

CASES 850-V-16 and 851-V-16

*PRELIMINARY MEMORANDUM
OCTOBER 20, 2016*

Petitioner: Wayne Schwaiger, d.b.a. Reflection Holdings, LLC

Request: Authorize the following in the CR Conservation Recreation Zoning District:

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

CASE 850-V-16: Authorize a variance for a proposed division of a lot 4.02 acres in area in lieu of the minimum required lot area of 5 acres; and

CASE 851-V-16: Authorize a variance for a setback of 44 feet from street centerline and a front yard of 3 feet in lieu of the minimum required setback from street centerline of 55 feet and minimum required front yard of 25 feet for the north 260.15 feet of the subject property.

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

Subject Property: A tract of land located in the Southeast Quarter of the Southeast Quarter of Section 19, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence at 2006 CR125E, Mahomet, Illinois.

Site Area: 4.02 acres

Time Schedule for Development: As soon as possible

**Prepared by: Susan Chavarria
Senior Planner**

**John Hall
Zoning Administrator**

BACKGROUND

Petitioner Wayne Schwaiger would like to divide the subject property into two lots so he can construct a second residence south of his existing residence, which was built before adoption of the Zoning Ordinance on October 10, 1973. Case 850-V-16 is required because the Zoning Ordinance does not allow divisions of lots less than 5 acres in area. Case 851-V-16 is required because the dwelling on the proposed north lot is nonconforming with a setback of 44 feet from street centerline and a front yard of 3 feet in lieu of the minimum required 55 feet setback and 25 feet front yard.

Mr. Schwaiger would create a new access drive either on CR 125E or CR 2000N for the proposed south lot. He would install two separate septic systems. He will likely have a second well installed for the proposed second lot, but might share the existing well between both proposed lots.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are generally not notified of such cases. Staff communicated with Mahomet in this case.

Wayne Schwaiger d.b.a. Reflections Holdings LLC
October 20, 2016

Kelly Pfeifer, Village of Mahomet Community Development Director, indicated in an email dated August 1, 2016, that the Village does not anticipate annexing the subject property, so the subdivision must comply with County subdivision requirements. The petitioner will still need to subdivide through the Village.

The subject property is located within Mahomet Township, which does have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single family residence	CR Conservation Recreation
North	Single family residence	CR Conservation Recreation
East	Single family residence	CR Conservation Recreation
West	Agriculture	AG-1 Agriculture
South	Single family residence	CR Conservation Recreation

PROPOSED SPECIAL CONDITIONS

For Case 850-V-16, staff proposes the following special conditions:

- A. Within 30 days of approval of Case 850-V-16, a Plat of Survey for at least one of the new lots must be filed with the Recorder of Deeds.**

The special condition stated above is required to ensure the following:
That the new lots conform to the Illinois Plat Act (765 ILCS 205).

- B. The Zoning Administrator shall not issue a Zoning Use Permit Application or a Zoning Compliance Certificate until the petitioner submits a soil analysis to determine if a septic system can be installed on the proposed lot.**

The special condition stated above is required to ensure the following:
That there is an adequate wastewater system for both the existing and proposed lots.

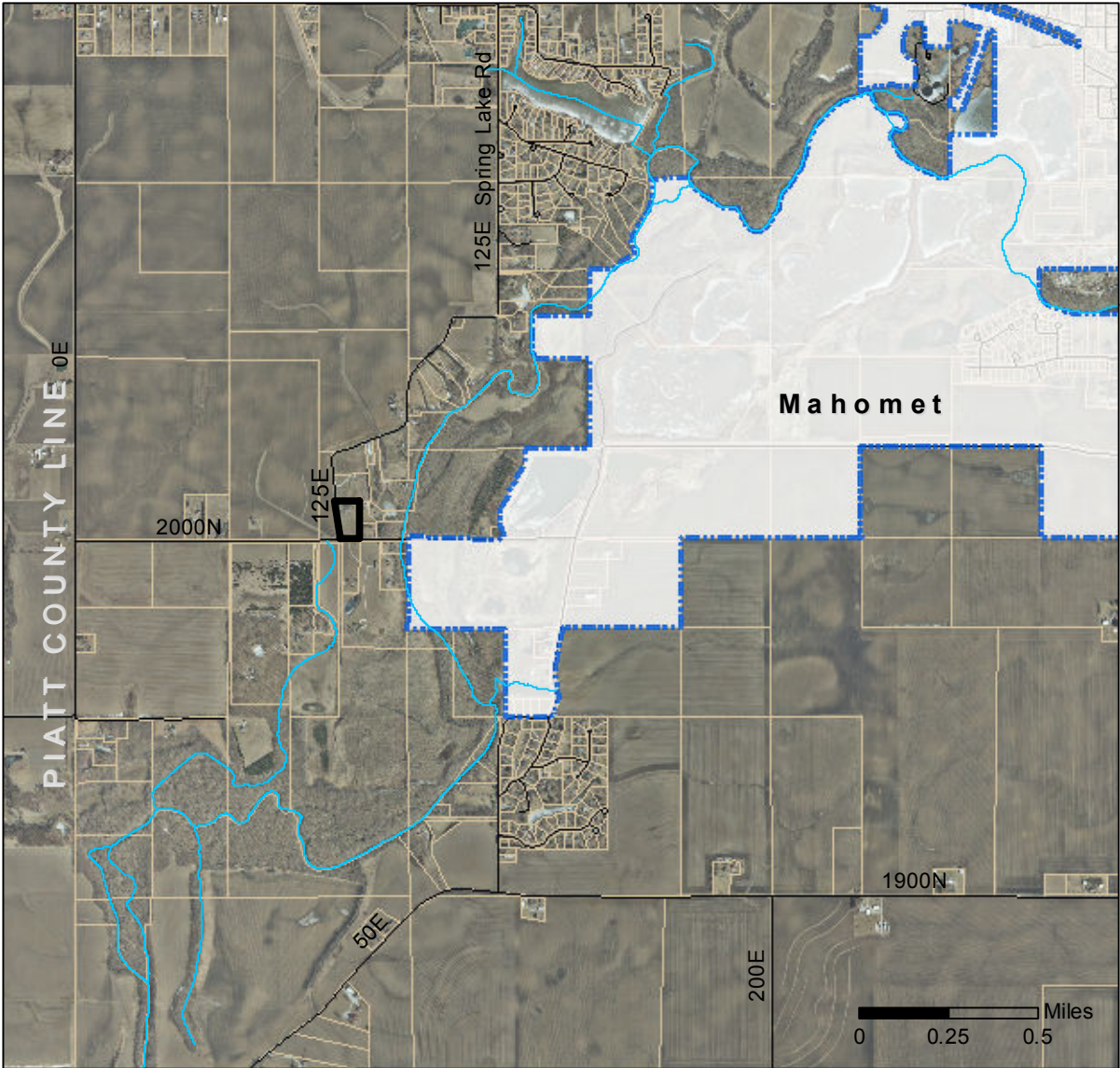
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Concept Plan received August 26, 2016
- C 1973 Aerial Photograph
- D Excerpts from *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois* (December 1979)
- E Land Evaluation and Site Assessment Worksheet completed by staff on October 19, 2016
- F Images of Subject Property taken by staff on July 12, 2016
- G Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 20, 2016

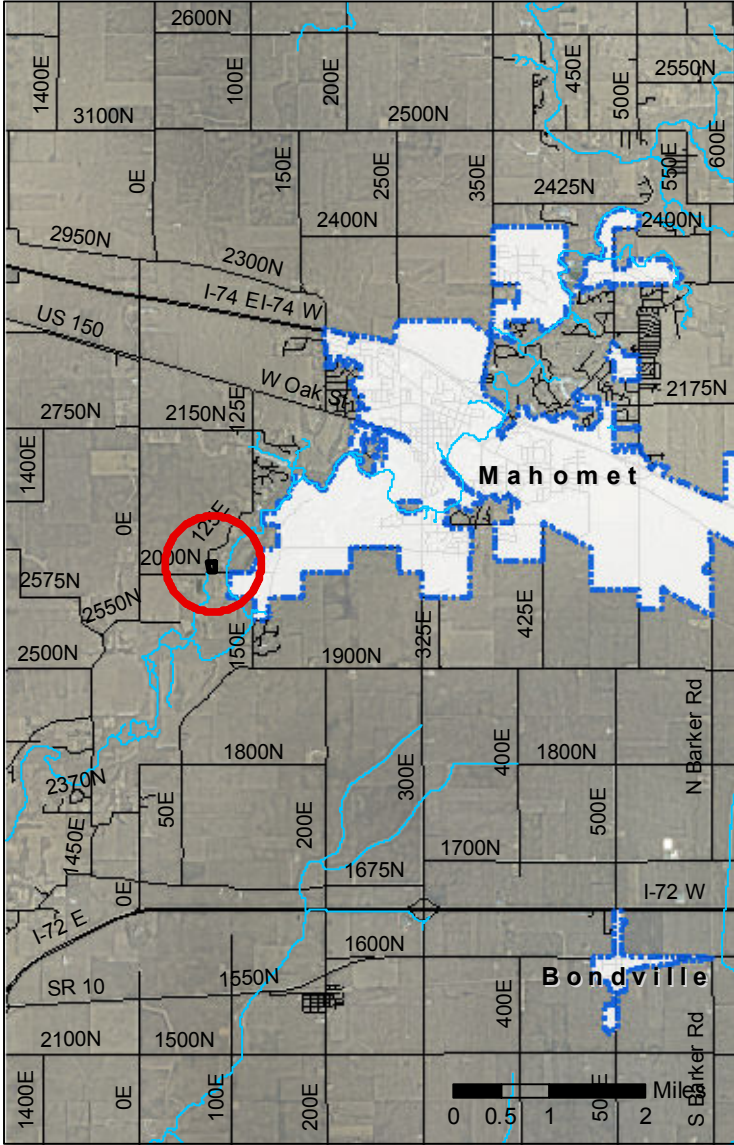
Location Map

Cases 850-V-16 and 851-V-16
October 27, 2016






Subject Property



Property location in Champaign County



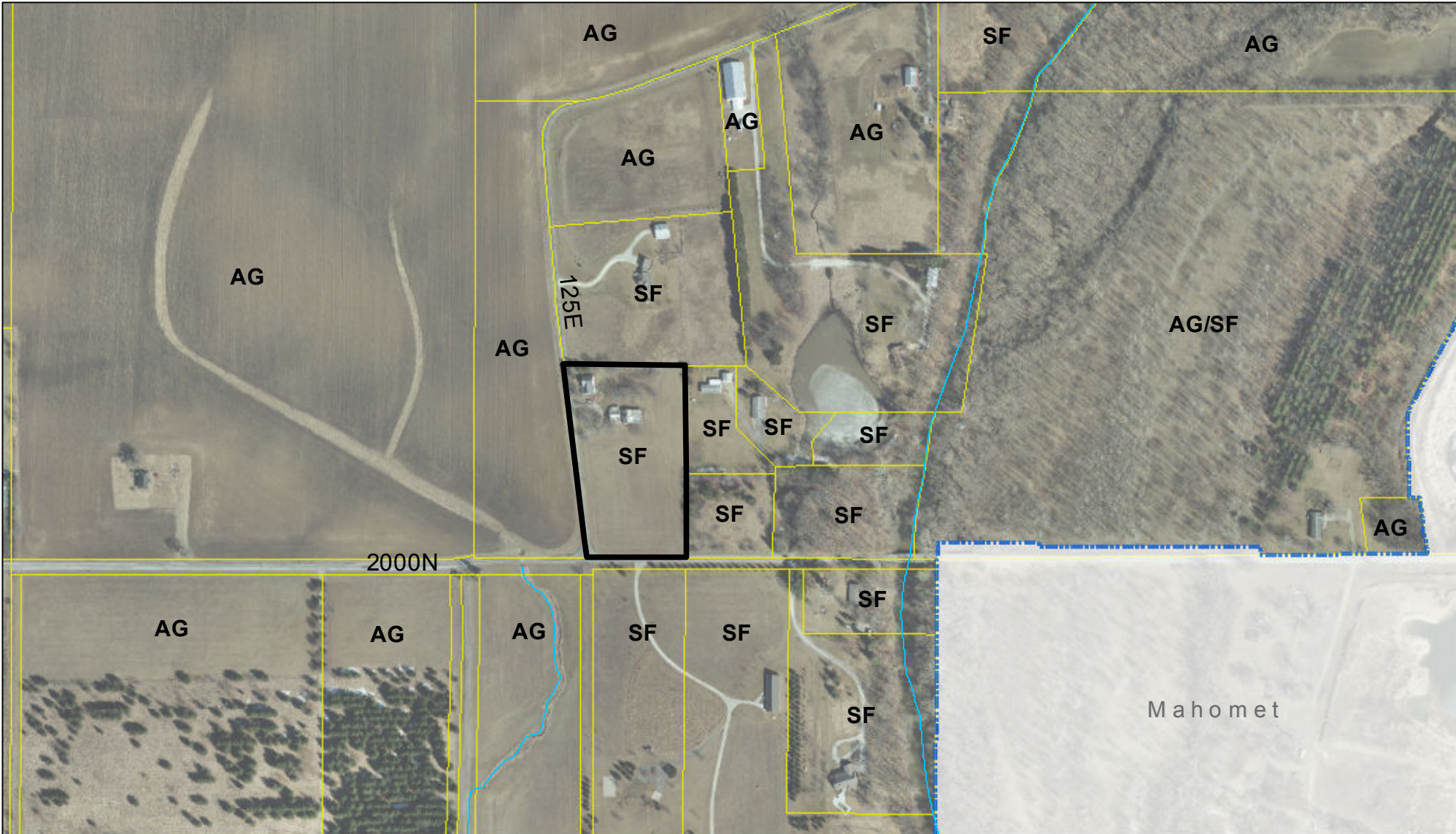
Legend

-  Subject Property
-  Municipal Boundary
-  Parcels
-  Streets
-  Streams



Land Use Map

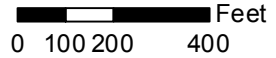
Cases 850-V-16 and 851-V-16
October 27, 2016



Legend

- Subject Property
- Parcels
- Streams

- SF Single Family Residential
- AG Agriculture



Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

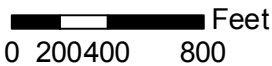
Cases 850-V-16 and 851-V-16

October 27, 2016



Legend

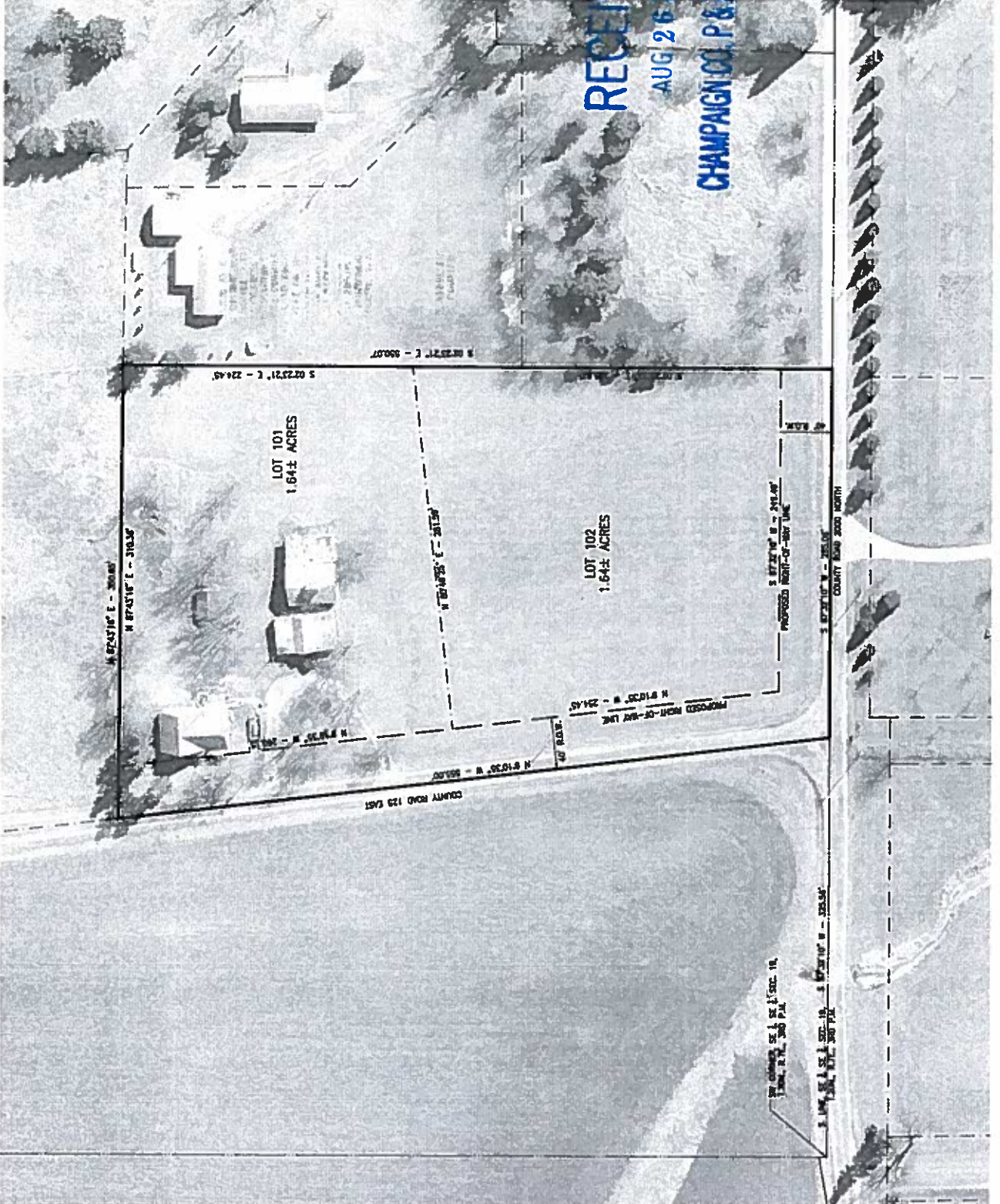
- Subject Property
- Parcels



Champaign County
Department of
**PLANNING &
ZONING**

CONCEPT PLAN
 PART OF SE 1/4 OF
 SEC. 19, T.20N., R.7E., 3rd. P.M.
 MAHOMET TOWNSHIP
 CHAMPAIGN COUNTY, ILLINOIS

- LEGEND**
- BOUNDARY OF PLAT
 - - - NEW PROPERTY LINE
 - - - EXISTING PROPERTY LINE
 - - - SECTION LINE
 - - - PROPOSED RIGHT-OF-WAY LINE



LEGAL DESCRIPTION, BEGINNING AT A POINT ON THE
 THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER
 19, TOWNSHIP 20 NORTH, RANGE 7 EAST OF THE 11
 MERIDIAN, LYING NORTH BY DEGREES 32 MINUTES, 1
 EAST 325.58 FEET OF THE SOUTHWEST CORNER OF
 QUARTER OF THE SOUTHWEST QUARTER OF SAID SEC
 (ASSAULT ROAD) 125.58 FEET ON THE WEST SIDE
 EXISTING ROAD, THENCE NORTH BY DEGREES 43 1/2
 SECONDS EAST 350.65 TO AN IRON PIN MONUMENT,
 2 DEGREES, 23 MINUTES, 27 SECONDS EAST 550.07
 POINT ON SAID SOUTH LINE, THENCE SOUTH BY THE
 10 SECONDS, WEST 282.08 FEET ON SAID
 10 SECONDS, WEST 282.08 FEET ON SAID
 SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

NOTES:

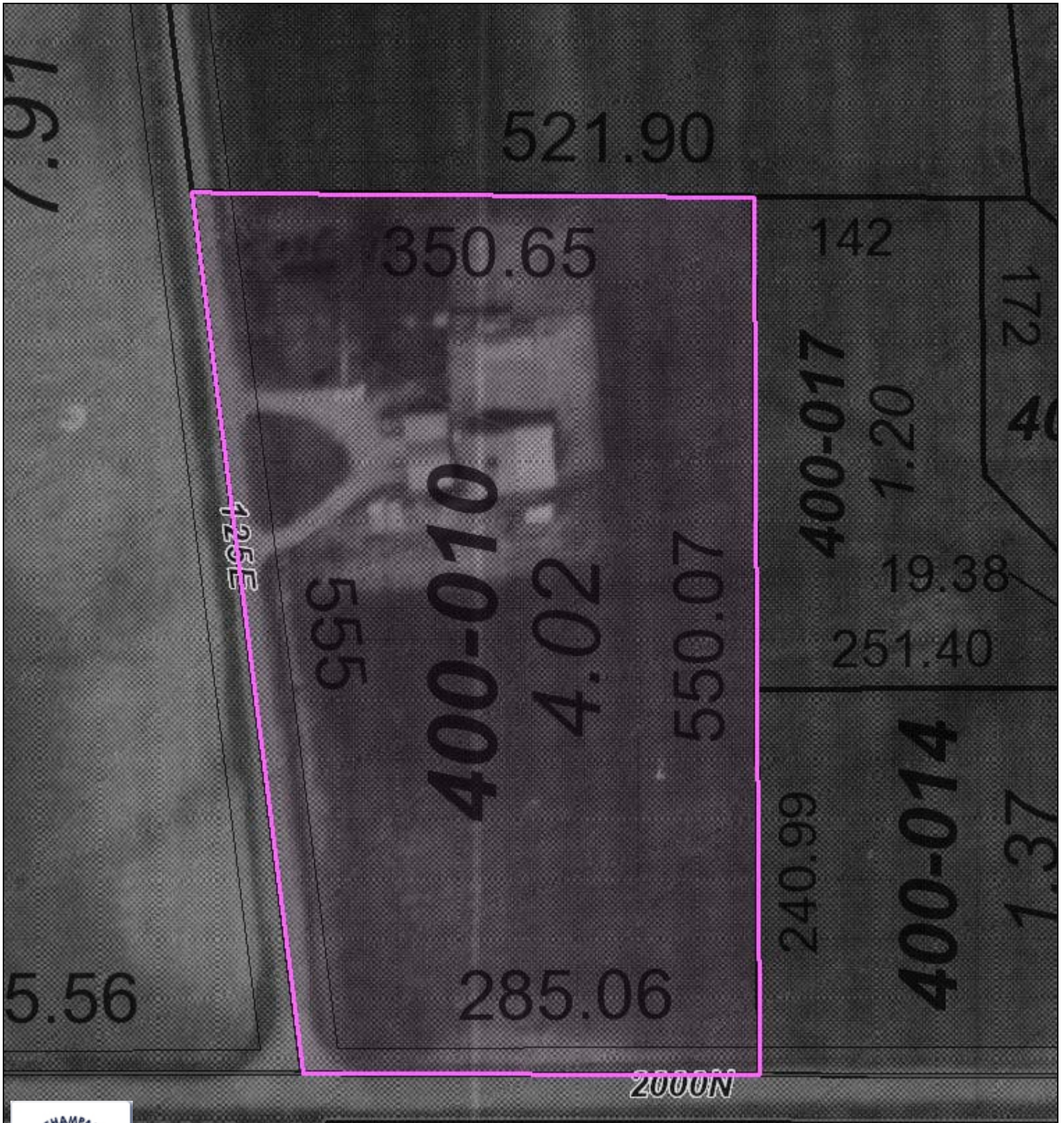
1. THIS PLAN DOES NOT REPRESENT A PLAN OF
 WAS ANY FIELD WORK COMPLETED IN ITS PRE

RECEIVED
 AUG 26 2016
 CHAMPAIGN CO. P & Z DEPARTMENT

PLAN PREPARED BY:



1973 Aerial



Dear Creek Sub
 Dear Haven Sub
 Dear Haven Sub Replat Lot 3
 Dear Haven Woods Sub

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields Area: Champaign County, Illinois

Mapping Unit: Birkbeck silt loam, 1 to 5 percent slopes 233B

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical		Index				
				Connective Measures Kinds	Continuing Limitations Kinds					
Flooding	None	Slight	None	None	None					
Depth to High Water Table (Ft)	3.0-6.0	Severe	Marginal Performance	Curtain Drain	None	7				
Permeability (IN/HR): (24-60")	0.6-2.0	Moderate	None	Standard Absorption Field 210-290 Sq.Ft./Bedroom	None	0				
Slope (PCT)	1-5	Slight	None	None	None					
Total						7	Total			
				100	-	7	-	0	-	93

Performance Standard Index Measure Cost Index Continuing Limitation Cost Index Soil Potential Index 1/

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

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields Area: Champaign County, Illinois

Mapping Unit: St. Charles silt loam, 1 to 5 percent slopes 24JB

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Connective Measures		Typical Continuing Limitations	
				Kinds	Index	Kinds	Index
Flooding	None	Slight	None	None		None	
Depth to High Water Table (Ft.)	3.0-6.0	Severe	Marginal Performance	Curtain Drain	7	None	
Permeability (IN/HR) (24-60")	0.6-2.0	Moderate	None	Standard Absorption Field 210-290 Sq.Ft./Bedroom	0	None	
Slope (PCT)	1-5	Slight	None	None		None	
Total				7		Total	

$$\frac{100}{\text{Performance Standard Index}} - \frac{7}{\text{Measure Cost Index}} = \frac{0}{\text{Continuing Limitation Cost Index}} = \frac{93}{\text{Soil Potential Index}}$$

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

SA WORKSHEET

1	What size is the subject site?	More than 25 acres	10 points	0
		20.1 to 25 acres	8 points	
		15.1 to 20 acres	6 points	
		10.1 to 15 acres	4 points	
		5.01 to 10 acres	2 points	
		5 acres or less	0 points	

4 acres

Factor 1 considers that the size of the subject site has an impact on its long-term viability for agricultural purposes. The factor recognizes that the predominant row crop form of agriculture is generally more efficiently farmed on larger sites.

Scoring Factor 1: Determine the area of the subject site based on current Champaign County Assessor Office tax parcel size data or on a legal description of the subject site.

2a	Is the subject site Best Prime Farmland ?	Yes	30 points	0
		No	0 points	

Avg LE 84

Factor 2a assigns value to a subject site if it is designated as Best Prime Farmland, consistent with the *Champaign County Land Resource Management Plan* goals, objectives and policies.

An estimated 96.6% of the County consists of Prime Farmland soils. "Best Prime Farmland" is a subset of Prime Farmland soils identified by Champaign County in order to differentiate among Prime Farmland soils. The definition of 'Best Prime Farmland' is provided in the *Champaign County Zoning Ordinance*.

Scoring Factor 2a: Refer to the LE score of the subject site and to the "Best Prime Farmland" definition in the *Champaign County Zoning Ordinance*.

2b	If the subject site is Best Prime Farmland, which one of the following statements is correct: (1) The subject site is 15% or less of a larger real estate tax parcel (or multiple parcels) that existed on January 1, 2004. (Yes 0 points) (2) The subject site is larger than 15% of a larger real estate tax parcel (or multiple parcels) that existed on January 1, 2004. (Yes 10 points) (3) The subject site was not part of a larger tax parcel or parcels on January 1, 2004, and is 25 acres or less. (Yes 0 points) (4) The subject site was not part of a larger tax parcel or parcels on January 1, 2004, and is larger than 25 acres. (Yes 10 points)	10 points	NA
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Factor 2b assigns value to a subject site if it exceeds the lot size and configuration limits noted. The 15% limit and 25-acre lot size limit featured are arbitrary values selected to represent the general

Factor 2b (continued)

concern about the conversion and loss of best prime farmland. The *Champaign County Zoning Ordinance* has included a maximum lot size limit on Best Prime Farmland since July, 2004.

Scoring Factor 2b: Review subject site size and configuration based on Champaign County parcel identification tax maps for the year 2004 (also referred to as the 27th Edition of the Champaign County tax map atlas).

2c	<p>If the subject site is not Best Prime Farmland and is at least 51% Prime Farmland,</p> <p>which one of the following statements is correct:</p> <p>(1) The subject site is larger than 25 acres. (Yes 10 points)</p> <p>(2) All of the following statements are true:</p> <ul style="list-style-type: none"> i. The subject site is part of a larger parcel that existed on April 12, 2011. ii. Since April 12, 2011, a separate portion or portions of that larger parcel have been converted to a non-agricultural use as the result of a rezoning or special use. iii. In total, the area of the subject site and those areas converted to a non-agricultural use (as identified in item ii. above) is larger than 25 acres. <p>(Yes 10 points)</p> <p>(3) Neither (1) or (2) above apply to the subject site. (Yes 0 points)</p>		0
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Factor 2c assigns value to a subject site which is not Best Prime Farmland but which consists of at least 51% Prime Farmland and exceeds a 25-acre lot size and configuration as of April 12, 2011. The 25-acre size threshold is an arbitrary value selected to represent the general concern about the conversion and loss of Prime Farmland.

This factor awards 10 points to a subject site if it would result in conversion of more than 25 acres of Prime Farmland, or if the subject site would cumulatively contribute to the conversion of more than 25 acres of Prime Farmland on a larger parcel existing as of April 12, 2011.

Scoring Factor 2c: Assess whether the soils on the subject site are comprised of at least 51% Prime Farmland based on the 'Farmland Classification' column of Table A in Appendix A.

Review the lot size and configuration based on Champaign County parcel identification tax maps and digital orthophotography as of April 12, 2011. (April 12, 2011 is the date of the annual digital orthophotography available for the year 2011.)

3	Is the subject site located within the Contiguous Urban Growth Area?	no	40 points	<u>40</u>
		yes	0 points	

Factor 3 is a general measure of development pressures which tend to support the conversion of agricultural sites to urban uses.

The 'Land Use Management Areas Map' of the *Champaign County Land Resource Management Plan* specifies the location of the 'Contiguous Urban Growth Area' (CUGA). CUGA is land designated for non-agricultural land use, and consists of:

- land designated for urban land use on the future land use map of an adopted municipal comprehensive land use plan, intergovernmental plan or special area plan, and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near-to mid-term (within approximately five years);
- land to be annexed by a municipality and located within the service area of a public sanitary sewer system with existing sewer service or sewer service planned to be available in the near-to mid-term (within approximately five years); or
- land surrounded by incorporated land or other urban land within the County.

Scoring Factor 3: Review the CUGA boundaries of the current *Champaign County Land Resource Management Plan* "Land Use Management Map".

If the subject site is located within the CUGA, skip the remaining SA Factor questions and indicate a total SA score for only SA Factors 1, 2 and 3 at the end of the SA Worksheet.

Continue to answer the following SA Factor questions only if the subject site is located outside the CUGA . . .

4	<p>Amount of the perimeter of a subject site that is adjacent to parcels with a principal use of agriculture.</p> <p>a) If the subject site is Best Prime Farmland and/or at least 51% Prime Farmland, the amount of the perimeter of the subject site that is adjacent to parcels with a principal use of agriculture that existed on April 12, 2011.</p> <p>b) If the subject site is less than 51% Prime Farmland, the amount of the perimeter of the subject site that is adjacent to parcels with a principal use of agriculture.</p>	<p>91 to 100% of perimeter 20 points 81 to 90% of perimeter 18 points 71 to 80% of perimeter 16 points 61 to 70% of perimeter 14 points 51 to 60% of perimeter 12 points 41 to 50% of perimeter 10 points <u>31 to 40% of perimeter</u> 8 points 21 to 30% of perimeter 6 points 11 to 20% of perimeter 4 points 1 to 10% of perimeter 2 points none 0 points</p> <p><i>555/1741 = 31.9%</i></p>	<p><u>8</u></p>
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Factor 4 assesses the amount of the perimeter of the subject site that is adjacent to parcels that have the principal use of agriculture. The assessment is made based on principal use of each parcel that is adjacent to the subject site. The principal use of a parcel (as used in the *Champaign County Zoning Ordinance*) represents the main use for which a lot is intended.

Additionally, for a subject site that is Best Prime Farmland and/or at least 51% Prime Farmland, Factor 4 includes the provision to not recognize any adjacent non-agricultural principal use established after a set date of April 12, 2011. (April 12, 2011 is the date of the annual digital orthophotography available for the year 2011.) This measure is intended to partially address the problem referred to as ‘creeping effect’ whereby case-by-case land use decisions may lower LESA scores on nearby sites, thereby justifying more land conversion decisions.

More points are assigned to a subject site that is surrounded by parcels with the principal use of agriculture.

Scoring Factor 4: Measure the perimeter of the subject site adjacent to parcels with a principal use of agriculture.

Defined terms relevant to the scoring of this factor include:

AGRICULTURE: 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

Scoring Factor 4 (continued)

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.

FARM DWELLING: A dwelling occupied by a farm owner or operator, tenant farm worker, or hired farm worker. (In Champaign County, it is generally assumed that a dwelling located on a lot that is 35 acres or larger is a farm dwelling, unless information provided as part of the public record to the Zoning Board of Appeals indicates otherwise.)

PRINCIPAL USE: As used in the *Champaign County Zoning Ordinance*, the main purpose for which land is designed, arranged, intended, or for which it is or may be occupied or maintained. (The primary purpose of a lot may not necessarily be the largest use on the lot in terms of the area of the lot that is occupied by that use and it may not necessarily be the use that generates the most income for the person who owns or resides on the lot.)

Guidelines for measuring perimeter of subject site adjacent to parcels with principal use of agriculture:

Adjacent property is property that touches or that is directly across a street, highway or interstate right-of-way or a rail road right-of-way from a subject site.

Measure the perimeter of the subject site that is adjacent to parcels that have a principal use of agriculture. Parcels with a principal use of agriculture are generally as follows:

- a. Any parcel that is 35 acres or larger whether or not there is a dwelling, with the exceptions noted below.
- b. Parcels that are less than 35 acres in area and that either have a farm dwelling or have no dwelling, with the exceptions noted below.
- c. Exceptions to the above are the following:
 - (1) Any parcel that is inside an incorporated municipality.
 - (2) Any parcel that is zoned Residential, Business, or Industrial on the Champaign County Zoning Map and contains a non-agricultural principal use.
 - (3) Any parcel or portion of a parcel on which a Special Use has been approved by the County except for a Rural Specialty Business or greenhouse.
 - (4) Institutional land that is not specifically used for production agriculture such as land owned by the University of Illinois but not in agricultural production or land owned by the Champaign County Forest Preserve District that is not in agricultural production.
 - (5) Any parcel or portion of a parcel considered as nonconforming use, as defined in the *Champaign County Zoning Ordinance*.

5	Distance from the subject site to the nearest city or village limits.	more than 3 miles 1.51 to 3 miles within 1.5 miles adjacent	15 points 10 points 5 points 0 points	<u>5</u>
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Factor 5 awards higher points the further a subject site is from a city or village. Factor 5 is based on the general assumption that the further the subject site is from a municipality, the less chance there is of a nearby land use or development that would conflict with the agricultural land use of that subject site.

Scoring Factor 5: Measure outward from the property lines of the subject site to the nearest municipal boundary.

6	The highest percentage of the subject site in agricultural production in any of the last 5 years.	80 to 100%	15 points	<u>0</u>
		60 to 79%	11 points	
		40 to 59%	7 points	
		20 to 39%	3 points	
		less than 20%	0 points	

Factor 6 is intended to serve as a general indicator of the agricultural viability of a subject site.

Scoring Factor 6: Based on the most recent five years of annual digital orthophotography, estimate the highest percentage of area of the subject site in agricultural production. To obtain accurate information, the scoring of Factor 6 may additionally require a field site inspection, windshield survey of the subject site, or landowner interview.

Defined terms relevant to the scoring of this factor include:

AGRICULTURAL PRODUCTION: The growing, harvesting, and storing of crops and the keeping, raising, and feeding of livestock or poultry and the buildings and land used in those activities, including:

- any farm dwelling,
- land taken out of production for purposes of government-sponsored agricultural programs, or
- land being used productively, such as woodlands for which there is a plan for managing the timber.

FARM DWELLING: A dwelling occupied by a farm owner or operator, tenant farm worker, or hired farm worker. (In Champaign County, it is generally assumed that a dwelling located on a lot that is 35 acres or larger is a farm dwelling, unless information provided as part of the public record to the Zoning Board of Appeals indicates otherwise.)

Guidelines for estimating percentage of subject site in agricultural production in any of the last 5 years

Based on review of digital orthophotography of the subject site for the most recent five years,

- a. If there is no structure on the subject site and the subject site appears to be in crop land, then count the entire subject site as in agricultural production.
- b. If only a street or road improvement is present on the subject site, and no wooded area is present on the subject site, then count the entire subject site as in agricultural production.
- c. Unless information is available to indicate otherwise,
 - (1) If the subject site is 35 acres or larger and has both a dwelling and what appears to be crop land, then count the entire site as agricultural production.
 - (2) If the subject site is less than 35 acres and has both a dwelling and what appears to be crop land, then count all of the subject site-- except for one acre, inclusive of the dwelling -- as in agricultural production. The one acre will be assumed to contain the well, septic, system, and any non-agricultural outbuildings.
- d. A part of the subject site that appears not to be crop land may be counted as in agricultural production only provided the landowner indicates that part of the subject site was or is not in production due to participation in a government-sponsored agricultural program, or due to implementation of a crop management plan.

7	Percentage of land zoned AG-1 Agriculture, AG-2 Agriculture or CR Conservation-Recreation within 1 mile of subject site.	91 to 100%	10 points	<u>9</u>
		<u>81 to 90%</u>	9 points	
		71 to 80%	8 points	
		61 to 70%	7 points	
		51 to 60%	6 points	
		41 to 50%	5 points	
		31 to 40%	4 points	
		21 to 30%	3 points	
		11 to 20%	2 points	
		1 to 10%	1 points	
	none	0 points		
$2.6 \text{ sq mi} / 3.14 \text{ sq mi} = 82\%$				

Factor 7 measures the amount of land in the one-mile area surrounding the subject site zoned AG-1 Agriculture, AG-2 Agriculture, or CR Conservation-Recreation. These are the rural zoning districts within the County.

More points are assigned to a higher percentage of land zoned AG-1, AG-2, or CR within one mile of the subject site because:

- rural zoning districts are intended for agricultural land uses, and
- land within these districts is subject to use restrictions and limits on the density and location of non-agricultural land uses.

Scoring Factor 7: Measure the area zoned AG-1, AG-2, and CR outward one mile from the property lines of the subject site.

<p>8 Percentage of area within 1 mile of a subject site which consists of parcels with a principal use of agriculture.</p> <p>a) If the subject site is Best Prime Farmland and/or at least 51% Prime Farmland,</p> <p>the percentage of area within one mile of the subject site which consists of parcels with a principal use of agriculture that existed on April 12, 2011.</p> <p>b) If the subject site is less than 51% Prime Farmland,</p> <p>the percentage of area within one mile of the subject site which consists of parcels with a principal use of agriculture.</p> <p><i>1.71 sq mi / 3.14 sq mi = 54.5%</i></p>	91 to 100%	20 points	<p><u>12</u></p>
	81 to 90%	18 points	
	71 to 80%	16 points	
	61 to 70%	14 points	
	<u>51 to 60%</u>	<u>12 points</u>	
	41 to 50%	10 points	
	31 to 40%	8 points	
	21 to 30%	6 points	
	11 to 20%	4 points	
	1 to 10%	2 points	
	none	0 points	

Factor 8 is a major indicator of the agricultural character of the general area, based on the assumption that areas in the County dominated by agriculture are generally more viable for farm purposes. The assessment is made based on the principal use of parcels located within one mile of the subject site. The principal use of a parcel (as used in the *Champaign County Zoning Ordinance*) represents the main use for which a lot is intended.

Additionally, for a subject site that is Best Prime Farmland and/or at least 51% Prime Farmland, Factor 8 includes the provision to not recognize any non-agricultural principal use established after a set date of April 12, 2011 within one mile of the subject site except for development that has been annexed by a municipality. (April 12, 2011 is the date of the annual digital orthophotography available for the year 2011.) This measure is intended to partially address the problem referred to as 'creeping effect' whereby case-by-case land use decisions may lower LESA scores on nearby sites, thereby justifying more land conversion decisions.

More points are assigned to a subject site with a greater percentage of area within one mile consisting of parcels with the principal use of agriculture.

Scoring Factor 8: Estimate the area of land within a one-mile distance outward from the property lines of the subject site that consists of parcels with the principal use of agriculture.

The defined terms shown below generally form the basis on which this factor is scored:

AGRICULTURE: 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.

Scoring Factor 8 (continued)

FARM DWELLING: A dwelling occupied by a farm owner or operator, tenant farm worker, or hired farm worker. (In Champaign County, it is generally assumed that a dwelling located on a lot that is 35 acres or larger is a farm dwelling, unless information provided as part of the public record to the Zoning Board of Appeals indicates otherwise.)

PRINCIPAL USE: As used in the *Champaign County Zoning Ordinance*, the main purpose for which land is designed, arranged, intended, or for which it is or may be occupied or maintained. (The primary purpose of a lot may not necessarily be the largest use on the lot in terms of the area of the lot that is occupied by that use and it may not necessarily be the use that generates the most income for the person who owns or resides on the lot.)

Guidelines for estimating area within one mile of subject site consisting of parcels with principal use of agriculture:

Generally identify parcels with a principal use of agriculture as follows:

- a. Any parcel that is 35 acres or larger whether or not there is a dwelling, with the exceptions noted below.
- b. Parcels that are less than 35 acres in area and that either have a farm dwelling or have no dwelling, with the exceptions noted below.
- c. Exceptions to the above are the following:
 - (1) Any parcel that is inside an incorporated municipality.
 - (2) Any parcel that is zoned Residential, Business, or Industrial on the Champaign County Zoning Map and contains a non-agricultural principal use.
 - (3) Any parcel or portion of a parcel on which a Special Use has been approved by the County, except for a Rural Specialty Business or greenhouse.
 - (4) Institutional land that is not specifically used for production agriculture such as land owned by the University of Illinois but not in agricultural production, or land owned by the Champaign County Forest Preserve District that is not in agricultural production.
 - (5) Any parcel or portion of a parcel considered as nonconforming use, as defined in the *Champaign County Zoning Ordinance*.

9	What is the distance from the subject site to the nearest 10 non-farm dwellings? <p style="text-align: center; color: blue;">.6 mi</p>	more than 1 mile	20 points	<u>16</u>
		0.76 to 1 mile	18 points	
		0.51 to 0.75 mile	16 points	
		0.26 to 0.50 mile	14 points	
		0.01 to 0.25 mile	12 points	
		adjacent	0 points	

Factor 9 considers the proximity of the nearest 10 non-farm dwellings as a general indicator of an existing land use incompatibility with production agriculture and an incompatibility with livestock facilities vis-a-vis the *Illinois Livestock Management Facilities Act (510 ILCS 77/ et seq.)*

In Champaign County, it is generally assumed that a dwelling located on a lot less than 35 acres is a non-farm dwelling, unless information provided as part of the public record to the Zoning Board of Appeals indicates that a dwelling is part of on-site agricultural operations or otherwise qualifying as a farm dwelling.

The defined term for Non-Farm Dwelling is shown below:

NON-FARM DWELLING: A dwelling that is not occupied by a farm owner or operator, tenant farm worker, or hired farm worker.

Scoring Factor 9: Measure the linear distance outward from the closest point on the property line of the subject site to the façade of the tenth nearest non-farm dwelling.

10	<p>a) How close is the subject site to a known livestock management facility of 400 or more animal units?</p> <p><i>Answer Parts b or c) only if the subject site is more than 1 mile from a known livestock management facility of 400 or more animal units.</i></p>	<p>adjacent to 0.25 mile 10 points 0.26 to 0.5 mile 9 points 0.51 to 0.75 mile 8 points 0.76 to 1 mile 7 points more than 1 mile n/a</p>	<u>0</u>
	<p>b) How close is the subject site to a known livestock management facility of 200 - 399 animal units?</p> <p><i>Answer Part c) only if the subject site is more than 1 mile from a known livestock management facility of 200-399 animal units.</i></p>	<p>adjacent to 0.25 mile 7 points 0.26 to 0.5 mile 6 points 0.51 to 0.75 mile 5 points 0.76 to 1 mile 4 points more than 1 mile n/a</p>	
	<p>c) How close is the subject site to a known livestock management facility of 50 – 199 animal units?</p>	<p>adjacent to 0.25 mile 4 points 0.26 to 0.5 mile 3 points 0.51 to 0.75 mile 2 points 0.76 to 1 mile 1 point more than 1 mile 0 points</p>	

Factor 10 is a measure of the compatibility of the subject site for continued agricultural use based on its proximity to an existing nearby livestock management facility. More points are assigned to a subject site in closer proximity to a known livestock management facility.

Scoring Factor 10: A response may be based on data available from the Livestock Management Facilities Program, Illinois Department of Agriculture, actual site inspection, and/or landowner interview.

The maximum points possible for this factor is 10 points.

This is a 3-part factor. Part a) measures proximity of a subject site to a livestock management facility of 400 or more animal units. If the subject site is located more than one mile from such facility, then respond to Part b). Part b) measures proximity of a subject site to a livestock management facility of 200-399 animal units. If the subject site is located more than one mile from such facility, then respond to Part c).

SA Total Score	<u>90</u>
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CALCULATING THE TOTAL LESA SCORE

The total LESA score is the sum of the LE points and SA points for a particular site or parcel. The maximum total LESA score possible for a site is 300 points.*

LE Total	84
SA Total	90
Total LESA Score	174

The higher the total LESA score, the more highly rated the subject site or parcel is to be protected for continued agricultural use. The total LESA score of a site signifies a rating for protection of the subject site or parcel as follows:

251 – 300	very high rating for protection
226 – 250	high rating for protection
151 – 225	moderate rating for protection
150 or below	low rating for protection

- * The maximum LE score possible for a site is 100 points.
The maximum SA score possible for a site is 200 points.



From driveway facing northeast; house on left, garage on right



From driveway facing north



From driveway facing northwest



Proposed south lot, from CR 125E facing southeast



From CR 2000N facing north



Unmarked intersection of CR 125E and CR 2000N, from CR2000N facing northwest

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PRELIMINARY DRAFT

Cases 850-V-16 and 851-V-16

**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: *{October 27, 2016}*

Petitioner: Wayne Schwaiger, d.b.a. Reflection Holdings, LLC

Request: Authorize the following in the CR Conservation Recreation Zoning District:

CASE 850-V-16: Authorize a variance for a proposed division of a lot 4.02 acres in area in lieu of the minimum required lot area of 5 acres; and

CASE 851-V-16: Authorize a variance for a setback of 44 feet from street centerline and a front yard of 3 feet in lieu of the minimum required setback from street centerline of 55 feet and minimum required front yard of 25 feet for the north 260.15 feet of the subject property.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 27, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Wayne Schwaiger, d.b.a. Reflections Holdings, LLC, owns the subject property.
2. The subject property is a 4.02 acre tract in the Southeast Quarter of the Southeast Quarter of Section 19, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence at 2006 CR125E, Mahomet, Illinois.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance and are not notified of such cases.
 - (1) Regarding subdividing the property: Kelly Pfeifer, Village of Mahomet Community Development Director, indicated in an email dated August 1, 2016, that the Village does not anticipate annexing the subject property, so the subdivision must comply with County subdivision requirements. The petitioner will still need to subdivide through the Village.
 - B. The subject property is located within Mahomet Township, which does have a Plan Commission. Townships with Plan Commissions have protest rights on a variance and are notified of such cases.

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 for Case 850-V-16 is a 4.02 acre lot and is currently zoned CR Conservation Recreation. Land use is a single family residence.
 - B. The subject property for Case 851-V-16 is the northern 1.64 acres of the subject property lot in related case 850-V-16 that is zoned CR Conservation Recreation. Land use is the same single family residence on the parent tract.
 - C. Land to the north, east, and south is zoned CR Conservation Recreation and is in use as single family residences.
 - D. Land to the west is zoned AG-1 Agriculture and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan received August 26, 2016:
 - A. The proposed line for dividing the existing lot into two lots is as follows:
 - (1) The south lot is proposed to be approximately 270.03 feet wide, on average, and 1.64 acres.
 - (2) The north lot is proposed to be approximately 242.44 feet wide, on average, and 1.64 acres.

- B. Existing features on the subject property include:
- (1) One residence in the northwest corner of the property, built prior to adoption of Zoning Ordinance on October 10, 1973 and of unknown square footage; and
 - (2) One 15 feet by 18 feet detached shed;
 - (3) One 10 feet by 12 feet detached shed; and
 - (4) One U-shaped gravel driveway accessing CR125E.
- C. In a phone call on October 5, 2016, the petitioner provided the following information:
- (1) Mr. Schwaiger believes the existing septic system is located east of the existing house. A new septic system would be installed for the proposed second lot residence.
 - (2) The existing well is located about 20 feet east of the southeast corner of the house. A second well is likely to be installed for the proposed second lot residence, but sharing the well is also a possibility.
 - (3) The driveway for the proposed second lot residence is more likely to be on CR 125E because of slower traffic, but could be constructed on CR 2000N.
- D. There is no construction currently proposed, although the second lot is being created so that a residence can eventually be built.
- E. There are no previous Zoning Use Permits for the subject property. The existing residence and detached buildings were built for agricultural purposes and are exempt from the Zoning Ordinance.
- F. There are no prior Zoning Cases for the subject property.
- G. The required variances are as follows:
- (1) For CASE 850-V-16: authorize a variance for a proposed division of a lot 4.02 acres in area in lieu of the minimum required lot area of 5 acres; and
 - (2) For CASE 851-V-16: authorize a variance for a setback of 44 feet from street centerline and a front yard of 3 feet in lieu of the minimum required setback from street centerline of 55 feet and minimum required front yard of 25 feet for the north 260.15 feet of the subject property.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding authorization for the proposed variance:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Variance (capitalized words are defined in the Ordinance):

- (1) “ACCESS” is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
- (2) “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.
- (3) “AREA, LOT” is the total area within the LOT LINES.
- (4) “DWELLING” is a BUILDING or MANUFACTURED HOME designated for non-transient residential living purposes and containing one or more DWELLING UNITS and/or LODGING UNITS.
- (5) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
- (6) “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.
- (7) “LOT DEPTH” is the distance between the midpoint of the FRONT LOT LINE and the midpoint of the REAR LOT LINE or LINES.
- (8) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
- (9) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.

- (10) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (11) “SETBACK LINE” is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
- (12) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (13) “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.
- (14) “SUBDIVISION” is any division, development, or re-subdivision of any part, LOT, area or tract of land by the OWNER or agent, either by LOTS or by metes and bounds, into LOTS two or more in number, for the purpose, whether immediate or future, of conveyance, transfer, improvement, or sale, with the appurtenant STREETS, ALLEYS, and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or OWNERS within the tract subdivided. The division of land for AGRICULTURAL purposes not involving any new STREET, ALLEY, or other means of ACCESS, shall not be deemed a SUBDIVISION for the purpose of the regulations and standards of this ordinance.
- (15) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (16) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
- B. The CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
- C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:

- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - 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 9.1.9 D.2.
- D. Regarding the proposed variance for Case 850-V-16, lots that are 5 acres or less in area may not be further divided as per Section 5.4 of the *Zoning Ordinance*.
- E. Regarding the proposed variance for Case 851-V-16:
- (1) Minimum setback from the street centerline of a minor street in the CR Conservation Recreation District is established in Section 5.3 as 55 feet.
 - (2) Minimum front yard from the street right of way to the proposed structure in the CR Conservation Recreation District is established in Section 4.3.2. of the *Zoning Ordinance* as 25 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. For Case 850-V-16 regarding further division of lots less than 5 acres, the Petitioner has testified on the application, **“The property has existed many years (60+) as 4 acres.”**
 - B. The prohibition on division of lots less than five acres was first added to the *Zoning Ordinance* on an interim basis by Ordinance No. 709 (Case 431-AT-03 Part A) on February 19, 2004, and made permanent by Ordinance No. 729 (Case 464-AT-04 Parts A and B) on April 19, 2004.

- C. For Case 851-V-16 regarding setback and front yard requirements, the Petitioner has testified on the application, **“Village of Mahomet requires 40 feet right-of-way which reduces front yard setback. House was built prior to 1973 zoning.”**

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

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. For Case 850-V-16 regarding further division of lots less than 5 acres, the Petitioner has testified on the application, **“House existed prior to Zoning Ordinance. Subdivision less than 5 acres not permitted, thus open land on south part is not utilized.”**
- B. For Case 851-V-16 regarding setback and front yard requirements, the Petitioner has testified on the application, **“House was built prior to zoning.”**
- C. Regarding Case 850-V-16 for further division of lots less than 5 acres: without the proposed variance, the 4.02 acre property could only have one residence.
- D. Regarding Case 851-V-16 for setback and front yard requirements: without the proposed variance, the existing residence would continue to be legally non-conforming, but could not be added onto so as to be more nonconforming and also could not be replaced without a variance.

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. For both Cases 850-V-16 and 851-V-16, the Petitioner has testified on the applications, **“No.”**

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. For Case 850-V-16, the Petitioner testified on the application, **“Creating additional lot will not change current landscape and no trees will be cut down.”**
- B. For Case 851-V-16, the Petitioner did not provide a response on the application.
- C. Regarding Case 850-V-16 for further division of a 4.02 acre lot in lieu of the required minimum 5 acre lot: the requested variance is 80% of the minimum area required for division, for a variance of 20%.
- D. Regarding Case 851-V-16 for a setback from street centerline of 44 feet in lieu of the minimum required 55 feet and a front yard of 3 feet in lieu of 25 feet: the requested variance

for the setback is 80% of the minimum required, for a variance of 20% and the requested variance for the front yard is 12% of the minimum required, for a variance of 88%.

- E. Regarding Case 850-V-16 for further division of a 4.02 acre lot in lieu of the required minimum 5 acre divisible lot: the Zoning Ordinance does not clearly state the considerations that underlay the restriction on division of lots that are 5 acres or less. This amendment resulted from zoning Case 431-AT-03 Part B and so is related to the County's desire to limit the number of new lots in the rural areas. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is the primary method by which Champaign County limits the number of new lots in the rural zoning districts. The RRO District is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District. Paragraph 5.4.3 C.1. of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:
- (1) Adequacy and safety of roads providing access to the site.
 - (2) Effects on drainage both upstream and downstream.
 - (3) The suitability of the site for onsite wastewater systems.
 - (4) The availability of water supply to the site.
 - (5) The availability of emergency services to the site.
 - (6) The flood hazard status of the site.
 - (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.
 - (8) The presence of nearby natural or man-made hazards.
 - (9) Effects on nearby farmland and farm operations.
 - (10) Effects of nearby farm operations on the proposed residential development.
 - (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated.
 - (12) The LESA (Land Evaluation and Site Assessment) score of the subject site.
- F. Regarding the RRO factors for the subject property:
- (1) Adequacy and safety of roads providing access to the site.
 - a. The Petitioner proposes maintaining the existing access drive on CR125E and creating a new access drive on CR125E for the proposed southern lot.
 - b. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* is a general design guideline for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates that a local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - c. 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 (2011) ADT for CR125E north of CR2000N was 150 vehicles.

- d. CR125E is a 16 feet wide rural two-lane road which connects CR2000N to the south and US 150 to the north. No significant increase in traffic is expected, and the road capacity appears adequate.
- (2) Effects on drainage both upstream and downstream. The subject property appears to drain to the east and south; it is relatively flat on the proposed south lot.
- (3) The suitability of the site for onsite wastewater systems. There is no Natural Resource Report for the subject property, but the Soil Survey indicates that the subject property likely consists of 233B Birkbeck silt loam and 680B Campton silt loam (formerly 243B St. Charles silt loam). Due the type of the soils on this property, a curtain drain is required by law to be installed. The curtain drain will drain groundwater to a gravel bed in the middle of the lot.

The pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet reviews 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). Excerpts from this pamphlet were included for the soils on the subject property as attachments to the Preliminary Memorandum. The excerpts indicate that these soils have the following general characteristics:

- a. 233B Birkbeck silt loam has high suitability for septic tank leach fields with a soil potential index of 93. Birkbeck soil has a high groundwater level of 3 to 6 feet, which is rated as a “severe” limitation and only a slight problem due to slope. The typical corrective measure is a curtain drain. There are 46 soil types in Champaign County that have lower suitability potential than Birkbeck.
- b. 243B St. Charles silt loam (now 680B Campton silt loam) has high suitability for septic tank leach fields with a soil potential index of 93. St. Charles soil has a high groundwater level of 3 to 6 feet below grade, which is rated as a “severe” limitation. It has permeability that is rated as a “moderate” limitation and only a slight problem due to slope. The typical corrective measure is a curtain drain. There are 41 soil types in Champaign County that have lower suitability potential than St. Charles.
- (4) The availability of water supply to the site. The subject property has one water well adjacent to the existing residence; in a phone call on October 5, 2016, the petitioner indicated that a second well is likely to be installed for the proposed second lot residence, but sharing the well is also a possibility. The proposed subdivision should have little or no effect on water availability.
- (5) The availability of emergency services to the site. The subject property is approximately 4.3 road miles from the Cornbelt Fire Protection District station in Mahomet.

- (6) The flood hazard status of the site. The subject property is not within the Special Flood Hazard Area.
 - (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat. The subject property contains no historic or archeological sites, and the proposed division would have no effect on such sites.
 - (8) The presence of nearby natural or man-made hazards. There are no known hazards nearby.
 - (9) Effects on nearby farmland and farm operations. The proposed variance and resulting subdivision would technically result in twice the development on the subject property than would be otherwise allowed and would therefore result in twice the impacts on nearby farmland. The nearest farmland in production is on the west side of CR 125E. The requested variance should not have an impact on agricultural operations, but may impact drainage.
 - (10) Effects of nearby farm operations on the proposed residential development. The proposed variance and resulting subdivision would divide the existing property into two lots, but would not change the level of agricultural operations surrounding the property. Farm operations may impact drainage.
 - (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated. The proposed variance and resulting subdivision do not propose to take any farmland out of production.
 - (12) The LESA (Land Evaluation and Site Assessment) score of the subject site.
 - a. The soil on the subject property is not best prime farmland and consists of 233B Birkbeck silt loam and 680B Campton silt loam (formerly 243B St. Charles silt loam), and has an average LE of 84.
 - b. The Site Assessment (SA) portion of the LESA analysis scored 90 out of 200 points.
 - c. The total LESA Score of 174 receives the second lowest protection rating in LESA which is “moderate rating for protection.”
- G. Regarding Case 851-V-16, for a setback from street centerline of 44 feet in lieu of the minimum required 55 feet and a front yard of 3 feet in lieu of 25 feet: the Zoning Ordinance does not clearly state the considerations that underlie the minimum setback requirements and front yard requirements. Presumably the setback from street centerline and front yard minimum is intended to ensure the following:
- (1) Adequate separation from roads.
 - (2) Allow adequate area for road expansion and right-of-way acquisition.
 - (3) Parking, where applicable.

- (4) There are no known developments or road improvements that would trigger road expansion or additional right-of-way needs.

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. For Case 850-V-16, the Petitioner testified on the application, **“Additional lot is similar to existing adjacent properties.”**
 - B. For Case 851-V-16, the Petitioner testified on the application, **“No change will occur.”**
 - C. The Township Road Commissioner has been notified of these variances but no comments have been received.
 - D. The Cornbelt Fire Protection District has been notified of these variances but no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

12. Generally regarding and other circumstances which justify the Variance:
- A. For Case 851-V-16, the Petitioner has testified on the applications, **“Approval of variance will bring property into compliance with zoning.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

13. Regarding proposed special conditions of approval:

For Case 850-V-16, staff proposes the following special conditions:

- A. **Within 30 days of approval of Case 850-V-16, a Plat of Survey for at least one of the new lots must be filed with the Recorder of Deeds.**

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

That the new lots conform to the Illinois Plat Act (765 ILCS 205).

- B. **The Zoning Administrator shall not issue a Zoning Use Permit Application or a Zoning Compliance Certificate until the petitioner submits a soil analysis to determine if a septic system can be installed on the proposed lot.**

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

That there is an adequate wastewater system for both the existing and proposed lots.

For Case 851-V-16, no special conditions are proposed at this time.

DOCUMENTS OF RECORD

1. Variance Applications for Cases 850-V-16 and 851-V-16 received on August 26, 2016, with attachments:
 - A Concept Plan
 - B Legal Description

2. Preliminary Memorandum dated October 20, 2016, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Concept Plan received August 26, 2016
 - C 1973 Aerial Photograph
 - D Excerpts from *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois* (December 1979)
 - E Land Evaluation and Site Assessment Worksheet completed by staff on October 19, 2016
 - F Images of Subject Property taken by staff on July 12, 2016
 - G Draft Summary of Evidence, Finding of Fact, and Final Determination dated October 20, 2016

FINDINGS OF FACT FOR CASE 850-V-16

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases **850-V-16** held on **October 27, 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:}***

- A. **Within 30 days of approval of Case 850-V-16, a Plat of Survey for at least one of the new lots must be filed with the Recorder of Deeds.**

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

That the new lots conform to the Illinois Plat Act (765 ILCS 205).

- B. **The Zoning Administrator shall not issue a Zoning Use Permit Application or a Zoning Compliance Certificate until the petitioner submits a soil analysis to determine if a septic system can be installed on the proposed lot.**

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

That there is an adequate wastewater system for both the existing and proposed lots.

FINDINGS OF FACT CASE 851-V-16

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases **851-V-16** held on **October 20, 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:}***

No special conditions are proposed at this time.

FINAL DETERMINATION FOR CASE 850-V-16

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 **850-V-16** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner **Wayne Schwaiger, d.b.a. Reflections Holdings LLC**, to authorize the following variance in the CR Conservation Recreation Zoning District:

Authorize a variance for a proposed division of a lot 4.02 acres in area in lieu of the minimum required lot area of 5 acres.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. Within 30 days of approval of Case 850-V-16, a Plat of Survey for at least one of the new lots must be filed with the Recorder of Deeds.**

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

That the new lots conform to the Illinois Plat Act (765 ILCS 205).

- B. The Zoning Administrator shall not issue a Zoning Use Permit Application or a Zoning Compliance Certificate until the petitioner submits a soil analysis to determine if a septic system can be installed on the proposed lot.**

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

That there is an adequate wastewater system for both the existing and proposed lots.

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

FINAL DETERMINATION FOR CASE 851-V-16

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 **851-V-16** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner **Wayne Schwaiger, d.b.a. Reflections Holdings LLC**, to authorize the following variance in the CR Conservation Recreation Zoning District:

Authorize a variance for a setback of 44 feet from street centerline and a front yard of 3 feet in lieu of the minimum required setback from street centerline of 55 feet and minimum required front yard of 25 feet for the north 260.15 feet of the subject property.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date