

CASE NO. 957-V-19

PRELIMINARY MEMORANDUM

OCTOBER 10, 2019

Petitioners: Margaret B. Liu as Trustee of the Margaret B. Liu Revocable Trust dated July 9, 2003, via agent Paul Cole

Request: Authorize the following variance in the AG-1 Agriculture Zoning District:

Part A: Authorize a variance for the addition of 1.08 acres to an existing 31.835-acre lot, for a total of 32.915 acres in area, in lieu of the maximum allowed 3 acres for lots with soils that are best prime farmland, per Section 5.3 of the Champaign County Zoning Ordinance.

Part B: Authorize a variance for a proposed division of a lot 5 acres or less in area, per Section 5.4.2 A.3 of the Zoning Ordinance.

Subject Property: A 31.835 acre tract plus a 5-acre lot that are proposed to be subdivided into three lots located in the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 9 East of the Third Principal Meridian in Crittenden Township, with the 5-acre lot having an address of 493 CR 1400E, Tolono.

**Site Area: For Part A: 32.915 acres
For Part B: 5 acres**

Time Schedule for Development: As soon as possible

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

BACKGROUND

Margaret Liu and her neighboring family members to the north and south would like to build a guesthouse on the land south of Mrs. Liu's house. The Zoning Ordinance does not allow more than one dwelling per lot in the AG-1 Agriculture Zoning District, so Mrs. Liu seeks to create a lot for the guesthouse via a Minor Subdivision. Subdivision Case 203-19 is contingent upon approval of the set of variances proposed in Case 957-V-19.

As proposed in the Preliminary Plat received August 12, 2019, the existing 5-acre lot will be divided into three parts:

- a. A 1.08-acre western portion will be absorbed into the 31.835-acre lot to create the 32.915-acre Lot 1.
- b. A 2.471-acre Lot 2 will be created from the northern part for the existing residence.
- c. A 1.448-acre Lot 3 will be created from the southern part for a proposed guesthouse.

Variance Part A is necessary because proposed Lot 1 is on Best Prime Farmland, and is larger than 3 acres in area, but less than 35 acres in area.

Variance Part B is necessary because the Zoning Ordinance does not allow a lot that is 5 acres or less in area to be further divided without a variance. For more information, see the “Error in the 2003 Plat of Survey” section below.

The P&Z Department has not received any comments regarding the proposed variance. P&Z Staff proposes one special condition of approval.

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning; it is 3.6 miles southeast of the Village of Tolono and 4.2 miles northeast of the Village of Pesotum. Municipalities do not have protest rights on a variance and are typically not notified of such cases.

The subject property is located within Crittenden Township, which does not have a Planning Commission. Townships with Plan Commissions have protest rights on a variance and do receive notification of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

| Direction | Land Use | Zoning |
|-----------|-----------------------------|----------------------------|
| Onsite | Agriculture and Residential | AG-1 Agriculture |
| North | Residential | AG-1 Agriculture |
| East | Agriculture | CR Conservation Recreation |
| West | Agriculture | AG-1 Agriculture |
| South | Residential | AG-1 Agriculture |

ERROR IN THE 2003 PLAT OF SURVEY

The Zoning Ordinance states in Section 5.4: “No lot that is 5 acres or less in area may be further divided.” The Plat of Survey by Moore Surveying and Mapping recorded on June 2, 2003 shows the 5-acre lot being 5.001 acres, which would make the current variance Part B request unnecessary. P&Z Staff noted an error in the 2003 Plat that shows the long west side of this lot being 463.8 feet, which is incorrect; it should actually be about 563.5 feet when calculated using other measurements from that survey. This error led staff to check the overall lot area again using GIS mapping tools, and the area calculated several times was ~4.99 acres, which does require variance Part B.

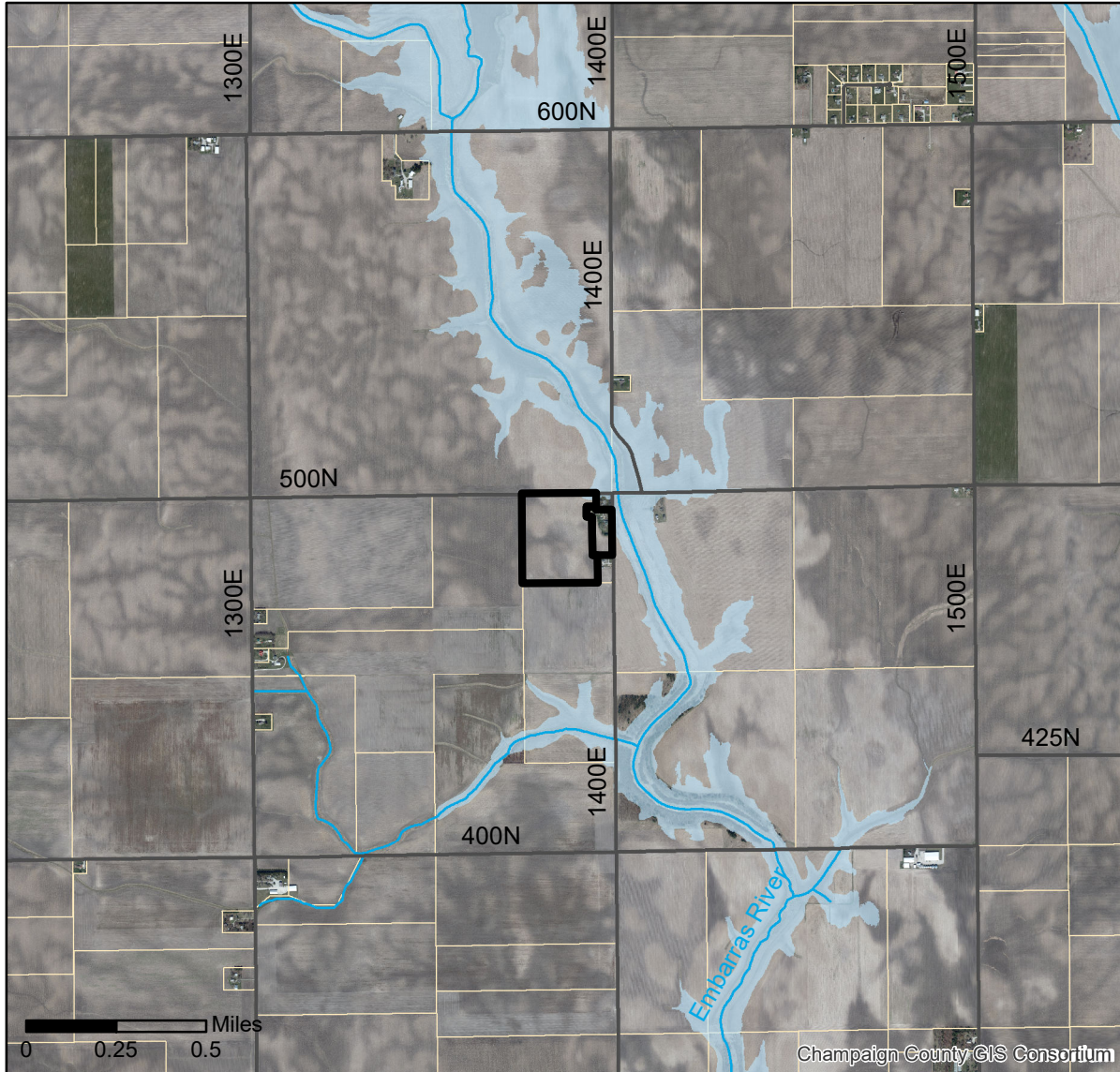
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan (Preliminary Plat of Survey) received August 12, 2019
- C Plat of Survey by Moore Surveying & Mapping dated April 28, 2003 and recorded June 2, 2003, Document #2003R23219
- D Site photos taken September 17, 2019
- E Summary of Evidence, Finding of Fact, and Final Determination dated October 17, 2019

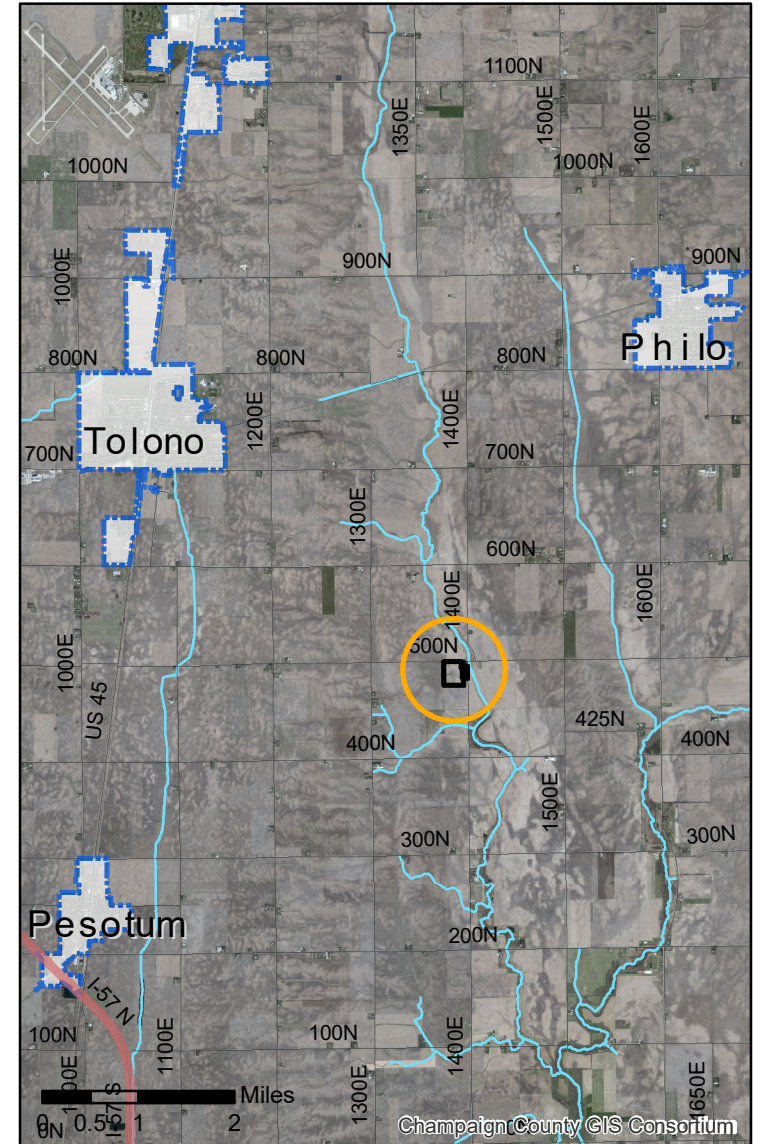
Location Map

Case 957-V-19
October 17, 2019





Subject Property



Property location in Champaign County



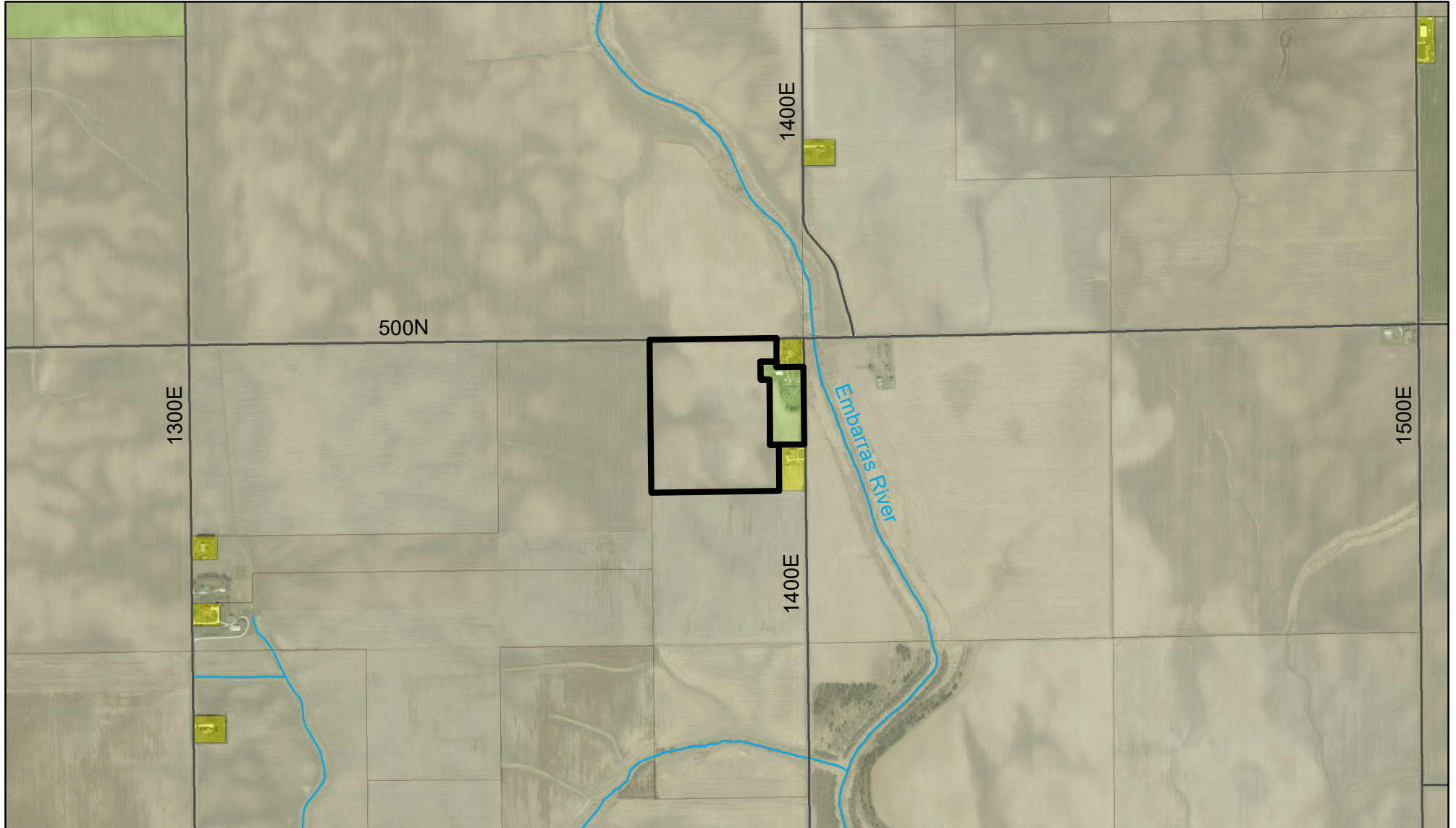
Legend

-  Subject Properties
-  Parcels
-  Special Flood Hazard Area
-  Streams



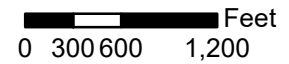
Land Use Map

Case 957-V-19
October 17, 2019



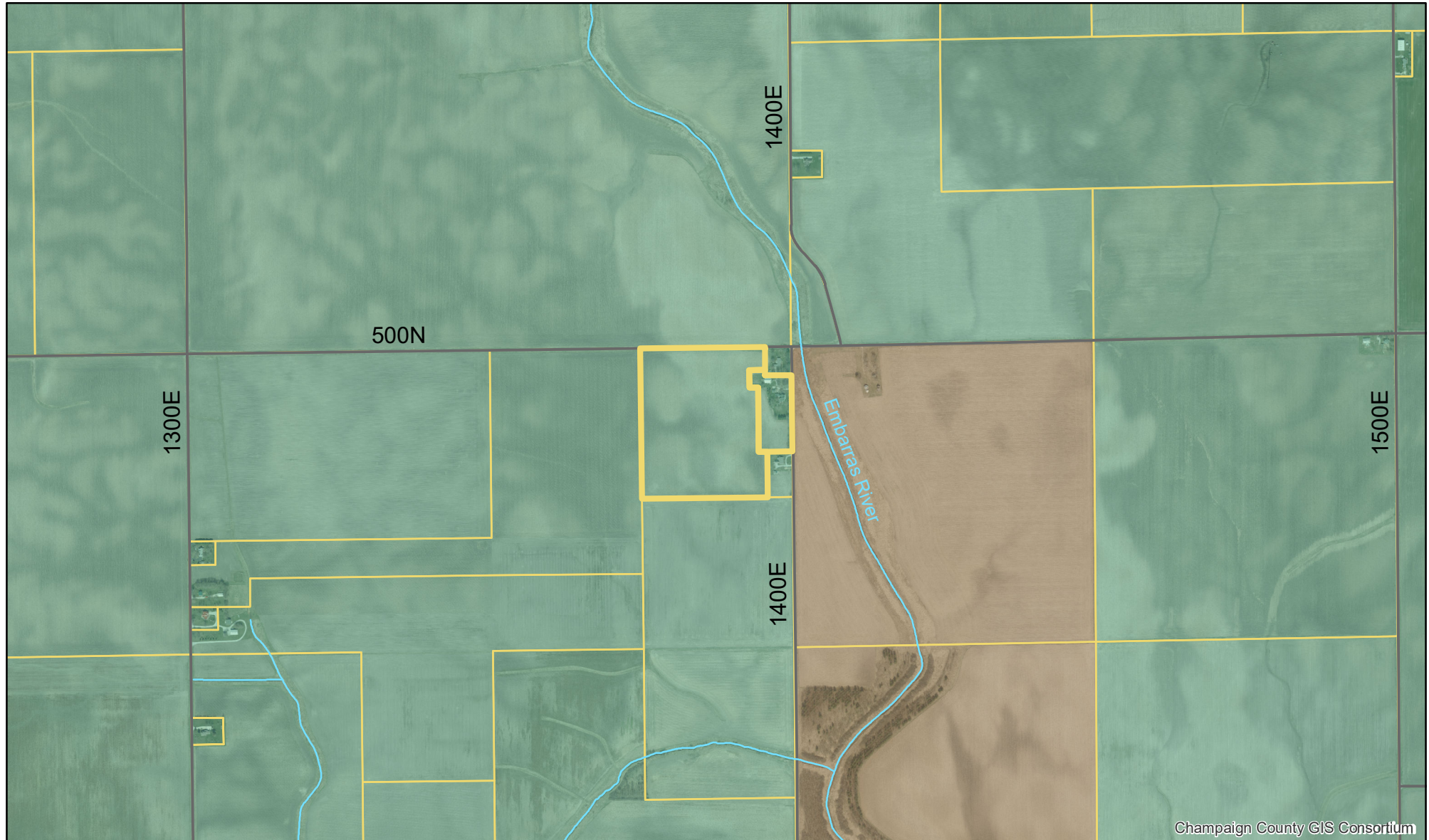
Legend

-  Subject Properties
-  Ag-Residential
-  Agriculture
-  Residential







Zoning Map

Case 957-V-19
October 17, 2019



Legend

-  Subject Properties
-  Parcels
-  AG-1 Agriculture
-  CR Conservation Recreation

