

CASE NO. 994-V-20

PRELIMINARY MEMORANDUM

January 5, 2021

Petitioners: **John Kindt**

Request: **Authorize a variance for a proposed division of a lot less than five acres in area in the AG-2 Agriculture Zoning District, per Section 5.4.2 A.3. of the Zoning Ordinance.**

Subject Property: **The 2.83-acre Lot 18 of Westbrook Estates Subdivision Plat 1 in the Southeast Quarter of Section 8, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, with an address of 1503 W Brookside Ln, Mahomet**

Site Area: **2.83 acres**

Time Schedule for Development: **As soon as possible**

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

**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

The Petitioners have lived on the subject property for over 38 years. They would like to build a new house for their use, but prefer to not demolish the existing house on the property to do so. They propose to divide the property into two lots so the existing home can remain. A variance is needed so the petitioners can split a lot that is 5 acres or less.

The subject property is in the Village of Mahomet subdivision jurisdiction, so approval of the lot split will fall to the Village. The proposed lots must comply with Champaign County Zoning Ordinance requirements because the property is in the County's zoning jurisdiction.

The petitioner requested and received an amendment to the Westbrook Estates Subdivision covenants that allows him to split the lot, which was not previously allowed by the covenants. The petitioner received support via petition from three-quarters of the landowners in the subdivision, and only needed two-thirds of them to approve. While subdivision covenants are not in the purview of the ZBA, it is worth noting that there is general support in the neighborhood for allowing the lot split.

No comments have been received for this case.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance, but the Village was notified of this case because they will have jurisdiction over the proposed lot split approval.

The subject property is located within Mahomet Township, which does 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	Residential	AG-2 Agriculture
North	Residential	AG-2 Agriculture
East	Residential	AG-2 Agriculture
West	Residential	AG-2 Agriculture
South	Agriculture	AG-2 Agriculture

RURAL RESIDENTIAL OVERLAY (RRO) FACTORS

The following can be found under Item 10.C. of the Summary of Evidence dated January 14, 2020:

- 10.C. Regarding the variance 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.

Item 10.D reviews these 12 factors, and Item 10.E. summarizes them as follows:

- E. 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 6 factors:
- a. RRO Factor F: Septic suitability

- b. RRO Factor G: Availability of water supply
 - c. RRO Factor H: Emergency services
 - d. RRO Factor I: Flood hazard status
 - e. RRO Factor J: Effects on sensitive natural areas
 - f. RRO Factor L: Land converted from agricultural uses
- (2) “Much Better Than Typical” conditions for 4 factors:
- a. RRO Factor C: Effects of nearby farms
 - b. RRO Factor D: LESA score
 - c. RRO Factor E: Effects on drainage
 - d. RRO Factor K: Natural or manmade hazards
- (3) “More or Less Typical” conditions for 2 factors:
- a. RRO Factor A: Safety
 - b. RRO Factor B: Effects on farms
- (4) “Much Worse than Typical” conditions for no factors.

Overall, the proposed subdivision, considered in light of the RRO factors, would favor approval.

PROPOSED SPECIAL CONDITION

- A. A Zoning Use Permit shall not be approved for construction on the proposed east lot unless and until a Plat of Subdivision has been duly approved by the Village of Mahomet 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.

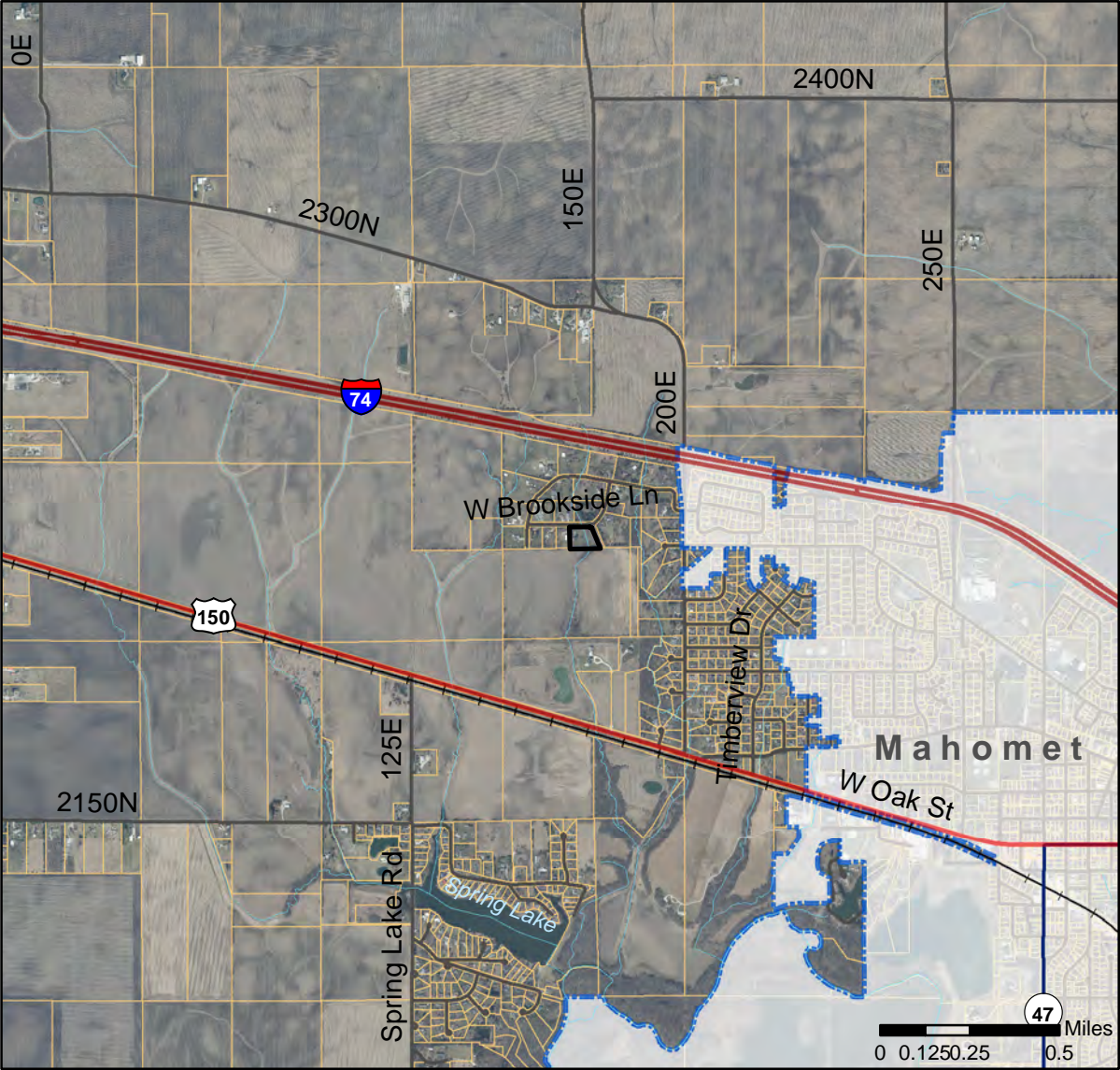
ATTACHMENTS



- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received December 10, 2020
- C Westbrook Estates Plat 1 recorded as Document No 1973R01641 on January 30, 1973
- D Drainage Map created by P&Z Staff on December 30, 2020
- E Amendment to covenants, Westbrook Estates Sub, received December 10, 2020
- F Site Images taken December 29, 2020
- G Summary of Evidence, Finding of Fact, and Final Determination dated January 14, 2021

Location Map

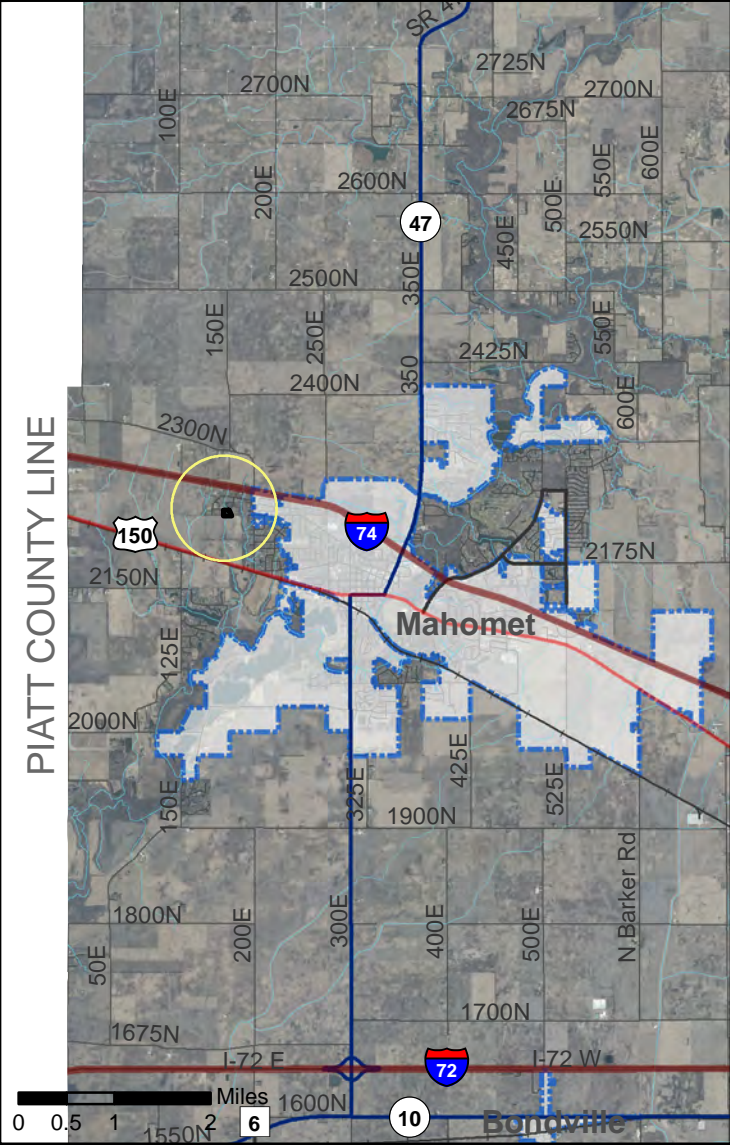
Case 994-V-20
January 14, 2021

Subject Property



- Legend**
-  Subject Property
 -  Parcels
 -  Municipal Boundary

Property location in Champaign County

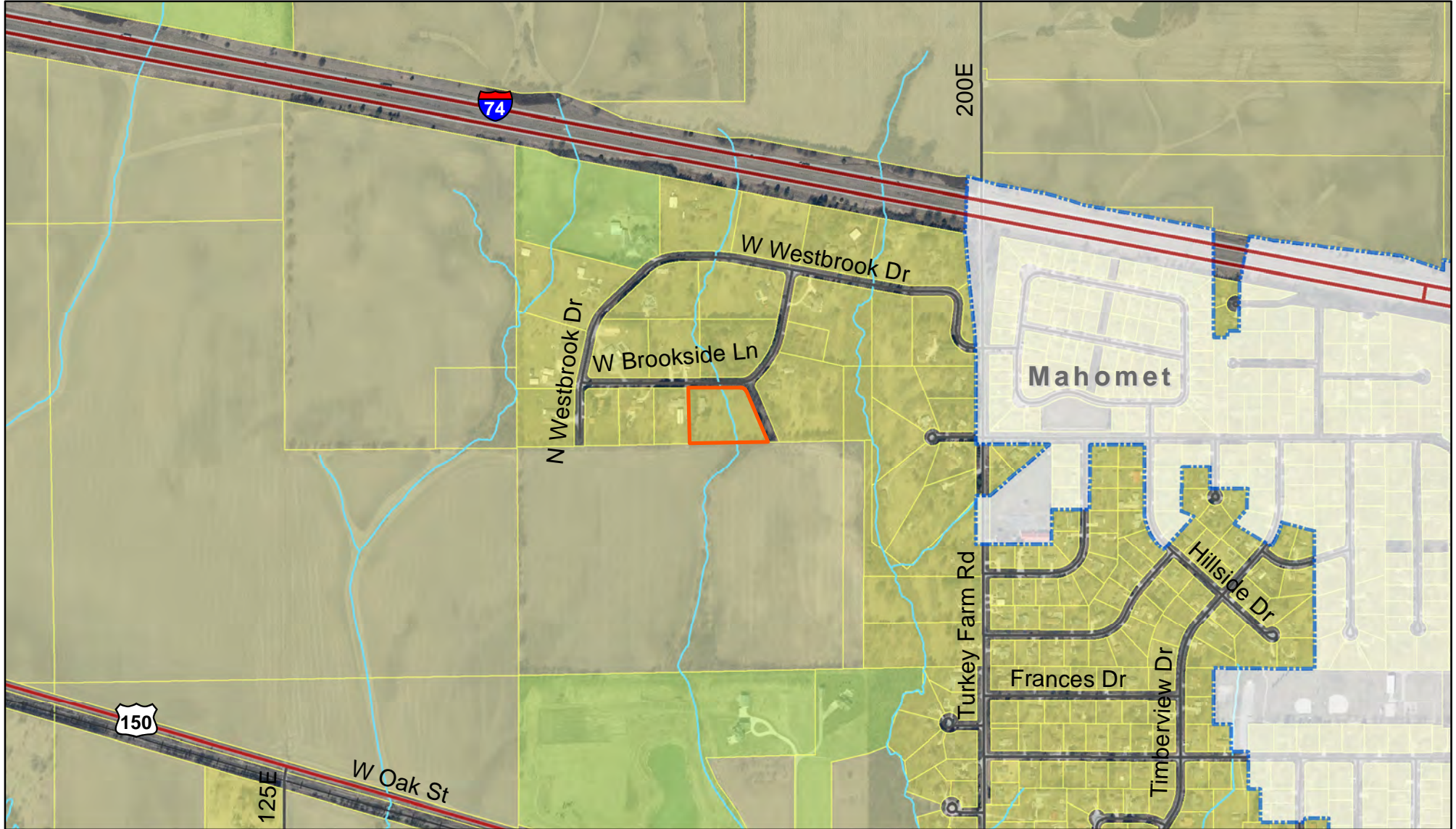


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**PLANNING &
ZONING**






Land Use Map

Case 994-V-20
January 14, 2021



Legend

-  Subject Property
-  Parcels
-  Agriculture
-  Ag/Residential
-  Residential

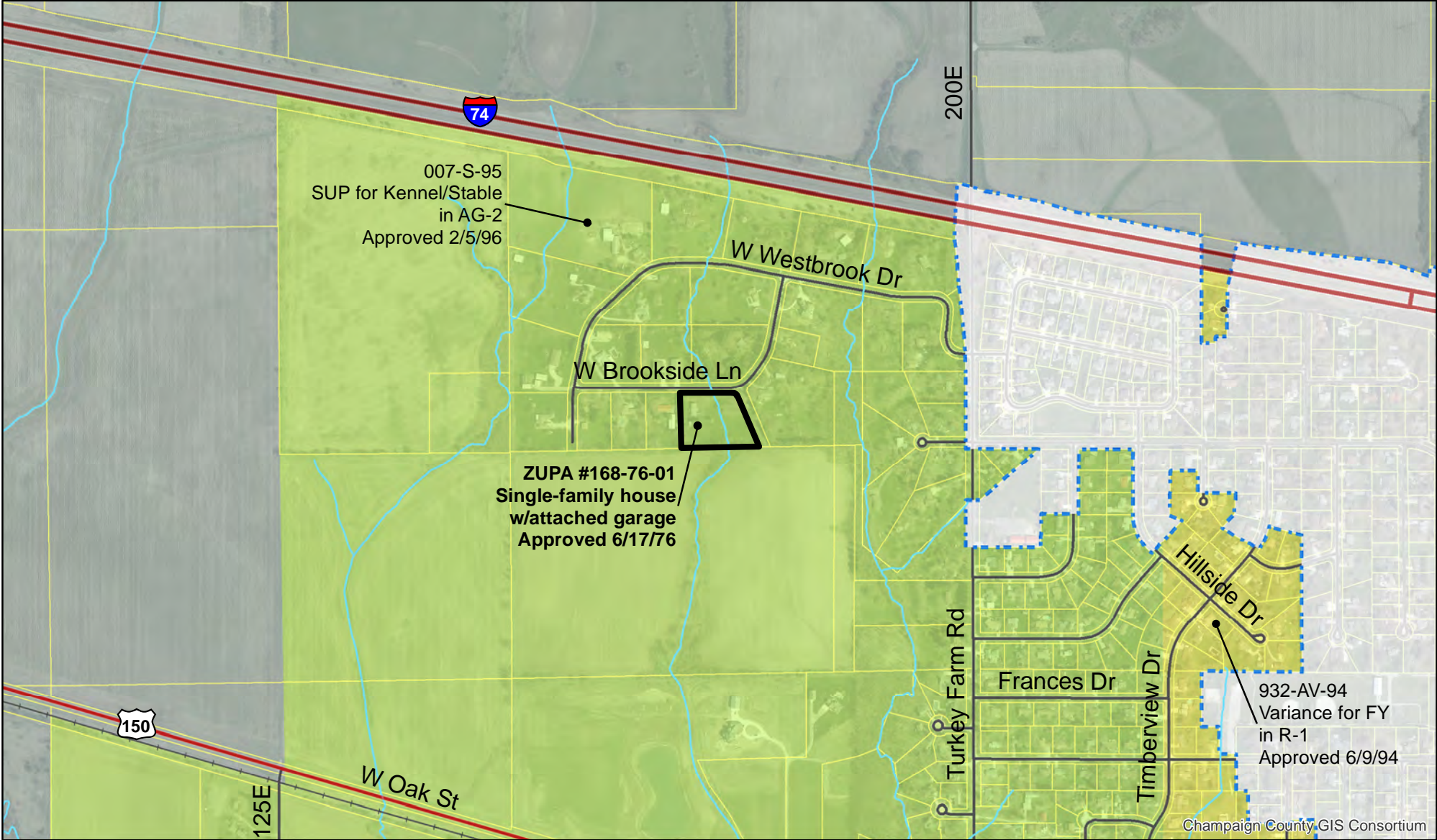
0 200 400 800 Feet



Champaign County
Department of
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ZONING

Zoning Map

Case 994-V-20
January 14, 2021



Legend

	Subject Property		AG-1 Agriculture		CR Conservation Recreation
	Parcels		AG-2 Agriculture		R-1 Single Family Residential

0 200 400 800 Feet

Champaign County
Department of
PLANNING &
ZONING

Champaign County GIS Consortium

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DEC 10 2020

CHAMPAIGN CO F & Z DEPARTMENT



Map data sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User-Community, Champaign County GIS Consortium

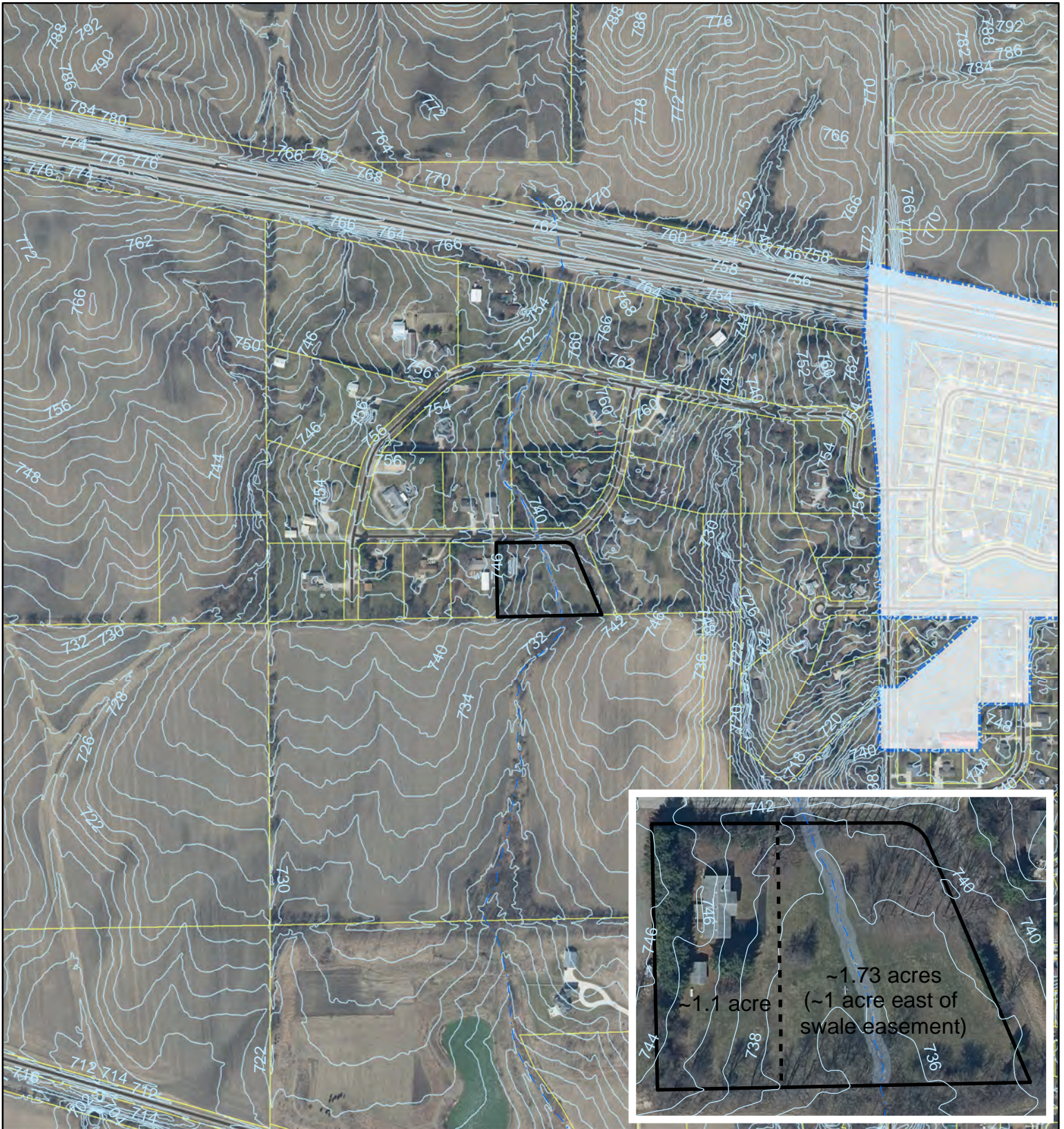
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ft








2020 aerial with streams and 2008 contours


Case 994-V-20
January 14, 2021



Legend

-  Subject Property
-  Parcels
-  Intermittent Stream
-  20 feet easement
-  2008 Contours

 Feet
0 145 290 580

Inset:  Feet
0 40 80 160





8 3 2 7 3 3 1
Tx:4136892

2020R22702

REC ON: 11/02/2020 02:25:17 PM

CHAMPAIGN COUNTY

MARK SHELDEN

REC FEE: 52.00

RMSPS Fee: 9.00

REV FEE:

PAGES 7

PLAT ACT: PLAT PAGE:

Prepared by and return to:

John Warren Kindt
MBA, J.D., LL.M., SJD
1503 W. Brookside Lane
Mahomet, IL 61853

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CHAMPAIGN CO. P & Z DEPARTMENT

AMENDMENT TO COVENANTS
WESTBROOK ESTATES SUBDIVISION

WHEREAS Paragraph 13 declares that no Lot in the Subdivision may be subdivided; and

WHEREAS the Covenants states that "any of the foregoing restrictions may be altered at any time, by a stipulation to that effect, signed by the owners of two-thirds of the lots in said subdivision, and shall be effective when the same is filed of record with the Recorder of Deeds of Champaign County, Illinois;" and

WHEREAS, the Owner of Lot 18 wished to subdivide his Lot.

NOW THEREFORE, attached hereto is a Petition signed by two-thirds or more of the owners in the Subdivision allowing Lot 18 to be divided into two separate Lots.

Champaign County Illinois
MARK SHELDEN
Register of Deeds
This receipt acknowledges that
VALUED CUSTOMER
has submitted a document to be
officially recorded of type:
COVENANTS
The document was received on
Nov 2 2020 2:25PM
This document can be identified by
this transaction ID
4136892
2020R22702
CHECK: 5501 61.00 KJ DT

SITE ASSESSMENT (SA) WORKSHEET

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

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

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

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

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

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

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

2b	If the subject site is Best Prime Farmland, which one of the following statements is correct: (1) The subject site is 15% or less of a larger real estate tax parcel (or multiple parcels) that existed on January 1, 2004. (Yes 0 points) (2) The subject site is larger than 15% of a larger real estate tax parcel (or multiple parcels) that existed on January 1, 2004. (Yes 10 points) (3) The subject site was not part of a larger tax parcel or parcels on January 1, 2004, and is 25 acres or less. (Yes 0 points) (4) The subject site was not part of a larger tax parcel or parcels on January 1, 2004, and is larger than 25 acres. (Yes 10 points)	10 points	_____
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Factor 2b assigns value to a subject site if it exceeds the lot size and configuration limits noted. The 15% limit and 25-acre lot size limit featured are arbitrary values selected to represent the general concern about the conversion and loss of best prime farmland. The *Champaign County Zoning Ordinance* has included a maximum lot size limit on Best Prime Farmland since July, 2004.

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

SITE ASSESSMENT (SA) WORKSHEET

2c	<p>If the subject site is not Best Prime Farmland and is at least 51% Prime Farmland, which one of the following statements is correct:</p> <p>(1) The subject site is larger than 25 acres. (Yes 10 points)</p> <p>(2) All of the following statements are true:</p> <p style="margin-left: 20px;">i. The subject site is part of a larger parcel that existed on April 12, 2011.</p> <p style="margin-left: 20px;">ii. Since April 12, 2011, a separate portion or portions of that larger parcel have been converted to a non-agricultural use as the result of a rezoning or special use.</p> <p style="margin-left: 20px;">iii. In total, the area of the subject site and those areas converted to a non-agricultural use (as identified in item ii. above) is larger than 25 acres. (Yes 10 points)</p> <p>(3) Neither (1) or (2) above apply to the subject site. (Yes 0 points)</p>		
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Factor 2c assigns value to a subject site which is not Best Prime Farmland but which consists of at least 51% Prime Farmland and exceeds a 25-acre lot size and configuration as of April 12, 2011. The 25-acre size threshold is an arbitrary value selected to represent the general concern about the conversion and loss of Prime Farmland.

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

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

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

3	Is the subject site located within the Contiguous Urban Growth Area?	no yes	40 points 0 points	_____
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Factor 3 is a general measure of development pressures which tend to support the conversion of agricultural sites to urban uses.

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

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

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

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

SITE ASSESSMENT (SA) WORKSHEET

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

4	Amount of the perimeter of a subject site that is adjacent to parcels with a principal use of agriculture.	91 to 100% of perimeter 81 to 90% of perimeter 71 to 80% of perimeter 61 to 70% of perimeter 51 to 60% of perimeter 41 to 50% of perimeter 31 to 40% of perimeter 21 to 30% of perimeter 11 to 20% of perimeter 1 to 10% of perimeter none	20 points 18 points 16 points 14 points 12 points 10 points 8 points 6 points 4 points 2 points 0 points	
	<p>a) If the subject site is Best Prime Farmland and/or at least 51% Prime Farmland, the amount of the perimeter of the subject site that is adjacent to parcels with a principal use of agriculture that existed on April 12, 2011.</p> <p>b) If the subject site is less than 51% Prime Farmland, the amount of the perimeter of the subject site that is adjacent to parcels with a principal use of agriculture.</p>	<p>450/1431 = 31.4%</p>		

Factor 4 assesses the amount of the perimeter of the subject site that is adjacent to parcels that have the principal use of agriculture. The assessment is made based on principal use of each parcel that is adjacent to the subject site. The principal use of a parcel (as used in the *Champaign County Zoning Ordinance*) represents the main use for which a lot is intended.

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

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

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

Defined terms relevant to the scoring of this factor include:

AGRICULTURE: The growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of agriculture all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed.

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

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

SITE ASSESSMENT (SA) WORKSHEET

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

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

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

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

5	Distance from the subject site to the nearest city or village limits.	1,200 ft	more than 3 miles	15 points	
			1.51 to 3 miles	10 points	
			within 1.5 miles	5 points	
			adjacent	0 points	

Factor 5 awards higher points the further a subject site is from a city or village. Factor 5 is based on the general assumption that the further the subject site is from a municipality, the less chance there is of a nearby land use or development that would conflict with the agricultural land use of that subject site.

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

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

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

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

Defined terms relevant to the scoring of this factor include:

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

SITE ASSESSMENT (SA) WORKSHEET

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

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

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

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

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

7	Percentage of land zoned AG-1 Agriculture, AG-2 Agriculture or CR Conservation-Recreation within 1 mile of subject site. AG-1 1021 ac AG-2 779 ac Total area 2184 ac = 82.4% AG-1 or AG-2	91 to 100%	10 points	
		81 to 90%	9 points	
		71 to 80%	8 points	
		61 to 70%	7 points	
		51 to 60%	6 points	
		41 to 50%	5 points	
		31 to 40%	4 points	
		21 to 30%	3 points	
		11 to 20%	2 points	
		1 to 10%	1 points	
none	0 points			

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

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

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

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

SITE ASSESSMENT (SA) WORKSHEET

8	Percentage of area within 1 mile of a subject site which consists of parcels with a principal use of agriculture.	91 to 100%	20 points	
		81 to 90%	18 points	
		71 to 80%	16 points	
	a) If the subject site is Best Prime Farmland and/or at least 51% Prime Farmland, the percentage of area within one mile of the subject site which consists of parcels with a principal use of agriculture that existed on April 12, 2011.	61 to 70%	14 points	
		51 to 60%	12 points	
		41 to 50%	10 points	
		31 to 40%	8 points	
		21 to 30%	6 points	
		11 to 20%	4 points	
	b) If the subject site is less than 51% Prime Farmland, the percentage of area within one mile of the subject site which consists of parcels with a principal use of agriculture.	1 to 10%	2 points	
		none	0 points	
	1465 /2184 = 67%			

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

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

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

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

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

AGRICULTURE: The growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of agriculture all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed.

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

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

SITE ASSESSMENT (SA) WORKSHEET

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

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

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

9	What is the distance from the subject site to the nearest 10 non-farm dwellings?	more than 1 mile	20 points	
		0.76 to 1 mile	18 points	
		0.51 to 0.75 mile	16 points	
		0.26 to 0.50 mile	14 points	
		0.01 to 0.25 mile	12 points	
		adjacent	0 points	
	590 ft			

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

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

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

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

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

SITE ASSESSMENT (SA) WORKSHEET

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

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

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

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

SA Total Score	_____
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CALCULATING THE TOTAL LESA SCORE

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

LE Total	_____
SA Total	_____
Total LESA Score	_____

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

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

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

**Table Of Common Conditions Influencing the Suitability of Locations
for Rural Residential Development In Champaign County**

<p align="center">Worst Or Nearly Worst Condition³</p> <p align="center">☐</p>	<p align="center">Much Worse Than Typical Condition⁴</p> <p align="center">▣</p>	<p align="center">More Or Less Typical Condition⁵</p> <p align="center">◯</p>	<p align="center">Much Better Than Typical Condition⁴</p> <p align="center">☆</p>	<p align="center">Ideal Or Nearly Ideal Conditions⁶</p> <p align="center">★</p>
<p>A RRO² ZONING FACTOR: Adequacy and safety of roads providing access</p>				
<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load) in terms of both pavement width and shoulder width. There may also be other deficiencies in the roadway.</p> <p>The point of access to the Township Highway is a location with serious visibility problems.</p> <p>The site is at more than five miles from a County or State highway. The intersections are uncontrolled and have visibility problems.</p>	<p>Access for all trips is from a Township Highway that has serious deficiencies (based on existing traffic load or traffic speed) in terms of both pavement width and shoulder width between the proposed site and where the road connects to a County or State Highway OR</p> <p>there is an uncontrolled railroad crossing between the proposed site and where the road connects to a County or State Highway.</p> <p>The site is within five miles of a County or State highway. The road intersections are uncontrolled and have visibility problems.</p> <p>The point of access to the Township Highway has reasonable visibility.</p>	<p>Access from a Township Highway which does not have adequate shoulder width and may also have insufficient (based on either existing traffic load or traffic speed) pavement width for a small portion of the distance between the proposed site and where the road connects to a County or State Highway.</p> <p>The site is within five miles of a County or State highway. Intersections are uncontrolled and have visibility problems.</p> <p>The point of access to the Highway has good visibility. See discussion of Effects On Farms for farm related traffic concerns.</p>	<p>Access is from a Township Highway with no deficiencies (even including the proposed increase in ADT) between the proposed site and where the road connects to a County or State Highway.</p> <p>The intersections are uncontrolled and have visibility problems.</p> <p>Access is at a location with good visibility.</p>	<p>Access from any of the following: 1) a County Highway or 2) a Township Highway with no deficiencies (even including the proposed increase in ADT) and is less than one mile travel to a County or State Highway.</p> <p>Access is at a location with good visibility.</p> <p>Access should not be directly to a State or Federal highway because vehicle turning movements could create safety concerns.</p>

**Table Of Common Conditions Influencing the Suitability of Locations
for Rural Residential Development In Champaign County**

Worst Or Nearly Worst Condition ³ ☐	Much Worse Than Typical Condition ⁴ ■	More Or Less Typical Condition ⁵ ○	Much Better Than Typical Condition ⁴ ☆	Ideal Or Nearly Ideal Conditions ⁶ ★
B RRO² ZONING FACTOR: Effects on nearby farmland and farm operations				
Points of access to RRO homes create safety conflicts with ag equipment Crops are negatively impacted by drainage from residential properties in RRO		Driveways are co-located and groups of driveways are widely separated so as to minimize interference with agricultural traffic No significant change to drainage		All proposed homes front a new public street that carries no agricultural traffic. The traffic from proposed homes is not likely to interfere with agricultural activities Drainage benefits surrounding agricultural land
C RRO² ZONING FACTOR: Effects of nearby farm operations on the proposed development				
Bordered by row crop agriculture on three sides and an existing livestock and/or stable operation on the fourth side.	Bordered by row crop agriculture on three sides but also close to and downwind of an existing livestock and/or stable operation.	Bordered on all sides by significant (more than a few acres) row crop agriculture so there are some incompatibilities that may lead to complaints from residences.	Bordered on no more than two sides by significant row crop agriculture	No effects because not adjacent to significant row crop agriculture nor downwind of any animal operations.
D RRO² ZONING FACTOR: The LESA score				
292 to 286 (Very high rating for protection) Land Evaluation part: 100 to 98 (100% of soil in Ag. Value Groups 1 & 2; Flanagan & Drummer soils generally) Site Assessment part: 192 to 188	285 to 256 (Very high rating for protection) Land Evaluation part: 97 to 93 (remainder between worst & overall average) Site Assessment part: 187 to 163	254 to 238 (Very high rating for protection) Land Evaluation part: 92 (reflects overall average for entire County) Site Assessment part: 162 to 146	237 to 188 (Very high rating to moderate rating for protection) Land Evaluation part: 91-85 (remainder between overall average & ideal) Site Assessment part: 145 to 103	186 to 121 (Moderate rating to low (170) rating for protection) Land Evaluation part: 84 to 41 ⁴ (No best prime farmland soils) Site Assessment part: 102 to 80

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D RRO² ZONING FACTOR: The LESA score <i>continued</i>				
(See hypothetical worksheet for assumptions)	(remainder between worst & overall average)	(See hypothetical worksheet for assumptions)	(remainder between overall average & ideal)	(Conditions intended to reflect a rural location within a municipal ETJ without sewer or water; typical urban subdivision at or near municipal boundary has site assessment of 82 to 54; see hypothetical worksheet for assumptions)
E RRO² ZONING FACTOR: Effects on drainage both upstream and downstream				
<p>100% of site has wet soils that must be drained for development. Large parts of the site also pond.</p> <p>There is no natural drainage outlet for either surface or subsurface flows so offsite improvements are necessary.</p> <p>An alternative problem is the condition in which the site is bisected by a natural drainageway with large flows from upstream offsite areas which have significant effects on site development.</p>	<p>Between 90% and 100% of the site has wet soils that must be improved for development.</p> <p>Only about half of the site drains to existing road ditches. The rest of the site drains over adjacent land that is under different ownership which require offsite improvements.</p> <p>Ponding is a significant problem.</p>	<p>Approximately 90% of the site has wet soils that must be improved for development.</p> <p>There may also be large areas where ponding occurs.</p> <p>Most of the site drains through township road ditches that do not have adequate capacity.</p>	<p>Probably less than half of the site has wet soils.</p> <p>The site drains to Township road ditches that are more or less adequate or to other natural drainage features that have adequate capacity.</p>	<p>No wet soils so no “dry weather flows” problems OR</p> <p>if wet soils are present the site drains directly to a drainage district facility with adequate capacity or to a river.</p>

**Table Of Common Conditions Influencing the Suitability of Locations
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Worst Or Nearly Worst Condition ³ ☐	Much Worse Than Typical Condition ⁴ ■	More Or Less Typical Condition ⁵ ○	Much Better Than Typical Condition ⁴ ☆	Ideal Or Nearly Ideal Conditions ⁶ ★
F RRO² ZONING FACTOR: Suitability for onsite wastewater systems				
100% of site with Low or Very Low Potential for septic tank leach fields.	More than 50% of site (but less than 95%) with Low Potential for septic tank leach fields.	No more than 50% of site with Low Potential for septic tank leach fields.	More than 50% of site with at least a Moderate Potential for septic tank leach fields.	100% of site with at least a High Potential for septic tank leach fields or positive soil analysis (regardless of soil potential).
G RRO² ZONING FACTOR: Availability of water supply				
In the area with suspected problems of groundwater availability near existing wells which have experienced reliability problems and for which no investigations have proven otherwise.	An area with suspected problems of groundwater availability and for which no investigations have proven otherwise.	Reasonable confidence of water availability (area with no suspected problems of groundwater availability) and no reason to suspect impact on neighboring wells.		Virtual certainty of water availability (i.e., located above the Mahomet-Teays Aquifer) or anywhere that investigations indicate availability with no significant impact on existing wells.
H RRO² ZONING FACTOR: The availability of emergency services⁷				
Located more than five road miles from a fire station within the district with an intervening railroad crossing with heavy rail traffic.	Located more than five road miles from a fire station within the district.	Located about five road miles from a fire station within the district.	Located between two-and-half and five road miles from a fire station within the district.	Located less than two-and-half road miles from the fire station within the district and with no intervening railroad grade crossings. ⁵
I RRO² ZONING FACTOR: Flood hazard status				
Every lot is entirely within the SFHA (based on actual topography) as is the road that provides access.	Some of the proposed lots and parts of the road that provide access are in the SFHA. Some lots may require fill to have adequate buildable area above the BFE.	Small portions of the site may be in the SFHA but all lots have adequate buildable area outside of the SFHA.		No part of the proposed site nor the roads that provide emergency access are located in the Special Flood Hazard Area (SFHA, which is the 100-year floodplain).

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J RRO² ZONING FACTOR: Effects on wetlands, historic or archeological sites, natural or scenic areas, and/or wildlife habitat				
Significant negative effects for more than one concern.		Archaeological concerns may apply to a small part of the site but in general no negative effects. ⁶		Nothing present to be concerned about.
K RRO² ZONING FACTOR: The presence of nearby natural⁸ or manmade hazards				
More than one man-made hazard is present or adjacent to the site. Access roads from fire protection station are prone to snow drifts.	One or more man-made hazards are present or adjacent to the site. Access roads from fire protection station are prone to snow drifts.	It is not unusual for a site to be close to some kind of hazard such as a pipeline, high tension electrical transmission lines, or railroad tracks. Snow drifts may block access from fire protection station.	Not close to any man-made hazard although snow drifts may block access from fire protection station.	Not close to any man-made hazard and relatively close to urbanized areas.
L RRO ZONING FACTOR: The amount of land to be converted from agricultural USES versus the number of DWELLING UNITS to be accommodated.				
More than a few higher acreage residential lots converted from ag land Sparse distribution of converted residential areas affecting many agricultural lands		A few residential lots of varying densities converted from ag land Mix of lot sizes affecting both agricultural and near-urban areas, mix of prime and not prime soils		No more than a few lower acreage residential lots converted from ag land Compact development of residential areas closer to urban areas and/or on less than prime farmland

**Table Of Common Conditions Influencing the Suitability of Locations
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<p>NOTES</p> <p>1. Five different “typical” conditions are identified that are representative of the range of conditions that exist in Champaign County. The characterization of these conditions are based solely on the opinions of County Staff.</p> <p>2. RRO= Rural Residential Overlay</p> <p>3. The WORST conditions are based on the worst possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine “worst” ratings on all factors.</p> <p>4. MUCH WORSE THAN TYPICAL and MUCH BETTER THAN TYPICAL conditions are Staff judgements.</p> <p>5. Where possible, TYPICAL Champaign County rural residential development site conditions are based on averages for the entire County. For example, the overall average Land Evaluation is for all of the land in the County. Some factors are based on a review of data for all major rural subdivisions (such as the gross average lot size). Differences in water availability are localized and not averaged over the entire County.</p> <p>6. The IDEAL Champaign County rural residential development site conditions are based on the best possible conditions <u>for each factor</u> that can be found in rural Champaign County regardless of the amount of land that might be available and regardless of whether or not any individual site would likely ever combine “ideal” ratings on all factors.</p> <p>7. Ambulance service can presumably be further than five miles distance and be acceptable. <i>NO STANDARD OF COMPARISON IS PROPOSED FOR EMERGENCY AMBULANCE SERVICE.</i></p> <p>8. Any location in the County is subject to natural hazards such as tornadoes, freezing rain, etc.</p>				

994-V-20 Site Images



From Brookside Lane facing SW to existing house



From easement facing west to existing house

994-V-20 Site Images



**From intersection of Brookside Lane and easement facing SW to subject property
(house is to right behind trees)**



**From south end of easement facing west to subject property
(house is behind trees at right)**

PRELIMINARY DRAFT

994-V-20

**FINDING OF FACT
AND FINAL DETERMINATION**

**of
Champaign County Zoning Board of Appeals**

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

Date: *{January 14, 2021}*

Petitioners: **John Kindt**

Request: **Authorize a variance for a proposed division of a lot less than five acres in area in the AG-2 Agriculture Zoning District, per Section 5.4.2 A.3. of the Zoning Ordinance.**

Table of Contents

General Application Information..... 2

Requested Variance3

Specific Ordinance Requirements.....3 - 4

Variance Evidence4 - 9

Documents of Record..... 10

Case 994-V-20 Findings of Fact.....11 - 12

Case 994-V-20 Final Determination 13

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 14, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. John Kindt owns the subject property.
2. The subject property is the 2.83-acre Lot 18 of Westbrook Estates Subdivision Plat 1 in the Southeast Quarter of Section 8, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, with an address of 1503 W Brookside Ln, Mahomet.
 - A. The subdivision was approved by the Village of Mahomet in 1972 and recorded as Document No 1973R01641 on January 30, 1973.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet, a municipality with zoning. Municipalities do not have protest rights on a variance, but the Village was notified of this case because they will have jurisdiction over the proposed lot split approval.
 - B. The subject property is located within Mahomet Township, which does 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 2.83-acre lot is zoned AG-2 Agriculture and is residential in use.
 - B. Land north, east, and west of the subject property is zoned AG-2 Agriculture and is residential in use.
 - C. Land to the south is zoned AG-2 Agriculture 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 2020 aerial photo received December 10, 2020, and indicates the following:
 - (1) The existing 2.83 lot would be divided into two parts:
 - a. The west 150 feet (1.1 acres), which includes the existing residence, will be one lot.
 - b. The remaining 1.73 acres to the east will be the second lot. There is approximately 1 acre east of the drainage easement in this larger lot, as indicated on the drainage map created by P&Z Staff on December 30, 2020.
 - (2) