

## **CASE 863-V-16**

*PRELIMINARY MEMORANDUM*

*April 20, 2017*

**Petitioners: Scott Blakeney, Derek Wagner, and Tyler Wakefield**

**Request: Authorize the following Variance in the R-1 Single Family Residence Zoning District for an existing residence and existing garage and a proposed patio and a proposed detached shed and unauthorized earth fill, all located in an existing storm water drainage easement:**

**Part A. Authorize a variance from Section 4.2.2D. of the Champaign County Zoning Ordinance that no use shall be established, construction undertaken, nor fill placed in any recorded drainage or utility easement.**

**Part B. Authorize the following Variance from the Champaign County Storm Water Management and Erosion Control Ordinance:**

- 1. Authorize a variance from Section 6.1 A. requiring that no fill shall be placed nor grade altered in such a manner to create a nuisance.**
- 2. Authorize a variance from Section 6.3 G. prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm water storage area.**
- 3. Authorize a variance from Section 9.1 E. for a freeboard of 0 feet in lieu of a freeboard of one foot.**
- 4. Authorize a variance from Section 9.1 C.1. for a release rate for the 50-year precipitation event far in excess of the maximum otherwise allowed that would be no greater than the rate of discharge from a 5-year return period precipitation event and an assumed row crop agricultural land cover.**
- 5. Authorize a variance from Section 9.1 C.2. for a release rate for frequent storm events that exceeds the maximum otherwise allowed that would be no greater than the rate of discharge from 1-year, 2-year, and 5-year return period precipitation events and an assumed row crop agricultural land cover.**

**Subject Property: Lot 100 in Rolling Hills Estates V Subdivision in Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence at 2312 Pheasant Ridge Road, Mahomet.**

**Site Area: 16,280 square feet (0.37 acre)**

**Time Schedule for Development: Existing and in use**

**Prepared by: Susan Burgstrom  
Senior Planner**

**John Hall  
Zoning Administrator**

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

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

## BACKGROUND

Petitioner Scott Blakeney, 2312 Pheasant Ridge Road, Mahomet, purchased the subject property in 2015. He placed earthen fill in easements that were created as part of the Subdivision. The Final Plat for Rolling Hills Estates V Subdivision, recorded August 13, 1993, shows drainage and utility easements throughout the property such that approximately 4,730 square feet of the 16,280 lot area is the only area outside an easement. The drainage easements on the subject property are in fact to accommodate a storm water detention basin.

Mr. Blakeney constructed the house on an existing foundation from the previous house, and added a shed on the new fill. ZUPA #82-16-01 was originally approved for the new dwelling; later, the site plan was revised to add the smaller shed. There was no permit approved for the small shed and in fact, the small shed is not where it is supposed to be. The house and detached shed cannot receive a Zoning Compliance Certificate until the outstanding drainage and easement issues are resolved. The petitioner stated on his application that he was unaware he was placing fill within an easement.

The petitioner seeks a variance, in cooperation with neighbors Derek Wagner and Tyler Wakefield, to leave the fill in the easement area, and to maintain the buildings in their current locations. Staff added Part B to the variance in case the petitioner decides not to remove sufficient earthen fill from the property to conform to the *Storm Water Management and Erosion Control Ordinance*.

## 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 generally are not notified of such cases.

The subject property is located within Mahomet Township, which has 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	R-1 Single Family Residence
North	Single family residence	R-1 Single Family Residence
East	Single family residence	AG-2 Agriculture
West	Single family residence	R-1 Single Family Residence
South	Single family residence	R-1 Single Family Residence

## STORMWATER DRAINAGE CONCERNS

In early May 2016, a complaint was received which alleged that earthen fill was being brought to the subject property, and then dumped and spread in the yard. It also alleged that drain tiles had been installed on the subject property such that the natural drainage of the Rolling Hills Estates Subdivision and the Charter Oaks Subdivision had been disturbed and/or changed from the plans that were approved for the development of the subdivisions. This complaint was the basis for the First Notice of Violation sent by the Zoning Department on June 10, 2016, which is a Document of Record.

At a site visit on May 18, 2016, Mr. Hall required that in lieu of the immediate removal of all fill (which was opposed by Mr. Blakeney), that Mr. Blakeney should have an engineering analysis done to certify that the earthen fill would allow the natural flow of water to maintain its course and to provide the required compensatory storage and detention of water as approved in the original subdivision plat. On June 8, 2016, Eric Hewitt, of Phoenix Consulting Engineers, Ltd, contacted John Hall by email to inform him that Mr. Blakeney had hired him to perform a study of the detention area that he had filled.

The analysis was received by staff on October 5, 2016, and subsequently reviewed by staff and the Zoning Department's independent consultant, Berns Clancy and Associates. BCA provided comments, which were sent to Eric Hewitt on March 2, 2017. In the email, John Hall said that the ZBA would likely want to see water levels no higher than they were in 2008 and that discharge be at a non-erosive velocity. He believes the ZBA will also focus on the depth of storm water ponding on the two adjacent properties to the north.

The response since the March 2, 2017 email from the petitioner and Mr. Hewitt has been to include two neighbors as co-petitioners for the variance application, and to secure a document from another neighbor in support of the earthen fill and related drainage changes. Staff is not aware of additional fill removal. Staff included a variance to ensure that drainage conditions will be compliant with the SWMEC Ordinance if Mr. Blakeney chooses not to remove sufficient fill to restore the drainage capacity as it was designed to function.

More detailed information about the review can be found under Item 9 in the Summary of Evidence.

#### **EVIDENCE OF PRIOR FILLING OF THE STORM WATER DETENTION BASIN**

Berns, Clancy and Associates had reviewed the original Rolling Hills Estates V detention basin for compliance with the Champaign County Interim Stormwater Management Policy in 1993.

In their review of the proposed drainage easement fill that was documented in a letter dated February 3, 2017, Berns, Clancy and Associates found evidence that the Rolling Hills Estates V detention basin on Lot 100 had been partially filled between 1993 and 2008, which was long before the property was acquired by Scott Blakeney. Item #5 in the BCA review states the following: the Phoenix analyses indicate a storage capacity of 0.31 acre-feet at a water surface elevation of 726.5±. However, the 1993 "As-Built" information indicates a storage capacity of 0.4 acre feet at water surface elevation 726.0±. It is evident from the current information provided that the basin was partially filled between 1993 and 2008.

#### **INCREASED FLOW OVER SPILLWAY ONTO LOT 4 OF RIDGE CREEK SUBDIVISION**

In their review of the proposed drainage easement fill that was documented in a letter dated February 3, 2017, Berns, Clancy and Associates found that the original 1993 design did not allow any flow over the emergency spillway during a 50-year storm event (nor for any storm event less than a 50-year event) but the proposed fill has a proposed flow rate of 18.8 cubic feet per second through the emergency spillway for a 50-year storm (see BCA Item #4). BCA also believes that the emergency spillway may even be overtopping during storm events as small as a 2-year storm event due to the proposed fill (see BCA Item #7).

The flow rate for the 100-year storm event is apparently reduced somewhat by the proposed fill. Table 4 of the Phoenix memorandum indicates that in 2008, the spillway discharge was 22.2 cubic feet per second and the proposed discharge with the new fill is 21.0 cubic feet per second.

The discharge over the emergency spillway flows onto Lot 4 of Ridge Creek Subdivision. The Subsidiary Drainage Plat for Ridge Creek Subdivision includes no explicit provision for the flow from the emergency spillway other than a 15 feet wide drainage and utility easement that runs along the exterior lot line.

The impact of the flows over the emergency spillway for the 50-year storm (and lesser storms) for Lot 4 of Ridge Creek Subdivision are not clear at this time. However, the overtopping of the emergency spillway during the 50-year storm (and lesser storms) is not in conformance with the *Storm Water Management and Erosion Control Ordinance*.

Mitigation measures to reduce or eliminate discharges over the emergency spillway for the 50-year storm (and lesser storms) include restoring storm water storage capacity to the basin by removing some or all of the new fill and/or raising the elevation of the emergency spillway. Information regarding those mitigation measures would be relevant to the required Finding that the requested variance is the minimum variation that will make possible the reasonable use of the land.

#### **SUPPORT FROM UPSTREAM NEIGHBORS**

On April 7, 2017, staff received a notarized document from Alan J. Williams, who owns Lot 99 (2310 E Pheasant Ridge Road) to the west of the subject property. Mr. Williams stated that he is aware that Mr. Blakeney placed fill and storm sewer appurtenances on the eastern edge of Lot 99, and he accepts the improvements as constructed on Lot 99 and has no objections to the modifications Mr. Blakeney made on the subject property.

The original complainant from May 2016 periodically contacts staff for updates on whether the fill will be removed and how the drainage issues are being resolved.

#### **PROPOSED SPECIAL CONDITIONS**

This case is not recommended for a Final Determination at this time. The following special conditions should be considered as part of any approval in this case:

- A. **Upon written request of any utility with an interest in using the utility and drainage easements, the owner shall be responsible for the full cost of removing any structure, and/or fill, and refusing to remove the structure and fill shall be considered a violation of the Zoning Ordinance.**

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

**That utility companies have appropriate access to their easements.**

- B. **The petitioner shall install erosion control measures until final stabilization is complete.**

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

**That neighboring properties will be protected from potential runoff until the petitioner has finalized construction on the subject property.**



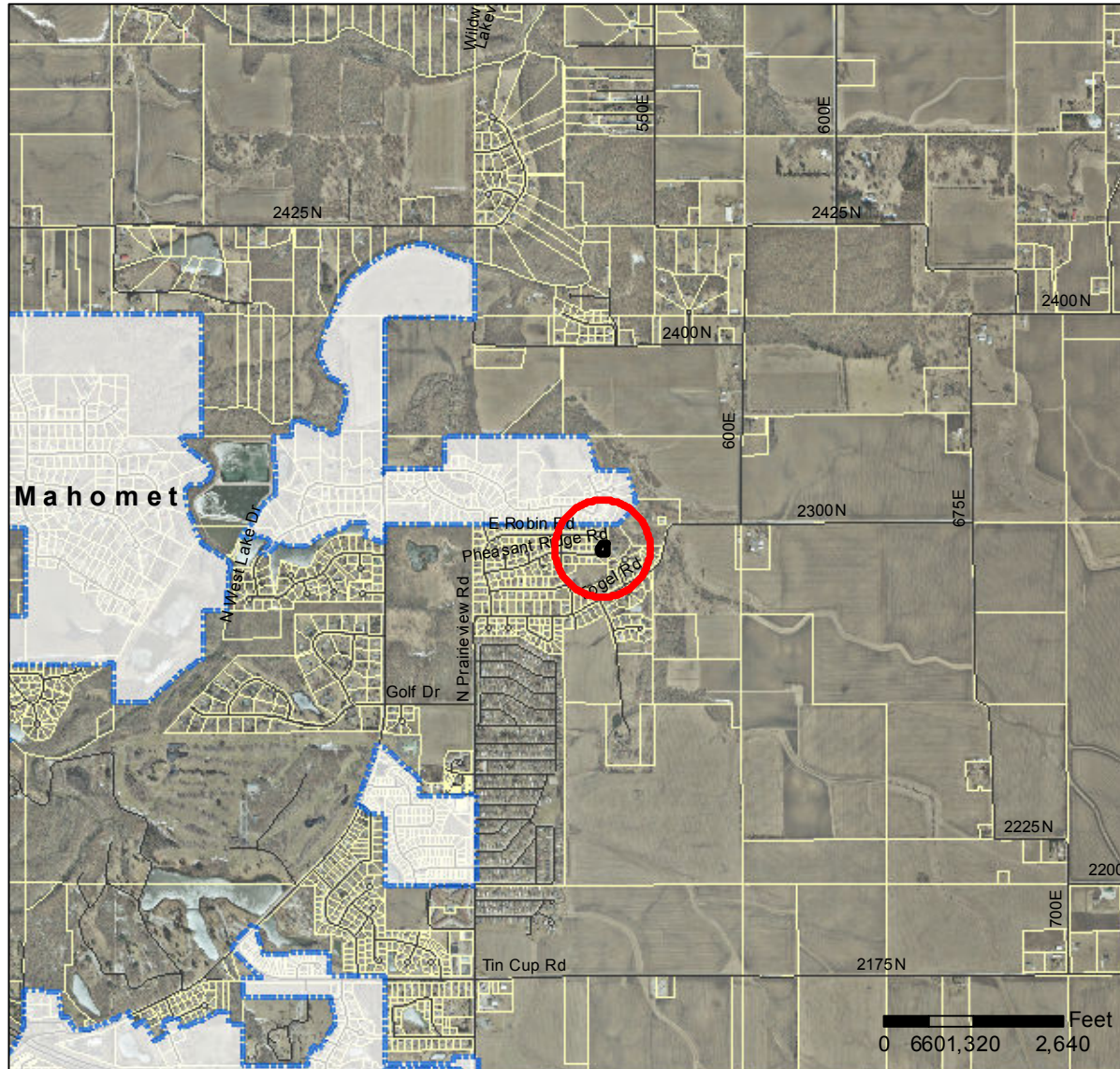
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received November 14, 2016
- C Approved Site Plan for ZUPA #82-16-01, approved April 7, 2016 – revised by petitioner on June 27, 2016, and annotated by staff on April 18, 2017
- D Approved Site Plan for ZUPA #246-97-01, approved September 3, 1997
- E Excerpt from the Approved Final Plat of Subdivision for Rolling Hills Estates V, recorded August 13, 1993
- F Excerpt from the “Approved Grading and Subsidiary Drainage Plat” for Rolling Hills Estates V by Altech Consultants, approved July 20, 1993
- G Excerpt from the “Approved Grading and Subsidiary Drainage Plat” for Ridge Creek Subdivision by Altech Consultants, revised June 15, 1994
- H Covenants for Rolling Hills Estates V, signed July 27, 1993
- I Finding of Fact and Final Determination for Case 729-AT-90 dated November 14, 1991
- J 2008 CCGIS aerial photo with contours, created by staff on April 18, 2017
- K First Notice of Violation dated June 10, 2016, for destruction of natural drainage
- L First Notice of Violation dated June 21, 2016, for placing a shed on unauthorized fill in an easement
- M Email from Eric Hewitt of Phoenix Consulting Engineers, Ltd, received on October 5, 2016, with attachments:
  - Memorandum dated September 26, 2016, regarding the engineering analysis on the earthen fill and drainage
  - Limited Topographic Survey created by Phoenix Consulting Engineers, LTD
- N Email from John Hall to Eric Hewitt dated October 12, 2016
- O Letter from Mr. Hall to Mr. Blakeney dated October 17, 2016
- P Email from Eric Hewitt received October 26, 2016
- Q Email from Kelly Pfeifer received October 27, 2016
- R Storm water drainage review memorandum by Berns, Clancy and Associates on February 3, 2017, and received February 6, 2017
- S Notarized statement from Alan J. Williams, owner of Lot 100, Rolling Hills Estates V Subdivision received April 7, 2017
- T Images of Subject Property taken January 25, 2017
- U Draft Summary of Evidence, Finding of Fact, and Final Determination dated April 27, 2017

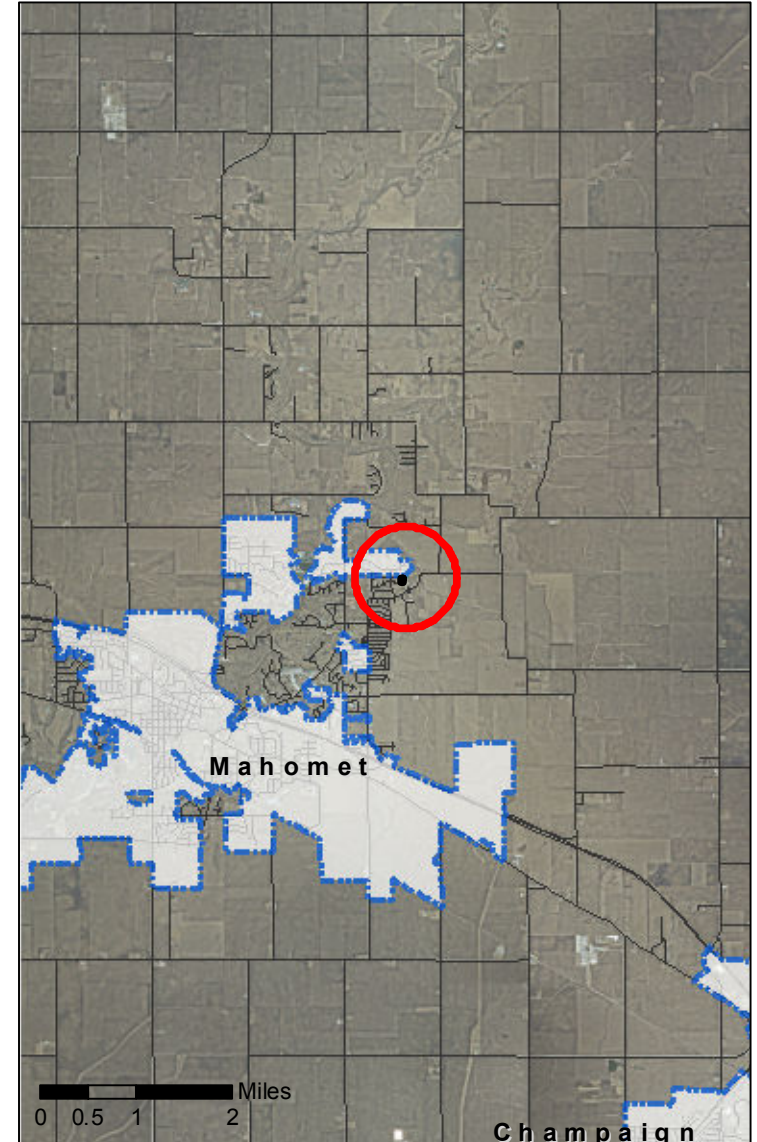
# Location Map

Case 863-V-16  
April 27, 2017




Subject Property



Property location in Champaign County



## Legend

-  Subject Property
-  Municipal Boundary
-  Parcels

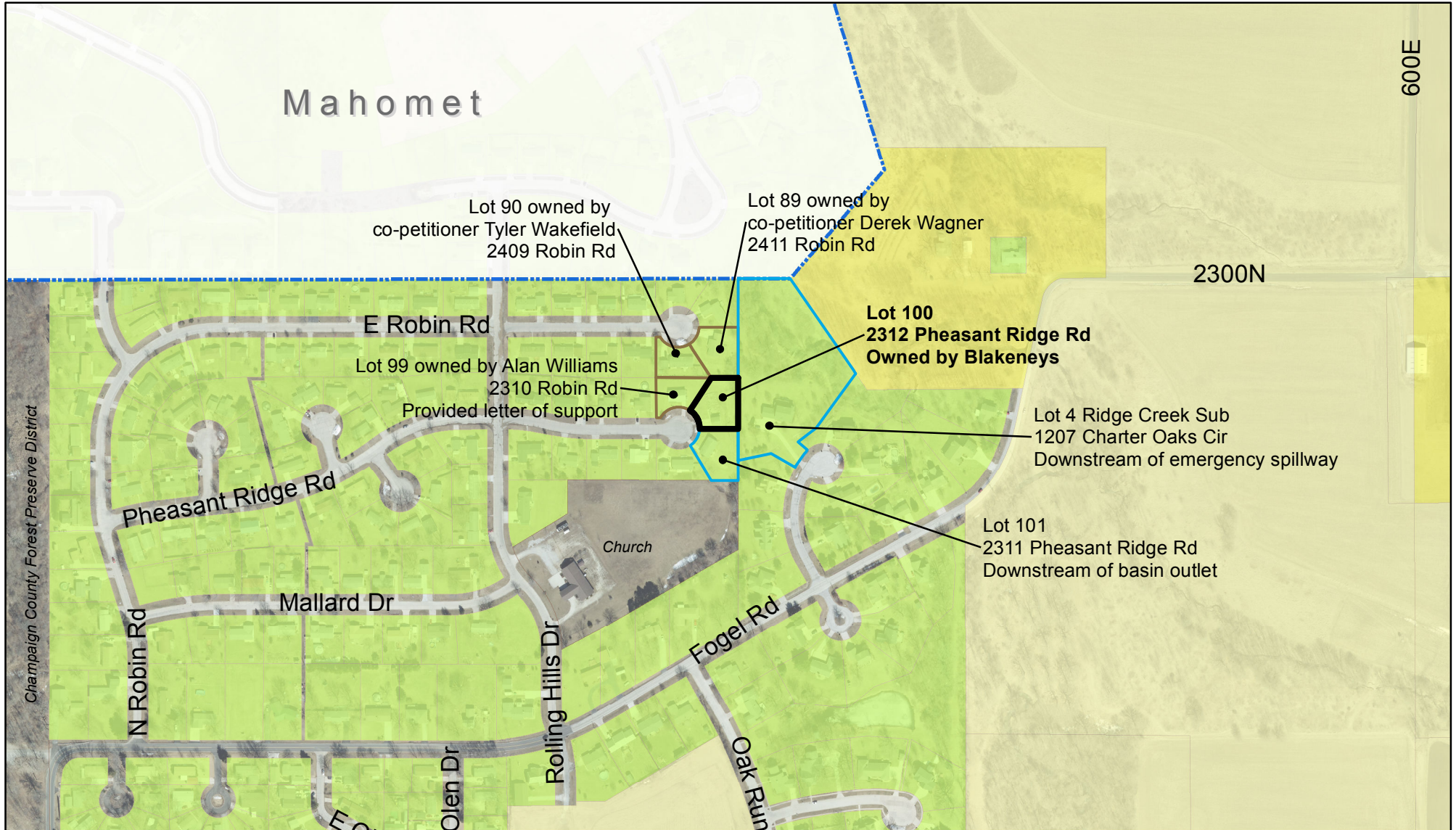


Champaign County  
Department of  
PLANNING &  
ZONING



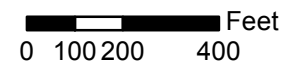
# Land Use Map

Case 863-V-16  
 April 27, 2017



## Legend

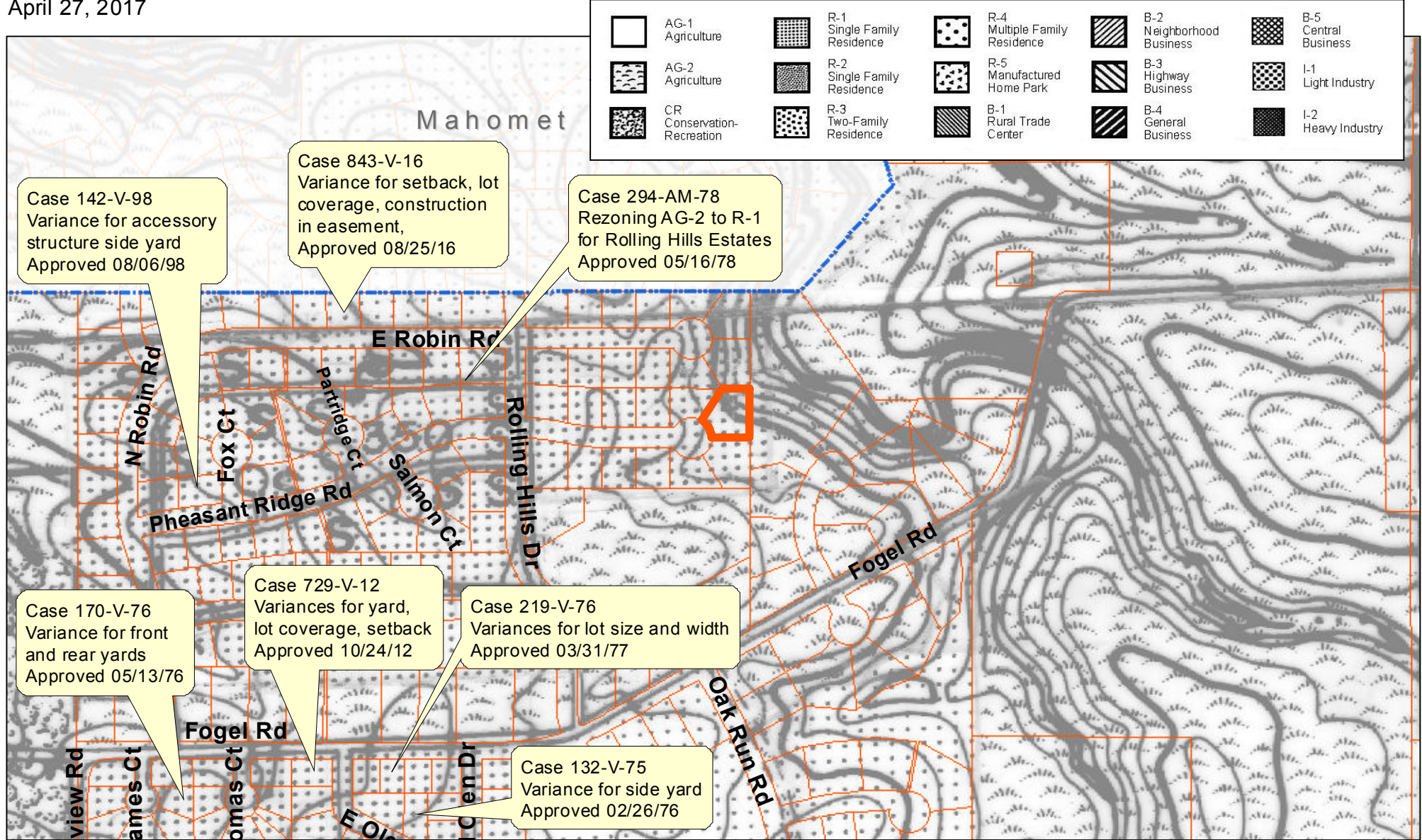
- Subject Property
- Municipal Boundary
- Ag/Single Family
- Downstream Parcels
- Parcels
- Agriculture
- Adjacent parcels
- Residential





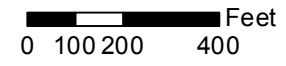
# Zoning Map

Case 863-V-16  
April 27, 2017



## Legend

- Subject Property
- Parcels



Champaign County  
Department of  
PLANNING &  
ZONING



RECEIVED

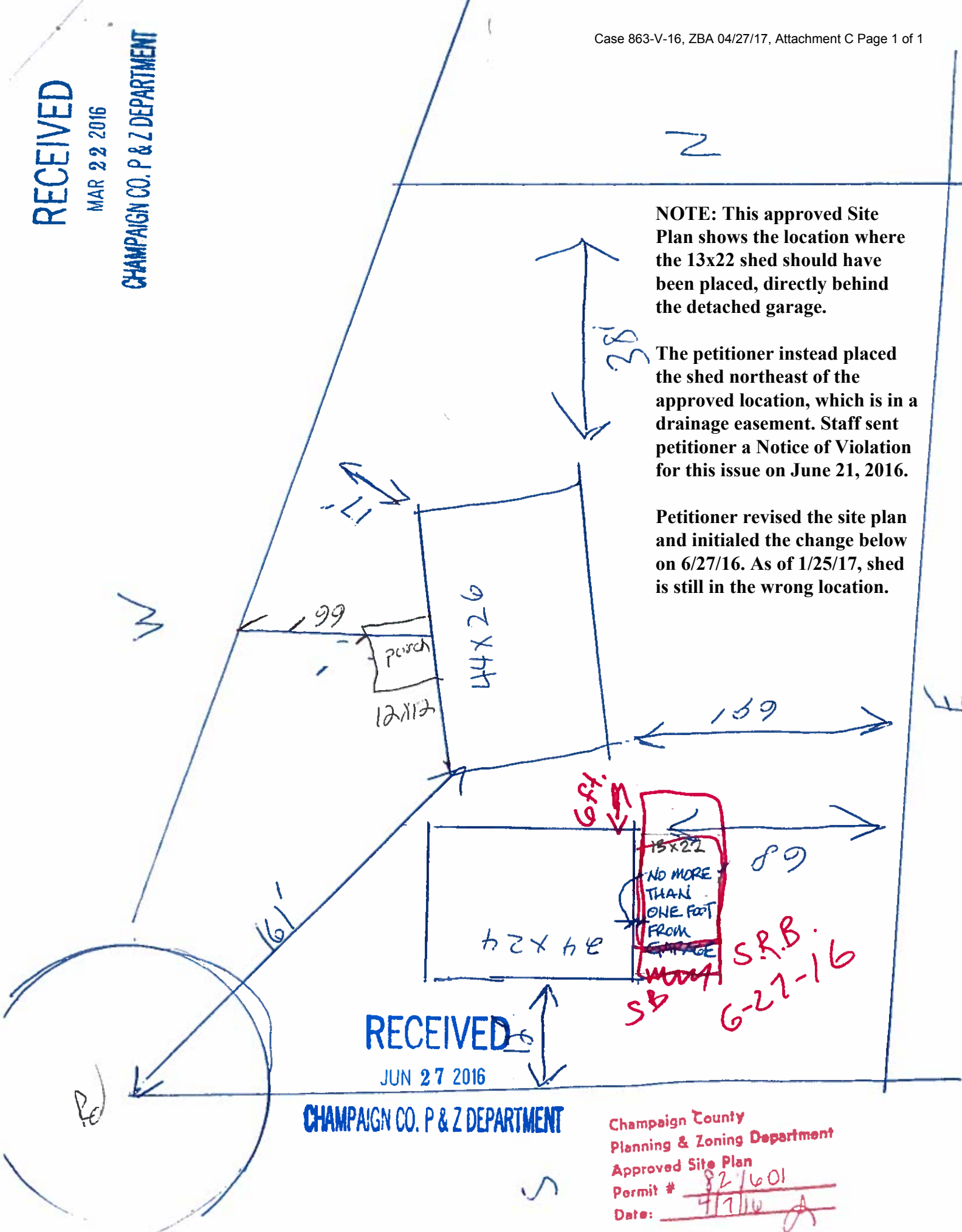
MAR 22 2016

CHAMPAIGN CO. P & Z DEPARTMENT

NOTE: This approved Site Plan shows the location where the 13x22 shed should have been placed, directly behind the detached garage.

The petitioner instead placed the shed northeast of the approved location, which is in a drainage easement. Staff sent petitioner a Notice of Violation for this issue on June 21, 2016.

Petitioner revised the site plan and initialed the change below on 6/27/16. As of 1/25/17, shed is still in the wrong location.



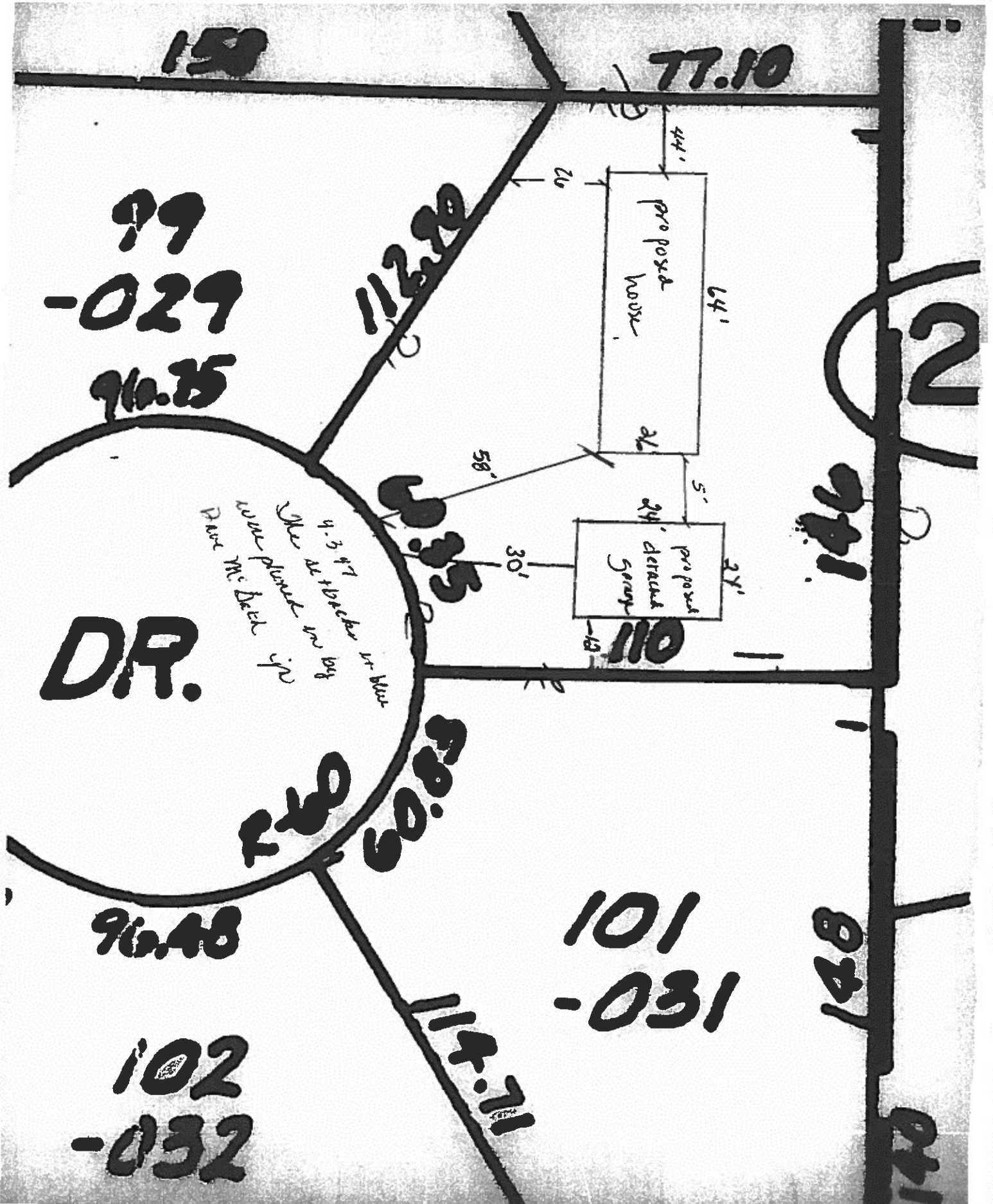
RECEIVED

JUN 27 2016

CHAMPAIGN CO. P & Z DEPARTMENT

Champaign County  
Planning & Zoning Department  
Approved Site Plan  
Permit # 821601  
Date: 7/7/17





ZUPA 247-97-01 Site Plan

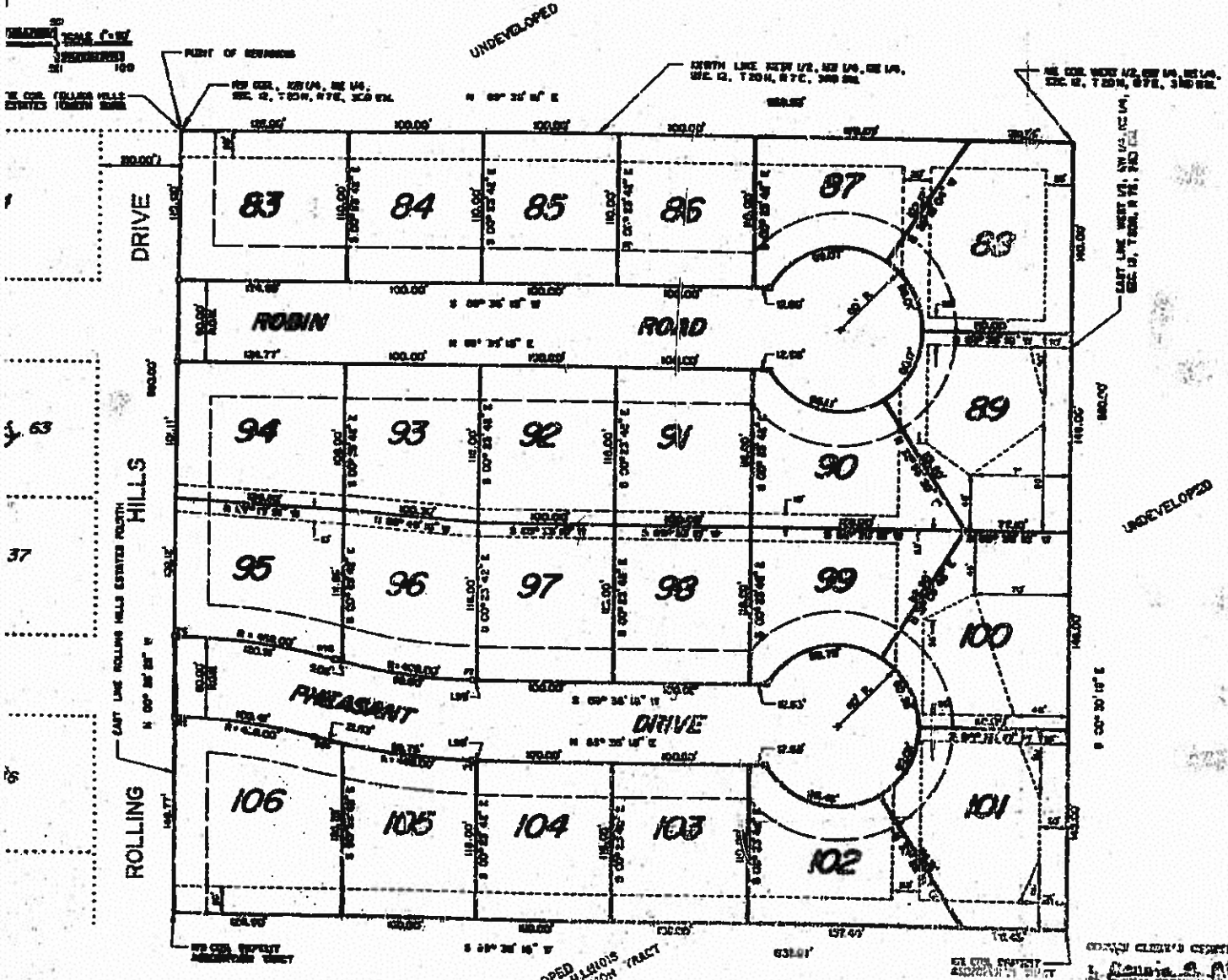
93822581

DOC #  
CHAMPAIGN COUNTY, ILL.  
A 3 350

50 MAR 13 PM 3 08

James J. Johnson  
RECORDER

# FINAL FLAT ROLLING HILLS ESTA. CHAMPAIGN COUNTY, ILLINOIS



UNDEVELOPED  
LAND  
CENTRAL ILLINOIS  
BAPTIST ASSOCIATION TRACT

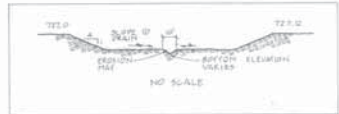
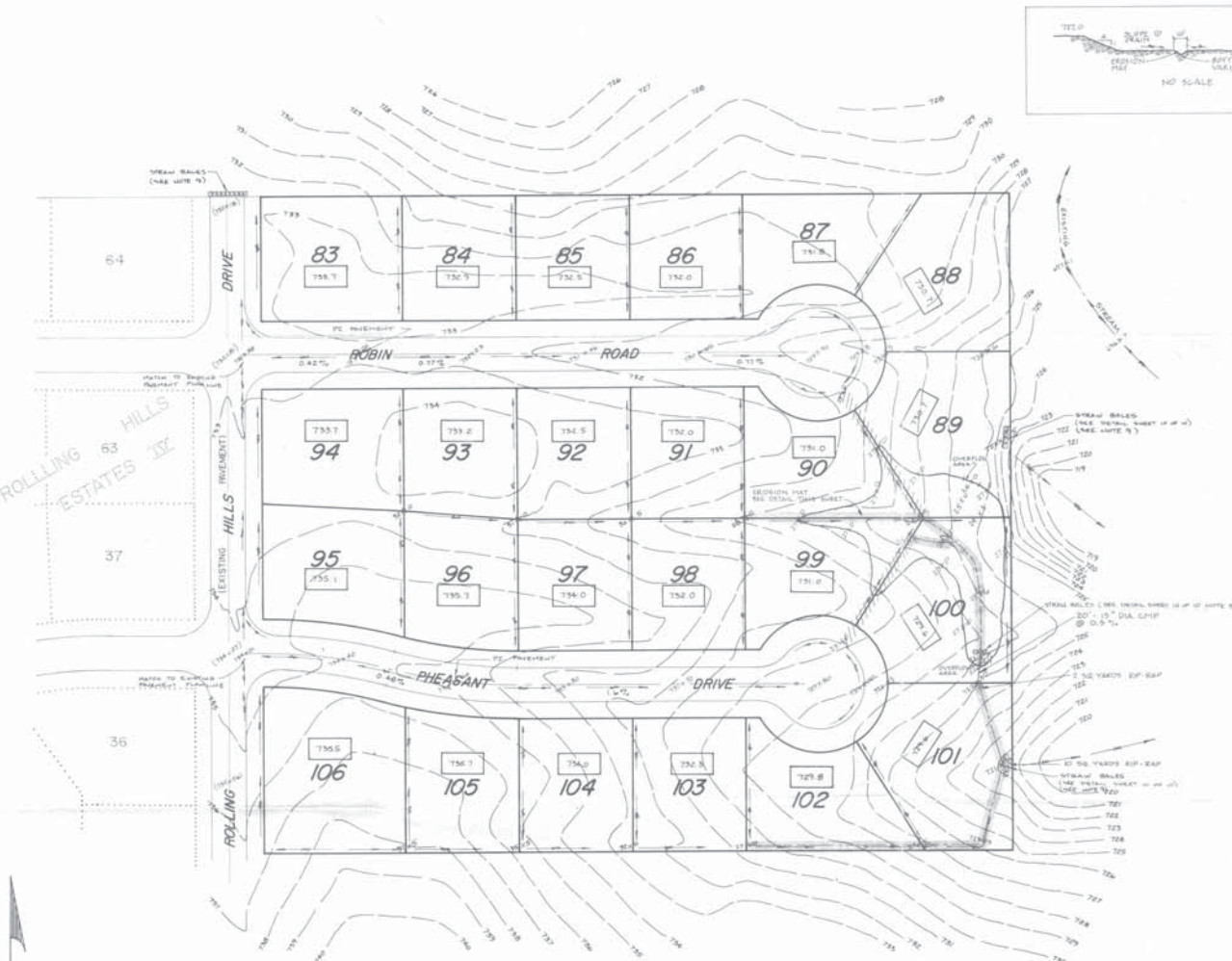
OWNER'S CERTIFICATE  
I, James J. Johnson, Recorder of Champaign County, Illinois, do hereby certify that the above described plat is a true and correct copy of the original filed in my office on August 1, 2017.

Lot No.	Area (sq. ft.)	Area (sq. m.)
83	10,000	929.03
84	10,000	929.03
85	10,000	929.03
86	10,000	929.03
87	10,000	929.03
88	10,000	929.03
89	10,000	929.03
90	10,000	929.03
91	10,000	929.03
92	10,000	929.03
93	10,000	929.03
94	10,000	929.03
95	10,000	929.03
96	10,000	929.03
97	10,000	929.03
98	10,000	929.03
99	10,000	929.03
100	10,000	929.03
101	10,000	929.03
102	10,000	929.03
103	10,000	929.03
104	10,000	929.03
105	10,000	929.03
106	10,000	929.03

**LEGEND**

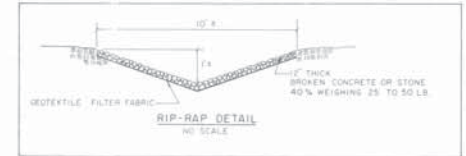
- BOUNDARY OF SUBDIVISION
- - - UTILITY & DRAINAGE EASEMENTS
- - - 25' BUILDING SETBACK LINE
- CONCRETE MONUMENT TO BE SET
- RADIUS





**NOTES FOR SITE GRADING**

1. All construction work, methods, and materials, where applicable, shall conform to the State of Illinois "Standard Specifications for Road and Bridge Construction" as adopted July 1, 1989, and all subsequent revisions thereto. Hereafter these Specifications shall be referred to as the "Standard Specifications".
2. Add 700.00 feet to all spot elevations to obtain National Geodetic Vertical Datum.
3. Dispose of excess excavated material on site at the direction of the Engineer.
4. All encountered and/or broken (crushed) field tile shall be reconstructed or removed at the direction of the Engineer and at no additional compensation to the contractor unless such reworking exceeds 50 feet in length.
5. Limits of site earth grading shall be the subdivision boundaries and public right-of-way except as noted.
6. All earth excavation work shall conform to Section 202 of the Standard Specifications for Road and Bridge Construction. Earth quantities to be paid for as in original state (i.e., compacted condition).
7. All stripped top soil shall be placed over disturbed or filled areas and grass (bladed) smooth. No earthen slopes larger than 4:1 H:V shall be accepted (i.e., additional grading required).
8. Straw Bales shall be placed as shown prior to the start of grade work. The placement shall conform with the detail on Sheet 10 of 10 of these plans.
9. Erosion mat shall be placed immediately after grading as shown and shall conform with Article 717.09 of the State of Illinois "Standard Specifications for Road and Bridge Construction". Seeding shall follow grading and shall conform with Chapter 6 of the Design Procedures and Specifications of the "Illinois Procedures and Standards for Urban Soil Erosion and Sedimentation Control".
10. All street subgrades shall be compacted to 95% of the standard proctor test.



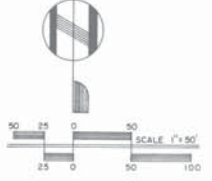
**DRAINAGE STATEMENT**

To the best of our knowledge and belief reasonable provisions have been made for the collection and diversion of surface waters into public areas, or drains which the subdivisor has the right to use, and that such surface waters are planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of Rolling Hills Estates Fifth Subdivision.

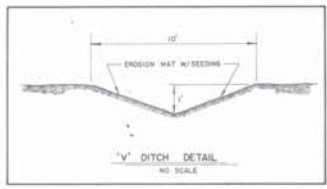
*St. C. W. H.*  
 Steven C. Weilin  
 Illinois Registered Professional Engineer No. 73392  
 Country Village



APPROVED PLAN 7.20.93



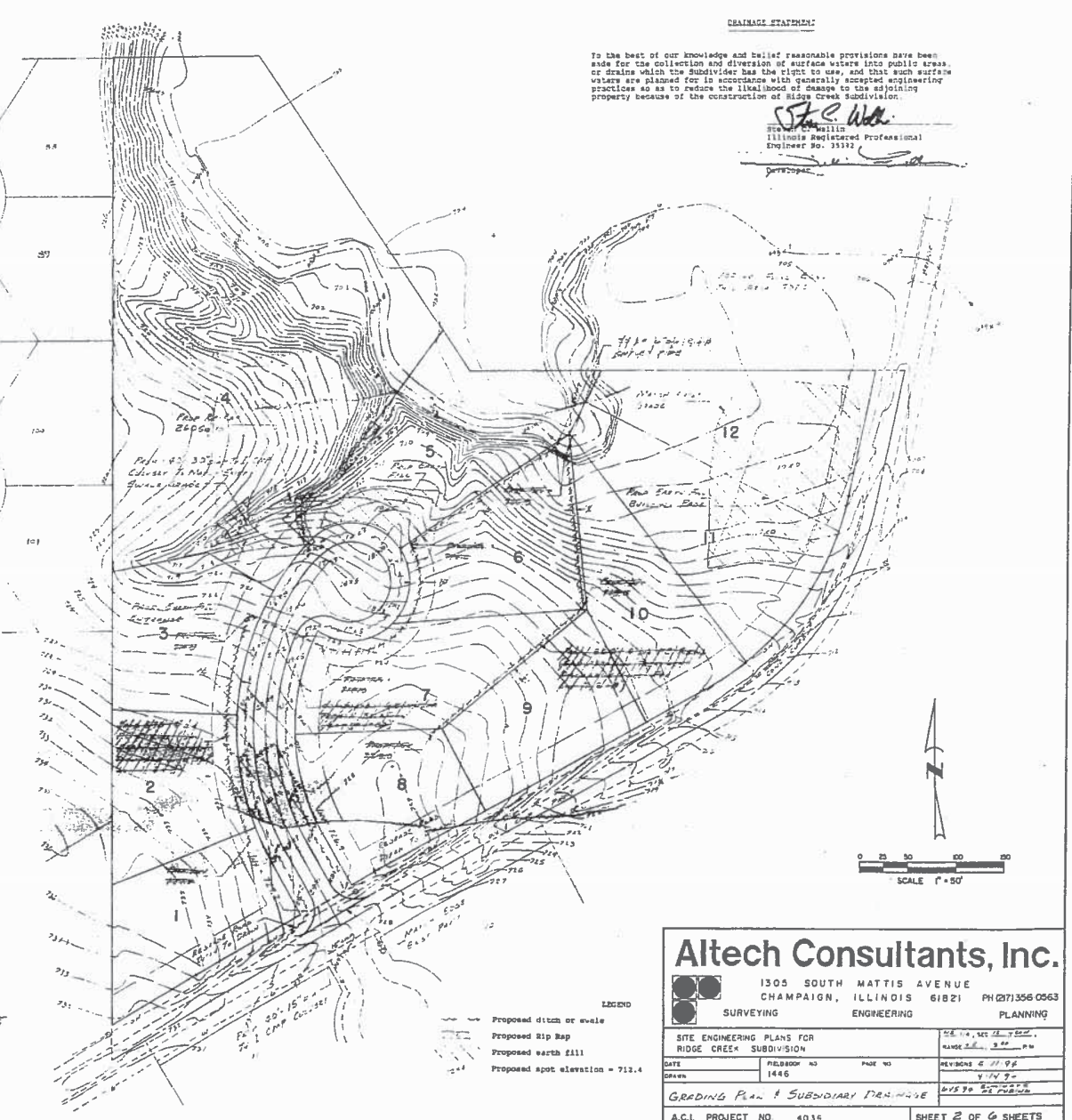
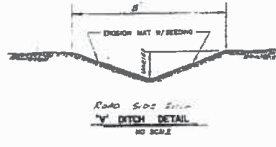
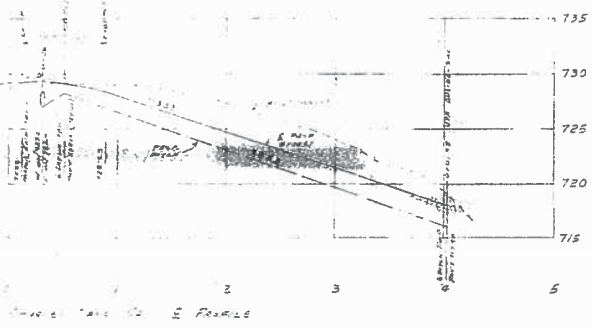
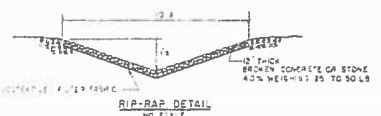
- LEGEND**
- (734 ±.07) EXISTING ELEVATION
  - 735 ±.30 PROPOSED FINISHED ELEVATION
  - DIRECTION OF OVERLAND FLOW
  - 735.1 PROPOSED GROUND ELEVATION AT BUILDING SITE
  - PROPOSED CONTOUR
  - EXISTING CONTOUR
  - ////// RIP-RAP



**Altech Consultants, Inc.**  
 1305 SOUTH MATTIS AVENUE  
 CHAMPAIGN, ILLINOIS 61821 PH (217)356-0563  
 SURVEYING ENGINEERING PLANNING

<b>SITE ENGINEERING PLANS</b>		SCALE: 1/4" = 1'-0"
<b>ROLLING HILLS ESTATES FIFTH</b>		DATE: 4/23/93
DATE: 4/23/93	FIELDBOOK NO.	PAGE NO.
DRAWN: ENG		REVISIONS: 5/22/93
<b>GRADING &amp; SUBSIDIARY DRAINAGE</b>		7/1/93
A.C.I. PROJECT NO 2123		SHEET 2 OF 10 SHEETS

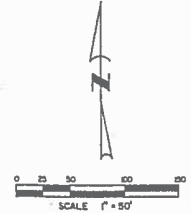
- TIPS FOR SITE GRADING**
- All construction work, methods, and materials, where applicable, shall conform to the State of Illinois "Standard Specifications for Road and Bridge Construction" as adopted July 1, 1994, and all subsequent revisions thereto. Hereafter, these Specifications shall be referred to as the "Standard Specifications".
  - Add 0.00 feet to all spot elevations to obtain National Geodetic Vertical Datum.
  - Dispose of excess excavated material on site at the discretion of the Engineer.
  - All encountered and/or broken (crushed) field tile shall be reconstructed or rerouted at the discretion of the Engineer and at no additional compensation to the contractor unless such rerouting exceeds 30 feet in length.
  - Limits of site earth grading shall be the subdivision boundaries and public right-of-way except as noted.
  - All earth excavation work shall conform to Section 202 of the Standard Specifications. Earth quantities to be paid for as in original state (i.e., compacted condition).
  - All stripped top soil shall be placed over disturbed or filled areas and graded (bladed) smooth. No scarren slots larger than 4" dia. shall be accepted (i.e., additional grading required).
  - Erosion mat shall be placed in the road side ditches immediately after grading as shown on the plans and shall conform with Section 197 of the State of Illinois "Standard Specifications".
  - All seeding shall be in accordance with Section 250 of the Standard Specifications. All road side ditches, earth graded areas, earth fill areas and other disturbed areas shall be seeded with Class 7 mixture (temporary erosion control mixture) immediately upon completion of grading on construction. Upon final completion of construction all earth disturbed areas shall be seeded with permanent mixture Class 1B.
  - Rip Rap shall be placed in locations shown on the plans and shall conform to Section 211 of the Standard Specifications.
  - All street subgrades shall be compacted to 95% of the standard proctor test.
  - All earth fill areas and building pad areas shall be filled in 12" lifts and compacted to 95% of standard proctor test.
  - After seeding, all seeded areas shall be mulched with straw in accordance with Section 351. (a) method 1 of the Standard Specifications.



**DRAINAGE STATEMENT**

To the best of our knowledge and belief reasonable provisions have been made for the collection and diversion of surface waters into public areas or drains which the Subdivider has the right to use, and that such surface waters are planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of Ridge Creek Subdivision.

*Signature*  
 State of Illinois  
 Illinois Registered Professional Engineer No. 31372



**Altech Consultants, Inc.**  
 1305 SOUTH MATTIS AVENUE  
 CHAMPAIGN, ILLINOIS 61821 PH (217) 356-0563  
 SURVEYING ENGINEERING PLANNING

SITE ENGINEERING PLANS FOR RIDGE CREEK SUBDIVISION		SHEET NO. 2 OF 6 SHEETS	
DATE	FIELDWORK NO.	PAGE NO.	REVISIONS
04/14/17	1446	1	1. 04/14/17
DRAWN BY: [Signature]		CHECKED BY: [Signature]	
GRADING PLAN & SUBDIVISION DRAINAGE		DATE PLOTTED: 04/15/17	
A.C.I. PROJECT NO. 4036		SHEET 2 OF 6 SHEETS	



STATE OF ILLINOIS )  
 ) SS  
COUNTY OF CHAMPAIGN )

OWNER'S CERTIFICATE OF  
DEDICATION FOR ROLLING HILLS  
ESTATES V SUBDIVISION

The undersigned, COUNTRY VILLAGE PARTNERSHIP, an Illinois General Partnership consisting of WARREN W. HUDDLESTON and OLEN G. PARKHILL, JR., being the owners of the legal and equitable title to the following described real estate situated in Champaign County, Illinois, to-wit:

Beginning at the Northeast corner of Rolling Hills Estates IV, a Subdivision in Champaign County, Illinois, as recorded in Plat Book Z at Page 80 in the Champaign County Recorder's Office, said point also being the Northwest corner of the Northwest Quarter of the Northeast Quarter of Section 12, Township 20 North, Range 7 East of the Third Principal Meridian, proceed North 89° 36' 18" East along the North line of the West one-half of said Northwest Quarter of the Northeast Quarter of Section 12, a distance of 659.56 feet to the Northeast corner of said West one-half of the Northwest Quarter of the Northeast Quarter of Section 12; thence South 00° 30' 15" East along the East line of said West one-half of the Northwest Quarter of the Northeast Quarter of Section 12, a distance of 580.00 feet to the Northeast corner of the East Central Illinois Baptist Association tract of land; thence South 89° 36' 18" West along the North line of said Baptist Association tract of land, a distance of 659.87 feet to the Northwest corner of said Baptist Association tract of land, said point also being on the East line of said Rolling Hills Estates IV; thence North 00° 28' 22" West along said East line of Rolling Hills Estates IV, a distance of 580.00 feet to the Point of Beginning, encompassing 8.784 acres, more or less.

PTN #15-13-12-201-012;

which is included in the annexed plat, having caused the same to be surveyed by DAVID P. PHILLIPPE of ALTECH CONSULTANTS, INC., Illinois Professional Land Surveyor No. 2591, and having subdivided said real estate into lots and streets as indicated on the annexed plat bearing the certificate of DAVID P. PHILLIPPE of ALTECH CONSULTANTS, INC., Illinois Professional Land Surveyor No. 2591, under date of May 12, 1991: said subdivision to be known as ROLLING HILLS ESTATES V, a subdivision in the Town of Mahomet, Champaign County, Illinois, do hereby acknowledge said plat as their own free and voluntary act and do hereby irrevocably convey, dedicate, and relinquish to the public any and all of the streets as indicated on said plat, hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of the State of Illinois.

- 2 -

The lots in said subdivision are subject to permanent easements as shown on said plat, identified thereon by certain lines of uneven length dashes which are "minimum building set back lines" the same being 25 feet from the front or side of such lots.

Certain of the lots in said subdivision are further subject to a permanent easement of 10 feet of even width across the rear or the side of such lots, the location of same being reflected by lines of even length dashes, and said easement is reserved for the installation and maintenance of gas, electric power lines, telephone, cable television, water lines, sewers, drains and surface drainage as and when the same are needed or installed or considered to be installed by the respective owners of said lots and said easements are permanent in nature and no permanent structure shall be placed upon any of such areas so reserved for such easement purposes either before or after the installation of such utility lines or other equipment and material.

It is hereby provided, agreed and covenanted that all conveyances of property hereafter made by the present or future owners of any of the above described platted lands shall be by adopting the description of lands as Lots 83 through 106 of ROLLING HILLS ESTATES V, a subdivision in the Town of Mahomet, Illinois, be taken, understood and incorporated in all such conveyances without repeating the same, the said lots shall be subject to all easements as shown on the plat above mentioned, and that all of said lots shall be subject to the following covenants and restrictions, except as may be hereinafter indicated, to-wit:

#### AREA OF APPLICATION

The covenants below in their entirety shall apply to all lots.

Definition of Terms: Whenever used hereafter, the following terms shall have the following meanings:

Accessory Building: Separate building or buildings or portions of the main building located on the same building site and which are incidental to the main building or to the main use of the premises.

Building Area: That portion of a building site within which the construction and maintenance of main buildings is permitted.

Building Site: A portion of the subdivision consisting of at least one entire lot as platted.

Dwelling: The main building on any building site. The dwelling is to be designed for and is to be used exclusively for



- 3 -

a residence and is to be occupied, in the case of single family dwellings by a single family, or in the case of duplexes by two single families.

Ground Floor Area: That portion of a dwelling which is built over a basement or foundation but not over any other portion of the dwelling.

1. Allowable Structures: No structure shall be erected, altered, placed or permitted to remain on any lots other than one detached single family dwelling, not to exceed two stories in height above ground level at any point adjacent to the structure, a private garage for not more than three (3) cars, and other accessory buildings incidental to residential use of the premises. No accessory building shall exceed the height of the detached single family dwelling.

2. Building Locations: No structure or building shall be located on any lot nearer than that established on said plat as the building set back line. No part of a building or structure shall be located nearer to a side lot line than a distance of ten (10) feet. The minimum rear yard shall be twenty (20) percent of the depth of the lot. In the event a lot is contiguous to more than one street, the Architectural Control Committee shall determine the rear lot line and promptly notify the owner of such determination. No replatting or subdividing of any lot or joining of two (2) lots for one (1) building site shall be allowed without the written consent of the Architectural Control Committee. All buildings and structures on a building site shall not cover in total more than thirty (30) percent of the building site.

3. Architectural Control Committee:

(a) Composition: The original Architectural Control Committee shall be composed of OLEN G. PARKHILL, JR. and WARREN W. HUDDLESTON. In the event of the death or resignation of any member of the Architectural Control Committee, the remaining members shall appoint a successor to the Committee.

(b) Powers: It is the purpose of the Architectural Control Committee to promote the residential development of ROLLING HILLS ESTATES V. The Architectural Control Committee shall have the right and power to approve or deny plans and specifications submitted as herein required, with due consideration given to the purposes for which the Committee is created. A majority shall be required for an action.

- 4 -

The Architectural Control Committee shall have the power to increase the number of its members by the approval of all members at any time from time to time comprising the Committee, and shall in conjunction therewith establish the terms of each such additional members. The Committee shall have the power to reduce side-yard and rear-yard setback requirements by not more than twenty (20) percent of the side or rear yard otherwise required hereby and to reduce or increase the minimum dwelling size requirements as hereinafter required where the size, shape, quality and location of the lot and structure to be built thereon warrants such variance in the opinion of the Committee. The Committee shall have the following powers, rights and privileges in addition to those hereinabove provided:

(1) Building Plans. No building, dwelling, fence or other structure or excavation, including accessory buildings, shall be erected, constructed, altered or maintained upon, under or above or moved upon any part of the subdivision unless the plans and specifications thereof, showing the proposed construction, nature, kind, shape, height, approximate building elevations, the location of each structure upon the lot and any other facts or matters requested by the Committee, shall have been submitted and approved by the Architectural Control Committee and until a copy of such plans and specifications as finally approved by the Committee is deposited as a permanent record with the Committee.

(2) Certificate of Completion. The Architectural Control Committee shall upon request and upon satisfactory completion of the improvements in accord with the plans and specifications so submitted, issue its Certificate of Completion and Compliance. If the Committee fails to approve or reject any plan or matter requiring its approval within thirty (30) days after the plans or specifications have been submitted, or in the event no suit to enjoin construction has been commenced prior to the completion date of the improvement, approval shall be conclusively presumed and the related covenant shall be deemed to have been fully complied with.

(3) Right of Inspection. During any construction or alteration required to be approved by the Architectural Control Committee, any member of the Committee or any agent of the Committee shall have the right to enter upon and inspect during reasonable hours

- 5 -

any building embraced within said subdivision for the purpose of ascertaining whether or not the provisions herein set forth have been or are being fully complied with and shall not be deemed guilty of trespass by reason thereof.

4. Dwelling Quality and Size: It is the intention and purpose of these covenants and restrictions to insure that all dwellings shall be of a quality of design, workmanship and materials, approved by the Architectural Control Committee, as shall enhance and preserve property values within the subdivision. All dwellings shall therefore have a permanent masonry or concrete foundation with crawlspace or basement, and shall have sufficient external walls, as to preclude any determination that it is a mobile or movable residence, with the standards to be determined by the Architectural Control Committee. All roofing material must be of a non-metallic material as authorized by the Architectural Control Committee. The ground floor area of such single family dwelling, exclusive of attached garage and carports, open terraces and breezeways shall be (a) for one story dwellings, not less than 1,000 square feet, and (b) for dwellings of more than one story, not less than 900 square feet, in which case the total living area in the dwelling shall not be less than 1,500 square feet. In no event shall any dwelling erected on any lot be less than 23' in its narrowest dimension. The aforesaid minimum areas may be altered as hereinabove provided by the Architectural Control Committee. All dwellings must provide a minimum of a one car garage for each dwelling unit, said garage to be completed within a period of not less than two (2) years following occupancy of the residence.

5. Permissible Buildings: All buildings erected on any building site shall be constructed of new materials of good quality suitably adapted for use in the construction of residences and no old building or buildings shall be placed on or moved upon said premises. All dwellings may be pre-fabricated or may be manufactured housing, including dwellings of the type constructed or manufactured as of the date of this amendment by "National Homes", "Waussa Homes" or "Redman Homes". Nothing contained in these covenants shall require "site-built" homes or dwellings to be constructed and the Architectural Control Committee shall not be permitted to reject building plans solely on the basis that the plans and specifications are for manufactured as opposed to site-built housing.

6. Diligence During Construction: The construction of any dwelling or other building shall be prosecuted diligently and continuously from the time of commencement until the exterior construction shall be fully completed and the interior construction substantially completed and no such building or structure



- 6 -

shall be occupied until a Certificate of Completion and Compliance shall have been issued by the Architectural Control Committee. All materials and equipment placed upon a lot during construction of a dwelling or other building shall be confined to the area where the construction is under way and shall be stored or covered as may be necessary to preserve a clean and neat appearance in the subdivision at all times when no actual work is being performed.

7. Temporary Structures: No structure of a temporary character, including trailers, mobile homes, motor homes, basements, tents, shacks, garages, barns, or other accessory buildings, shall be used on or adjacent to any lot as a residence, either temporarily or permanently.

8. Driveways: Access driveways and other paved areas for vehicular use on a lot shall be constructed according to the same standards and specifications as that used for the streets and roads in said subdivision plans and specifications for such access driveways shall be submitted to the Architectural Control Committee as a part of the plans and specifications for structures, as hereinabove provided, and shall be subject to approval by the said Committee. No dwelling constructed upon lot shall be occupied prior to the time such access driveways shall have been constructed in accord with the plans and specifications therefor approve by the said Committee.

9. Off-street Parking: Each property owner shall provide either a garage or carport on the property having a vehicular capacity equal to the number of automobiles in use at any time and from time to time by the owner of residents of the property. The owner of the property shall furthermore provide sufficient space behind the front building line for the storage of any and all trucks, trailers, boats, boat trailers, and motor homes, or other recreational vehicles, which they or the residents of the property may at any time or from time to time have or maintain upon or adjacent to the property.

10. Post Lantern: Each lot owner shall not later than the time of occupancy of the dwelling install and maintain an electric or gas post lantern within ten (10) feet of the intersection of his driveway and the public street right-of-way. The lantern shall be situated not less than five (5) feet and not more than seven (7) feet from ground level at any point adjacent to the pole. The lantern shall be a General Electric, Town and Country or equivalent electric or gas model having a mean lumens rating of 7,000. The lantern shall be illuminated during the hours of darkness and shall be maintained at all times by the owner in proper operating condition.



- 7 -

11. Mail Boxes: Each lot owner shall install and maintain a mail and newspaper receptacle of a uniform design and at locations to be approved and designated by the Architectural Control Committee.

12. Fences: No fences shall be constructed upon, in, or within the area bounded by the front set back line as hereinabove established and the public street on which the dwelling faces unless such construction is approved, in writing, prior to commencement to such construction, by the Architectural Control Committee.

13. Signs: No signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot or one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder or subdivider to advertise the property during construction and sale thereof.

14. Oil and Mining Operations: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot and no oil wells, tanks, tunnels, mineral excavations or shafts shall be constructed, permitted or maintained upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot. No person may strip excavate or otherwise remove soil for sale or for use other than on the premises from which the same shall be taken except in connection with the construction or alterations of a building on such premises.

15. Livestock, Horses and Poultry: No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that no more than two (2) dogs, cats, or other common household pets over four (4) months of age may be kept provided they are not being kept, bred or maintained for any commercial purposes.

16. Public Service Facilities: Each lot owner shall be obliged to connect to and accept service from public sewer and/or water systems.

17. Public Easements: Easements for installation and maintenance of underground utilities and drainage facilities are reserved as noted on the Plat. No building or outside facility within the subdivision shall be supplied with utility service lines above the surface of the ground. Each lot owner shall grant a written easement for such underground service upon request of the interested utility. No structures, walls or

- 8 -

fences shall be placed or permitted to remain within the platted easements which may damage or interfere with the installation, operation or maintenance of the utility services. All utilities serving this subdivision and all connections made thereto shall be located beneath the surface of the ground. Excepting therefrom transformer installations and service pedestals. Such required above ground appurtenances to the underground utility system shall be located within six (6) feet of the side lot lines.

18. Garbage and Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. No rubbish, trash, or other wastes shall be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and stored either inside a garage or other building, or below ground, so as to not be visible from other properties within the subdivision.

19. Nuisances: No noxious or offensive activities shall be carried on or upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Weeds on vacant lots (other than natural cover) shall be cut between June 1 and June 15 and again between September 1 and September 15 in each year. If the lot owner fails to do so, the Architectural Control Committee may cause such weeds to be cut in accord with the foregoing schedule and a lien may be filed against the property for the actual cost of such weed mowing not to exceed \$25.00 annually. Such liens may be perfected and may be collected in accord and under the provisions of "An Act to revise the law in relation to mechanic's liens and to provide penalties for the violation there," approved May 18, 1903, as amended. Each lot owner shall keep his lot clear of debris and waste material so as to preserve a neat and clean appearance in the subdivision.

20. Television Antenna: If underground television and radio antennae, through a community television antenna system, shall hereafter become generally available to and within the subdivision, all outside antennae for such purposes, whether or not attached to a building or structure shall be removed by the lot owner and at his cost within one year after such underground antennae service shall become available.

21. Maintenance of Walkways: The adjoining lot owners shall be responsible for the maintenance of any walkway adjoining their lot.

22. Use of Premises: No business shall be conducted from the premises except for professional office space used only as a study.

- 9 -

23. Storage: No machinery, appliance or structure of any kind shall be permitted upon, maintained, or operated in or on the premises of any lot for the facilitation or carrying on of any trade, business or manufacturing. This clause shall not restrict the property owner from carrying on a professional practice such as a doctor, attorney, architect, professional engineering consultant, etc. from his home in a study, office or studio, but such a practice shall not employ anyone except the resident on that lot.

24. Field Tile: All existing field tiles that may be encountered by owner or owner's contractors in the course of constructing a residence on any of the subject lots or in the course of any construction thereon shall be rerouted and maintained in service by such owner, at his or their cost, such rerouting to be so effected so as to provide for the continuation of such field drainage system.

25. Drainage Swales: The drainage swales on Lots 88, 89, 100 and 101 in said subdivision shall remain and shall be kept open and unobstructed.

26. Maintenance of Stormwater Control Basin. A stormwater control basin exists on parts of Lots 89, 90, 99 and 100 and is subject to periodic inundation following rainstorms. This basin shall be maintained by the Architectural Control Committee on behalf of all lot owners served by the stormwater control basin and shall not be filled, built upon or otherwise modified in any way that would reduce its storage volume or impair the flow of water into the basin or alter the flow of water out of the basin. Any impairment of the basin's storage volume or flows into the basin or change in flows out of the basin shall be remedied within 14 days of the receipt of notice from the Architectural Control Committee. Upon failure to remedy the impairment of the basin within a reasonable time acceptable to the Architectural Control Committee, it or its agents or employees may enter onto Lots 89, 90, 99 or 100 and take such action as it deems necessary to remedy any impairment of the basin's functions. To the extent any lot owner is responsible for such impairment, the Architectural Control Committee may assess and the owner shall pay any costs incurred in remedying the impairment of the basin.

27. Binding Effect: The covenants, restrictions and reservations herein contained shall be construed and held to run with the land, as is hereinabove provided and shall be binding upon all lots and all owners of said lots and all persons claiming under them for a period of twenty-five (25) years from the date that this Owner's Certificate is placed of record, except that any of the foregoing restrictions may be altered at any time by a written stipulation to that effect signed by the




owners of record of 75% of the lots in said subdivision which said stipulation shall be effective when the same is filed for record with the Recorder of Deeds of Champaign County, Illinois, the same to reflect the agreed alteration, modification of change of such restrictive covenant or covenants so affected and the same to reflect the result and change brought about by such alteration, modification or change.

28. Enforcement: In the event any owner of a lot in the subdivision fails to comply with any of the above requirements, then any aggrieved person may maintain an action at law or at equity to enforce said provisions. Any and all costs, reasonable attorneys' fees and expenses of enforcing the above covenants shall be paid by the non-prevailing party.

29. Invalidation: Invalidation of any one of these covenants by judgment or court shall in no way effect any of the other provisions which shall remain in full force and effect.

Dated this 17 day of July, 1993.

COUNTRY VILLAGE PARTNERSHIP,  
an Illinois General Partnership  
consisting of WARREN W. HUDDLESTON  
and OLEN G. PARKHILL, JR.

By:   
Warren W. Huddleston, Partner

By:   
Olen G. Parkhill, Jr., Partner

STATE OF ILLINOIS     )  
                                  )   SS  
COUNTY OF CHAMPAIGN )

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY, that COUNTRY VILLAGE PARTNERSHIP, an Illinois General Partnership consisting of WARREN W. HUDDLESTON and OLEN G. PARKHILL, JR., personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the waiver of the right of homestead.

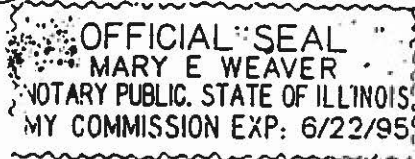
-11-

Given under my hand and Notarial Seal, this 27 day of July, 1993.

Mary E. Weaver  
Notary Public

PREPARED BY AND UPON RECORDING  
RETURN TO:

Donald R. Aldeen  
MEYER, CAPEL, HIRSCHFELD,  
MUNCY, JAHN & ALDEEN, P.C.  
306 West Church Street  
P. O. Box 6750  
Champaign, IL 61826-6750



Zoning Text Amendment

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

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**Final Determination:** Recommend adoption of Ordinance Amendment and adoption of Interim Stormwater Management Policy as Amended

**Date:** November 14, 1991

**Petitioner:** Champaign County Zoning Administrator

**Petition:** Amendment to Section of 9.1.5D. of the Champaign County Zoning Ordinance to require that all applicable provisions of the Champaign County Interim Stormwater Management Policy are met before approving any Special Use Permit or Variance.

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**Finding of Fact**

From the documents of record and the testimony received at the public hearing which commenced on September 27, 1990, and re-opened on August 22, 1991 and concluded on November 14, 1991 the Zoning Board of Appeals of Champaign County finds that:

1. Urbanization increases the rate of stormwater runoff and, to some extent, the total volume of runoff. This increase can exacerbate flooding and increase erosion of streams and drainage ditches.
2. The current Zoning Ordinance has no stormwater management requirements nor guidelines for protection of the agricultural drainage system.
3. The proposed Ordinance amendment incorporates an interim policy to be in effect only until a final ordinance could be drafted.
4. The local development community has been actively involved in the process to establish an Interim Policy. The major items of debate in the adoption of the Interim Policy have been the detention standards (design event and release rate).

Case: 729-AT-90

Page 2 of 5

5. The various draft versions of the Interim Policy all contained a 100 year design event based on the recommendations of the draft Champaign County Stormwater Management and Drainage Ordinance which also proposed a 100 year return frequency storm. The local development community proposed a 50 year return frequency storm.
6. Selection of the 100 year design event would probably mean that detention basins would achieve maximum storage somewhere between twice a century to somewhat less than once per century. Selection of the 50 year design event would probably mean that detention basins would achieve maximum storage somewhere between four times a century and once a century.
7. Selection of the 50 year design event would achieve somewhere between 78% and 83% of the reduction of the 100 year runoff achieved under the 100 year design event, depending upon the release rate.
8. The draft Stormwater Management and Drainage Ordinance contained two release rates (one intended to control storm events of 2 year or less return frequency and one to control storms of between the two and 100 year return frequencies) both of which were taken from the Northeastern Illinois Planning Commission (NIPC) Model Stormwater Drainage and Detention Ordinance. Only the release rate for the two to 100 year return frequency storms was considered for the Interim Policy. The local development community proposed using the rate of runoff that would occur from the development site in agricultural land cover conditions under either a 5 year or a 2 year return frequency storm (referred to as AG-5 and AG-2). A fourth basis for the release rate was suggested by an engineer for the USDA Soil Conservation Service and was based on design guidelines for agricultural drainage ditches in the Illinois Drainage Guide (specifically, Curve B).
9. An important criterion for selection of a release rate was the capacity of the agricultural drainage ditches in the County. Information provided by the Embarras River Watershed Study indicated that not many of the channels in the watershed had the capacity to convey the Curve B, AG-2, or AG-5 amounts of runoff.
10. Financial analysis of the added costs of providing detention indicate that rents/lot prices in commercial, small lot residential and mobile home developments with detention facilities designed for the AG-5 release rate and 50 year design storm would increase 3 - 16% compared to development without detention and that detention facilities designed with the NIPC, 0.15 CFS release rate would increase rents/lot prices by 1 - 6% compared to development with detention facilities designed with the AG-5 release rate.
11. The financial analysis indicated that detention requirements designed with the AG-5 release rate would increase the price of 1/2 to 1 acre lots in small subdivisions by 54 - 113%.
12. The proposed policy would exempt 1/2 and 1 acre lot developments from stormwater detention requirements in most instances.

Case: 729-AT-90

Page 3 of 5

13. Computer modelling of detention basins for various projects indicates that detention facilities designed for the 50 year storm event with a maximum release rate equal to the 5-year agricultural runoff will produce effective discharges less than agricultural runoff for all storm events.
14. Limiting effective discharges to the equivalent agricultural runoff should prevent increased erosion of streams and ditches.
15. Limiting the discharge for the 50 year storm to the 5-year agricultural runoff rate will prevent increased flood damages due to urbanization.

### **Documents of Record**

1. Staff Memorandum regarding the Interim Stormwater Management Policy, dated August 29, 90 with attached Interim Stormwater Policy, dated August 30, 1990
2. Staff Memorandum regarding Amendment Incorporating Champaign County Interim Stormwater Management Policy, dated September 26, 1990
3. Staff Memorandum to the Environment and Land Use Committee regarding the Revised Interim Stormwater Management Policy, dated July 3, 1991
4. Interim Champaign County Stormwater Management Policy, dated July 12, 1991
5. Real Estate Feasibility Impact Analysis, July 12, 1991
6. Preliminary Report on Determination of Stormwater Detention Standards, July 12, 1991
7. Summary of Engineer Comments, dated July 12, 1991
8. Staff Recommendation for Detention Standards, August 1, 1991
9. Comparison of Detention Alternatives, August 1, 1991
10. Staff Memorandum regarding Case 729-AT-90, dated August 16, 1991
11. Summary Comparison of Detention Alternatives, dated August 22, 1991
12. Staff reply to comments regarding the Proposed Interim Stormwater management Policy, dated September 26, 1991
13. Staff Memorandum to the Environment and Land Use Committee and Zoning Board of Appeals, dated October 10, 1991
14. Staff Memorandum regarding Case 729-AT-91, dated November 15, 1991
15. Interim Champaign County Stormwater Management Policy, dated October 31, 1991
16. Blue Paper regarding Interim Stormwater Management Policy
17. Staff Memorandum regarding Case 729-AT-91, dated November 21, 1991
18. Interim Champaign County Stormwater Management Policy, dated November 21, 1991
19. Zoning Case Exemptions from Interim Stormwater Management Policy
20. Petition
21. Theoretical Peak Undeveloped Runoff Rates submitted by Don Wauthier, Berns, Clancy and Associates, at Public Hearing on September 26, 1991
22. Ditch Capacities at Selected Points in Embarras River Watershed



Case: 729-AT-90

Page 4 of 5

23. Letter from John D. Goodell, P.E., dated August 28 1991
24. Letter from William E. Sheridan, P.E., dated September 4, 1991
25. Letter from Steve Stierwalt, President, Champaign County Farm Bureau, dated September 11, 1991
26. Letter from the Champaign County Soil and Water Conservation District Board of Directors, dated September 1991
27. Letter from the Champaign County Soil and Water Conservation District, dated October 30, 1991
28. Templeton v. Huss, 311 N.E. 2d. 141
29. Upper Embarras Alternative #15-#18, dated November, 1991
30. Letter from Thomas B. Berns, dated November 21, 1991

**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:

1. The Zoning Text Amendment, as presented below for Case 729-AT-90, should be enacted by the Champaign County Board.

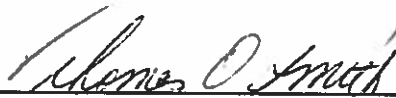
**Amend Section of 9.1.5D., Zoning Board of Appeals Powers and Duties by adding a new subsection (5) Stormwater Management and Drainage Requirements to read as follows:**

The Zoning Board of Appeals shall require that all applicable provisions of the Champaign County Interim Stormwater Management Policy are met before approving any Special Use Permit.

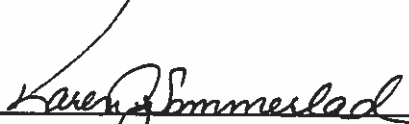
2. The Interim Stormwater Management Policy should be adopted as amended through November 21, 1991, including amendments to Section 4.3A exempting developments subject to municipal regulations imposed through annexation agreements and by replacing references to "watersheds" with "development watersheds" throughout Section 6.1A.

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

SIGNED:

  
 \_\_\_\_\_  
 Thomas O. Smith, Chairman  
 Champaign County Zoning Board of Appeals

ATTEST:

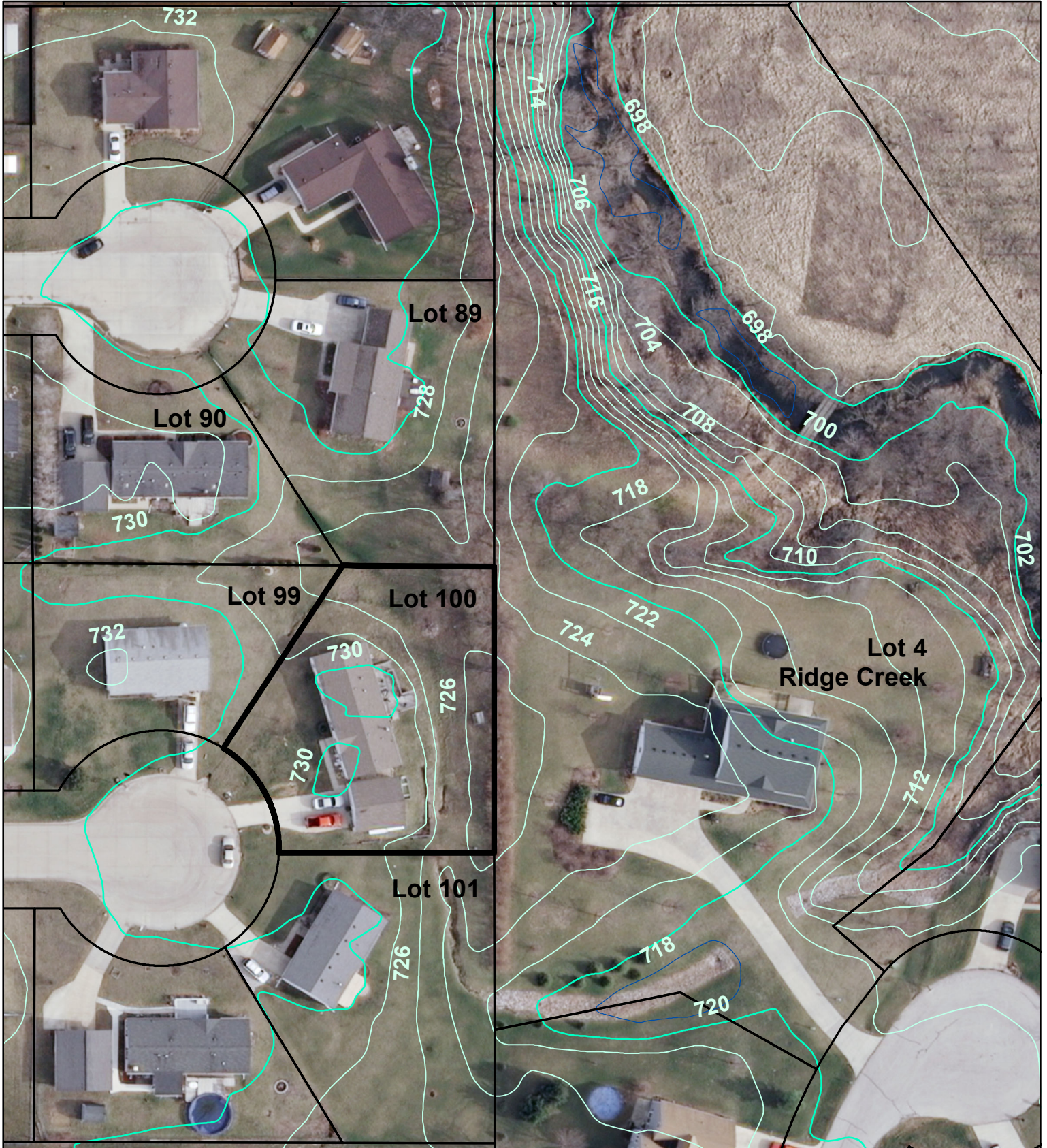
  
 \_\_\_\_\_  
 Secretary to the Zoning Board of Appeals

12/12/91  
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 Date




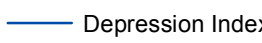




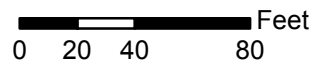
# 2008 CCGIS aerial photo with contours

Case 863-V-16  
April 27, 2017



## Legend

- |   |  |  |
|---|--|--|
|  Subject Property | <b>Contour Type</b>  |  Index        |
|  Parcels          |  Depression Index |  Intermediate |
|   |  Depression       |  |





**FIRST NOTICE**

June 10, 2016

Case: ZN-16-20/13

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Scott Blakeney  
2312 Pheasant Ridge Road  
Mahomet, IL 61853

**FILE COPY**

**RE:** Violation of the *Champaign County Public Nuisance Ordinance* on Lot 100 of Rolling Hills Estates V Subdivision in the West Half (W ½) of the Northeast Quarter (NE ¼) of Section 12, Mahomet Township, with an Address of 2312 Pheasant Ridge Road, Mahomet, Permanent Index No. 15-13-12-201-030.

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

(217) 384-3708

Dear Mr. Blakeney:

Notice is hereby given of the following violation of the *Champaign County Public Nuisance Ordinance* on Lot 100 of Rolling Hills Estates V Subdivision in the West Half (W ½) of the Northeast Quarter (NE ¼) of Section 12, Mahomet Township, with an Address of 2312 Pheasant Ridge Road, Mahomet, Permanent Index No. 15-13-12-201-030. Said violation is as follows:

1. **The destruction or obstruction, by act or omission of the operation of any drainage structure or feature that drains an area of more than five acres in violation of Nuisance Ordinance, Section 3.2M.1.**

Because you have hired Eric Hewitt, and Phoenix Consulting Engineers, Ltd. to assist you in resolving this violation, further enforcement action will be put in abeyance (on hold) until the engineering analysis is complete. I will be happy to answer any questions you may have regarding this matter and Champaign County regulations and ordinances. (See Action Required to Correct Violation below).

This matter will be referred to the Champaign County State's Attorney's Office for further legal action if you do not contact me regarding this notice or if you do not correct the violation. Even though further enforcement action will be put in abeyance until the engineering analysis is complete, please contact me no later than **July 10, 2016**, for a progress update on the engineering analysis. A complaint may be filed in the Champaign County Circuit Court naming you as defendant and fines from \$100 to \$500 per day may be imposed for each day that a violation continues to exist.

**BASIS OF NOTICE**

You have been given this First Notice of Violation based on the following:

1. On April 7, 2016, a Zoning Use Permit was issued to place a manufactured home on the subject property.
2. On or about May 5, 2016, the Planning and Zoning Department received a complaint about this property. The complaint alleged that earthen fill (dirt) was being brought to the subject property and then dumped and spread in the yard. More specifically, the complaint alleged that drain tiles had been installed on the subject property and that the earthen fill (dirt) that had been brought to the property had been spread over the property and that the natural drainage of the Rolling Hills Estates Subdivisions and the Charter Oaks Subdivisions had been disturbed and/or changed from the plans that were approved for the development of the subdivisions.

3. On May 5, 2016 John Hall, the Zoning Administrator and Jamie Hitt, the Zoning Officer inspected the property with Scott Blakeney and his excavation contractor. At that inspection, it was noted that drain tiles had been installed in the back and side yards and about 3 to 4 feet of earthen fill (dirt) had been spread over the front, back, and side yards of the subject property.

John Hall informed Scott Blakeney that his lot was the drainage area/detention basin for the subdivision and that the earthen fill (dirt) must be removed from the back and side yards and the grade of the lot must either be returned to the elevation that was indicated on the approved subdivision plat in 1993 or John Hall agreed that it could be returned to the grade that existed prior to Scott Blakeney's purchase of the lot.

John Hall discussed the removal of the earthen fill (dirt) and grading with Scott Blakeney's excavation contractor and it was understood by all parties what needed to be done to bring the property into compliance.

4. On May 17, 2016, Scott Blakeney called and scheduled an inspection to confirm that the earthen fill (dirt) had been removed and the property had been brought into compliance.
5. On May 18, 2016, John Hall and Jamie Hitt met Scott Blakeney and his excavation contractor at the subject property and it was noted that some of the drain tile at the northeast corner of the subject property had been removed and some of the earthen fill (dirt) had been removed in that same area. However, the earthen fill (dirt) remained in most all other locations. John Hall explained to Scott Blakeney that he expected the earthen fill (dirt) areas to be reduced to at least the grade that had existed before the earthen fill (dirt) was placed on the property.

Mr. Blakeney and the excavation contractor asked John Hall how the earthen fill (dirt) could remain on the property and John Hall explained the only way the earthen fill (dirt) could remain on the property would be to hire an Illinois Licensed Professional Engineer to provide the necessary certification that the earthen fill (dirt) would allow the natural flow of water to maintain its course and to provide the required compensatory storage/detention of water as approved in the original subdivision plat.

6. On June 8, 2016, Eric Hewitt, of Phoenix Consulting Engineers, Ltd, contacted John Hall by email to inform him that Scott Blakeney had hired him to perform a study of the detention area that he has filled. Eric Hewitt indicated that he will be surveying the property and analyzing the basin and that he will provide an update after his analysis is complete.

## **ACTION REQUIRED TO CORRECT VIOLATION**

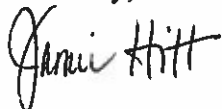
Champaign County looks forward to your cooperation in correcting the violation. To correct the violation you must do the following:

1. If an engineering analysis by an Illinois Licensed Professional Engineer finds that the earthen fill (dirt) and drain pipes that you have placed on the property will either obstruct surface drainage or cause damages to adjacent properties either by increased height of flood water or by increases in the velocity of storm water leaving your property, you must do the following:
  - A. Remove the earthen fill from the back yard and side yards and restore the topography of your property to that indicated in the 2008 LIDAR contours provided by the Champaign County GIS Consortium (see attached); **and**

- B. Install and maintain erosion and sedimentation controls on the bare earth until the bare earth achieves 70% coverage by permanent vegetation; **and**
  - C. Submit to me an “as-built” topographical map of the restored lot that has been prepared by an Illinois Licensed Land Surveyor; **or**
2. If an engineering analysis by an Illinois Licensed Professional Engineer finds that the earthen fill (dirt) and drain pipes that you have placed on the property will neither obstruct surface drainage nor cause damages to adjacent properties either by increased height of flood water or by increases in the velocity of storm water leaving your property and you want to keep the earthen fill (dirt) that has been placed on your property, you must do the following in order for the fill to remain (note that even if the engineering analysis finds that the fill and drain pipes do not cause damage to other properties you **must** replat with the Village of Mahomet in order for the fill to remain.):
- A. Install and maintain erosion and sedimentation controls on the bare earth until the bare earth achieves 70% coverage by permanent vegetation; **and**
  - B. Have a Subdivision Plat prepared and apply for and receive plat approval from the Village of Mahomet for a replat of your lot showing the new drainage easements on your property and then file the plat with the Champaign County Recorder of Deeds; **and**
3. After you have done what is listed above you must contact me to let me know the violation has been resolved and you must allow me to perform an inspection of the property to confirm that the violation has been resolved.

If you have any questions regarding this matter, please contact me or John Hall, Zoning Administrator at (217) 384-3708. We will be happy to assist you in resolving this matter.

Sincerely,



Jamie Hitt  
Zoning Officer

xc: Eric Hewitt, PLS, Phoenix Consulting Engineers, LTD, 421 E. Main Street, P.O. Box 1187, Mahomet, IL 61853

Attachment: 2008 Aerial Photo with LIDAR Contours Provided by Champaign County GIS Consortium

June 21, 2016

Case: ZN-16-21/13

**FILE COPY**Champaign  
County  
Department of**PLANNING &  
ZONING**Scott Blakeney  
2312 Pheasant Ridge Road  
Mahomet, IL 61853RE: Violation of the *Champaign County Zoning Ordinance* on Lot 100 of Rolling Hills Estates V Subdivision in the West Half (W ½) of the Northeast Quarter (NE ¼) of Section 12, Mahomet Township, with an Address of 2312 Pheasant Ridge Road, Mahomet, Permanent Index No. 15-13-12-201-030.

Dear Mr. Blakeney:

Notice is hereby given of the following violation of the *Champaign County Zoning Ordinance* on Lot 100 of Rolling Hills Estates V Subdivision in the West Half (W ½) of the Northeast Quarter (NE ¼) of Section 12, Mahomet Township, with an Address of 2312 Pheasant Ridge Road, Mahomet, Permanent Index No. 15-13-12-201-030. Said violation is as follows:

1. Construction without an approved Zoning Use Permit in violation of the Champaign County Zoning Ordinance, Section 9.1.2A.2. and 9.1.2A.3.

This Violation (ZN-16-21/13) is separate from and in addition to your previous Violation (ZN-16-20/13) and will be pursued separately. Even though further enforcement action on ZN-16-20/13 has been put in abeyance until the engineering analysis is complete, enforcement action on this Violation will not be put in abeyance. I will be happy to answer any questions you may have regarding this matter and Champaign County regulations and ordinances. (See Action Required to Correct Violation below).

This matter will be referred to the Champaign County State's Attorney's Office for further legal action if you do not contact me regarding this notice or if you do not correct the violation. Please contact me (or Jamie Hitt) no later than July 6, 2016. A complaint may be filed in the Champaign County Circuit Court naming you as defendant and fines up to \$500 per day may be imposed for each day that a violation continues to exist.

#### **BASIS OF NOTICE**

You have been given this First Notice of Violation based on the following:

1. On April 7, 2016, Zoning Use Permit #82-16-01 was issued to place a manufactured home on the subject property.
2. On or about May 5, 2016, the Planning and Zoning Department received a complaint about this property. The complaint alleged that earthen fill (dirt) was being brought to the subject property and then dumped and spread in the yard. More specifically, the complaint alleged that drain tiles had been installed on the subject property and that the earthen fill (dirt) that had been brought to the property had been spread over the property and that the natural drainage of the Rolling Hills Estates Subdivisions and the Charter Oaks Subdivisions had been disturbed and/or changed from the plans that were approved for the development of the subdivisions.

Brookens

Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

3. On May 5, 2016 John Hall, the Zoning Administrator and Jamie Hitt, the Zoning Officer inspected the property with Scott Blakeney and his excavation contractor. At that inspection, it was noted that drain tiles had been installed in the back and side yards and about 3 to 4 feet of earthen fill (dirt) had been spread over the front, back, and side yards of the subject property.

John Hall informed Scott Blakeney that his lot was the drainage area/detention basin for the subdivision and that the earthen fill (dirt) must be removed from the back and side yards and the grade of the lot must either be returned to the elevation that was indicated on the approved subdivision plat in 1993 or John Hall agreed that it could be returned to the grade that existed prior to Scott Blakeney's purchase of the lot.

John Hall discussed the removal of the earthen fill (dirt) and grading with Scott Blakeney's excavation contractor and it was understood by all parties what needed to be done to bring the property into compliance.

4. On May 17, 2016, Scott Blakeney called and scheduled an inspection to confirm that the earthen fill (dirt) had been removed and the property had been brought into compliance.
5. On May 18, 2016, John Hall and Jamie Hitt met Scott Blakeney and his excavation contractor at the subject property and it was noted that some of the drain tile at the northeast corner of the subject property had been removed and some of the earthen fill (dirt) had been removed in that same area. However, the earthen fill (dirt) remained in most all other locations. John Hall explained to Scott Blakeney that he expected the earthen fill (dirt) areas to be reduced to at least the grade that had existed before the earthen fill (dirt) was placed on the property.

Mr. Blakeney and the excavation contractor asked John Hall how the earthen fill (dirt) could remain on the property and John Hall explained the only way the earthen fill (dirt) could remain on the property would be to hire an Illinois Licensed Professional Engineer to provide the necessary certification that the earthen fill (dirt) would allow the natural flow of water to maintain its course and to provide the required compensatory storage/detention of water as approved in the original subdivision plat.

6. On June 8, 2016, Eric Hewitt, of Phoenix Consulting Engineers, Ltd, contacted John Hall by email to inform him that Scott Blakeney had hired him to perform a study of the detention area that he has filled. Eric Hewitt indicated that he will be surveying the property and analyzing the basin and that he will provide an update after his analysis is complete.
7. Because you hired Eric Hewitt, and Phoenix Consulting Engineers, Ltd. to assist him in resolving the drainage violation, further enforcement action regarding the drainage violation was put in abeyance (on hold) until the engineering analysis is complete.
8. On the morning of June 20, 2016, you applied to this Department to add a 13 feet by 22 feet shed to your current Zoning Use Permit #82-16-01. You submitted a revised site plan showing the 13 feet by 22 feet shed. You also said you were planning to build a fence along the north property line of your property.



Case ZN-16-21/13 cont.'d.  
Scott Blakeney  
Page 3

9. On the afternoon of June 20, 2016, Zoning Officer Jamie Hitt called and told you that the shed would not be authorized until the existing Violation related to destruction of drainage structures and features is resolved and you told her that the shed is already on the property but not permanently affixed.

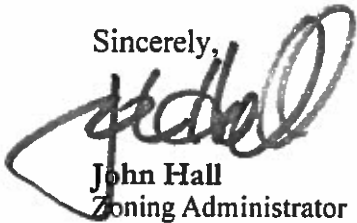
### **ACTION REQUIRED TO CORRECT VIOLATION**

Champaign County looks forward to your cooperation in correcting the violation on or before **July 6, 2016**. To correct the violation you must do the following:

1. Remove the 13 feet by 22 feet shed that you have recently moved onto the property; and
2. After you have done what is listed above you must contact me to let me know the violation has been resolved and you must allow me to perform an inspection of the property to confirm that the violation has been resolved.

If you have any questions regarding this matter, please contact me or Jamie Hitt, Zoning Officer, at (217) 384-3708. We will be happy to assist you in resolving this matter.

Sincerely,



**John Hall**  
Zoning Administrator

xc: Eric Hewitt, PLS, Phoenix Consulting Engineers, LTD, 421 E. Main Street, P.O. Box 1187, Mahomet, IL 61853



**From:** Eric Hewitt [<mailto:ehewitt@phoenix-ce.com>]  
**Sent:** Wednesday, October 05, 2016 10:35 AM  
**To:** John Hall <[jjhall@co.champaign.il.us](mailto:jjhall@co.champaign.il.us)>  
**Cc:** Tom Overmyer <[tovermyer@phoenix-ce.com](mailto:tovermyer@phoenix-ce.com)>  
**Subject:** Blakeney - Mahomet

John,

Please find attached a PDF of our three (3) page memorandum dated September 26, 2016 to Mr. Scott Blakeney regarding the engineering analysis on the earthen fill and drainage for his property (Lot 100 Rolling Hills Estate Subdivision). Also attached is a PDF of the hydraulic calculation data.

Lastly, attached is a PDF of the limited topographic survey prepared as part of the project.

Let us know if there are any questions or if further information is needed or if hard copies of any of these materials are required.

Sincerely,

Eric E. Hewitt, PLS  
Phoenix Consulting Engineers, LTD  
421 E. Main St., PO Box 1187  
Mahomet, IL 61853  
[217-586-1803](tel:217-586-1803)  
[217-840-9129](tel:217-840-9129) (cell)

**RECEIVED**  
OCT 05 2016  
CHAMPAIGN CO P & Z DEPARTMENT



**MEMORANDUM**  
**RECEIVED**

OCT 05 2016

CHAMPAIGN CO P & Z DEPARTMENT

<b>To:</b> Scott Blakeney	<b>Date:</b> September 26, 2016
<b>CC:</b> John Hall	<b>Project Title:</b> Lot 100 Rolling Hills Estate Subdivision
<b>From:</b> Eric Hewitt/Tom Overmyer	<b>Project ID:</b> 16SUR074
<b>RE:</b> Engineering analysis on earthen fill and drainage	

**PROJECT SUMMARY:**

Jamie Hitt, Zoning Officer of Champaign County, in a letter dated June 10, 2016, requested that Scott Blakeney have an engineering analysis done to determine if the earthen fill on his property has impacted storm water drainage. Specifically the county was concerned about possible obstruction of surface drainage and damage to adjacent properties by increased height of flood water or increase in velocity of storm water leaving the property. The county referred to the 2008 Lidar contours as the conditions which would be acceptable. Below and attached are the summary and calculations for the comparisons between conditions as shown by the 2008 Lidar contours and the current contours generated by the earthen fill added to the property.

Bentley CivilStorm was used to perform the hydraulic calculations. CivilStorm uses the TR-55 methodology in its calculations and the SCS Type II storm was used. Attached are the reports that were generated by CivilStorm. The 2008 Lidar contours were used to determine the size of the original basin. The original outlet of the basin was assumed to be 20 L.F. of 15" diameter CMP at 0.5% as labeled the construction plans from 1993.

**SURFACE DRAINAGE:**

The first concern the county has with the installation of drainage pipes and fill was the potential for obstruction of surface drainage. The original design for Rolling Hills Estate Subdivision V placed a low point of the cul-de-sac at the northeast corner of the cul-de-sac. Water would then flow down a drainage swale between Lots 99 and 100 where it would then enter the drainage basin area and ultimately leave the subdivision either through the basin outlet pipe at the southeast corner of Lot 100 or the basin overflow areas at the north and south ends of the basin.

Mr. Blakeney installed a 12" HDPE pipe along the lot line between Lots 99 and 100 and filled in the original drainage swale. This pipe has a capacity of 6.4 cfs. This is sufficient for smaller event storms but for the 100-Year storm 9.2 cfs needs to be sent to the detention basin through this line. A 6" (minimum) deep ditch with side slopes of 4 horizontal to 1 vertical would be enough to route the excess water to the basin. If Mr. Blakeney does not install a ditch along the property line excess ponding will likely occur in the cul-de-sac during larger event storms.

**HEIGHT OF FLOOD WATER:**

Another concern brought up by the County was the possibility of damage to neighboring properties due to increased height of flood waters. In reviewing the original construction plans for the subdivision and the 2008 Lidar Contours it appears that the over flow for the basin has been located at the northeast corner of Lot 100. The fill that has been added to Mr. Blakeney's property was added close to the house and did not change the existing elevations along the eastern and northern lot lines where the basin overflows. Actual high water levels for the 100

**MEMORANDUM**

year event are listed in the table below and the attached drawing. Basin levels do not change significantly between the 2008 conditions, current conditions or the proposed conditions.

Table 1: High Water Elevations

STORM EVENT (years)	As Built 2008 Basin	Current Basin	Proposed Basin
50	726.54	726.53	726.55
100	726.55	726.55	726.57

**STORM WATER VELOCITY:**

The County's final concern was the velocity of storm water leaving the property. The original outlet for the basin was designed to be 20 L.F. of 15" Dia. CMP installed at a slope of 0.5%. Mr. Blakeney currently has installed 94 L.F. of 15" Dia. HDPE at a slope of 1.9%. The table below summarizes release flow and velocity through these pipes for the 50 and 100 year events. The velocity shown is the velocity at the downstream end of the pipes.

Table 2: Basin Outlet Summary

STORM EVENT (years)	As Built 2008 Basin Outlet Pipe Flow (cfs)	As Built 2008 Basin Outlet Pipe Vel. (ft/sec)	Current Basin Outlet Pipe Flow (cfs)	Current Basin Outlet Pipe Vel. (ft/sec)	Prop. Basin Outlet Pipe Flow (cfs)	Prop. Basin Outlet Pipe Vel. (ft/sec)
50	4.6	4.2	7.1	5.8	4.8	3.9
100	4.6	4.2	7.2	5.8	4.8	3.9

As can be seen, the current outlet pipe has increased the flow and velocity of water leaving the basin. If the opening of this outlet pipe is reduced to a 12" opening by installing a 15"x12" reducer the flow and velocity is decreased. The release rates for the proposed conditions are similar to the conditions that existed as part of the 2008 As Built design.

Additionally the impact on the drainage way from the basin outlet to the edge of the subdivision was reviewed. The flows and velocities of the water leaving the subdivision through the drainage way are summarized in Table 3. The proposed condition of reducing the opening of the outlet pipe also brings the flows and velocities of water exiting the subdivision back to the approximate values of the 2008 As Built conditions.

Table 3: Drainage Way Summary

STORM EVENT (years)	As Built 2008 Drainage Way Flow (cfs)	As Built 2008 Drainage Way Vel. (ft/sec)	Current Drainage Way Flow (cfs)	Current Drainage Way Vel. (ft/sec)	Proposed Drainage Way Flow (cfs)	Proposed Drainage Way Vel. (ft/sec)
50	4.6	3.2	7.1	3.1	4.8	3.3
100	4.6	4.2	7.2	3.6	4.8	3.3

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OCT 05 2016

**CHAMPAIGN CO P & Z DEPARTMENT**

**MEMORANDUM**

A final check on storm water leaving the basin was made by reviewing the flows exiting the subdivision by the spillway located on the northeast corner of the basin. The flows over the spillway are summarized in Table 4. Although the values increase slightly with the proposed revision to the outlet of the basin the impact of the increased flows will be negligible.

Table 4: Spillway Summary

<b>STORM EVENT (years)</b>	<b>As Built 2008 Spillway Flow (cfs)</b>	<b>Current Spillway Flow (cfs)</b>	<b>Proposed Spillway Flow (cfs)</b>
50	17.6	16.6	18.8
100	22.2	18.8	21.0

**SUMMARY:**

The following three concerns raised by the County can be addressed as follows.

1. Surface drainage – replacing the original side yard swale with a culvert may cause increased ponding in the cul-de-sac during large event storms. To alleviate this possibility a drainage swale should be graded along the property line.
2. Height of flood water – the high water elevations do not drastically change in any scenario. This is largely due to the fact that the elevation of the spillway did not change.
3. Storm water velocity – the velocity of water released downstream has increased due to the slope and type of pipe for the outlet of the basin. Installing a 12"x15" reducer on the upstream end of the outlet pipe for the basin will bring the values back to the As Built conditions.

The following attachments are the data that was used as input for CivilStorm and the output generated by CivilStorm for the County to use in their review.

**RECEIVED**

OCT 05 2016

**CHAMPAIGN CC P & Z DEPARTMENT**



Phoenix Consulting Engineers, Ltd.  
 Professional Design Firm No. 184 (M)5833  
 421 E. Main Street • Mahomet, IL 61853  
 Ph. 217-586-1803 • Fax 217-586-6757



MAHOMET, CHAMPAIGN COUNTY, ILLINOIS

ROLLING HILLS ESTATES V SUBDIVISION

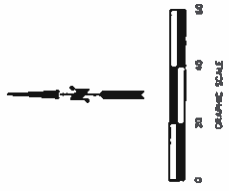
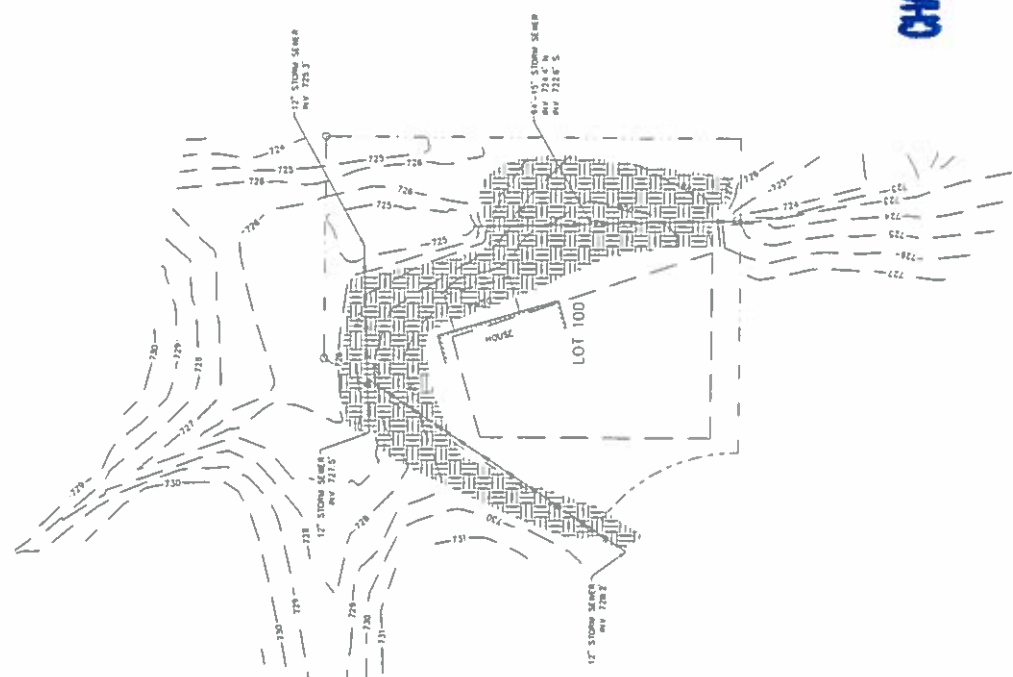
LIMITED TOPOGRAPHIC SURVEY

NO.	DATE	BY	DESCRIPTION

PROJECT NO.  
**16SUR074**  
 SHEET 1 OF 1

**NOTES**  
 FRONT-OF-YARD AND PROPERTY LINES SHOWN ARE APPROXIMATE, AND NOT BASED ON A BOUNDARY SURVEY.  
 ELEVATIONS ARE BASED UPON NAVD 83.  
 SURVEY COMPLETED IN JUNE 2016.

**RECEIVED**  
 OCT 05 2016  
 CHAMPAIGN COUNTY DEPARTMENT



- CLARKEN PILL
- XX STORM SEWER
- XX LOT LINE
- XX EASEMENT LINE
- XX RIGHT-OF-WAY LINE
- XX CONTOUR
- XX PIN FOUND

## John Hall

---

**From:** John Hall  
**Sent:** Wednesday, October 12, 2016 3:40 PM  
**To:** 'Eric Hewitt'  
**Cc:** 'Tom Overmyer'  
**Subject:** RE: Blakeney - Mahomet

Regarding the hydraulic data:

1. I have not yet sent this information to a consulting engineer for review. Mr. Blakeney will have to pay the stormwater engineering review fee (\$500 minimum up to a maximum of \$1,500) to get this information reviewed by a consulting engineer and that will be required for final approval.
2. As for my brief review, I believe the hydraulic calculations are missing the "Current Basin- 100 YR Event" and I also wonder if there is also data for "Proposed Basin- 50 YR Event" and "Proposed Basin- 100 YR Event". I also expected to see hydraulic data on the spillway but I found none.
3. Regarding the spillway, Mr. Blakeney removed some landscaping along the eastern lot line and it will be important to document that the current spillway is the same as the original approved spillway.
4. It does seem that the basin that was originally approved did not exist in 2008 and I assume that is no fault of Mr. Blakeney but I do believe it may be relevant to the analysis of the impacts of the proposed basin. I will recommend that Mr. Blakeney also submit comparable hydraulic data based on the approved engineering plans of the Rolling Hills Subdivision to better understand the true effect of these changes.
5. Your topographic information indicates that fill has been added to Lot 99 and I wonder if the owner of that lot approved the fill? If the owner of Lot 99 did approve that fill it will behoove Mr. Blakeney to provide some documentation of that approval and if the owner did not approve the fill then I recommend that the fill be removed.
6. I will also ask Mr. Blakeney to have you provide an accurate drawing illustrating the distance from the northwest corner of the dwelling to the northwest lot line. The minimum required separation is 10 feet but anything less than 10 feet must be approved by variance.

Regarding the next step in securing approval for these encroachments into the drainage easement, Mr. Blakeney could either replot with the Village of Mahomet or apply for and receive a variance from the Champaign County Zoning Board of Appeals. The variance will require a public hearing and neighbors will receive notice of that public hearing.

Mr. Blakeney will have only two weeks in which to submit the completed variance application and pay the \$200 application fee plus the initial \$500 fee for the stormwater engineering review. This hydraulic data and topographic information will be adequate documentation to accompany the variance application but more information may be required. Upon receipt of the variance application and all fees I will seek a consulting engineer review of the data you have provided.

Based on the current docket, the public hearing will open in February or March 2017.

An approval of the variance will bring the encroachments into conformance with the Zoning Ordinance. Of course, neighbors who may be unhappy with these changes could still pursue private legal action.

In the next day or so I will send Mr. Blakeney a letter advising him of the need to submit the application for variance and I will copy you on that letter.

Sincerely,

**John Hall**  
Zoning Administrator

***Champaign County Department of Planning and Zoning***

Brookens Administrative Center  
1776 East Washington Street  
Urbana IL 61802  
Tel (217) 384-3708  
Fax (217) (819-4021)

**From:** John Hall  
**Sent:** Wednesday, October 05, 2016 10:56 AM  
**To:** 'Eric Hewitt' <ehewitt@phoenix-ce.com>  
**Cc:** Tom Overmyer <tovermyer@phoenix-ce.com>  
**Subject:** RE: Blakeney - Mahomet

Thanks, Eric. I have been intending to contact Mr. Blakeney about this but I've been so incredibly busy I did not have time.

I'll take a look and then let you know my initial thoughts.

**From:** Eric Hewitt [<mailto:ehewitt@phoenix-ce.com>]  
**Sent:** Wednesday, October 05, 2016 10:35 AM  
**To:** John Hall <[john@co.champaign.il.us](mailto:john@co.champaign.il.us)>  
**Cc:** Tom Overmyer <[tovermyer@phoenix-ce.com](mailto:tovermyer@phoenix-ce.com)>  
**Subject:** Blakeney - Mahomet

John,

Please find attached a PDF of our three (3) page memorandum dated September 26, 2016 to Mr. Scott Blakeney regarding the engineering analysis on the earthen fill and drainage for his property (Lot 100 Rolling Hills Estate Subdivision). Also attached is a PDF of the hydraulic calculation data.

Lastly, attached is a PDF of the limited topographic survey prepared as part of the project.

Let us know if there are any questions or if further information is needed or if hard copies of any of these materials are required.

Sincerely,

**FILE COPY**

October 17, 2016

Champaign  
County  
Department of

**PLANNING &  
ZONING**

Scott Blakeney  
2312 Pheasant Ridge Road  
Mahomet IL 61853

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

(217) 384-3708

Dear Mr. Blakeney:

On Wednesday, October 5, 2016, I received the engineering study of the unauthorized fill on your property from your engineer, Phoenix Consulting Engineers, LTD. I appreciate the effort of Phoenix Consulting Engineers LTD in analyzing the effects of the unauthorized fill. I emailed some basic comments regarding the engineering study to Phoenix Consulting Engineers on Wednesday, October 12, 2016.

I cannot approve the engineering study. The engineering study must be reviewed by another engineer as part of either of the following types of approvals:

- A subdivision re-platting process with the Village of Mahomet. The purpose of re-platting with the Village of Mahomet would be to revise the existing drainage easement on your property so that the fill would no longer be a violation. For detailed information on the re-platting process contact Kelly Pfeifer, Community Development Director for the Village of Mahomet (Village Office 586-4456); or
- A variance to be determined by the Champaign County Zoning Board of Appeals. The purpose of a variance would be to receive approval to keep the fill in the existing drainage easement. Included with this letter are a variance application and information letter. Application fees for a variance will be the basic variance application fee of \$200 plus an additional fee for a storm water engineering review which is a minimum of \$500 up to a maximum of \$1,500. Contact Susan Chavarria, Senior Planner, in this Department for additional information.

I recommend that you discuss these two approaches with Phoenix Consulting Engineers, LTD and ask for their recommendation of which approach might work best for you. And if you have not already done so, you may also benefit from hiring an attorney to provide legal advice.

The next deadlines for resolving this violation are as follows:

- No later than **October 31, 2016**, I must receive a letter (or a phone call followed by a letter) stating which approach (re-plat or variance) you intend to follow; and
- No later than **November 14, 2016**, you must have submitted the necessary application with fees and all necessary supporting documentation. If you decide to re-plat I will call the Village to verify the application on November 15.

Please call if you have questions.

Sincerely,



**John Hall**  
Director  
Zoning Administrator

XC: Phoenix Consulting Engineers, LTD, POB 1197, Mahomet IL 61853



## John Hall

---

**From:** John Hall  
**Sent:** Wednesday, October 26, 2016 8:11 AM  
**To:** 'Eric Hewitt'  
**Cc:** Tom Overmyer; a1cleaningservice@rocketmail.com  
**Subject:** RE: Blakeney property

This email is fine for the Oct. 31 deadline, Eric. Thanks.

**From:** Eric Hewitt [mailto:ehewitt@phoenix-ce.com]  
**Sent:** Tuesday, October 25, 2016 5:19 PM  
**To:** John Hall <jhall@co.champaign.il.us>  
**Cc:** Tom Overmyer <tovermyer@phoenix-ce.com>; a1cleaningservice@rocketmail.com  
**Subject:** Blakeney property

John,

Yesterday Mr. Blakeney came by our office. We discussed the two type of approvals with him. It was decided on that the re-platting with the Village is the desired route. You should of received a phone call from him indicating such based upon our meeting.

This email stands as the letter you required by Oct. 31, if acceptable.

Sincerely,

Eric E. Hewitt, PLS  
Phoenix Consulting Engineers, LTD  
421 E. Main St., PO Box 1187  
Mahomet, IL 61853  
217-586-1803  
217-840-9129 (cell)

**Susan Burgstrom**

---

**From:** John Hall  
**Sent:** Thursday, October 27, 2016 8:44 AM  
**To:** Susan Chavarria  
**Cc:** Jamie Hitt; Connie Berry; Lori Busboom  
**Subject:** FW: New required plat

FYI, Blakeney will have to request a variance. In my previous letter I gave him a deadline of November 14, 2016, to have submitted a complete application.

---

**From:** Kelly Pfeifer [mailto:kpfeifer@mahomet-il.gov]  
**Sent:** Thursday, October 27, 2016 8:25 AM  
**To:** Eric Hewitt <ehewitt@phoenix-ce.com>  
**Cc:** Tom Overmyer <tovermyer@phoenix-ce.com>; John Hall <jhall@co.champaign.il.us>; Patrick Brown <pbrown@mahomet-il.gov>  
**Subject:** RE: New required plat

Hi Eric,

I wanted to share that I talked with John Hall about this situation and we are committed that a variance process is the best way for your client to pursue to potentially allow the fill to remain.

You should call John Hall to find out timing and requirements for pursuing a variance.

Thanks!

Kelly

RECEIVED  
OCT 27 2016  
CHAMPAIGN CO. P & Z DEPARTMENT

---

**From:** Eric Hewitt [mailto:ehewitt@phoenix-ce.com]  
**Sent:** Wednesday, October 26, 2016 9:14 AM  
**To:** Kelly Pfeifer <kpfeifer@mahomet-il.gov>  
**Cc:** Tom Overmyer <tovermyer@phoenix-ce.com>  
**Subject:** Re: New required plat

Kelly,

I will have John Hall contact you directly.

Thanks,  
Eric

Sent from my iPhone

On Oct 26, 2016, at 8:31 AM, Kelly Pfeifer <kpfeifer@mahomet-il.gov> wrote:

Hi Eric,

I am not inclined to support a replat to achieve zoning compliance with the County when a variance is an option. If they need to file an easement of some sort to reflect a modification to the area for the drainage, they can do that without a replat.

Let me know if you have any questions.

Kelly

**From:** Eric Hewitt [<mailto:ehewitt@phoenix-ce.com>]  
**Sent:** Tuesday, October 25, 2016 6:09 PM  
**To:** Kelly Pfeifer <[kpfeifer@mahomet-il.gov](mailto:kpfeifer@mahomet-il.gov)>  
**Cc:** Tom Overmyer <[tovermyer@phoenix-ce.com](mailto:tovermyer@phoenix-ce.com)>  
**Subject:** New required plat

Kelly,

Property owner, Mr. Scott Blakeney, has filled a portion of his lot including a drainage easement. The lot is not within the Village currently but within the Village 1.5 mile ETA. The address is 2312 Pheasant Ridge Road. The GIS of the lot is attached.

The County had to get involved after what I believe was a complaint. The County required Mr. Blakeney hire an engineer to analyze the effect of the fill, which we have done and prepared and submitted a report for their review (the report was briefly reviewed by John Hall but not in depth by a consulting engineer). Based upon our findings, the filling Mr. Blakeney placed is not negatively impacting the drainage.

However, for the fill to remain and to eliminate /clear up the encroachment into the drainage easement, the County has requested Mr. Blakeney to seek a variance from them or simply replat the lot through the Village. After discussing the options with the client, it was chosen to replat.

We assume this can be done by the minor subdivision process since it is a fully developed subdivision. Beside the platting process, we are aware we will have to submit storm water drainage information for the lot as well.

At your earliest convenience, would you let us know your thoughts on the project. The County has given the property owner a rather soon date to have the application submitted to your office.

Thanks for your help and let us know if you have any questions.

Eric E. Hewitt, PLS  
Phoenix Consulting Engineers, LTD  
421 E. Main St., PO Box 1187  
Mahomet, IL 61853  
217-586-1803  
217-840-9129 (cell)



**BERNS, CLANCY AND ASSOCIATES**

PROFESSIONAL CORPORATION

**ENGINEERS • SURVEYORS • PLANNERS**

February 3, 2017

THOMAS BERNS  
EDWARD CLANCY  
CHRISTOPHER BILLING  
DONALD WAUTHIER  
GREGORY GUSTAFSON

ROGER MEYER  
JUSTIN HOUSTON  
ZACHARY SCHMIDT

MICHAEL BERNS  
OF COUNSEL

**Mr. John Hall, Zoning Administrator  
Champaign County Department of Planning & Zoning  
Brookens Administration Center  
1776 East Washington Street  
Urbana, Illinois 61802**

RECEIVED

FEB 06 2017

CHAMPAIGN CO. P & Z DEPARTMENT

**RE: DRAINAGE PLAN EVALUATION  
BLAKENY SITE DRAINAGE  
LOT 100 ROLLING HILLS ESTATE V SUBDIVISION  
MAHOMET TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS**

Dear Mr. Hall;

In accordance with your request to us and in keeping with our proposal for Engineering Services, dated January 18, 2017, we performed a limited review of the storm water management analysis completed by Phoenix Consulting Engineers, Ltd. for the **Blakeny Site Drainage** property at **Lot 100 Rolling Hills Estate V Subdivision**, Mahomet Township, Champaign County, Illinois, dated September 26, 2016. As a part of our review we recently examined the following materials provided by the current petitioner:

1. Engineering Analysis on Earthen Fill and Drainage, prepared by Phoenix Consulting Engineers, Ltd. dated September 26, 2016.

Based upon our review of these materials we offer the following observations concerning the feasibility of the current drainage plan for this site:

**Stormwater Drainage Calculations**

1. The current concern for the obstruction of surface drainage has been partially dealt with to date. The construction of a 6 inch deep swale will theoretically allow for adequate surface flow in combination with the 12 inch HDPE pipe from the cul-de-sac. However, we recommend that the swale be a minimum of 12 inches deep. Flow is easily obstructed in a shallow 6 inch deep swale.
2. A concern was expressed by the County about the possibility of damage to adjacent properties due to increases in flooding heights within the storm water basin. The high water elevations have been changed by the fill that was placed within the basin. We performed a review of the original 1993 design of the **Rolling Hills Estate V Subdivision**, and thus had the original storm water basin design analyses available to us for review. The basin was originally designed with excess storm water storage volume available. The original basin was designed with a total storage volume available to 0.65 acre-feet ±, but the volume of the storm water that needed to be stored was approximately 0.40 acre-feet.



**Mr. John Hall****Champaign County Department of Planning and Zoning****Blakeny Site Drainage**

Champaign County, Illinois

February 3, 2017

Page 2

3. The current calculations contain a freeboard height within the basin for the 2008 conditions to be 4.0 feet. After review of the original "As-Built" plans for the detention basin, the outflow invert is only 4 feet  $\pm$  below the top of the basin, including the freeboard which allows for up to 0.65 acre-feet of storage. This means that the 2008 freeboard height of 4.0 feet as listed in the calculations is actually the total depth of the 2008 basin before any fill was placed. In actuality, the basin emergency overflow spillway is discharging during the 50 year storm event, and the actual freeboard is 0.00 feet.
4. "Table 4: Spillway Summary" lists flow rates that are leaving the basin through the emergency spillway. The original 1993 design did not allow for any flow over the emergency spillway during a 50 year storm event. Table 4 shows a flow of 17.6 cfs over the emergency spillway during a 50 year storm event for the 2008 conditions.
5. The Phoenix analyses indicate a storage capacity of 0.31 acre feet at a water surface elevation of 726.5 feet  $\pm$ . However, the 1993 "As-Built" information indicates a storage capacity of 0.4 acre feet at water surface elevation 726.0 feet  $\pm$ . It is evident from the current information provided that the basin was partially filled between 1993 and 2008.
6. The 1993 design indicated the maximum allowable peak rate of discharge during the 50 year return period event as 5 cfs. This value is consistent with the Phoenix analysis. However the Phoenix analysis indicates that the peak discharge from the basin under 2008 conditions was 4.6 cfs plus 17.6 cfs from the emergency spillway, for a total peak flow rate of 22.6 cfs. That is well beyond the maximum allowable release of 5 cfs during a 50 year storm event. This is another indication that the basin volume was partially filled between 1993 and 2008.
7. The flows leaving the basin through the spillway are increased as a result of the proposed work. The emergency spillway should only see flows when rain is approaching the level of a 100 year storm event. There was no analysis performed for events smaller than the 50 year storm. However, our quick review of the 1993 analysis suggests that the emergency spillway as existed in 2008 would likely discharge for events larger than the 5 year storm. Our quick review of the 1993 analysis suggests that the emergency spillway as it currently exists will begin discharging during the 2 year storm event.
8. The proposed flow rate of 18.8 cfs in combination with the 4.8 cfs from the basin outlet pipe (Table 2: Basin Outlet Summary) for a total of 23.6 cfs is much above the maximum allowable release rate of 5 cfs for a 50 year storm event.
9. The original design for the amount of water that needed to be stored during a 50 year storm event was 0.40 acre-feet  $\pm$ . The calculations titled "Current Basin – 50 Year Event" depict that after the fill was placed, a storage volume of approximately 0.10  $\pm$  acre feet remained. The drainage characteristics of the surrounding land have not changed significantly since 1993, therefore, 0.40 acre-feet of storage is still required.



**Mr. John Hall**  
**Champaign County Department of Planning and Zoning**  
**Blakeny Site Drainage**  
Champaign County, Illinois  
February 3, 2017  
Page 3

In conclusion, the overall suggestions of Phoenix Consulting Engineers to Mr. Blakeny do not appear to be adequate to allow for the basin to continue to function as it was designed, after the placement of additional fill. The basin storage volume has been apparently decreased by more than 75% as compared to 1993 conditions and appears to significantly increase the release rate from the basin. The installation of a flow reducer in the basin outlet pipe will bring the flow to less than the required release rate for the pipe outlet; however, additional outflow will now be overflowing in the spillway, causing the total outflow to be above the maximum allowable release rate of 5 cfs.

In our opinion, the current basin as modified from the 2008 conditions apparently does not meet the requirements of the current Champaign County Stormwater Management Regulations. It also apparently does not meet the requirements of the 1993 County regulations.

We appreciate this opportunity to be of assistance to you. If you have any questions, please call. Thank you.

Sincerely,  
**BERNS, CLANCY AND ASSOCIATES, P.C.**

*p.p. Justin Houston*

Donald S. Wauthier, Vice President

I, Alan J. Williams, own the fee simple title to property (Lot 99 of Rolling Hills Estates V Subdivision) adjoining Lot 100 of Rolling Hills Estates V Subdivision in Champaign County, Illinois, and hereby acknowledge that the owner of said Lot 100 has placed earthen fill and storm sewer appurtenances upon the eastern edge of my property as shown on the attached site plan / limited topographic survey prepared by Phoenix Consulting Engineers, dated November 8, 2016. I further accept the improvements as constructed upon my property and have no objections with the modifications the owner (Scott Blakeney) of said Lot 100 has made upon his property.

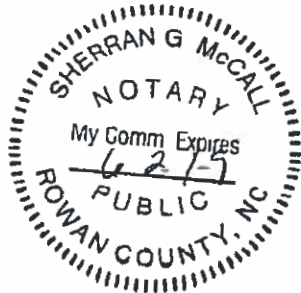
Alan J. Williams  
Alan J. Williams

STATE OF NC )  
COUNTY OF Rowan )SS

I, Sherran G McCall, a Notary Public, in and for said County and State aforesaid, do hereby certify that Alan J. Williams

who (is)(are) personally known to me to be the same person(s) whose name(s) subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that (he)(she)(they) signed, sealed and delivered the said instrument as (his)(her)(their) free and voluntary act, for the uses and purposes therein set forth

Given under my hand and notarial seal this 7 day of April, 2017, A.D., 2017.



Sherran G McCall  
NOTARY PUBLIC

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APR 07 2017

CHAMPAIGN CO F & Z DEPARTMENT





### 863-V-16 Site Images



**Subject property from west, facing east-northeast**



**From southeast corner of property facing northwest, L to R: garage, house, shed**



### 863-V-16 Site Images



From southeast corner of property facing back of detached garage



From south end of property facing detached shed



### 863-V-16 Site Images



**Drainage outlet on southeast corner of subject property, drains to...**



**Drainage ditch extending from subject property through property to the south**



### 863-V-16 Site Images



**From northwest corner of property facing southeast**



**From northwest corner of property facing east**



### 863-V-16 Site Images



**From north end of property facing south-southeast**



**From northeast corner of property facing southwest**



### 863-V-16 Site Images



From north end of property facing south



From northwest property line facing northeast

**PRELIMINARY DRAFT**

**863-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: ***{April 27, 2017}***

Petitioner: Scott Blakeney, Derek Wagner, and Tyler Wakefield

Request: Authorize the following Variance in the R-1 Single Family Residence Zoning District for an existing residence and existing garage and a proposed patio and a proposed detached shed and unauthorized earth fill, all located in an existing storm water drainage easement:

Part A. Authorize a variance from Section 4.2.2D. of the Champaign County Zoning Ordinance that no use shall be established, construction undertaken, nor fill placed in any recorded drainage or utility easement.

Part B. Authorize the following Variance from the Champaign County *Storm Water Management and Erosion Control Ordinance*:

1. Authorize a variance from Section 6.1 A. requiring that no fill shall be placed nor grade altered in such a manner to create a nuisance.
  2. Authorize a variance from Section 6.3 G. prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm water storage area.
  3. Authorize a variance from Section 9.1 E. for a freeboard of 0 feet in lieu of a freeboard of one foot.
  4. Authorize a variance from Section 9.1 C.1. for a release rate for the 50-year precipitation event far in excess of the maximum otherwise allowed that would be no greater than the rate of discharge from a 5-year return period precipitation event and an assumed row crop agricultural land cover.
  5. Authorize a variance from Section 9.1 C.2. for a release rate for frequent storm events that exceeds the maximum otherwise allowed that would be no greater than the rate of discharge from 1-year, 2-year, and 5-year return period precipitation events and an assumed row crop agricultural land cover.
-



**Table of Contents**

**General Application Information..... 3 - 4**  
**Requested Variance ..... 4 - 5**  
**Specific Ordinance Requirements..... 5 - 8**  
**Variance Evidence ..... 8 - 20**  
**Documents of Record..... 21**  
**Case 863-V-16 Findings of Fact..... 23**  
**Case 863-V-16 Final Determination ..... 24**

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 27, 2017**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Scott Blakeney, 2312 Pheasant Ridge Road, Mahomet, owns the subject property. Co-petitioner Derek Wagner owns 2411 Robin Road (Lot 89 of Rolling Hills Estates V), located directly north of the subject property. Co-petitioner Tyler Wakefield owns 2409 Robin Road (Lot 90 of Rolling Hills Estates V), west of Mr. Wagner's property.
2. The subject property is the 16,280 square feet Lot 100 in Rolling Hills Estates V Subdivision in Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence at 2312 Pheasant Ridge Road, Mahomet.
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 generally are not notified of such cases.
  - B. The subject property is located within Mahomet Township, which has 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 is a 16,280 square feet (0.37 acre) lot and is currently zoned R-1 Single Family Residence.
  - B. Properties to the north, south, and west are zoned R-1 Single Family Residence and are residential in use.
  - C. The property to the east is zoned AG-2 Agriculture and is residential in use.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. Regarding the site plan for the subject property:
  - A. The Petitioner's Site Plan, received November 14, 2016, indicates the following:
    - (1) Existing features on the subject property consist of the following:
      - a. One 27 feet by 44 feet residence with a covered patio on the west side;
        - (a) Construction of the home was authorized under ZUPA #82-16-01 on the same foundation as the house authorized in ZUPA 246-97-01.
        - (b) The new house has not received a Zoning Compliance Certificate due to the outstanding drainage and easement issues.
      - b. One 24 feet by 24 feet detached garage; authorized under ZUPA #246-97-01.

***PRELIMINARY DRAFT***

- c. One detached garden shed;
    - (a) ZUPA #82-16-01 was originally approved for the new dwelling; later, the site plan was revised to add the smaller shed. There was no permit approved for the small shed and in fact, the small shed is not where it is supposed to be.
    - (b) The Site Plan received March 22, 2016, and approved on April 7, 2016, shows the location where the 13 feet by 22 feet shed should have been placed, directly behind the detached garage. The petitioner instead placed the shed northeast of the approved location, which is in a drainage easement. Staff sent petitioner a Notice of Violation for this issue on June 21, 2016.
    - (c) The petitioner revised the site plan so that the shed would be behind the garage, and initialed the change June 27, 2016. As of January 25, 2017, the shed is still in the wrong location.
  - d. A 13 feet by 24 feet concrete patio on the east side of the house;
    - (a) Construction of the patio did not require a Zoning Use Permit; however, it was constructed in the drainage/utility easement, which is not permitted by the Zoning Ordinance.
  - e. A drainage and utility easement varying in width from 40 feet to 70 feet.
- (2) There are no proposed improvements.
- B. The following are previous and current Zoning Use Permits for the subject property:
- (1) ZUPA# 246-97-01 was approved on September 3, 1997, for construction of a manufactured home and detached garage.
  - (2) ZUPA# 82-16-01 was approved on April 7, 2016, for placing a manufactured home and a detached storage shed.
    - a. The Zoning Department determined that earthen fill and drainage tiles were installed in order to place the house and shed constructed under Zoning Use Permit #82-16-01.
    - b. ZUPA #82-16-01 was originally approved for the new dwelling; later, the site plan was revised to add the smaller shed. There was no permit approved for the small shed and in fact, the small shed is not where it is supposed to be.
    - c. The house and shed have not received a Zoning Compliance Certificate due to the outstanding drainage and easement issues.
- C. There are no prior Zoning Cases for the subject property.
- D. The required variance is as follows: Authorize the following Variance in the R-1 Single Family Residence Zoning District for an existing residence and existing garage and a

proposed patio and a proposed detached shed and unauthorized earth fill, all located in an existing storm water drainage easement:

- (1) Part A. Authorize a variance from Section 4.2.2 D. of the Champaign County Zoning Ordinance that no use shall be established, construction undertaken, nor fill placed in any recorded drainage or utility easement.
- (2) Part B. Authorize the following Variance from the Champaign County Storm Water Management and Erosion Control Ordinance:
  - a. Authorize a variance from Section 6.1 A. requiring that no fill shall be placed nor grade altered in such a manner to create a nuisance.
  - b. Authorize a variance from Section 6.3 G. prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm water storage area.
  - c. Authorize a variance from Section 9.1 E. for a freeboard of 0 feet in lieu of a freeboard of one foot.
  - d. Authorize a variance from Section 9.1 C.1. for a release rate for the 50-year precipitation event far in excess of the maximum otherwise allowed that would be no greater than the rate of discharge from a 5-year return period precipitation event and an assumed row crop agricultural land cover.
  - e. Authorize a variance from Section 9.1 C.2. for a release rate for frequent storm events that exceeds the maximum otherwise allowed that would be no greater than the rate of discharge from 1-year, 2-year, and 5-year return period precipitation events and an assumed row crop agricultural land cover.

**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) “ACCESSORY BUILDING” is a BUILDING on the same LOT within the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
    - (2) “AREA, BUILDING” is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and nonpermanent CANOPIES and planters.
    - (3) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.



**PRELIMINARY DRAFT**

- (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) “GRADE” is the average of the elevations of the surface of the ground measured at all corners of a BUILDING.
- (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 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.
- (8) “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.
- (9) “MANUFACTURED HOME” is a factory assembled DWELLING UNIT designed and constructed to be transported in one or more parts by truck or by towing on wheels temporarily or permanently attached to its frame. This definition shall include mobile homes and modular homes or housing units and shall exclude MOTOR VEHICLES and TRAVEL TRAILERS.
- (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) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (12) “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.
- (13) “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.
- (14) “YARD” is an OPEN SPACE, other than a COURT, of uniform width or depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

**PRELIMINARY DRAFT****Case 863-V-16**

Page 7 of 24

- (15) “YARD, FRONT” is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
- (16) “YARD, REAR” is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
- (17) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. The R-1, Single Family Residence DISTRICT is intended to provide areas for single FAMILY detached DWELLINGS, set on LOTS and is intended for application in mainly non-urban and developing areas where community facilities can be made readily available.
- 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 Part A of the proposed variance, Section 4.2.2.D states that no USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.

**PRELIMINARY DRAFT**

- E. Regarding Part B of the proposed variance, for a set of variances from the Champaign County *Storm Water Management and Erosion Control Ordinance*:
- (1) Section 6.1 A. states: “No fill shall be placed nor grade altered such that it will cause surface water upstream of the development to pond or direct surface flows in such a way as to create a nuisance.”
  - (2) Section 6.3 G. states: “It shall be unlawful for any person to cause the destruction or obstruction, by act or omission, of the operation of the following, when the following are indicated on the approved engineering drawings for any recorded subdivision plat or other approved site plan, other than by means of a duly approved STORM WATER DRAINAGE PLAN: 1) any STORM WATER DRAINAGE SYSTEM or feature that drains an area of more than five acres; or 2) any STORM WATER STORAGE AREA.”
  - (3) Section 9.1 E. states: “The entire STORM WATER STORAGE AREA facility shall be designed and constructed to fully protect the public health, safety, and welfare. The minimum building SITE elevation adjacent to wet or dry basins shall be set at a minimum of 1 foot above the maximum created head. The maximum created head will include the energy head at the emergency overflow structure.”
  - (4) Section 9.1 C.1 states: “Release Rate for Design Event - Outlet structure maximum release rate for the 50-year precipitation event shall be equal to the rate of discharge from the DEVELOPMENT area assuming row crop agricultural land cover and a 5-year RETURN PERIOD precipitation event. See Section 9.1 A for the required assumptions for the row crop agricultural conditions.”
  - (5) Section 9.1 C.2 states: “Effective Discharge for Frequent Storm Events - The outlet structure maximum discharge for each of the 1-year, 2-year and 5-year precipitation events shall be no greater than the rate of discharge from the DEVELOPMENT area, assuming row crop agricultural land cover with the required assumptions described in Section 9.1 A.”

**GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
  - A. The Petitioner has testified on the application, “**Lot 100 is an average sized irregular shaped residential lot at a cul-de-sac with around 16,000 square feet and only 24% (3,900 square feet) of the lot is developable after factoring the platted drainage and utility easement and the platted front yard building setback. Peculiar to the structure (house): The house frame was built upon a foundation that was existing for the previous house.**”
  - B. The Plat of Subdivision for Rolling Hills Estates V, recorded August 13, 1993, shows drainage and utility easements throughout the property such that approximately 4,730 square feet of the 16,280 lot area is the only area outside an easement.

- C. On March 2, 1995, Sangamon Valley Public Water District recorded a 15 feet wide sanitary sewer easement in the southern part of the subject property extending approximately to the middle of the property, which includes area within the 4,730 square feet of non-easement area from the original Plat of Survey.
- D. On December 3, 1993, Illinois Power Company recorded a 20 feet wide electric and gas easement in the western part of the subject property; this is within the area identified as easement in the original Plat of Survey.
- E. Special conditions of approval of Rolling Hills Estates V Subdivision, approved by the County Board on July 27, 1993, state the following:
- (1) That the storm water control basin outlet be designed with a maximum capacity equal to the 5-year agricultural runoff calculated as specified in the Interim Storm Water Management Policy and approved by the Subdivision Officer.
  - (2) That the storm water control basin located on Lots 89, 90, 99 and 100 be constructed before work is begun on other improvements.
    - a. Lots 89 and 90 belong to co-petitioners Mr. Wagner and Mr. Wakefield, respectively; Lot 99 belongs to Mr. Alan Williams; and Lot 100 belongs to Mr. Blakeney.
  - (3) That the subdivision covenants be revised to provide for ongoing protection and maintenance of the storm water control basin substantially in accord with the language distributed to the Committee as subsequently amended.
- F. The following statements from the Rolling Hills Estates V Subdivision Covenants are relevant to this case:
- (1) The lots in said subdivision are subject to permanent easements as shown on said plat, identified thereon by certain lines of uneven length dashes which are "minimum building setback lines" the same being 25 feet from the front or side of such lots.
  - (2) Certain of the lots in said subdivision are further subject to a permanent easement of 10 feet of even width across the rear or the side of such lots, the location of same being reflected by lines of even length dashes, and said easement is reserved for the installation and maintenance of gas, electric power lines, telephone, cable television, water lines, sewers, drains and surface drainage as and when the same are needed or installed or considered to be installed by the respective owners of said lots and said easements are permanent in nature and no permanent structure shall be placed upon any of such areas so reserved for such easement purposes either before or after the installation of such utility lines or other equipment and material.
  - (3) Said lots shall be subject to all easements as shown on the plat above mentioned, and that all of said lots shall be subject to the following covenants and restrictions, except as may be hereinafter indicated, to-wit:
    - a. All existing field tiles that may be encountered by owner or owner's contractors in the course of constructing a residence on any of the subject lots or in the course of any construction thereon shall be rerouted and maintained



**PRELIMINARY DRAFT**

in service by such owner, at his or their cost, such rerouting to be so effected so as to provide for the continuation of such field drainage system (p9, #24).

- b. The drainage swales on Lots 88, 89, 100 and 101 in said subdivision shall remain and shall be kept open and unobstructed (p9, #25).
  - c. A stormwater control basin exists on parts of Lots 89, 90, 99 and 100 and is subject to periodic inundation following rainstorms. This basin shall be maintained by the Architectural Control Committee on behalf of all lot owners served by the stormwater control basin and shall not be filled, built upon or otherwise modified in any way that would reduce its storage volume or impair the flow of water into the basin or alter the flow of water out of the basin. Any impairment of the basin's storage volume or flows into the basin or change in flows out of the basin shall be remedied within 14 days of the receipt of notice from the Architectural Control Committee. Upon failure to remedy the impairment of the basin within a reasonable time acceptable to the Architectural Control Committee, it or its agents or employees may enter onto Lots 89, 90, 99 or 100 and take such action as it deems necessary to remedy any impairment of the basin's functions. To the extent any lot owner is responsible for such impairment, the Architectural Control Committee may assess and the owner shall pay any costs incurred in remedying the impairment of the basin.
- G. ZUPA# 246-97-01 was approved on September 3, 1997, for construction of a manufactured home and detached garage.
- H. Minimum lot standards for a lot in the R-1 District include:
- (1) A minimum lot area of 9,000 SF;
  - (2) A minimum average lot width of 80 feet;
  - (3) A minimum front yard of 25 feet;
  - (4) A minimum side yard of 10 feet, but for irregular lots such as the subject property, the average SIDE YARD width may be considered the required minimum width, provided that the SIDE YARD at any point shall not be narrower than five feet nor less than one-half the minimum width as required by this Section 5.3, whichever is greater.
  - (5) A minimum rear yard of 20 feet, but for irregular lots such as the subject property, the minimum depth of a REAR YARD shall not be less than the required minimum SIDE YARD, as required by this Section 5.3; and in the aggregate, the square footage of the REAR YARD must equal that required for a rectangular LOT of minimum zoning DISTRICT dimensions.
  - (6) These standards result in a minimum net buildable area of 4,050 square feet, which is only about 3.8% larger than the claimed net actual building area of 3,900 square feet on the subject property.

**PRELIMINARY DRAFT**

- I. Mr. Wagner and Mr. Wakefield indicated their support for Mr. Blakeney's variance petition by agreeing to become co-petitioners on the application.
- J. Mr. Williams indicated his support for the improvements to his property and Mr. Blakeney's property in a notarized document received April 7, 2017.
- K. In their review of the proposed drainage easement fill that was documented in a letter dated February 3, 2017, Berns, Clancy and Associates stated that the evidence indicated that the Rolling Hills Estates V detention basin on Lot 100 had been partially filled between 1993 and 2008. The following items are particularly relevant to the proposed variance:
  - (1) Item #5 in the BCA letter dated February 3, 2017, includes the following: the Phoenix analyses indicate a storage capacity of 0.31 acre-feet at a water surface elevation of 726.5±. However, the 1993 "As-Built" information indicates a storage capacity of 0.4 acre feet at water surface elevation 726.0±. It is evident from the current information provided that the basin was partially filled between 1993 and 2008.
  - (2) Item #9 in the BCA letter dated February 3, 2017 includes the following: the original design for the amount of water that needed to be stored during a 50 year storm event was 0.40 acre-feet±. The calculations titled "Current Basin-50 Year Event" depict that after the fill was placed, a storage volume of approximately 0.10± acre-feet remained.

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

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application, **"Once a moderately sized home is constructed upon the buildable area of the lot, it becomes very difficult to enjoy the property to its full extent due to the placement of a drainage basin and the slopes associated with the drainage basin at the rear of the lot."**
  - B. Regarding Part A of the proposed variance, for allowing construction or a use to occupy part of a drainage and utility easement in lieu of the requirement that no use shall be established, construction undertaken, nor fill placed in any recorded drainage or utility easement: without the proposed variance, part of the house, shed, and earth fill would have to be removed.
  - C. Regarding Part B of the proposed variance, for authorizing a variance from the Champaign County *Storm Water Management and Erosion Control Ordinance*: without the proposed variance and related stormwater drainage plan review required as part of the zoning case, there is no guarantee that the required drainage and water resources constructed as part of the subdivision are protected and functioning properly.

**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:

**PRELIMINARY DRAFT**

- A. The Petitioner has testified on the application, “**The hardships of the property are a result of the design of the lot/subdivision.**”
- B. On June 10, 2016, the Zoning Department sent Mr. Blakeney a First Notice of Violation for the destruction or obstruction, by act or omission, of the operation of any drainage structure or feature that drains an area of more than five acres, in violation of the Nuisance Ordinance.
- (1) On May 5, 2016 John Hall, the Zoning Administrator and Jamie Hitt, the Zoning Officer inspected the property with Scott Blakeney and his excavation contractor. At that inspection, it was noted that drain tiles had been installed in the back and side yards and about 3 to 4 feet of earthen fill (dirt) had been spread over the front, back, and side yards of the subject property.
  - (2) John Hall informed Scott Blakeney that his lot was the drainage area/detention basin for the subdivision and that the earthen fill (dirt) must be removed from the back and side yards and the grade of the lot must either be returned to the elevation that was indicated on the approved subdivision plat in 1993 or John Hall agreed that it could be returned to the grade that existed prior to Scott Blakeney’s purchase of the lot.
  - (3) On May 17, 2016, Scott Blakeney called and scheduled an inspection to confirm that the earthen fill (dirt) had been removed and the property had been brought into compliance.
  - (4) On May 18, 2016, John Hall and Jamie Hitt met Scott Blakeney and his excavation contractor at the subject property and it was noted that some of the drain tile at the northeast corner of the subject property had been removed and some of the earthen fill (dirt) had been removed in that same area. However, the earthen fill (dirt) remained in most all other locations. John Hall explained to Scott Blakeney that he expected the earthen fill (dirt) areas to be reduced to at least the grade that had existed before the earthen fill (dirt) was placed on the property.
  - (5) Mr. Blakeney and the excavation contractor asked John Hall how the earthen fill could remain on the property and John Hall explained the only way the earthen fill could remain on the property would be to hire an Illinois Licensed Professional Engineer to provide the necessary certification that the earthen fill would allow the natural flow of water to maintain its course and to provide the required compensatory storage/detention of water as approved in the original subdivision plat.
  - (6) On June 8, 2016, Eric Hewitt, of Phoenix Consulting Engineers, Ltd, contacted John Hall by email to inform him that Scott Blakeney had hired him to perform a study of the detention area that he has filled. Eric Hewitt indicated that he would survey the property and analyze the basin and that he would provide an update after his analysis was complete.
- C. On June 21, 2016, the Zoning Department sent Mr. Blakeney a First Notice of Violation for construction without an approved Zoning Use Permit, in violation of the Zoning Ordinance.

**PRELIMINARY DRAFT**

- (1) In early May 2016, a complaint was received which alleged that earthen fill was being brought to the subject property, and then dumped and spread in the yard. It also alleged that drain tiles had been installed on the subject property such that the natural drainage of the Rolling Hills Estates Subdivision and the Charter Oaks Subdivision had been disturbed and/or changed from the plans that were approved for the development of the subdivisions.
  - (2) The Notice also stated that Mr. Blakeney was notified by Zoning Officer Jamie Hitt on June 20, 2016, that the shed would not be authorized until the existing Violation was resolved; Mr. Blakeney told her that the shed was already on the property but not permanently affixed.
- D. On October 5, 2016, Mr. Eric Hewitt of Phoenix Consulting Engineers, Ltd, sent the Zoning Department a copy of a memorandum dated September 26, 2016, regarding the engineering analysis on the earthen fill and drainage.
- (1) On October 12, 2016, John Hall responded via email to Eric Hewitt that Mr. Blakeney would either need to replat with the Village of Mahomet or apply for and receive a Variance from the Champaign County Zoning Board of Appeals. He stated that if Mr. Blakeney decides to apply for a Variance, Mr. Hall would seek a consulting engineer review of the information Mr. Hewitt provided on October 5, 2016.
  - (2) On October 17, 2016, Mr. Hall sent a letter to Mr. Blakeney detailing his options for a replat with the Village or a Variance with the County. He required a response by October 31, 2016.
  - (3) In an email received October 26, 2016, Eric Hewitt stated that Mr. Blakeney decided to seek a replat with the Village of Mahomet.
  - (4) In an email received October 27, 2016, Kelly Pfeifer from the Village of Mahomet stated that a Variance through the County would be the best way to proceed.
  - (5) On November 14, 2016, the Zoning Department received an application for a Variance from Eric Hewitt on behalf of Mr. Blakeney. The application packet also included a Storm Water Management memorandum and hydraulic data for review.
- E. The Zoning Department contracted with Berns, Clancy and Associates to complete an independent review of stormwater drainage for the subject property. They reviewed the engineering analysis prepared by Phoenix Consulting dated September 26, 2016, and offered the following observations in a memorandum received February 6, 2017, summarized by staff below and provided as a Document of Record:
- (1) BCA recommends a 12 inch swale instead of a 6 inch deep swale in combination with the 12 inch HDPE pipe from the cul-de-sac.
  - (2) The high water elevations have been changed by the fill that was placed within the basin. The basin was originally designed with 0.65 acre-feet  $\pm$  storm water storage volume available, in excess of the volume of storm water that needed to be stored of approximately 0.40 acre-feet.



**PRELIMINARY DRAFT**

- (3) The basin emergency overflow spillway is discharging during the 50 year storm event, and the actual freeboard is 0.00 feet.
  - (4) Table 4: Spillway Summary lists flow rates that are leaving the basin through the emergency spillway. The original 1993 design did not allow for any flow over the emergency spillway during a 50 year storm event. Table 4 shows a flow of 17.6 cfs over the emergency spillway during a 50 year storm event for the 2008 conditions.
  - (5) It is evident from the current information provided that the basin was partially filled between 1993 and 2008.
  - (6) The Phoenix analysis indicates that the peak discharge from the basin had a total peak flow rate of 22.6 cfs, well beyond the maximum allowable release of 5 cfs during a 50 year storm event. This is another indication that the basin volume was partially filled between 1993 and 2008.
  - (7) The flows leaving the basin through the spillway are increased as a result of the proposed work.
  - (8) The proposed flow rate from the basin outlet pipe (see Table 2: Basin Outlet Summary) is much above the maximum allowable release rate of 5 cfs for a 50 year storm event.
  - (9) The calculations titled "Current Basin – 50 year Event" depict that after the fill was placed, a storage volume of approximately  $0.10 \pm$  acre feet remained of the original design of  $0.40 \pm$  acre feet. The drainage characteristics of the surrounding land have not changed significantly since 1993; therefore, 0.40 acre-feet of storage is still required.
  - (10) In BCA's opinion, the current basin as modified from the 2008 conditions apparently does not meet the requirements of the current Champaign County Stormwater Management regulations. It also apparently does not meet the requirements of the 1993 county regulations.
- F. In an email dated March 2, 2017, staff sent a copy of BCA's stormwater review to Eric Hewitt along with a summary of John Hall's concerns and potential solutions:
- (1) Mr. Hall said that the ZBA will likely want to see water levels no higher than they were in 2008 and that discharge be at a non-erosive velocity. He believes the ZBA will also focus on the depth of storm water ponding on the two adjacent properties to the north.
  - (2) Mr. Hall provided the following options that might mitigate these concerns:
    - a. Add another Variance to the existing Variance case for exemption from the SWMEC Ordinance;
    - b. Encourage any neighbor affected by the drainage to be a co-petitioner in the existing variance, so that they will be included in all discussion, approvals, and potential special conditions.
    - c. Remove enough fill so that drainage conditions will be compliant with the SWMEC Ordinance.

**PRELIMINARY DRAFT**

- G. In response, Eric Hewitt coordinated discussions with Mr. Blakeney, his attorney, and neighbors. The following resulted from those discussions:
- (1) On March 21, 2017, Mr. Hewitt submitted an amended Application for Variance, unchanged from the November 14, 2016 submittal, with the addition of Mr. Wagner's and Mr. Wakefield's signatures as co-petitioners.
  - (2) Staff added Part B to the variance in case the petitioner decides not to remove sufficient earthen fill from the property.
  - (3) Mr. Hewitt told staff they were working with Mr. Blakeney on getting a letter of support from their neighbor to the west.
- H. The current dwelling was placed on the foundation of the previous dwelling that was constructed by the first owner. The existing garage was also constructed by the previous owner.
- I. In their review of the proposed drainage easement fill that was documented in a letter of February 3, 2017, Berns, Clancy and Associates stated that the evidence indicated that the Rolling Hills Estates V detention basin on Lot 100 had been partially filled between 1993 and 2008.
- J. Owner Scott Blakeney did not acquire Lot 100 until December 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 Petitioner has testified on the application, "**Provisions have conscientiously been made prior to placement of the fill upon the lot by the new owner who was unaware he was placing fill within an easement.**"
  - B. Regarding Part A of the proposed variance:
    - (1) Section 2.0(d) of the Zoning Ordinance states that one Purpose of the Ordinance is lessening and avoiding hazards to persons and damage to PROPERTY resulting from the accumulation of runoff of storm or flood waters.
    - (2) The prohibition on construction in drainage easements and utility easements in paragraph 4.2.2 D. was added to the Zoning Ordinance in Ordinance No. 544 (Case 105-AT-97 Part D) that was adopted on November 18, 1997. The evidence, testimony, and Finding of Fact for Case 105-AT-97 Part D merely discussed that the amendment gave the Zoning Administrator the authority to prevent construction in these areas where construction is not supposed to occur.
    - (3) Based on the review by Berns, Clancy and Associates and documented in their letter of February 3, 2017, the requested variance is essentially a 75% variance due to the amount of the required storm water detention volume that has been filled.

**PRELIMINARY DRAFT**

- (4) Hazards to persons and damage to property that may be caused by storm water runoff include the following:
  - a. Hazards to persons and damage to property upstream of the subject property that may result from the accumulation (i.e., ponding) of storm water due to blocked drainage.
  - b. Hazards to persons and damage to property downstream of the subject property that may result from the inadequate control of storm water that may result in the release of storm water in quantities and/or velocities large enough to cause damage to property (typically erosion or actual flooding) and/or pose a safety hazard to persons.
  
- (5) Regarding hazards to persons and damage to upstream property, Lots 89, 90, and 99 of Rolling Hills Estates V Subdivision border the subject property on the north and west and the owners of these lots are either co-petitioners or have submitted statements of no objection, as summarized below:
  - a. Co-petitioners Derek Wagner (owner of Lot 89) and Tyler Wakefield (owner of Lot 90) own upstream property and are apparently accepting of any hazard or damage to their property that may result from the proposed variance.
  - b. Neighbor Alan J. Williams owns Lot 99 and has submitted a notarized statement regarding the proposed variance in which he accepts the improvements constructed on his property and states that he has no objections with the modifications made by Mr. Blakeney.
  - c. No other upstream properties border the subject property.
  
- (6) Regarding hazards to persons and damage to downstream property, the adjacent properties downstream of the subject property are the following:
  - a. Lot 101 of Rolling Hills Estates V Subdivision borders the subject property on the south and receives the storm water released from the basin outlet and contains the drainage way for that outlet. The release rate through the basin outlet for more frequent storms (i.e. storm with a return frequency of 1 to 5 years) is indeterminate because no release rates have been provided. However, the release rate through the basin outlet for the 5-year storm and storms greater than the 5-year storm appear to meet the requirements.
  - b. Lot 4 of Ridge Creek Subdivision borders the subject property on the east and receives storm water released through the emergency spillway. The flows through the emergency overflow are much greater than allowed by the ordinance.
  
- C. Regarding Part B of the proposed variance:
  - (1) The Champaign County *Storm Water Management and Erosion Control Ordinance* lists several purposes that are relevant to the proposed variance:
    - a. Purpose 2.B is to “provide for adequate drainage of development sites and surrounding areas.”

- b. Purpose 2.C is to “guide developers’ and builders’ attempts to control the movement of storm water and reduce damage to property.”
  - c. Purpose 2.F is to “safeguard persons and protect property from the hazards and negative impacts of soil erosion created by land disturbance.”
  - d. Purpose 2.G is to “prevent flooding caused by silt clogging storm water management infrastructure, such as storm sewers, inlets and receiving channels or streams.”
  - e. Purpose 2.H is to control the rate of release of storm water and require temporary storage of storm water from development sites.”
- (2) Based on the review by Berns, Clancy and Associates and documented in their letter of February 3, 2017, the requested variance is as follows:
- a. The variance in Parts B.1. and B.2. are roughly equivalent with the amount of variances for Part A which is essentially a negative 75% variance due to the amount of the required storm water detention volume that has been filled.
  - b. Part B.4. is a variance of 372%, based on the proposed total flow (release) rate of 23.6 cubic feet per second from both the detention basin outlet and the emergency spillway during a 50-year storm as compared to the release rate authorized by Section 9.1C.1 which for the subject property is 5.0 cubic feet per second during a 50-year storm.
  - c. The amount of variance for Part B.5. is undetermined because the petitioner has not identified flow rates from storm events more frequent than the 50-year storm.
  - d. The amount of variance for Part B.3 is undetermined because the petitioner has not identified the maximum created head at the emergency overflow. Section 9.1.E. requires a minimum building site elevation adjacent to a basin to be a minimum of 1 foot above the maximum created head at the emergency overflow. As depicted on the Site Plan submitted by Phoenix Consulting Engineers, Ltd. on November 14, 2016, the building site on the subject property is above elevation 729.0 feet and the maximum created head is 726.57 feet, for a difference of 2.43 feet. The difference is even greater for other structures upstream of the basin.

***GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE***

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application: “**An engineering review of placement of the fill and the current drainage system has been performed and the general outcome**



**PRELIMINARY DRAFT**

**is that the changes made recently upon the property are not negatively impacting any surrounding property caused by a storm water situation.”**

- B. The Zoning Department contracted with Berns, Clancy and Associates to complete an independent review of stormwater drainage for the subject property. They reviewed the engineering analysis prepared by Phoenix Consulting dated September 26, 2016, and concluded that the current basin as modified from the 2008 conditions apparently does not meet the requirements of the current Champaign County Stormwater Management regulations. It also apparently does not meet the requirements of the 1993 county regulations.
- C. The Mahomet Township Plan Commission has been notified of this variance, but no comments have been received.
- D. The Township Road Commissioner has been notified of this variance, but no comments have been received.
- E. The Cornbelt Fire Protection District has been notified of this variance, but no comments have been received.
- F. The nearest structure on adjacent property is a residence about 30 feet south of the petitioner’s detached garage.
- G. On March 21, 2017, Mr. Hewitt submitted an amended Application for Variance, unchanged from the November 14, 2016 submittal, with the addition of Mr. Wagner’s and Mr. Wakefield’s signatures as co-petitioners in support of the variance.
- H. On April 7, 2017, staff received a notarized document from Alan J. Williams, who owns Lot 99 (2310 E Pheasant Ridge Road) to the west of the subject property. Mr. Williams stated that he is aware that Mr. Blakeney placed fill and storm sewer appurtenances on the eastern edge of Lot 99, and he accepts the improvements as constructed on Lot 99 and has no objections to the modifications Mr. Blakeney made on the subject property.
- I. The release rate and design storm in the *Champaign County Storm Water Management and Erosion Control Ordinance* were first adopted in Zoning Case 729-AT-91. The following relevant findings have been excerpted from the Approved Finding of Fact for Case 729-AT-91 (included as an attachment to the Preliminary Memorandum):
  - (1) Finding of Fact #8 explained that, in regards to release rate, “AG-5” and “AG-2” referred to the rate of runoff that would occur from the development site in agricultural land cover conditions under either a 5 year or a 2 year return frequency storm.
  - (2) Finding of Fact #9 stated as follows: An important criterion for selection of a release rate was the capacity of the agricultural drainage ditches in the County. Information provided by the Embarras River Watershed Study indicated that not many of the channels in the watershed had the capacity to convey the Curve B, AG-2, or AG-5 amounts of runoff.
  - (3) Finding of Fact #14 stated as follows: Limiting effective discharges to the equivalent agricultural runoff should prevent increased erosion of streams and ditches.

- (4) Finding of Fact #15 stated as follows: Limiting the discharge for the 50 year storm to the 5 year agricultural runoff rate will prevent increased flood damages due to urbanization.
- J. Regarding the proposed release rate from the basin outlet (not including the emergency spillway):
- (1) In the Engineering Analysis on earthen fill and drainage memorandum by Phoenix Consulting Engineers, Ltd. dated September 26, 2016, Table 2 and Table 3 provide the following data:
- a. Table 2 indicates that the proposed Basin Outlet Pipe Flow and Velocity are less than the Flow and Velocity of the As Built 2008 Basin Outlet Pipe for both the 50-year and 100-year storm events.
- b. Table 3 indicates that the Proposed Drainage Way Flow and Velocity exceed the As Built 2008 Drainage Way Flow and Velocity by only 0.2 cubic feet per second (cfs) and 0.1 feet per second, respectively.
- (2) In their review of the proposed drainage easement fill that was documented in a letter dated February 3, 2017, Berns, Clancy and Associates stated the following in their item #6: The 1993 design indicated a maximum allowable peak rate of discharge during the 50 year return period storm as 5 cfs (cubic feet per second). This value is consistent with the Phoenix Analysis.
- K. Regarding the proposed flow (i.e. release rate) over the emergency spillway:
- (1) In the Engineering Analysis on earthen fill and drainage memorandum by Phoenix Consulting Engineers, Ltd. dated September 26, 2016, Table 4 provides the following data:
- a. The Proposed Spillway Flow for the 50 Year Storm is 18.8 cubic feet per second versus the As Built 2008 Spillway Flow of 17.6 cubic feet per second.
- b. The Proposed Spillway Flow for the 100 Year Storm is 21.0 cubic feet per second versus the As Built 2008 Spillway Flow of 22.2 cubic feet per second.
- (2) In their review of the proposed drainage easement fill that was documented in a letter dated February 3, 2017, Berns, Clancy and Associates stated the following:
- a. BCA item #4 states the following: "Table 4: Spillway Summary" lists flow rates that are leaving the basin through the emergency spillway. The original 1993 design did not allow for any flow over the emergency spillway during a 50 year storm event. Table 4 shows a flow of 17.6 cubic feet per second over the emergency spillway during a 50 year storm event for 2008 conditions.
- b. BCA item #8 states the following: The proposed flow rate of 18.8 cubic feet per second in combination with the 4.8 cubic feet per second from the basin outlet pipe (Table 2. Basin Outlet Summary) for a total of 23.6 cubic feet per second is much above the maximum allowable release rate of 5 cubic feet per second for a 50 year storm event.

**PRELIMINARY DRAFT**

**GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE**

12. Generally regarding and other circumstances which justify the Variance:  
A. The Petitioner did not provide a response to this question on the variance application.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

13. Regarding proposed special conditions of approval:  
A. **Upon written request of any utility with an interest in using the utility and drainage easements, the owner shall be responsible for the full cost of removing any structure, and/or fill, and refusing to remove the structure and fill shall be considered a violation of the Zoning Ordinance.**

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

**That utility companies have appropriate access to their easements.**

- B. **The petitioner shall install erosion control measures until final stabilization is complete.**

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

**That neighboring properties will be protected from potential runoff until the petitioner has finalized construction on the subject property.**

**PRELIMINARY DRAFT****DOCUMENTS OF RECORD**

1. Variance Application received on November 14, 2016, with attachments:
  - A Site Plan received November 14, 2016
  - B Memorandum from Phoenix Consulting Engineers, LTD dated September 26, 2016, regarding the engineering analysis on the earthen fill and drainage (same as received by staff on October 5, 2016)
  - C Storm water management analysis created by Phoenix Consulting Engineers, LTD (same as received by staff on October 5, 2016)
2. Amended Variance Application received March 21, 2017, with co-petitioner signatures, no other changes to the November 14, 2016, application
3. Approved Site Plan for ZUPA #82-16-01, approved April 7, 2016 – revised by petitioner on June 27, 2016, and annotated by staff on April 18, 2017
4. Approved Site Plan for ZUPA #246-97-01, approved September 3, 1997
5. Excerpt from the Approved Final Plat of Subdivision for Rolling Hills Estates V, recorded August 13, 1993 for Rolling Hills Estates V, recorded August 13, 1993
6. Excerpt from the “Approved Grading and Subsidiary Drainage Plat” for Rolling Hills Estates V by Altech Consultants, approved July 20, 1993
7. Excerpt from the “Approved Grading and Subsidiary Drainage Plat” for Ridge Creek Subdivision by Altech Consultants, revised June 15, 1994
8. Covenants for Rolling Hills Estates V, signed July 27, 1993
9. Finding of Fact and Final Determination for Case 729-AT-90 dated November 14, 1991
10. 2008 CCGIS aerial photo with contours, created by staff on April 18, 2017
11. First Notice of Violation dated June 10, 2016, for destruction of natural drainage
12. First Notice of Violation dated June 21, 2016, for placing a shed on unauthorized fill in an easement
13. Email from Eric Hewitt of Phoenix Consulting Engineers, Ltd, received on October 5, 2016, with attachments:
  - Memorandum dated September 26, 2016, regarding the engineering analysis on the earthen fill and drainage
  - Storm water management analysis created by Phoenix Consulting Engineers, LTD
  - Limited Topographic Survey created by Phoenix Consulting Engineers, LTD
14. Email from John Hall to Eric Hewitt dated October 12, 2016
15. Letter from Mr. Hall to Mr. Blakeney dated October 17, 2016



***PRELIMINARY DRAFT***

16. Email from Eric Hewitt received October 26, 2016
17. Email from Kelly Pfeifer received October 27, 2016
18. Storm water drainage review memorandum created by Berns, Clancy and Associates on February 3, 2017, and received February 6, 2017
19. Notarized statement from Alan J. Williams, owner of Lot 100, Rolling Hills Estates V Subdivision received April 7, 2017
20. Preliminary Memorandum dated April 20, 2017, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received November 14, 2016
  - C Approved Site Plan for ZUPA #82-16-01, approved April 7, 2016 – revised by petitioner on June 27, 2016, and annotated by staff on April 18, 2017
  - D Approved Site Plan for ZUPA #246-97-01, approved September 3, 1997
  - E Excerpt from the Approved Final Plat of Subdivision for Rolling Hills Estates V, recorded August 13, 1993
  - F Excerpt from the “Approved Grading and Subsidiary Drainage Plat” for Rolling Hills Estates V by Altech Consultants, approved July 20, 1993
  - G Excerpt from the “Approved Grading and Subsidiary Drainage Plat” for Ridge Creek Subdivision by Altech Consultants, revised June 15, 1994
  - H Covenants for Rolling Hills Estates V, signed July 27, 1993
  - I Finding of Fact and Final Determination for Case 729-AT-90 dated November 14, 1991
  - J 2008 CCGIS aerial photo with contours, created by staff on April 18, 2017
  - K First Notice of Violation dated June 10, 2016, for destruction of natural drainage
  - L First Notice of Violation dated June 21, 2016, for placing a shed on unauthorized fill in an easement
  - M Email from Eric Hewitt of Phoenix Consulting Engineers, Ltd, received on October 5, 2016, with attachments:
    - Memorandum dated September 26, 2016, regarding the engineering analysis on the earthen fill and drainage
    - Limited Topographic Survey created by Phoenix Consulting Engineers, LTD
  - N Email from John Hall to Eric Hewitt dated October 12, 2016
  - O Letter from Mr. Hall to Mr. Blakeney dated October 17, 2016
  - P Email from Eric Hewitt received October 26, 2016
  - Q Email from Kelly Pfeifer received October 27, 2016
  - R Storm water drainage review memorandum by Berns, Clancy and Associates on February 3, 2017, and received February 6, 2017
  - S Notarized statement from Alan J. Williams, owner of Lot 100, Rolling Hills Estates V Subdivision received April 7, 2017
  - T Images of Subject Property taken January 25, 2017
  - U Draft Summary of Evidence, Finding of Fact, and Final Determination dated April 27, 2017

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **863-V-16** held on **April 27, 2017**, 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. **Upon written request of any utility with an interest in using the utility and drainage easements, the owner shall be responsible for the full cost of removing any structure, and/or fill, and refusing to remove the structure and fill shall be considered a violation of the Zoning Ordinance.**

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

**That utility companies have appropriate access to their easements.**

- B. **The petitioner shall install erosion control measures until final stabilization is complete.**

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

**That neighboring properties will be protected from potential runoff until the petitioner has finalized construction on the subject property.**

**PRELIMINARY DRAFT**

**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 **863-V-16** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Scott Blakeney, Derek Wagner, and Tyler Wakefield**, to authorize the following variance in the R-1 Single Family Residence Zoning District:

Existing residence, patio, detached shed, and earth fill that occupy part of a drainage and utility easement in lieu of the requirement that no use shall be established, construction undertaken, nor fill placed in any recorded drainage or utility easement.

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

- A. **Upon written request of any utility with an interest in using the utility and drainage easements, the owner shall be responsible for the full cost of removing any structure, and/or fill, and refusing to remove the structure and fill shall be considered a violation of the Zoning Ordinance.**
- B. **The petitioner shall install erosion control measures until final stabilization is complete.**

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