0 300 600 1,200 Feet



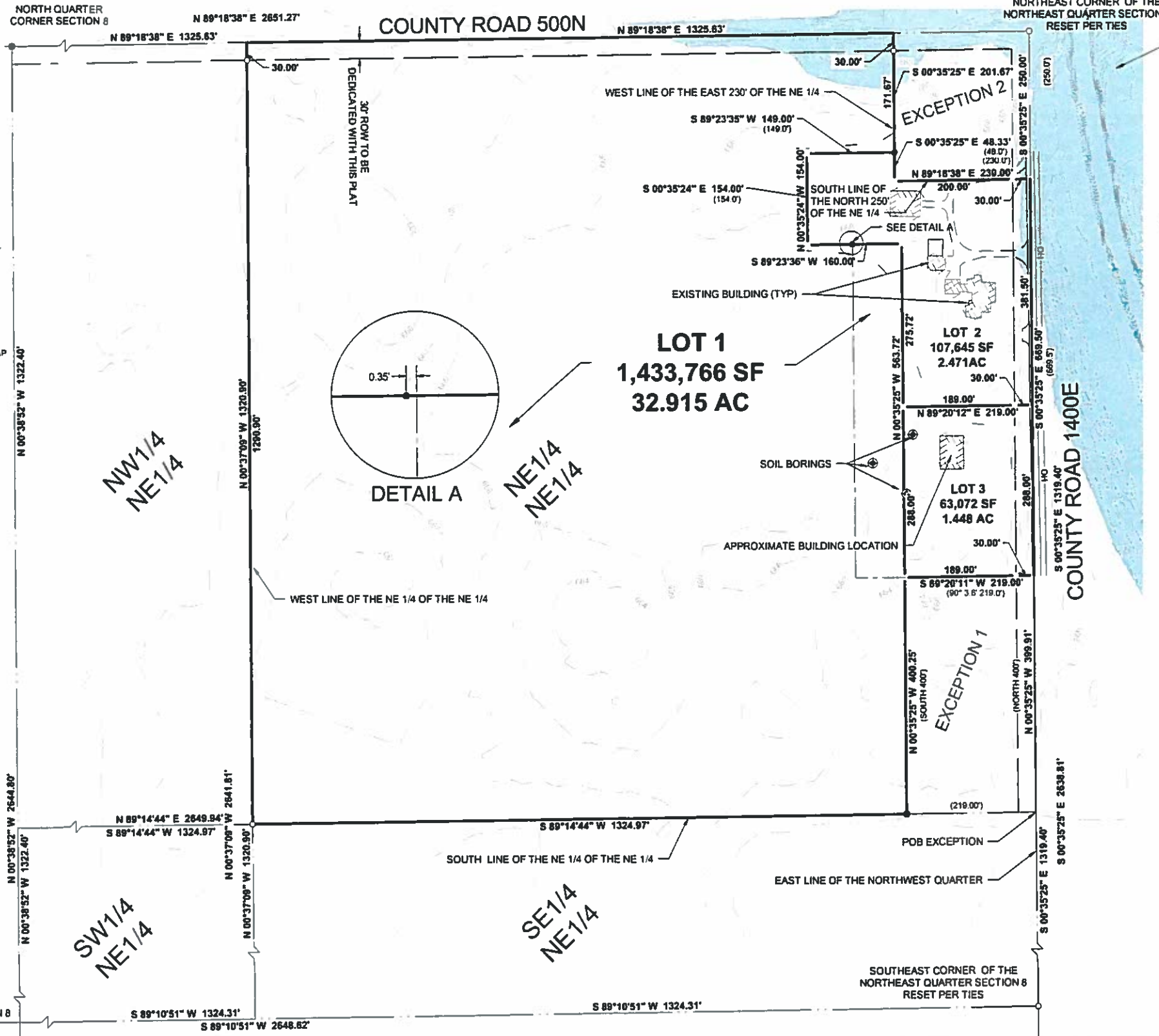
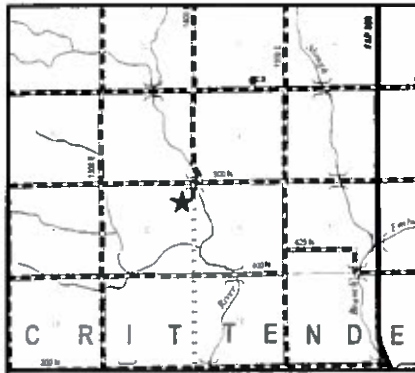
Champaign County
Department of
PLANNING &
ZONING

PRELIMINARY/FINAL PLAT
LIU SUBDIVISION
PART OF THE NE 1/4 OF SECTION 8
TOWNSHIP 17 NORTH, RANGE 9 EAST
OF THE 3RD PRINCIPAL MERIDIAN
CHAMPAIGN COUNTY, ILLINOIS

OWNER / SUBDIVIDER
MARGARET B. LIU REVOCABLE TRUST
483 County Road 1400E
Tolono, IL 61880

SURVEYOR / ENGINEER
MSA Professional Services
201 West Springfield Avenue, Suite 400
Champaign, IL 61820

PRESENTED FOR RECORDING BY:
RETURN ORIGINAL TO:
MSA Professional Services
201 West Springfield Avenue, Suite 400
Champaign, IL 61820



LEGEND

| | |
|-----|--------------------------------------|
| --- | PROPERTY BOUNDARY LINE |
| --- | PROPERTY LINE |
| --- | SECTION LINE |
| --- | EXISTING EASEMENT |
| --- | RIGHT OF WAY LINE |
| ● | FOUND IRON ROD OR PIPE |
| ○ | SET 1/2"x30" IRON ROD WITH "MSA" CAP |
| --- | BOUNDARY DIMENSION |
| --- | MEASURED DIMENSION |
| --- | DIMENSION OF RECORD |

FLOOD ZONE CLASSIFICATION
The surveyed tract is located in Zone "X," areas of minimal flood hazard and Zone "A," Special Flood Hazard Areas, as shown on the Federal Emergency Management Agency (FEMA) Flood Map Service Center map number 17040C0375D with effective date October 2, 2013.

- SURVEYOR'S NOTES
- Field work for this plat of survey was completed on 3-18-19 and 9-12-19.
 - All dimensions are horizontal distances and are between adjacent monuments unless otherwise noted.
 - Bearings shown on this plat of survey are on the Illinois State Plane, East Zone (NAD 83) coordinate system. Elevations shown on this plat of survey are based on the NAVD 88.
 - All lot corners are marked as shown. All set lot corners are done so with 1/2" x 30" long iron rod monuments.
 - The locations of utilities as shown herein are based on above ground structures observed by and drawings provided to the surveyor.
 - The property subdivided encompasses 38.834 acres, more or less.
 - The property subdivided lies within the Embarras River Municipal Drainage District.
 - A portion of the property subdivided lies within 500 feet of a point on a water course which drains over 640 acres.
 - The property subdivided is zoned Agriculture (with owner occupied exception) by the Champaign County, Illinois. All building setback lines shall be in accordance with applicable zoning ordinances.
 - This professional service conforms to the current Illinois minimum standards for a boundary survey.

STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

I, David E. Atchley, being Illinois Professional Land Surveyor Number 2950, do hereby certify that at the request of the owner, Margaret Liu, I have caused a survey to be made and a plat to be drawn under my direct supervision of the following described tract of land:
The Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 9 East of the Third Principal Meridian, except the following described tracts:
1) Beginning at the Southeast Corner of the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North of the Base Line, Range 9 East of the Third Principal Meridian, thence North a distance of 400.00 feet to the East Line of said Northeast Quarter, thence West 89°18'38" E to the left 219.00 feet, thence South 400.00 feet parallel to the East line of said Northeast Quarter, and thence East 219.00 feet to the point of beginning, except that part, if any, lying in the Southeast Quarter of said Northeast Quarter, in Champaign County, Illinois. (2.11 ac)
2) The East 230 feet of the North 290 feet of the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 9 East of the Third Principal Meridian, in Champaign County, Illinois.
Enclosing on lot 26.834 acres more or less in Champaign County Illinois.
For said owners who desire to facilitate the development of said land by subdividing it into lots which said plat to which this certificate is attached particularly descriptive and sets forth the lots into which said land has been so subdivided and have numbered the lots, which numbers are shown on said plat and have stated the precise dimensions in feet and hundredths of feet of said lots and that reference has been made upon said plat and that of building setback lines shall be in accordance with applicable zoning ordinances.
That said subdivision is to be known as "LIU SUBDIVISION".



I, _____, Highway Commissioner of _____ Township, do hereby certify that this plat has been reviewed by me and approved with respect to roadway access and other matters under my jurisdiction.
Dated this ____ day of August, A.D. 2019.

Township Highway Commissioner

SEPTIC DISPOSAL SYSTEM STATEMENT
I, David E. Atchley, Illinois Licensed Professional Engineer 47257, hereby certify that, based upon field tests and records data, it is my opinion that the proposed land use, the lot sizes shown on the final plat of LIU SUBDIVISION, and known soil characteristics of the area are suitable for private septic sewage disposal systems with the following conditions:
1. Based on soil core information gathered on March 29, 2019 by Robert McLeese, a Certified Professional Soil Classifier (ISCA Certification #23) with professional address 1078 Bucks Point Road in Morrisville, IL 61858, the surveyed tract has a seasonal high water table around 2' that will need to be considered in septic disposal system design. Approximate soil bearing capacities are shown on the plat of survey.
Signed and Sealed on this ____ day of August, A.D. 2019.



Approved the ____ day of _____ A.D. 20____
Champaign County Board

Chairman
Champaign County Environment and Land Use Committee

Chairman

Subdivision Officer

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 ditches or drains which the Subdivider has the right to use and 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 proposed home.
David E. Atchley
Illinois Licensed Professional Engineer No. 47257
License Expires November 30, 2019
Owner's or Attorney's Signature



RECEIVED
AUG 12 2019
CHAMPAIGN CO. P & Z DEPARTMENT

| | | | | | | | | | |
|----------------------|-----------------|-----------|-------------|-----------------|-----------|---|---|------------------------|-----------------------------------|
| PROJECT NO: 19746000 | SCALE: AS SHOWN | NO: _____ | DATE: _____ | REVISION: _____ | BY: _____ | ENGINEERING ARCHITECTURE SURVEYING FUNDING PLANNING ENVIRONMENTAL 201 W Springfield Avenue, Champaign IL 61820 (217) 352-6975 www.msa-ps.com | LIU PRELIMINARY/FINAL PLAT MARGARET B. LIU REVOCABLE TRUST CHAMPAIGN COUNTY, ILLINOIS | PRELIMINARY/FINAL PLAT | FILE NO: 19746000 SHEET 1 OF 1 |
|----------------------|-----------------|-----------|-------------|-----------------|-----------|---|---|------------------------|-----------------------------------|

2003R2321

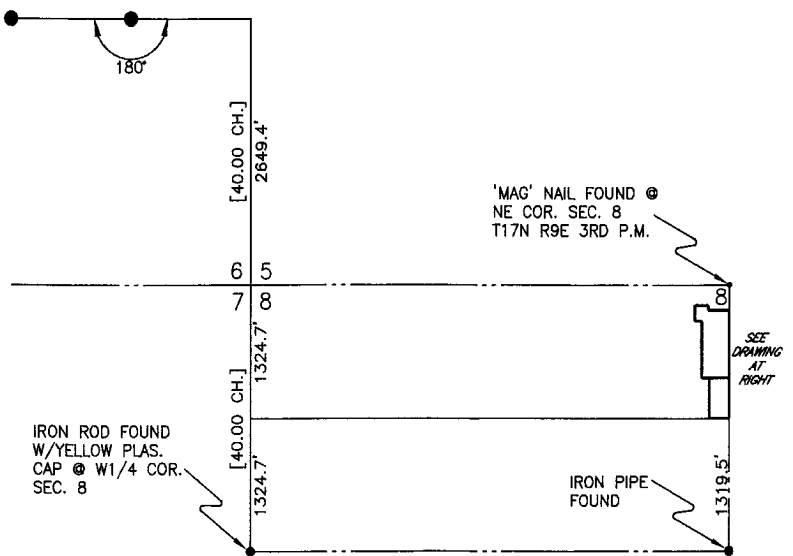
PLAT OF SURVEY

RECORDED UN

06-02-2003 3:53:44

CHAMPAIGN COUNTY
RECORDER
BARBARA A. FRASCA

REC. FEE: 25.00
REV FEE:
PAGES: 1
PLAT ACT: 0
PLAT PAGE:



NOT TO SCALE

I hereby certify that this plat represents a survey made by me of two tracts of land described as:

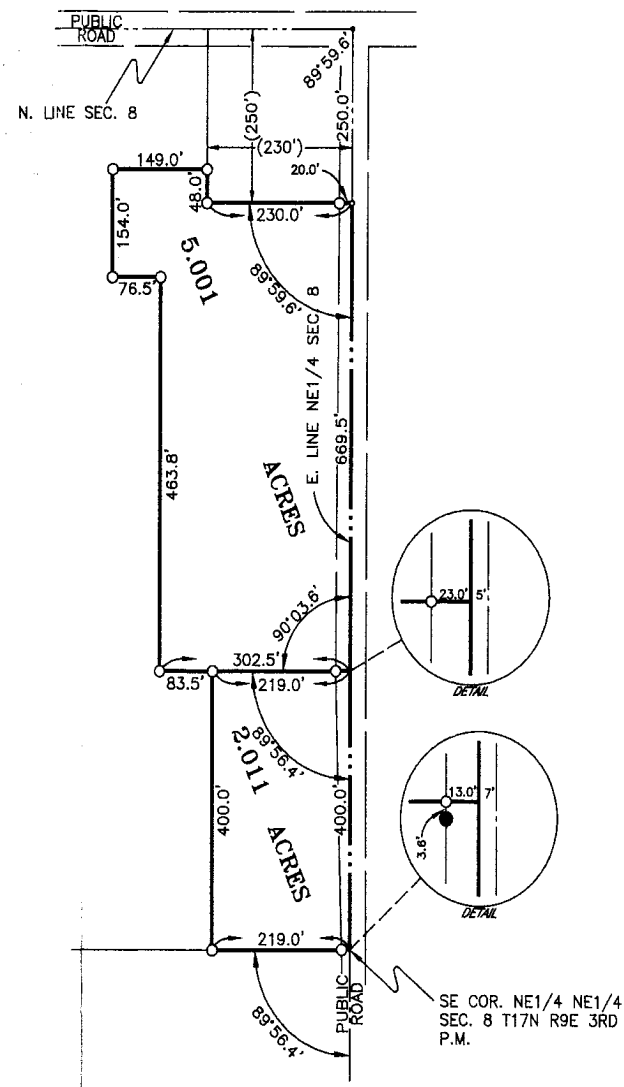
NORTH TRACT
Beginning on the East Line of the Northeast Quarter of Section 8, Township 17 North of the Base Line, Range 9 East of the Third Principal Meridian a distance of 250.0 south of said Northeast Quarter; thence south 869.5 feet on said East line; thence deflecting 89 degrees 56.4 minutes (89°56.4') to the right 302.5 feet; thence north 463.8 feet parallel with said East Line; thence westerly 78.5 feet parallel with the North Line of said Section 8; thence north 154.0 feet parallel with said East Line; thence easterly 149.0 feet parallel with said North Line; thence south 48.0 feet parallel with said East Line; and thence easterly 230.0 feet parallel with said North Line to the point of beginning; encompassing 5.001 acres, situated in Champaign County, Illinois.

SOUTH TRACT
Beginning at the Southeast Corner of the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North of the Base Line, Range 9 East of the Third Principal Meridian; thence north a distance of 400 feet on the East Line of said Northeast Quarter; thence deflecting 90 degrees 03.8 minutes (90°03.8') to the left 219.0 feet; thence south 400.0 feet parallel the East Line of said Northeast Quarter; and thence easterly 219.0 feet to the point of beginning; except that part, if any, lying in the Southeast Quarter of said Northwest Quarter; situated in Champaign County, Illinois, comprising 2.011 acres, more or less.

To the best of my knowledge and belief this professional service conforms to the current Illinois Minimum Standards of Practice applicable to boundary surveys.

Robert A. Moore
Robert A. Moore
Illinois Land Surveyor No. 2618
License expires 11/30/2004

5-6-03
Date



- 'PK' NAIL SET
- 1/2" IRON ROD SET W/ORANGE PLASTIC CAP STAMPED "ILS 2616"
- WOOD POST FOUND
- () DISTANCE PER QUIT CLAIM DEED FILED AS DOC. NO. 96R14961; CHAMPAIGN COUNTY OFFICE OF RECORDER
- [] ORIGINAL GOVERNMENT SURVEY DIMENSION IN CHAIN MEASURE
- APPROXIMATE CENTERLINE OF DIRT ROAD

Return to: John Bedient
5 Meadow Court
Champaign, IL
61821

| | | | |
|---|---------------|---------|---------|
| MOORE SURVEYING & MAPPING PAXTON, ILLINOIS | | | |
| CLIENT | DATE | SCALE | JOB NO. |
| JOHN D. BEDIENT | APR. 28, 2003 | 1"/200' | 3532 |

957-V-19 Site Images



Liu residence on 5-acre lot proposed for subdivision, from CR 1400E facing NW



South part of 5-acre lot from CR 1400E facing NW

PRELIMINARY DRAFT

957-V-19

**FINDING OF FACT
AND FINAL DETERMINATION**

**of
Champaign County Zoning Board of Appeals**

Final Determination: *{GRANTED/GRANTED WITH SPECIAL CONDITION(S)/DENIED}*

Date: *{OCTOBER 17, 2019}*

Petitioners: **Margaret B. Liu as Trustee of the Margaret B. Liu Revocable Trust dated July 9, 2003, via agent Paul Cole**

Request: **Authorize the following variance in the AG-1 Agriculture Zoning District:
Part A: Authorize a variance for the addition of 1.08 acres to an existing 31.835-acre lot, for a total of 32.915 acres in area, in lieu of the maximum allowed 3 acres for lots with soils that are best prime farmland, per Section 5.3 of the Champaign County Zoning Ordinance.**

Part B: Authorize a variance for a proposed division of a lot 5 acres or less in area, per Section 5.4.2 A.3 of the Zoning Ordinance.

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PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 17, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. The Margaret B. Liu Revocable Trust owns the 31.835 acre tract. Trustee Margaret B. Liu, 493 CR 1400E, Tolono, owns the 5-acre residential lot to the east.
2. The subject property is a 31.835 acre tract plus a 5-acre lot that are proposed to be subdivided into three lots located in the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 9 East of the Third Principal Meridian in Crittenden Township, with the 5-acre lot having an address of 493 CR 1400E, Tolono.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. Municipalities do not have protest rights on a variance and are typically not notified of such cases.
 - B. The subject property is located within Crittenden Township, which does not have a Planning Commission. Townships with Plan Commissions have protest rights on a variance and do receive notification 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 31.835-acre tract is currently zoned AG-1 Agriculture and is in agricultural production. The 5-acre lot is also zoned AG-1 and is residential in use with some land in production.
 - B. Land north and south of the 5-acre property is zoned AG-1 and is residential in use. These homes are owned by Ms. Liu's family members.
 - C. Land to the north, west and south is zoned AG-1 Agriculture and is in agricultural production.
 - D. Land to the east is zoned CR Conservation Recreation and is in agricultural production.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. Regarding the site plan for the subject property:
 - A. The site plan is a Preliminary Plat of the Liu Subdivision by MSA Engineering received August 12, 2019, and indicates the following:
 - (1) The existing 5-acre lot will be divided into three parts.
 - a. A 1.08 acre western portion will be absorbed into the 31.835 acre lot to create the 32.915 acre Lot 1.
 - b. A 2.471 acre Lot 2 will be created from the northern part for the existing residence.
 - c. A 1.448 acre Lot 3 will be created from the southern part for a proposed guesthouse.

PRELIMINARY DRAFT**Case 957-V-19**

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- (2) Existing structures on the 5-acre lot include:
 - a. A 6,372 square feet residence that was constructed under ZUPA #126-04-03;
 - b. One 24 feet by 30 feet (720 square feet) detached garage constructed prior to adoption of the Zoning Ordinance on October 10, 1973; and
 - c. One 44 feet by 54 feet (2,376 square feet) detached shed constructed with an agricultural exemption.
 - (3) Proposed construction, contingent upon approval of the proposed subdivision, would include:
 - a. A guesthouse to be located on proposed Lot 3.
- B. There is one previous Zoning Use Permit for the 5-acre lot:
- (1) ZUPA #126-04-03 was approved on May 17, 2004 to construct a single family residence as an addition to an existing garage.
- C. Contingent upon approval of this variance, the subject property will require a Minor Subdivision approval (subdivision case 203-19).
- D. The requested variance is for the following:
- (1) Part A of the variance is for a lot size of 32.915 acres in lieu of the maximum area of 3 acres for lots with soils that are best prime farmland, per Section 5.3 of the Zoning Ordinance.
 - (2) Part B of the variance is for a proposed division of a lot 5 acres or less in area, per Section 5.4.2 A.3 of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

PRELIMINARY DRAFT

- (2) “AREA, LOT” is the total area within the LOT LINES.
- (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - (a) Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation and Site Assessment (LESA) System;
 - (b) Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA System; or
 - (c) Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils, as determined by the Champaign County LESA System.
- (4) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (5) “LOT LINES” are the lines bounding a LOT.
- (6) “PLAT” is a map, plan or layout showing the SUBDIVISION of land and indicating the location and boundaries of individual LOTS.
- (7) “SUBDIVISION” is any division, development, or re-subdivision of any part, LOT, area or tract of land by the OWNER or agent, either by LOTS or by metes and bounds, into LOTS two or more in number, for the purpose, whether immediate or future, of conveyance, transfer, improvement, or sale, with the appurtenant STREETS, ALLEYS, and easements, dedicated or intended to be dedicated to public use or for the use of the purchasers or OWNERS within the tract subdivided. The division of land for AGRICULTURAL purposes not involving any new STREET, ALLEY, or other means of ACCESS, shall not be deemed a SUBDIVISION for the purpose of the regulations and standards of this ordinance.
- (8) “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.
- (9) “WELL SUITED OVERALL” is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
 - a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
 - b. The site is reasonably well-suited in all respects and has no major defects.

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- B. Section 5.3 of the Zoning Ordinance Footnote 13 states:
13. The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:
- A) LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
- 1) The LOT is RRO-exempt;
 - 2) The LOT is made up of soils that are BEST PRIME FARMLAND; and
 - 3) The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as of January 1, 1998.
- 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 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- D. Paragraph 9.1.9 E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioners testified the following on the application: **‘Parcel ‘010’ is a residential property lying between two other residential properties owned by siblings of Applicant. The west side of Applicant’s parcel borders on parcel ‘009’, which is an agricultural field under cultivation. Approximately one acre along the west side of**

PRELIMINARY DRAFT

parcel '010' is included in that cultivation. As can be more readily seen on the attached plat exhibit, Applicant's principal residence is in the northerly portion of parcel '010'. The southerly portion is not improved with any development, and it is not farmed because it is out of alignment with farm operations on the west side. Until recently, parcel '009' was owned jointly by applicant and her siblings. With their cooperation, she has now acquired ownership of that entire parcel in order to pursue the current re-platting process."

- B. Regarding the soils that make up the subject property:
- (1) The soil on the 36.835 acre subject property is BEST PRIME FARMLAND and consists of Flanagan silt loam 154A; Drummer silty clay loam 152A; 198A Elburn silt loam; 679B Blackberry silt loam; 663B Clare silt loam; 206A Thorp silt loam; and 687C2 Penfield loam, and has an average LE of 98.

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

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioners testified the following on the application: **"Applicant would develop a secondary residential use on her parcel '010' but is prohibited from doing so unless she is permitted to create a new lot for that purpose."**

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

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioners testified the following on the application: **"No."**
- B. Regarding Part A of the variance, for a lot size greater than 3 acres on Best Prime Farmland, with the subdivision, the 31.835 acre tract would increase by 1.08 acres to 32.915 acres. Even though the creation of Lot 3 is beneficially putting more Best Prime Farmland into a larger tract and thus preserving it from development, it still needs a variance per the Zoning Ordinance.
- C. Regarding Part B of the variance, for splitting a lot that is 5 acres or less in area, the Petitioners testified the following on the application: **"The proposed re-platting of parcels '009' and '010' will reduce the area on which permanent improvements could otherwise be placed and increase, by the same amount, the area dedicated to agriculture."**

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioners testified the following on the application: **"All uses of parcels adjacent to parcel '010', north to south, are residential."**

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- B. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773 approved December 20, 2005.
- C. Ordinance No. 914 (Case 711-AT-12) approved on November 27, 2012, revised the best prime farmland definition to have a Land Evaluation (LE) rating of 91 or higher rather than the previous rating of 85 or higher.
- D. The proposed lot area of approximately of 32.915 acres is a 992% increase over the required three acre maximum, for a variance of 992%, but only 94% of the otherwise required 35 acre minimum lot area. There is no change on the ground, since no land is being taken out of production.
- E. Regarding variance Part B, for division of a lot that is 5 acres in area or less: the Zoning Ordinance does not clearly state the considerations that underlie the restriction on division of lots that are 5 acres or less. This amendment resulted from zoning Case 431-AT-03 Part B and so is related to the County's desire to limit the number of new lots in the rural areas.
- (1) The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is the primary method by which Champaign County limits the number of new lots in the rural zoning districts. The RRO District is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District. Paragraph 5.4.3 C.1. of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:
- a. Adequacy and safety of roads providing access to the site.
 - b. Effects on nearby farmland and farm operations.
 - c. Effects of nearby farm operations on the proposed residential development.
 - d. The LESA (Land Evaluation and Site Assessment) score of the subject site.
 - e. Effects on drainage both upstream and downstream.
 - f. The suitability of the site for onsite wastewater systems.
 - g. The availability of water supply to the site.
 - h. The availability of emergency services to the site.
 - i. The flood hazard status of the site.
 - j. Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.
 - k. The presence of nearby natural or man-made hazards.
 - l. The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated.
- F. Regarding the RRO factors for the subject property:
- (1) *Adequacy and safety of roads providing access to the site.*
- a. The proposed lot split would require a new access to CR 1400E.
 - b. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* is a general design guideline for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates that a local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.

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- c. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent (2016) ADT for CR1400E south of CR500N was 50 vehicles.
 - d. CR 1400E is an approximately 14 feet wide township road. No significant increase in traffic is expected, so the road capacity appears adequate.
- (2) *Effects on nearby farmland and farm operations.* The proposed variance for splitting a lot 5 acres or less in area would technically result in twice the development on the subject property than would be otherwise allowed and would therefore result in twice the impacts on nearby farmland. However, the split also results in over 1 acre being shifted to a larger tract in agricultural production, therefore protecting that from further development. The adjacent farmland to the west also belongs to the petitioner.
- (3) *Effects of nearby farm operations on the proposed residential development.* The proposed variance and resulting subdivision would divide the existing property into two lots, but would not change the level of agricultural operations surrounding the property. Farm operations may impact drainage.
- (4) *The LESA (Land Evaluation and Site Assessment) score of the subject site.*
- a. The soil on the 36.835 acre subject property is Best Prime Farmland and consists of Flanagan silt loam 154A; Drummer silty clay loam 152A; 198A Elburn silt loam; 679B Blackberry silt loam; 663B Clare silt loam; 206A Thorp silt loam; and 687C2 Penfield loam, and has an average LE of 98.
 - b. The Site Assessment (SA) portion of the LESA analysis scored 164 out of 200 points.
 - c. The total LESA Score of 262 receives the highest protection rating in LESA which is “very high rating for protection.”
- (5) *Effects on drainage both upstream and downstream.* The subject property appears to drain to the southwest; it is relatively flat on the proposed south lot.
- (6) *The suitability of the site for onsite wastewater systems.* The soil on the 5-acre subject property is BEST PRIME FARMLAND and consists of 152A Drummer silty clay loam; 198A Elburn silt loam; 679B Blackberry silt loam; 663B Clare silt loam; 206A Thorp silt loam; and 687C2 Penfield loam.

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

- a. 152A Drummer silty clay loam has low suitability for septic tank leach fields, with a soil potential index of 53. Drummer soil has severe flooding

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and wetness limitations. The typical corrective measure is to add 2 feet of soil fill and use a conventional system with a standard absorption field and subsurface drainage. There are 16 soil types in Champaign County that have lower suitability potential than Drummer.

- b. 679B Blackberry silt loam (formerly 199B Plano silt loam) has high suitability for septic tank leach fields with a soil potential index of 93. Blackberry soil has a severe wetness limitation. It has permeability that is rated as a “moderate” limitation and only a slight problem due to slope. The typical corrective measure is to use a conventional system with a standard absorption field and a curtain drain. There are 40 soil types in Champaign County that have lower suitability potential than Blackberry.
 - c. 663B Clare silt loam (formerly 148B Proctor silt loam) has high suitability for septic tank leach fields with a soil potential index of 93. Clare soil has a severe wetness limitation. It has permeability that is rated as a “moderate” limitation and only a slight problem due to slope. The typical corrective measure is to use a conventional system with a standard absorption field and a curtain drain. There are 40 soil types in Champaign County that have lower suitability potential than Clare.
 - d. 206A Thorp silt loam has low suitability for septic tank leach fields with a soil potential index of 49. Thorp soil has severe floods, wetness, and slow percolation limitations. It has permeability that is rated as a “severe” limitation and only a slight problem due to slope. The typical corrective measure is to add 2 feet of soil fill and use a conventional system with a large absorption field and subsurface drainage. There are 14 soil types in Champaign County that have lower suitability potential than Thorp.
 - e. 687C2 Penfield loam (formerly 440C2 Jasper loam) has high suitability for septic tank leach fields with a soil potential index of 95. Penfield soil has a moderate slow percolation limitation. It has permeability that is rated as a “moderate” limitation and only a slight problem due to slope. The typical corrective measure is to use a conventional system with serial distribution. There are 47 soil types in Champaign County that have lower suitability potential than Penfield.
- (7) *The availability of water supply to the site.* The subject property has one water well just north of the existing residence; it is not known if the proposed guesthouse will utilize the same well. The proposed subdivision should have little or no effect on water availability.
 - (8) *The availability of emergency services to the site.* The subject property is approximately 6.3 road miles from the Pesotum Village Fire Department.
 - (9) *The flood hazard status of the site.* A very small part in the northeast corner of the 5-acre lot is within the Special Flood Hazard Area, per FEMA FIRM panel 17019C0575D effective October 2, 2013.

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- (10) *Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.* The subject property contains no known historic or sensitive natural areas, and the proposed division would have no effect on such sites.
 - (11) *The presence of nearby natural or man-made hazards.* There are no known hazards nearby.
 - (12) *The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated.* The proposed variance and subdivision will take 1.08 acres of best prime farmland out of the existing five-acre residential lot and add it to the existing large farmland tract, place the existing dwelling on a 2.471 acre lot, and also create a new 1.448 acre lot for a new dwelling.
- G. Summarizing the RRO factors, compared to “common conditions” found at rural sites in Champaign County, the subject property is similar to the following:
- (1) “Ideal or Nearly Ideal” conditions for 2 factors:
 - a. RRO Factor G: Availability of water supply
 - b. RRO Factor J: Effects on sensitive natural areas
 - (2) “Much Better Than Typical” conditions for 3 factors:
 - a. RRO Factor C: Effects of nearby farms
 - b. RRO Factor F: Septic suitability
 - c. RRO Factor K: Natural or manmade hazards
 - (3) “More or Less Typical” conditions for 5 factors:
 - a. RRO Factor A: Safety
 - b. RRO Factor B: Effects on farms
 - c. RRO Factor E: Effects on drainage
 - d. RRO Factor I: Flood hazard status
 - e. RRO Factor L: Land converted from agricultural uses
 - (4) “Much Worse than Typical” conditions for 2 factors:
 - a. RRO Factor D: LESA score
 - b. RRO Factor H: Emergency services
- H. The requested variance is not prohibited by the *Zoning Ordinance*.

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

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioners testified the following on the application: **“The farmstead represented by these two parcels has been in the same family since about 1867. All owners of the parcels adjacent to these parcels are members of Applicant’s family and have cooperated in consolidating ownership of parcel ‘009’ in her name so that she may then re-plat parcel ‘009’ to increase its agricultural acreage through reduction of the area of parcel ‘010’.”**

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- B. The Embarras River Mutual Drainage District has been notified of this variance, but no comments have been received.
- C. The Crittenden Township Highway Commissioner has been notified of this variance, but no comments have been received.
- D. The Crittenden Township Supervisor has been notified of this variance, but no comments have been received.
- E. The Pesotum Fire Protection District has been notified of this variance, but no comments have been received.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 12. Generally regarding and other circumstances which justify the Variance:
 - A. The Petitioners testified the following on the application: **“The proposed re-platting of parcels ‘009’ and ‘010’ will reduce the area on which permanent improvements could otherwise be placed and increase, by the same amount, the area dedicated to agriculture.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 13. Regarding proposed special conditions of approval:
 - A. **A Zoning Use Permit shall not be approved for construction on proposed Lot 3 unless and until a Plat of Subdivision has been duly approved by the Champaign County Board and filed with the Champaign County Recorder of Deeds.**

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

That the proposed land division is in compliance with the relevant subdivision requirements.

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DOCUMENTS OF RECORD

1. Application for Variance Permit received August 12, 2019, with attachment:
 - A Site Plan (Preliminary Plat of Survey) received August 12, 2019
 - B Legal description
 - C Plat of Survey by Moore Surveying & Mapping dated April 28, 2003 and recorded June 2, 2003, document #2003R23219

2. Preliminary Memorandum dated October 10, 2019, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan (Preliminary Plat of Survey) received August 12, 2019
 - C Plat of Survey by Moore Surveying & Mapping dated April 28, 2003 and recorded June 2, 2003, Document #2003R23219
 - D Site Images taken September 17, 2019
 - E Summary of Evidence, Finding of Fact, and Final Determination dated October 17, 2019

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **957-V-19** held on **October 17, 2019**, 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. **A Zoning Use Permit shall not be approved for construction on proposed Lot 3 unless and until a Plat of Subdivision has been duly approved by the Champaign County Board and filed with the Champaign County Recorder of Deeds.**

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

That the proposed land division is in compliance with the relevant subdivision requirements.

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FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **957-V-19** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners, **Margaret B. Liu as Trustee of the Margaret B. Liu Revocable Trust dated July 9, 2003**, to authorize the following variance in the AG-1 Agriculture Zoning District:

Part A: Authorize a variance for the addition of 1.08 acres to an existing 31.835-acre lot, for a total of 32.915 acres in area, in lieu of the maximum allowed 3 acres for lots with soils that are best prime farmland, per Section 5.3 of the Champaign County Zoning Ordinance.

Part B: Authorize a variance for a proposed division of a lot 5 acres or less in area, per Section 5.4.2 A.3 of the Zoning Ordinance.

{SUBJECT TO THE FOLLOWING CONDITION(S):}

- A. A Zoning Use Permit shall not be approved for construction on proposed Lot 3 unless and until a Plat of Subdivision has been duly approved by the Champaign County Board and filed with the Champaign County Recorder of Deeds.**

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals
Date