It is likely that this site contains agricultural tile; if any tile is found care should be taken to maintain the tile in working order. Severe ponding, along with wetness may be a limitation associated with the soil types on the site.
- (2) At the October 15, 2015 public hearing, the following evidence was provided:
- a. Co-petitioner Michael Wishall stated that the Wishalls installed new culvert pipes and improved the road such that drainage from the subject property toward the road should not be an issue.
- b. Evidence provided by staff shows that the Wishalls own the land adjacent to the other three sides of the subject property. Mr. Randol stated that if there was a problem the petitioners have probably already dealt with it.
- (3) No development has occurred in the last decade on the property that would impact agricultural drainage patterns.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 11 of 30**

- (4) At the October 15, 2015 public hearing, ZBA members noted the following factors that would be in favor of waiving the Stormwater Management and Erosion Control Ordinance requirements for this particular case:
- a. At least half of the impervious area on the subject property is for farming;
 - b. Surrounding land belongs to the Petitioners;
 - c. None of the complaints received had to do with water;
 - d. There was no testimony prior to the October 15, 2015 public hearing about water or drainage; and
 - e. The Wishalls trucking business has gone through a slow, organic growth over the years.

- C. As proposed, the Special Use **{WILL / WILL NOT} BE INJURIOUS** in regards to the effects on traffic, as follows:
- (1) The subject property fronts the east side of CR 900 East. Regarding the general traffic conditions on CR 900 East at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- a. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2011 in the vicinity of the subject property. CR 900 East had an ADT of 150 near the subject property.
 - b. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. There is 2 feet of gravel shoulder on both sides of the 14 foot wide road.
 - c. The pavement surface of CR 900 E in the vicinity of the subject property is oil and chip. The pavement width is about 14 feet, which would equate to a maximum recommended traffic volume of no more than 250 ADT.
 - d. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road and County Highway 17) and the Petitioner's property.
 - e. At the October 15, 2015 public hearing, co-petitioner Jason Wishall testified that most trucks related to the trucking business remain at the drivers' homes after work such that it is rare for full trucks to enter or leave the subject property.

REVISED DRAFT 01/06/16

- f. The subject property is located about 4 miles north of the I-57 interchange at Pesotum and is about 1.5 miles west of US45 South which is heavily traveled.
- (2) Co-petitioner Jason Wishall stated that they do not want the drivers to keep the trucks at the subject property, but at their homes so that they have more family time and they put less miles and wear and tear on the trucks. He said that the number of trucks owned by the operation should not be an issue as the photograph is a good representation of what is on the lot at any given time.
- (3) Mr. Matthew Schweighart, attorney for the petitioners, stated that the trucking operation has been operated without incident until a complaint was filed with the County in 2013 and since the complaint was received the petitioners have spent approximately \$35,000 of their own funds to address concerns with respect to the conditions of the roads and have been very cooperative with their neighbors and government entities. He said that the petitioners have a very good relationship with the Pesotum Township Highway Commissioner and have done everything they can to be good neighbors at this location.
- (4) Co-petitioner Jason Wishall said that the written agreement was the initial verbal agreement with Pesotum Township. He said that they use the road for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road, especially since the townships do not have a lot of money and can barely take care of the roads that they have. He said that the agreement states that they pay for 50% of the cost to oil and chip the road.
- (5) Steve Miller, Pesotum Township Highway Commissioner, wrote a letter of support received June 24, 2015, for keeping Wishall Trucking at its current site, and also created a road maintenance agreement with the Wishalls so that they will pay half the maintenance costs for CR 900 East between their property and CR 600 North.
- (6) On October, 15, 2015, the Zoning Department received email from neighbors James and Marilyn Chancellor, 483 CR 900 E, and Doug Bartlett Jr. and Lori Bartlett, 481 CR 900 E, both indicating that they support keeping the Wishall trucking business at the current location, but request that if they do continue operating from that location, that strong consideration be given to both current and long-term upkeep and maintenance of CR 900 E.
- (7) A special condition has been proposed that requires the petitioners to comply with any road-related agreements they make with Pesotum Township.
- D. Regarding fire protection on the subject property, the subject property is located approximately 3.5 miles from the Pesotum Fire Protection District station. No comments have been received from the Fire Chief.
- E. No part of the subject property is located within a mapped floodplain.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 13 of 30**

- F. The Natural Resources Report states that soil on the subject property is BEST PRIME FARMLAND consisting of Elburn silt loam and Drummer silty clay loam, and has an average LE of 100.
- G. Regarding outdoor lighting on the subject property:
(1) No outdoor lighting was indicated on the Site Plan received October 2, 2015.
- H. Regarding wastewater treatment and disposal on the subject property:
(1) The farm residence has a septic system. Separately, the truck tool shop has one restroom that leads to a leach field west of the tool shop. The age of the system and its level of use do not seem to be an issue.
- I. Regarding life safety considerations related to the proposed Special Use:
(1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois

REVISED DRAFT 01/06/16

Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.

- g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- J. The Petitioners submitted a letter of support signed by six neighbors in the CR 400-600 North portion of CR 900 East stating “they welcome our company to stay in the current location” (see attachment). The following parties signed the petition:
- (1) William Bialeschki, 455 CR 900 East
 - (2) Mark F. Bates, 450 CR 900 East
 - (3) James Chancellor, 483 CR 900 East
 - (4) Doug Bartlett, 481 CR 900 East
 - (5) Marilyn Hoch, 502 CR 900 East
 - (6) Linden Warfel, 581 CR 900 East
 - (7) Steve Miller, Pesotum Township
- ~~K. No complaints or concerns have been received from neighbors since the original complaints made in 2014 regarding the condition of CR 900 East. The road maintenance agreement the Wishalls signed with Pesotum Township was dated December 23, 2014, and the first shared maintenance was completed in 2014 and 2015.~~
- K. Steve Miller, Pesotum Township Commissioner, wrote a letter of support received June 24, 2015 for the Petitioners’ applications for zoning map amendment, special use permit, and variance (see attachment).
- L. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire,

REVISED DRAFT 01/06/16**Case 806-S-15
Page 15 of 30**

explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:

A. The Petitioner has testified on the application: **“Petitioners’ trucking operation is 80% agricultural and is not inherently at odds with the essential character of the District. Numerous other similar hauling operations are currently in operation within the District and agricultural-related hauling is a common activity within the District.”**

B. Regarding the claim that the trucking operation is 80% agricultural:

(1) Co-petitioner Jason Wishall stated that there are 24 trucks and the 2014 aerial photograph is a pretty good representation of what is on their property at any one time.

(2) Co-petitioner Michael Wishall said that currently three of the trucks have farm plates and are not used for commercial use.

(3) An excerpt from the Illinois Secretary of State website regarding Commercial and Farm Trucks states: “Farm Plates may be issued to any vehicle that is used exclusively for the owner’s agricultural operations and not for hire.”

(4) Co-petitioner Jason Wishall stated that they transport seed for seed companies, which is ag related. He said that they have a few local customers who are not ag related such as wood hauling, construction for local contracts, and transport of waste for the Champaign Urbana Sanitary District for about the last eight to ten years. He said that they are a local operation with a good reputation and they would like to stay where they are.

C. Regarding compliance with the *Zoning Ordinance*:

(1) A Truck Terminal is authorized by Special Use Permit in the AG-2 Agriculture Zoning District, and by right in the B-4, B-5, I-1 and I-2 Zoning Districts.

(2) Regarding the requirement that the proposed Special Use be separated by 200 feet from the nearest residential DISTRICT or residential USE:

a. The Special Use Permit area of the property is approximately 30 feet from the neighboring residences to the west, which is the reason for requesting the waiver in Part B of the Special Use.

b. The residents on the west side of CR 900 East (across from the subject property) signed a letter in favor of keeping the trucking business on the existing property.

REVISED DRAFT 01/06/16

- (3) Regarding parking on the subject property for the proposed Truck Terminal:
- a. A Truck Terminal, for the purpose of establishing minimum Zoning Ordinance requirements, can be considered a commercial use.
 - b. Commercial uses not specifically listed in the Zoning Ordinance must provide 1 space per every 200 square feet of floor area or portion thereof.
 - c. The floor area of the Truck Tool Shop on the Wishall property will be the determining square footage for parking for this case. The Tool Shop has 9,216 square feet, and half of it is used for the truck terminal, or 4,608 square feet. This floor area will require 23 parking spaces at least 9 feet by 20 feet in dimension. It will also require one loading berth at least 12 feet by 40 feet in dimension.
 - d. The Wishall property provides enough parking area for at least 40 truck trailers.

D. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*:

- (1) The proposed Special Use requires a Stormwater Drainage Plan because the amount of impervious area on the subject property exceeds the maximum allowed for being exempt from the Stormwater Drainage Plan requirement.
- (2) The Ordinance states that stormwater detention is required if there is one acre or more of no more than 1 acre of the lot or lots shall be impervious surface area; the subject property has approximately 3.4 acres of impervious area.
- (3) Part B of the proposed Variance in related Case 807-V-15 requests exemption from providing a Stormwater Drainage Plan.
- (4) At the October 15, 2015 public hearing, ZBA members noted the following factors that would be in favor of waiving the Stormwater Management and Erosion Control Ordinance requirements for this particular case:
 - (1) At least half of the impervious area on the subject property is for farming;
 - (2) Surrounding land belongs to the Petitioners;
 - (3) None of the complaints received had to do with water;
 - (4) There was no testimony prior to the October 15, 2015 public hearing about water or drainage; and
 - (5) The Wishalls trucking business has gone through a slow, organic growth over the years.

- E.** Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 17 of 30**

- F.** Regarding the Subdivision Regulations, the subject property is located in the Champaign County subdivision jurisdiction and the subject property is in compliance.
- G.** Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning District:
- (1) A Truck Terminal may be authorized by Special Use Permit in the AG-2 Agriculture Zoning District.
 - (2) The proposed use will not hinder agricultural production and agricultural production will still occur in the surrounding area.
- H.** Currently, the subject property is zoned AG-1 Agriculture and the Petitioner has requested to rezone the property to AG-2 Agriculture in related Case 805-AM-15. Regarding whether or not the proposed Special Use will preserve the essential character of the surrounding AG-1 District:
- (1) As reviewed in Case ~~806805~~-AM-15, the types of uses authorized by right in the AG-1 DISTRICT are the same as by-right uses in the AG-2 DISTRICT. However, a Truck Terminal is only authorized as a Special Use in the AG-2 District and not the AG-1 District. Any proposed Special Use on the subject property should be evaluated for compatibility with the adjacent AG-1 uses.
 - (2) The subject property is located on CR 900 East. Land use and zoning in the immediate area of the subject property are as follows:
 - *a. Land on the north, south, east, and west of the subject property is zoned AG-1 Agriculture and is in use as follows:
 - *(a) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - *(b) Land to the west is residential in use, surrounded by agricultural land in production.
- I.** The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- (1) The Site Plan received October 2, 2015 provided no indication that the proposed Special Use complies with the Illinois Accessibility Code.

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

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:
 - A. A Truck Terminal is authorized by Special Use Permit in the AG-2 Agriculture Zoning District, and by right in the B-4, B-5, I-1 and I-2 Zoning Districts.

REVISED DRAFT 01/06/16

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

- (1) Subsection 5.1.2 of the Ordinance states the general intent of the AG-2 District and states as follows (capitalized words are defined in the Ordinance):

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

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

C. The proposed Special Use Permit {IS / IS NOT} in harmony with the general purpose of the Zoning Ordinance, as follows:

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

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.

- (2) 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 Special Use *WILL* conserve the value of real estate throughout the COUNTY, based on the following:

- a. It is not clear whether or not the proposed special use will have any impact on the value of nearby properties without a formal real estate appraisal which has not been requested nor provided and so any discussion of values is necessarily general.
- b. The proposed Special Use could only have an effect on the value of real estate in the immediate vicinity. Regarding the effect on the value of real estate in the immediate vicinity other than the subject property:
- (a) A Truck Terminal is authorized by Special Use Permit in the AG-2 Zoning District and therefore the Zoning Ordinance apparently has a presumption of no inherent incompatibilities between agricultural and residential use and a Truck Terminal. Provided that the special conditions of approval sufficiently mitigate or minimize any

REVISED DRAFT 01/06/16**Case 806-S-15
Page 19 of 30**

incompatibilities between the proposed Special Use Permit and adjacent properties, there should be no significant effect on the value of nearby properties.

- c. In regards to the value of the subject property it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property:
- (a) The subject property has been a farmstead and trucking business for many years and if the rezoning is denied it can continue to be used as a farmstead or as simply a single family residence.

- (3) 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 Special Use {WILL / WILL NOT} lessen and avoid congestion in the public streets, as follows:

- a. The traffic generated by the proposed use will likely increase as the business grows; however, the Petitioners have signed a road maintenance agreement (see attachment) where the Petitioners pay fifty percent of the cost to oil and chip the township road between County Road 600 North (commonly known as Sadorus Road) and the Petitioner's property.

- (4) 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 Special Use {WILL / WILL NOT} trigger the need for stormwater management, as follows:

- a. No Stormwater Drainage Plan has been prepared for this site.
- b. At the October 15, 2015 public hearing, ZBA members noted the following factors that would be in favor of waiving the Stormwater Management and Erosion Control Ordinance requirements for this particular case:
- (a) At least half of the impervious area on the subject property is for farming;
- (b) Surrounding land belongs to the Petitioners;
- (c) None of the complaints received had to do with water;
- (d) There was no testimony prior to the October 15, 2015 public hearing about water or drainage; and
- (e) The Wishalls trucking business has gone through a slow, organic growth over the years.

REVISED DRAFT 01/06/16

- (5) 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 Special Use WILL promote the public health, safety, comfort, morals, and general welfare as follows:

- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

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

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

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the 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.

REVISED DRAFT 01/06/16**Case 806-S-15
Page 21 of 30**

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District; the specific types of uses and the proposed Special Use **{WILL / WILL NOT} HELP ACHIEVE** those requirements.

- (9) 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 Special Use **{WILL / WILL NOT}** subject the most productive agricultural lands to haphazard and unplanned intrusions of urban uses as follows:

- a. The proposed special use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.
- b. The ZBA has recommended that the proposed rezoning **{WILL / WILL NOT} HELP ACHIEVE** Goal 4 Agriculture of the Champaign County Land Resource Management Plan, although the proposed Special Use Permit is not urban in use.

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

The subject property does not contain any natural features.

- (11) 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 Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (12) 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 Special Use will not take any land out of production.

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

REVISED DRAFT 01/06/16

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

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioners testified on the application: **“The proposed use is compatible with the agricultural based activity surrounding the subject property.”**
 - B. The existing use on the property is not a nonconforming use.

GENERALLY REGARDING OTHER CONSIDERATIONS RELATED TO THE WAIVERS OF STANDARD CONDITIONS

12. Regarding the necessary waivers of standard conditions:
- A. Waive the standard condition of Section 6.1.3 of the Zoning Ordinance: that requires a separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential structure and/or use:
 - (1) The resident in the nearest residential structure supports keeping the Wishall operations at the current site: On October, 15, 2015, the Zoning Department received email from neighbors James and Marilyn Chancellor, 483 CR 900 E, and Doug Bartlett Jr. and Lori Bartlett, 481 CR 900 E, both indicating that they support keeping the Wishall trucking business at the current location, but request that if they do continue to operate out of the current location, that strong consideration be given to both current and long-term upkeep and maintenance of CR 900 E.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:
- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.
 - B.** **The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:**
 - (1) **This condition applies to the Agreement with Pesotum Township Road Commissioner received June 24, 2015, the verbal agreement between the petitioner and the Pesotum Township Road Commissioner that trucks related to the petitioners' trucking business run empty, bobtail, and not to run the tall van trailers, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed agreement shall be filed with the Zoning Administrator.**

REVISED DRAFT 01/06/16

**Case 806-S-15
Page 23 of 30**

- (2) **This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

- C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

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

DOCUMENTS OF RECORD

1. First Notice of Violation dated April 21, 2014
2. Final Notice of Violation dated June 5, 2015
3. Application for Map Amendment received June 24, 2015, with attachments:
 - A Property description
 - B Road Maintenance Agreement
 - C Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - D Letter of support signed by neighbors, received June 24, 2015
 - E Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - F Preliminary Sketch Plan of subject property, received June 24, 2015
4. Application for Special Use Permit received June 24, 2015, with same attachments as Application for Map Amendment
5. Application for Variance Permit received June 24, 2015, with same attachments as Application for Map Amendment
6. Email from Attorney Matt Schweighart received September 17, 2015
7. Site Plan received October 2, 2015
8. Email from neighbors James and Marilyn Chancellor, received October 15, 2015
9. Email from neighbors Doug Bartlett, Jr. and Lori Bartlett, received October 15, 2015
10. Natural Resources Report from Champaign County Soil and Water Conservation District received October 15, 2015
11. Preliminary Memorandum dated October 7, 2015 for Cases 805-AM-15, 806-S-15, and 807-V-15, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B LRMP Land Use Goals, Objectives, and Policies
 - C LRMP Appendix of Defined Terms
 - D First Notice of Violation dated April 21, 2014
 - E Final Notice of Violation dated June 5, 2015
 - F Road Maintenance Agreement dated December 23, 2014
 - G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - H Letter of support signed by neighbors, received June 24, 2015
 - I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - J Email from Attorney Matt Schweighart received September 17, 2015
 - K Site Plan received October 2, 2015
 - L Natural Resources Report from Champaign County Soil and Water Conservation District received October 15, 2015

REVISED DRAFT 01/06/16

**Case 806-S-15
Page 25 of 30**

- M Site Images packet
- N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
- O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
- P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

12. Supplemental Memorandum #1 dated October 15, 2015, with attachments:

- A Attachment L to the Preliminary Memorandum dated October 7, 2015: Natural Resources Report from Champaign County Soil and Water Conservation District, received October 15, 2015
- B Email from neighbors James and Marilyn Chancellor, received October 15, 2015
- C Email from neighbors Doug Bartlett, Jr. and Lori Bartlett, received October 15, 2015

13. Supplemental Memorandum #2 dated January 6, 2016, with attachments:

- A Approved minutes from October 15, 2015
- B Excerpt from the Illinois Secretary of State website regarding Commercial and Farm Trucks
- C Copy of Right to Farm Resolution 3425
- D Revised Finding of Fact for Case 805-AM-15 dated January 6, 2016
- E Revised Summary of Evidence for Case 806-S-15 dated January 6, 2016
- F Revised Summary of Evidence for Case 807-V-15 dated January 6, 2016
- G Revised Case Maps dated January 14, 2016

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **806-S-15** held on **October 15, 2015** and **January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because: _____

2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*: _____
 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*: _____
 - g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed improvements *{because*}*: _____
 - h. Existing public services *{ARE/ARE NOT}* available to support the proposed SPECIAL USE without undue public expense *{because*}*: _____
 - i. Existing public infrastructure together with the proposed development *{IS/IS NOT}* adequate to support the proposed development effectively and safely without undue public expense *{because*}*: _____

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

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

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.

- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:

REVISED DRAFT 01/06/16

Case 806-S-15
Page 27 of 30

- a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location.
 - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *IS NOT* an existing nonconforming use.
6. ***SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:***
- A. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning Ordinance: that requires a separation distance of 50 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or use:
- (1) The waiver *{IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare because _____
 - (2) Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because _____
 - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because _____
 - (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because _____
 - (5) The requested waiver *SUBJECT TO THE PROPOSED SPECIAL CONDITION* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because _____
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:***

REVISED DRAFT 01/06/16

- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. **The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:**

(1) **This condition applies to the Agreement with Pesotum Township Road Commissioner received June 24, 2015, the verbal agreement between the petitioner and the Pesotum Township Road Commissioner that trucks related to the petitioners' trucking business run empty, bobtail, and not to run the full van trailers, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed agreement shall be filed with the Zoning Administrator.**

(2) **This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

- C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

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

FINAL DETERMINATION

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

The Special Use requested in Case 806-S-15 is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicants Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc., to authorize the following as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related Zoning Case 805-AM-15:

Part A. Authorize the establishment and use of a Truck Terminal as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related zoning case 805-AM-15 and subject to the requested variance in related zoning case 807-V-15.

Part B. Authorize the following waiver to the standard conditions of the “Truck Terminal” special use as per Section 6.1.3 of the Zoning Ordinance: A separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:

A. Waiver of the standard condition in Section 6.1.3 that requires a separation distance of 30 feet in lieu of the required 200 feet between any Truck Terminal and any adjacent residential district or residential use.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 805-AM-15 by the County Board.

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

B. The Special Use shall be void if the owner/operator fails to comply with the road agreement with Pesotum Township regarding an annual road maintenance fee, provided as follows:

(1) This condition applies to the Agreement with Pesotum Township Road Commissioner received June 24, 2015, the verbal agreement between the petitioner and the Pesotum Township Road Commissioner that trucks related to the petitioners’ trucking business run empty, bobtail, and not to run the full

REVISED DRAFT 01/06/16

van trailers, or to any subsequent road agreement between the petitioner and Pesotum Township, provided that a fully executed agreement shall be filed with the Zoning Administrator.

- (2) This condition shall be cancelled if the Pesotum Township Highway Commissioner relieves the Petitioners of the road maintenance agreement obligations.**

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

That any additional highway maintenance due to the truck traffic generated by the proposed Special Use is reimbursed by the petitioner.

- C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Truck Terminal until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

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

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

SIGNED:

ATTEST:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

REVISED DRAFT 01/06/16

807-V-15

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

Final Determination: **{ GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED }**

Date: **{January 14, 2016}**

Petitioners: **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.**

Request: **Authorize the following variances on land proposed to be rezoned to the AG-2 Agriculture Zoning District in related Case 805-AM-15 in order to authorize the use of an existing unauthorized Truck Terminal as a proposed Special Use in related Zoning Case 806-S-15:**

Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.

Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

Table of Contents

General Application Information 2
Requested Variance3
Specific Ordinance Requirements 3 - 7
Variance Evidence 7 - 12
Documents of Record13 - 14
Case 807-V-15 Findings of Fact.....15
Case 807-V-15 Final Determination16

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 15, 2015** and **January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 805-AM-15)

- *1. Michael Wishall and sons Jason and Brian Wishall are the co-petitioners and all are engaged in the family farm corporation and a trucking operation. Jason Wishall is the President of Wishall Transport and Brian Wishall and his wife are Wishall Farms and Transportation, Inc. The Petitioners Michael Wishall, Jason Wishall, and Brian Wishall own the subject property.
- *2. The subject property is a 5 acre parcel plus approximately 0.68 acres of the adjacent parcel in the Northwest Quarter of the Northwest Quarter of Section 10 of Pesotum Township and commonly known as Wishall Transport, Wishall Farms & Transportation, Inc., and Wishall Farms, Inc. located at 482 and 486 CR 900 East, Tolono.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality. The nearest municipality is the Village of Tolono but the Village is located more than 1.5 miles from the subject property.
 - *B. The subject property is located within Pesotum Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *4. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The subject property is a 5.68 acre tract and is currently zoned AG-1 Agriculture. Uses on site include a dwelling, farm, and non-farm trucking operation. The non-farm trucking operation is not authorized in the AG-1 District and the petitioners are seeking a map amendment, special use permit, and a variance based upon the Final Notice of Violation dated June 5, 2015.
 - *B. Land on the north, south, east, and west of the subject property is also zoned AG-1 Agriculture and is in use as follows:
 - *(1) Land to the north, east and south is owned by the Petitioners and is in agriculture production.
 - *(2) Land to the west is residential in use, surrounded by agricultural land in production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

- *5. Regarding the site plan and operations of the proposed Special Use:
 - *A. The site plan received October 2, 2015 indicates the following existing and proposed improvements:
 - *(1) Existing buildings shown on the aerial photograph include:

- *a. A residence that was constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *b. A 42 feet by 78 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *c. A 40 feet by 42 feet crib north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *d. A 36 feet by 48 feet farm storage shed north of the residence, constructed prior to adoption of the Zoning Ordinance on October 10, 1973;
 - *e. A 128 feet by 72 feet truck shop east of the residence, constructed between 1988 and 2002 according to aerial photography;
 - *f. Two 36 foot diameter grain bins on the northeast corner of the property, constructed between 2002 and 2005 according to aerial photography; and
 - *g. An 80 feet by 150 feet farm storage shed east of the property line, constructed between 2008 and 2011 according to aerial photography, owned by the Petitioners and connected with the agricultural uses on the property.
- * (2) There is no construction proposed for the subject property.
- *B. The 5-acre parcel was created in 2013.
- *C. As per Champaign County aerial photography, operations at the property appear to expand between 2008 and 2011, noted by the addition of the east Farm Storage Shed and ten additional trailers parked just east of the 5 acre parcel.
- *D. Regarding the non-farm trucking operation:
- (1) Co-petitioner Jason Wishall stated that they have been operating for 18 years but his father has always had trucks that he used for the farm operation. He said that on the off-season the winters were cold and the shop was chilly but the trucks were warm. so they branched out and found area farmers who they could haul for.
 - (2) Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.

REVISED DRAFT 01/06/16Cases 807-V-15
Page 4 of 16

- (3) Co-petitioner Jason Wishall stated that they transport seed for seed companies, which is agrelated. He said that they have a few local customers who are not ag related such as wood hauling, construction for local contracts, and transport of waste for the Champaign Urbana Sanitary District for about the last eight to ten years. He said that they are a local operation with a good reputation and they would like to stay where they are.
- (4) Co-petitioner Jason Wishall stated that they haul products for other people but the truck shop is only used for their own equipment repairs and maintenance. He said that they do not work on anyone else's equipment.
- (5) Co-petitioner Jason Wishall stated that there are 24 trucks and the photograph is a pretty good representation of what is on their property at any one time. Mr. Michael Wishall testified that currently three of the trucks have farm plates and are not used for commercial use.
- (6) Co-petitioner Jason Wishall stated that they do not want the drivers to keep the trucks at the subject property, but at their homes so that they have more family time and they put less miles and wear and tear on the trucks. He said that the number of trucks owned by the operation should not be an issue as the photograph is a good representation of what is on the lot at any given time. He stated that the trucks and trailers are unloaded when they arrive at the subject property although there is a rare occasion when they have to come to the property loaded. He said that they do not want the loaded trucks and trailers destroying the road by coming to the subject property.
- (7) Mr. Matthew Schweighart, attorney for the petitioners, stated that the trucking operation has been operated without incident until a complaint was filed with the County in 2013 and since the complaint was received the petitioners have spent approximately \$35,000 of their own funds to address concerns with respect to the conditions of the roads and have been very cooperative with their neighbors and government entities. He said that the petitioners have a very good relationship with the Pesotum Township Highway Commissioner and have done everything they can to be good neighbors at this location. Mr. Jason Wishall said that they use the road for more than driving to work in their cars therefore they agreed to help pay for the maintenance of the road, especially since the townships do not have a lot of money and can barely take care of the roads that they have. He stated that the agreement states that they pay for 50% of the cost to oil and chip the road.

*E. There are no previous Zoning Use Permits on the subject property.

F. The requested variance is as follows:

- (1) Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland.

- (2) Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. Paragraph 4.3.10A states “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 Policy”.
 - B. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment form the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (2) “AREA, LOT” is the total area within the LOT LINES.
 - (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
 - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
 - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.

REVISED DRAFT 01/06/16

- (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (5) "LOT LINES" are the lines bounding a LOT.
- (6) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.

C. In the *Zoning Ordinance*, maximum lot size is restricted by Footnote 13 to Section 5.3 Schedule of Area, Height, & Placement Regulations by District, as follows (* indicates numbering from the *Zoning Ordinance*):

*13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:

*(A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:

*(1) The LOT is RRO-exempt;

*(2) The LOT is made up of soils that are BEST PRIME FARMLAND; and

*(3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.

*(B) LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:

*(1) The LOT is located within a Rural Residential OVERLAY DISTRICT; and

*(2) The LOT is made up of soils that are BEST PRIME FARMLAND.

*(C) The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:

*(1) A 'Remainder Area Lot.' A 'Remainder Area Lot' is that portion of a tract which existed as of January 1, 1998 and that is located outside of the boundaries of a RRO-exempt LOT less than 35 acres in LOT AREA. No CONSTRUCTION or USE that requires a Zoning Use Permit shall be permitted on a 'Remainder Area Lot.'

*(2) Any LOT greater than or equal to 35 acres in LOT AREA.

D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:

- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.
- F. The Champaign County Stormwater Management and Erosion Control Ordinance adopted June 18, 2015 supersedes the Champaign County Stormwater Management Policy and specifies the following:
- (1) Paragraph 4.2F provides exemptions for non-residential development based on the percent of total impervious area and the cumulative total area of lot or lots created from a lot or lots in common ownership on January 1, 1998, as follows:
 - a. Development of more than 2 acres but less than 6.25 acres land is exempted from the STORMWATER DRAINAGE PLAN requirements provided that no more than 1 acre of the lot or lots shall be impervious surface area.
 - b. Development of more than 6.25 acres land is exempted from the STORMWATER DRAINAGE PLAN requirements provided that no more than 16% of the total area of the lot or lots shall be impervious area provided that no exemption shall apply to any part of a lot when that part contains more than one acre of impervious surface area within a rectangular area of 90,000 square feet with a minimum dimension of 150 feet.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioners testified on the application that, **“The property at issue is part of the original farmstead and has never been in production. No Best Prime Farmland was taken out of production to create the parcel, which houses farm buildings, sheds, a**

residence and grain bins, all in support of the farming operation surrounding the homestead.”

- B. Regarding the soils that make up the subject property:
- (1) The soil on the subject property is BEST PRIME FARMLAND and consists of Elburn silt loam 198A and Drummer silty clay loam 152A, and has an average LE of 100.
 - (2) Drummer silty clay loam is a poorly drained soil with a slight susceptibility to water erosion. Elburn silt loam is somewhat poorly drained with a slight susceptibility to water erosion.
- C. Co-petitioner Michael Wishall indicated that all buildings on the subject property were constructed for agricultural purposes, and Chairman Thorsland clarified that such buildings which would make them exempt from Champaign County Zoning and Stormwater ordinances. Mr. Wishall stated that the Truck Shop building was originally for agricultural storage, and was repurposed about a decade ago to be a repair shop for both agriculture equipment and the truck terminal.
- ~~D. The land adjacent to the existing homestead has been in row crop production.~~
- ~~D. Co-petitioner Michael Wishall testified at the October 15, 2015, public hearing that his parents did their estate planning 20 or 30 years ago and he did not find out about their wills until his father passed away. He said that at the time of the estate planning their attorney told them that that the subject property had to be five acres.~~
- ~~E. If the subject property was simply the residence of a farmer the maximum lot area would not be applicable and a variance would not be required. The variance is required in this instance because the subject property is not simply the residence of a farmer but is also used at least partially for the truck terminal proposed in related Case 806-S-15.~~
- ~~F. Mr. Matthew Schweighart, attorney for the petitioners, testified that the Wishall family farm operation has been at the subject property since 1939. The Wishall trucking operation was operated by the family farm corporation until 2004 when the trucking operation spun off into a separate entity. He said that the overall growth has been organic at this location and as the petitioners worked hard to grow both of the businesses there was not a lot of consideration in them being separate. He said that the trucking operation is ag related being that predominately 75% of the revenues are from ag related services. He said that the mindset of the petitioners is that the two operations are more or less one in the same and both part of the agricultural nature of the area.~~
- ~~G. Co-locating the truck terminal with the farmstead allows significant amounts of lot area to serve both the truck terminal and the farming activities which helps to minimize the total land area occupied by both uses and allows the proposed Special Use Permit to make use of existing buildings that are no longer adequate to house modern agricultural machinery and does not include any proposed new non-agricultural buildings.~~

- H. Based on the Champaign County GIS Consortium's 2014 aerial photo, approximately 20,000 square feet (.459 acre) of the subject property on the north and approximately 13,333 square feet (.306 acre) on the south side of the subject property are still in row crop production even though included in the five acre lot area.
- I. The truck terminal operations occupy approximately 1.726 acres of the subject property and about an additional acre on the adjacent parcel.

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

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. The Petitioners testified on the application that, **"Requiring compliance with the strict letter of the provisions would prohibit the homestead property from being used in support of the farming and agricultural hauling operation."**
 - B. The subject property could be subdivided into two lots and each lot could comply with the maximum lot area requirement but significant amounts of lot area would still serve both the truck terminal and the farming.

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

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioners testified on the application that, **"The success and expansion of Petitioners' operation created the need for additional acreage to be used in support of the operation."**
 - B. Co-petitioner Michael Wishall testified at the October 15, 2015, public hearing that his parents did their estate planning 20 or 30 years ago and he did not find out about their wills until his father passed away. He said that at the time of the estate planning their attorney told them that that the subject property had to be five acres.
 - ~~B. moved their business from the Village of Tolono to the subject property approximately 10 years ago, and constructed a new Farm Storage Shed just east of the 5-acre parcel in order to accommodate the truck tool shop in what was previously a farm storage shed.~~
 - ~~C. On April 21, 2014, based on a complaint received in 2013 regarding road conditions and heavy truck traffic from the trucking business on the subject property, a First Notice of Violation was sent by the Zoning Department to the Petitioners. The Notice identified the operation of an unauthorized truck terminal in the AG-1 Agriculture Zoning District and creation of a 5-acre lot when the maximum lot area is 3 acres on best prime farmland. A Final Notice was sent on June 5, 2015 for the same violations (see attachments).~~

~~D. The Petitioners were asked to comply with the Zoning Ordinance throughout 2014 and 2015 and only applied for the required Map Amendment, Special Use and Variance upon receipt of the Final Notice in June 2015.~~

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

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioners testified on the application that, **“Petitioners have secured approval in writing from the neighbors to the subject property, and there are a number of other similar agricultural and ag-related trucking operations in business in the neighborhood.”**
 - B. If the Map Amendment and Special Use Permit are approved for related cases 805-AM-15 and 806-S-15, the subject property will conform to all other Zoning Ordinance requirements.
 - C. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
 - D. The proposed lot area of approximately of 5.68 acres is 189% of the required three acre maximum for a variance of 89%.
 - E. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*, which is a requirement in Zoning Ordinance Section 4.3.10:
 - (1) The proposed Special Use requires a Stormwater Drainage Plan because the amount of impervious area on the subject property exceeds the maximum allowed for being exempt from the Stormwater Drainage Plan requirement.
 - (2) The Ordinance states that stormwater detention is required if there is one acre or more of no more than 1 acre of the lot or lots shall be impervious surface area; the subject property has approximately 3.4 acres of impervious area.
 - (3) At the October 15, 2015 public hearing, ZBA members noted the following factors that would be in favor of waiving the Stormwater Management and Erosion Control Ordinance requirements for this particular case:
 - a. At least half of the impervious area on the subject property is for farming;
 - b. Surrounding land belongs to the Petitioners;
 - c. None of the complaints received had to do with water;
 - d. There was no testimony prior to the October 15, 2015 public hearing about water or drainage; and

- e. The Wishalls trucking business has gone through a slow, organic growth over the years.
- F. The proposed variance for not completing a Stormwater Drainage Plan is a 100% variance of the Stormwater Management and Erosion Control Ordinance Paragraph 4.2F.
- G. In related Case 806-S-15 the Zoning Board of Appeals determined that the proposed special use permit, subject to the requested variance, {IS / IS NOT} in harmony with the general purpose and intent of the Zoning Ordinance.
- H. The requested variance is not prohibited by the Zoning Ordinance.

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

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. **The Petitioners testified on the application, “Petitioners have secured prior approval from neighbors and from the road commissioner, and have gone above and beyond in their effort to be good neighbors, including carefully selecting hauling routes and spending their own funds to repair and maintain roads.”**
 - B. The subject property generally drains to the northwest and southwest and appears to slope toward roadside ditches along CR 900 East. The Natural Resource Report by the Champaign County Soil and Water Conservation District received October 15, 2015 indicates the following:
 - (1) “The site is on flat ground, water now travels off the site in all directions. The west has a good road ditch to help with drainage.”
 - (2) “It is likely that this site contains agricultural tile; if any tile is found care should be taken to maintain the tile in working order. Severe ponding, along with wetness may be a limitation associated with the soil types on the site.”
 - C. The Two Mile Slough Drainage District has been notified of this variance but no comments have been received.
 - D. The Highway Commissioner supports the petitioners’ operation on the subject property and created a road maintenance agreement dated December 23, 2014 so that the petitioners will pay half the cost of maintaining CR 900 East between the subject property and CR 600 North.
 - E. The Township Supervisor has been notified of this variance but no comments have been received.
 - F. The Fire Protection District has been notified of this variance but no comments have been received.

- G. The Petitioners submitted a letter of support signed by six neighbors in the CR 400-600 North portion of CR 900 East stating “they welcome our company to stay in the current location” (see attachment).
- H. On October, 15, 2015, the Zoning Department received email from neighbors James and Marilyn Chancellor, 483 CR 900 E. and Doug Bartlett Jr. and Lori Bartlett, 481 CR 900 E. both indicating that they support keeping the Wishall trucking business at the current location, but request that if they do continue operating from that location, that strong consideration be given to both current and long-term upkeep and maintenance of CR 900 E.

~~No complaints have been received regarding drainage or any other factor since the complaints about road conditions received in 2013.~~

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. Petitioner’s agent Attorney Matt Schweighart, in an email received September 17, 2015, stated: **“the fact that the property is rural in nature, the fact that the buildings have been in existence for farm purposes prior to their use in connection with the trucking terminal for nearly 10 years with no drainage issues during that time, and the fact that no new development is being proposed that would alter the existing configuration with respect to storm water drainage”.**

DOCUMENTS OF RECORD

1. First Notice of Violation dated April 21, 2014
2. Final Notice of Violation dated June 5, 2015
3. Application for Map Amendment received June 24, 2015, with attachments:
 - A Property description
 - B Road Maintenance Agreement
 - C Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - D Letter of support signed by neighbors, received June 24, 2015
 - E Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - F Preliminary Sketch Plan of subject property, received June 24, 2015
4. Application for Special Use Permit received June 24, 2015, with same attachments as Application for Map Amendment
5. Application for Variance Permit received June 24, 2015, with same attachments as Application for Map Amendment
6. Email from Attorney Matt Schweighart received September 17, 2015
7. Site Plan received October 2, 2015
8. Email from neighbors James and Marilyn Chancellor, received October 15, 2015
9. Email from neighbors Doug Bartlett, Jr. and Lori Bartlett, received October 15, 2015
10. Natural Resources Report from Champaign County Soil and Water Conservation District received October 15, 2015
11. Preliminary Memorandum dated October 7, 2015 for Cases 805-AM-15, 806-S-15, and 807-V-15, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B LRMP Land Use Goals, Objectives, and Policies
 - C LRMP Appendix of Defined Terms
 - D First Notice of Violation dated April 21, 2014
 - E Final Notice of Violation dated June 5, 2015
 - F Road Maintenance Agreement dated December 23, 2014
 - G Letter from Steve Miller, Pesotum Township Commissioner, received June 24, 2015
 - H Letter of support signed by neighbors, received June 24, 2015
 - I Illiana Construction Invoices for road maintenance dated 08/05/14 and 06/13/15, received June 24, 2015
 - J Email from Attorney Matt Schweighart received September 17, 2015
 - K Site Plan received October 2, 2015
 - L Natural Resources Report from Champaign County Soil and Water Conservation District received October 15, 2015
 - M Site Images packet

REVISED DRAFT 01/06/16

Cases 807-V-15
Page 14 of 16

- N Summary of Evidence, Finding of Fact, and Final Determination for Case 805-AM-15
- O Summary of Evidence, Finding of Fact, and Final Determination for Case 806-S-15
- P Summary of Evidence, Finding of Fact, and Final Determination for Case 807-V-15

12. Supplemental Memorandum #1 dated October 15, 2015, with attachments:

- A Attachment L to the Preliminary Memorandum dated October 7, 2015: Natural Resources Report from Champaign County Soil and Water Conservation District, received October 15, 2015
- B Email from neighbors James and Marilyn Chancellor, received October 15, 2015
- C Email from neighbors Doug Bartlett, Jr. and Lori Bartlett, received October 15, 2015

13. Supplemental Memorandum #2 dated January 6, 2016, with attachments:

- A Approved minutes from October 15, 2015
- B Excerpt from the Illinois Secretary of State website regarding Commercial and Farm Trucks
- C Copy of Right to Farm Resolution 3425
- D Revised Finding of Fact for Case 805-AM-15 dated January 6, 2016
- E Revised Summary of Evidence for Case 806-S-15 dated January 6, 2016
- F Revised Summary of Evidence for Case 807-V-15 dated January 6, 2016
- G Revised Case Maps dated January 14, 2016

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **807-V-14** held on **October 15, 2015** and **January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

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

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____
6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

FINAL DETERMINATION

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

The Variance requested in Case 807-V-15 is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Michael Wishall, Jason Wishall, and Brian Wishall d.b.a. Wishall Transport, Wishall Farms & Transportation Inc., and Wishall Farms Inc.** to authorize the following variance in the AG-2 Agriculture Zoning District:

Part A. A variance from Section 5.3 of the Zoning Ordinance for a lot size of 5.68 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland that is also the subject of related cases 805-AM-15 and 806-S-15.

Part B. A variance from the Champaign County Stormwater Management and Erosion Control Ordinance which requires a Stormwater Drainage Plan and review for lots of 2 to 6.25 acres that have greater than one acre of impervious surface area.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Eric Thorsland, Chairman
Champaign County Zoning Board of Appeals

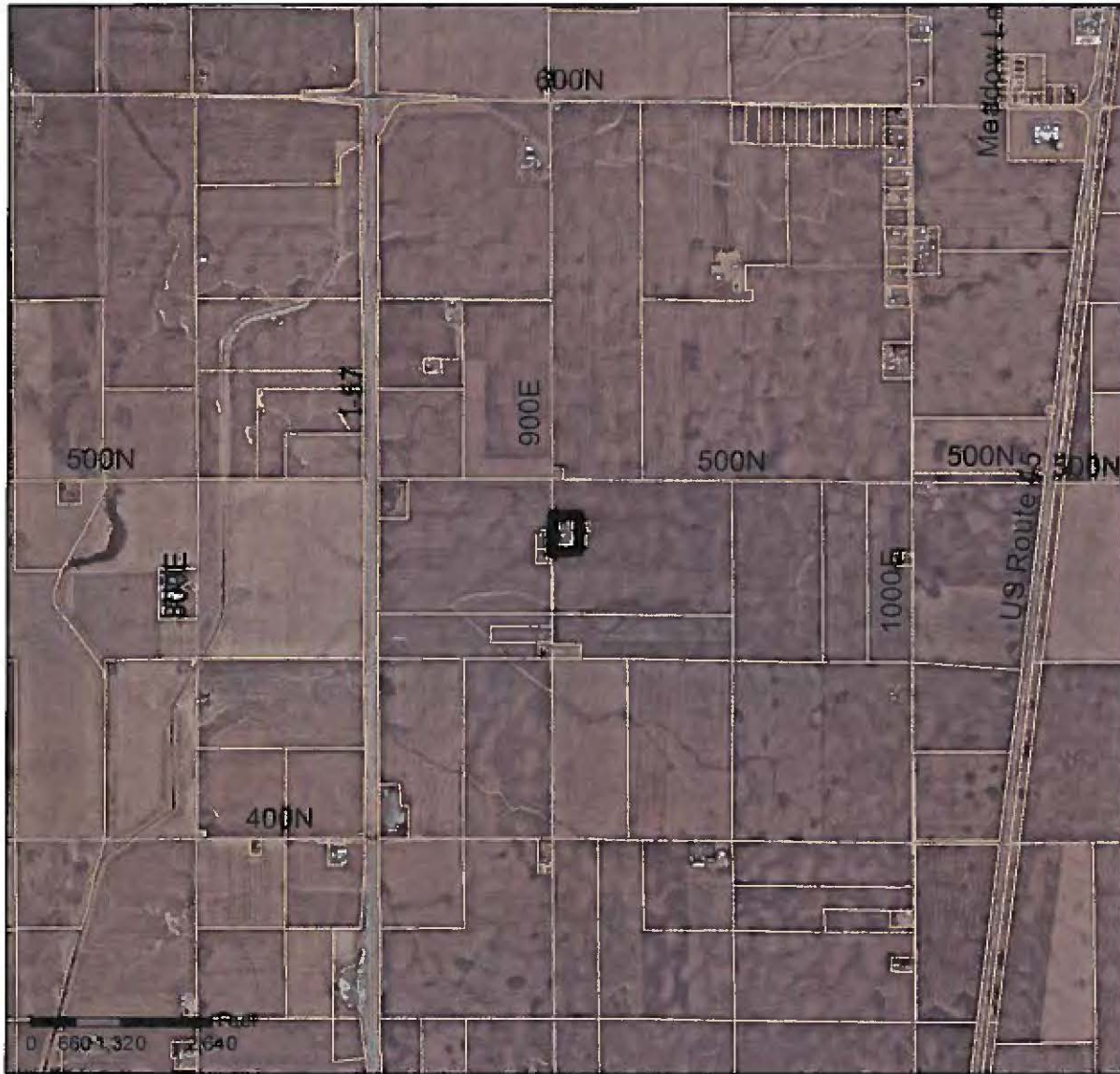
ATTEST:

Secretary to the Zoning Board of Appeals
Date

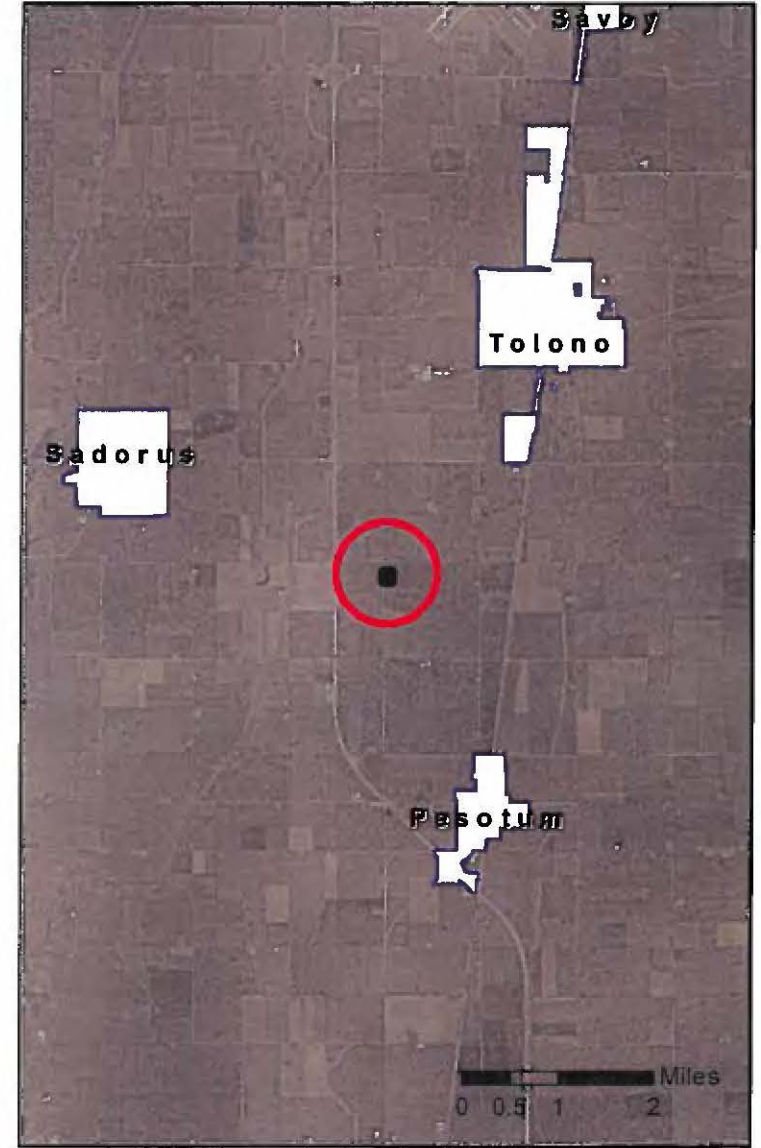
Location Map

Cases 805-AM-15, 806-S-15, and 807-V-15
October 15, 2015 and January 14, 2016

Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Streets
-  Parcels



Land Use Map

Cases 805-AM-15, 806-S-15, and 807-V-15
 October 15, 2015 and January 14, 2016



Map Amendment boundary (black dash) differs from the property boundary because part of the trucking business extends east to adjacent acreage. This boundary is preliminary and will be revised based on a new legal description.

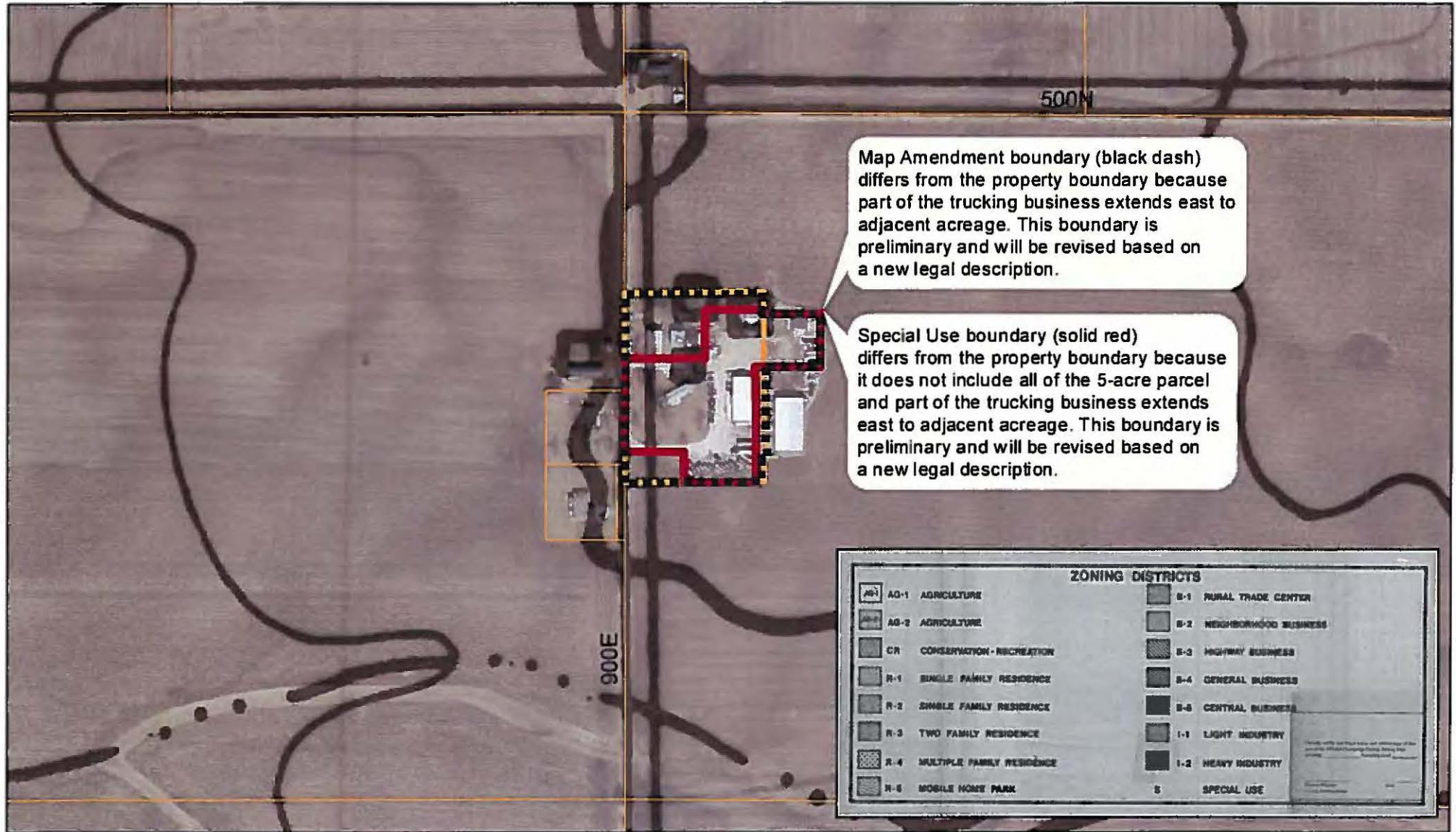
Special Use boundary (solid red) differs from the property boundary because it does not include all of the 5-acre parcel and part of the trucking business extends east to adjacent acreage. This boundary is preliminary and will be revised based on a new legal description.

- Legend**
- Parcels
 - Subject Property



Zoning Map

Cases 805-AM-15, 806-S-15, and 807-V-15
 October 15, 2015 and January 14, 2016



Legend

- Parcels
- Subject Property

0 100 200 400 Feet



CASE NO. 819-AT-15

SUPPLEMENTAL MEMORANDUM

January 6, 2016

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator

Request: * Amend the Zoning Ordinance as follows:

PART A

In Section 6.1.3 revise the standard conditions for "Fairground" by adding the following special provision (standard condition):

Site design, land management, and storm water management designs and practices shall provide effective site drainage; shall meet or exceed state and federal water quality standards; shall protect downstream drainage patterns; shall provide for stream flows that support healthy aquatic ecosystems; shall minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, wherever possible, shall preserve existing habitat, enhance degraded habitat, and restore habitat."

PART B

1. In Section 4.2.1 C. add "PARKING LOT and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2."
2. In Section 5.2, add "PARKING GARAGE or LOT" as a Special Use Permit in the CR District and add a footnote stating that "PARKING LOT and related passenger waiting buildings may be authorized in the CR District by SPECIAL USE Permit only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds provided that the Public Fairgrounds were an established use at the subject location on October 10, 1973, and provided that a Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void and subject to the standard conditions in Section 6.1.3."
3. In Section 6.1.3 add as a Special Use "PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District" and require no minimum fencing; require the minimum LOT AREA, Width, Maximum HEIGHT, and Required Yards to be the same as in the CR Zoning DISTRICT; and add the following special provisions (standard conditions):
 1. All or part of the parking area(s) may be used for parking not otherwise related to the Fairground and the non-Fairground parking may be limited to parking for a single other non-Fairground USE or to multiple other non-Fairground USES and may include the construction and use of related passenger waiting buildings.
 2. Traffic impacts shall be considered.

*This description is based on the revised legal advertisement.

REVISED PROPOSED AMENDMENT

A revised legal advertisement for this case was published on December 23, 2015. An annotated version of the revised proposed amendment is included as an Attachment.

PRELIMINARY DRAFT FINDING OF FACT

The Draft Finding of Fact has been updated with the new description and is included as Attachment B.

The Finding of Fact is based on the proposed changes to the text amendment.

The Summary Finding of Fact (see pages 11 & 12) summarizes the important Findings.

ATTACHMENTS

- A Revised Proposed Amendment (Annotated)**
- B 1/06/16 Revised Preliminary Draft Finding of Fact**

Attachment A. Revised Proposed Amendment (Annotated)

Case 819-AT-15
JANUARY 6, 2016

PART A

- 1. Revise Section 6.1.3 by adding the following special provision (standard condition) for “Fairground”:**

SECTION 6.1.3 SCHEDULE OF STANDARD CONDITIONS FOR SPECIFIC TYPES OF SPECIAL USES

SPECIAL USES or USE Categories	Minimum Fencing Required ⁶	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions
		AREA (Acres)	Width (Feet)	Feet	Stories	Front Setback from STREET Centerline ²			SIDE	REAR	
						STREET Classification					
						MAJOR	COLLECTOR	MINOR			
Fairground	6' wire mesh	20	(1)	(1)	(1)	100	100	100	50	50	<u>*See below</u>
<p><u>Site design, land management, and storm water management designs and practices shall provide effective site drainage; shall meet or exceed state and federal water quality standards; shall protect downstream drainage patterns; shall provide for stream flows that support healthy aquatic ecosystems; shall minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, shall wherever possible, preserve existing habitat, enhance degraded habitat, and restore habitat.</u></p>											

Attachment A. Revised Proposed Amendment (Annotated)

Case 819-AT-15

JANUARY 6, 2016

PART B

1. Add new subparagraph 4.2.1 C.4. to read as follows (all of existing 4.2.1 has also been included below for convenience of the reader):

4.2.1 CONSTRUCTION and USE

- C. It shall be unlawful to erect or establish more than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT or more than one PRINCIPAL USE per LOT in the AG-1, Agriculture, AG-2, Agriculture, CR, Conservation-Recreation, R-1, Single Family Residence, R-2, Single Family Residence, and R-3, Two Family Residence DISTRICTS other than in PLANNED UNIT DEVELOPMENTS except as follows:
1. Mortuary or funeral home may be authorized as a Special Use Permit in the AG-2, Agriculture Zoning District, when it is on a lot under common management with a cemetery.
 2. Up to three BIG WIND TURBINE TOWERS may be authorized as a second PRINCIPAL USE on a LOT as a SPECIAL USE Permit in the AG-1 Agriculture and AG-2 Agriculture DISTRICTS.
 3. RESIDENTIAL RECOVERY CENTER may be authorized as a SPECIAL USE Permit in the AG-2, Agriculture Zoning DISTRICT in accordance with Section 5.2.
 4. PARKING LOT and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2.

Attachment A. Revised Proposed Amendment (Annotated)

Case 819-AT-15

JANUARY 6, 2016

PART B (continued)

2. **Revise Section 5.2 by revising “PARKING GARAGE or LOT” and adding a new footnote to read as follows (“Fairgrounds” has also been included below for convenience of the reader):**

Section 5.2 Table of Authorized Principal USES

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Public and Quasi-Public Facilities															
PARKING GARAGE or LOT	S ²²														
Public Fairgrounds	S		S											S	S

Footnotes

22. PARKING LOT and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to the standard conditions in Section 6.1.3. provided that the Public Fairgrounds were an established use at the subject location on October 10, 1973, and provided that a Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void and subject to the standard conditions in Section 6.1.3.

Attachment A. Revised Proposed Amendment (Annotated)

Case 819-AT-15
JANUARY 6, 2016

PART B (continued)

3. **Revise Section 6.1.3 by adding a new special use “PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District” with special provisions (standard conditions) to read as follows (Part A of the amendment has also been included below for convenience of the reader):**

SECTION 6.1.3 SCHEDULE OF STANDARD CONDITIONS FOR SPECIFIC TYPES OF SPECIAL USES

SPECIAL USES or USE Categories	Minimum Fencing Required ⁶	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions
		AREA (Acres)	Width (Feet)	Feet	Stories	Front Setback from STREET Centerline ²					
						STREET Classification			SIDE	REAR	
MAJOR	COLLECTOR	MINOR									
Fairground	6' wire mesh	20	(1)	(1)	(1)	100	100	100	50	50	*See below
<p><u>Site design, land management, and storm water management designs and practices shall provide effective site drainage; meet or exceed state and federal water quality standards; protect downstream drainage patterns; provide for stream flows that support healthy aquatic ecosystems; minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, wherever possible, preserve existing habitat, enhance degraded habitat, and restore habitat.</u></p>											
<u>PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District</u>	NR	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	*See below
<p><u>At a Public Fairgrounds that was an established USE at the subject location on October 10, 1973, all or part of the parking area(s) may be used for parking not otherwise related to the Fairground and the non-Fairground parking may be limited to parking for a single other non-Fairground USE or to multiple other non-Fairground USES and may include the construction and use of related passenger waiting buildings, so long as authorized as part of the Special Use Permit and subject to the following:</u></p> <p>a. <u>Traffic impacts shall be considered.</u></p> <p>b. <u>A Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void.</u></p>											
Public HOSPITAL	NR	5	(1)	(1)	(1)	(1)	(1)	(1)	40	40	

Footnotes

- Standard same as applicable zoning DISTRICT.
- In no case, however, shall the FRONT YARD, measured from the nearest RIGHT-OF-WAY line, be less than 35' from a MAJOR STREET, 30' from a COLLECTOR STREET, or 25' from a MINOR STREET. Where 25% or more of the LOTS within a BLOCK, such LOTS abutting STREETS other than federal or state highways, were occupied by MAIN or PRINCIPAL STRUCTURES prior to the effective date of this ordinance, the average of the SETBACK LINES of such STRUCTURES shall be the minimum SETBACK LINE of the remaining vacant LOTS within such BLOCK except where the public health, safety, comfort, morals, or welfare are endangered.
- Other standards shall be in accordance with the "State of Illinois Environmental Protection Agency Solid Waste Rules and Regulations," effective July 27, 1973.

Attachment A. Revised Proposed Amendment (Annotated)

Case 819-AT-15
JANUARY 6, 2016

4. Applications for sewage disposal facilities shall include plans for such facilities prepared by a registered professional engineer. All plans shall include assurance that the proposed facilities will not be subject to flooding, will not contaminate ground water resources, and any other assurances that may be required by the BOARD. All sewage disposal facilities shall be constructed in accordance with the rules and regulations of the State of Illinois and this ordinance.
5. Industrial Pre-existing USES must make application to obtain SPECIAL USE status.
6. The specific location and area to be enclosed by required fencing shall be determined by the Zoning Board of Appeals.

1/06/16 REVISED PRELIMINARY DRAFT

819-AT-15

**FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: _____

Petitioner: Zoning Administrator

Request: Amend the Zoning Ordinance as follows:
PART A

In Section 6.1.3 revise the standard conditions for "Fairground" by adding the following special provision (standard condition):

Site design, land management, and storm water management designs and practices shall provide effective site drainage; shall meet or exceed state and federal water quality standards; shall protect downstream drainage patterns; shall provide for stream flows that support healthy aquatic ecosystems; shall minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, wherever possible, shall preserve existing habitat, enhance degraded habitat, and restore habitat."

PART B

1. In Section 4.2.1 C. add "PARKING LOT and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2."
 2. In Section 5.2, add "PARKING GARAGE or LOT" as a Special Use Permit in the CR District and add a footnote stating that "PARKING LOT and related passenger waiting buildings may be authorized in the CR District by SPECIAL USE Permit only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds provided that the Public Fairgrounds were an established use at the subject location on October 10, 1973, and provided that a Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void and subject to the standard conditions in Section 6.1.3."
 3. In Section 6.1.3 add as a Special Use "PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District" and require no minimum fencing; require the minimum LOT AREA, Width, Maximum HEIGHT, and Required Yards to be the same as in the CR Zoning DISTRICT; and add the following special provisions (standard conditions):
 1. All or part of the parking area(s) may be used for parking not otherwise related to the Fairground and the non-Fairground parking may be limited to parking for a single other non-Fairground USE or to multiple other non-Fairground USES and may include the construction and use of related passenger waiting buildings.
 2. Traffic impacts shall be considered.
-

CONTENTS

FINDING OF FACT.....pages 2 – 13
SUMMARY FINDING OF FACT.....pages 11- 12
DOCUMENTS OF RECORD..... page 13
FINAL DETERMINATION.....page 14
PROPOSED AMENDMENT.....pages 15 - 16

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **December 10, 2015, December 17, 2015, and January 14, 2016**, 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. The Champaign County Fair Association was granted a Special Use Permit for the Fairgrounds by the Zoning Board of Appeals in Case 962-S-94 on March 16, 1995. The use of the Fairgrounds parking areas by Carle Hospital and/or Carle Clinic on a daily basis had already been established by that time even though there is no mention of Carle’s use in the records of Case 962-S-94.
 - B. The Carle “pick-up stations” (the bus waiting enclosures) in the Fairgrounds parking lot were authorized in the Phase 3 Parking Plans that were approved by the Zoning Administrator on May 5, 1994.
 - C. As constructed, the pick-up stations meet the Zoning Ordinance definition of “buildings” but are only used by Carle’s employees and patients and therefore constitute an additional non-Fairground principal USE or additional principal STRUCTURE on the Fairground property.
 - D. Sec. 4.2.1C. of the Ordinance prohibits more than one PRINCIPAL USE and more than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT in the CR Conservation Recreation Zoning District unless specifically authorized in the Ordinance.
 - E. The proposed amendment will amend the Ordinance so that the Champaign County Fair Association may apply for a new Special Use Permit for the Fairgrounds including the non-Fairground use of the parking lot and the related passenger waiting buildings.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases. The proposed amendment has been significantly revised based on comments from the City of Urbana staff.

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 *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 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 *HELP ACHIEVE* Goal 7 for the following reason:

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

The proposed rezoning will *HELP ACHIEVE* Objective 7.1 as follows:

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

The proposed rezoning *HELP ACHIEVE* Policy 7.1.1 for the following reasons:

- a. Traffic impacts are considered at least in a general way in any discretionary review.
- b. The proposed amendment includes a standard condition requiring that “Traffic impacts shall be considered.” The proposed standard condition will not require a traffic impact analysis in every instance but it does elevate traffic considerations to a greater than normal concern.

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. The proposed text amendment is directly relevant to the Objectives and policies that are reviewed below and 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 because the proposed amendment includes standard conditions in Section 6.1.3 that restate this policy in near verbatim and any Special Use Permit for a Fairgrounds will specifically be reviewed for achievement of this policy.

- (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 *HELP ACHIEVE* Policy 8.4.5 because the proposed amendment includes standard conditions in Section 6.1.3 that restate this policy in near verbatim and any Special Use Permit for a Fairgrounds will specifically be reviewed for achievement of this policy.

- 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 *HELP ACHIEVE* 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 *HELP ACHIEVE* the achievement of Policy 8.5.1 because the proposed amendment includes standard conditions in Section 6.1.3 that restate this policy in near verbatim and any Special Use Permit for a Fairgrounds will specifically be reviewed for achievement of this policy.

- (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 *HELP ACHIEVE* the achievement of Policy 8.5.2 because the proposed amendment includes standard conditions in Section 6.1.3 that restate this policy in near verbatim and any Special Use Permit for a Fairgrounds will specifically be reviewed for achievement of this policy.

- 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 *HELP ACHIEVE* 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.

- (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 *HELP ACHIEVE* Policy 8.6.2 to the extent that part a. of this policy is similar to the combined policies 8.5.1 and 8.5.2

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

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 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 will *HELP ACHIEVE* this purpose to the extent that it will allow the Champaign County Fair Association to apply for a new Special Use permit in

which the parking arrangement with Carle will presumably be continued or even expanded and thereby, in effect, conserving the value of the Fairgrounds.

- 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 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 not directly related to this purpose.

- 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 not directly related to this purpose.

- 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 (b) and will **HELP ACHIEVE** this purpose.

- 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 (b) and will *HELP ACHIEVE* this purpose.
- 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 (b) and will *HELP ACHIEVE* this purpose.
- 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 (b) and will *HELP ACHIEVE* this purpose.
- 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 directly related to this purpose to the same extent as paragraph 2.0 (b) and will *HELP ACHIEVE* 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 will *HELP ACHIEVE* this purpose. See the discussion of LRMP Objectives 8.4, 8.5 and 8.6. under items 13.A., B., and C.
- 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.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **December 10, 2015, December 17, 2015, and January 14, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Regarding the effect of this text amendment on the Land Resource Management Plan (LRMP):

A. Regarding Goal 8 Natural Resources:

- This amendment will **HELP ACHIEVE** Objective 8.4 requiring the County to 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 requiring the County to 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 (see Item 13.A.(2)).
 - Policy 8.4.5 requiring the County to ensure that non-point discharges from new development meet or exceed state and federal water quality standards (see Item 13.A.(3)).
- This amendment will **HELP ACHIEVE** 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 Policies under this Objective, 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 13.B.(2)).
 - Policy 8.5.2 requiring discretionary development to cause no more than minimal disturbance to the stream corridor environment (see Item 13.B.(3)).
- This amendment will **HELP ACHIEVE** Objective 8.6 requiring that the County avoid loss or degradation of areas representative of the pre-settlement environment and other areas that provide habitat for native and game species 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 13.C.(3)).
- 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 text amendment will **HELP ACHIEVE** Goal 8 Natural Resources.

B. Regarding Goal 7 Transportation:

- This amendment will **HELP ACHIEVE** Objective 7.1 requiring that Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted because it will **HELP ACHIEVE** the following:
 - Policy 7.1.1 requiring the County to include traffic impact analyses in discretionary review development proposals with significant traffic generation (see Item 12.A.).

- 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, this text amendment will **HELP ACHIEVE Goal 7 Transportation.**
- C. This 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 9 Energy Conservation**
 - **Goal 10 Cultural Amenities**
- D. Overall, this 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 it will **HELP ACHIEVE** the following purposes of the Ordinance:
- This text amendment will **HELP** conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY (Purpose 2.0 (b); see Item 16.B.).
 - This text amendment will **HELP** 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.).
 - This text amendment will **HELP** 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.).
 - This text amendment will **HELP** fix regulations and standards to which buildings, structures, or uses therein shall conform. (Purpose 2.0 (k); see Item 16.K.).
 - This text amendment will **HELP** prohibit uses, buildings, or structures incompatible with the character of such districts. (Purpose 2.0 (l); see Item 16.L.).
 - This text amendment will **HELP** 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. (Purpose 2.0 (m); see Item 16.M.).
 - This text amendment will **HELP** protect natural features such as forested areas and watercourses. (Purpose 2.0 (o); see Item 16.O.).

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated December 4, 2015, with Attachments:
 - A ELUC Memorandum dated October 26, 2015
 - B Proposed Amendment (Annotated)
 - C Champaign County Land Resource Management Plan Land Use Goals, Objectives, and Policies (included separately)

2. Supplemental Memorandum dated December 17, 2015, with Attachments:
 - A Revised Amendment (Annotated)
 - B Preliminary Draft Finding of Fact

3. Supplemental Memorandum dated January 6, 2016, with Attachments:
 - A Revised Amendment (Annotated)
 - B Revised Preliminary Draft Finding of Fact 1/06/16

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 819-AT-15** 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

PART A

1. **Revise Section 6.1.3 by adding the following special provision (standard condition) for “Fairground” to read as follows:**

SECTION 6.1.3 SCHEDULE OF STANDARD CONDITIONS FOR SPECIFIC TYPES OF SPECIAL USES

SPECIAL USES or USE Categories	Minimum Fencing Required ⁶	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions
		AREA (Acres)	Width (Feet)	Feet	Stories	Front Setback from STREET Centerline ²					
						STREET Classification			SIDE	REAR	
MAJOR	COLLECTOR	MINOR									
Fairground	6' wire mesh	20	(1)	(1)	(1)	100	100	100	50	50	*See below
<p><u>Site design, land management, and storm water management designs and practices shall provide effective site drainage; shall meet or exceed state and federal water quality standards; shall protect downstream drainage patterns; shall provide for stream flows that support healthy aquatic ecosystems; shall minimize impacts on adjacent properties and cause no more than minimal disturbance to the stream corridor environment; and, shall wherever possible, preserve existing habitat, enhance degraded habitat, and restore habitat.</u></p>											

PART B

1. **Add new subparagraph 4.2.1 C.4. to read as follows:**
 4. **PARKING LOT** and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to Section 5.2.
2. **Revise Section 5.2 by revising “PARKING GARAGE or LOT” and adding a new footnote #22 to read as follows:**

Section 5.2 Table of Authorized Principal USES

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Public and Quasi-Public Facilities															
PARKING GARAGE or LOT	S ²²														

Footnotes

22. **PARKING LOT** and related passenger waiting buildings may be authorized in the CR District only as an additional principal USE or additional principal STRUCTURE on Public Fairgrounds by SPECIAL USE Permit subject to the standard conditions in Section 6.1.3. provided that the Public Fairgrounds were an established use at the subject location on October 10, 1973, and provided that a Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void and subject to the standard conditions in Section 6.1.3.

PART B (continued)

3. **Revise Section 6.1.3 by adding a new special use “PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District” with special provisions (standard conditions) to read as follows:**

SECTION 6.1.3 SCHEDULE OF STANDARD CONDITIONS FOR SPECIFIC TYPES OF SPECIAL USES

SPECIAL USES or USE Categories	Minimum Fencing Required ⁶	Minimum LOT Size		Maximum HEIGHT		Required YARDS (feet)					Explanatory or Special Provisions
		AREA (Acres)	Width (Feet)	Feet	Stories	Front Setback from STREET Centerline ²					
						STREET Classification			SIDE	REAR	
MAJOR	COLLECTOR	MINOR									
PARKING LOT and related passenger waiting buildings as an additional principal USE or additional principal STRUCTURE on a Public Fairgrounds in the CR District	NR	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	*See below
<p>At a Public Fairgrounds that was an established USE at the subject location on October 10, 1973, all or part of the parking area(s) may be used for parking not otherwise related to the Fairground and the non-Fairground parking may be limited to parking for a single other non-Fairground USE or to multiple other non-Fairground USES and may include the construction and use of related passenger waiting buildings, so long as authorized as part of the Special Use Permit and subject to the following:</p> <p>a. Traffic impacts shall be considered.</p> <p>b. A Public Fair must continue to be held at the Public Fairgrounds or the Special Use Permit shall become void.</p>											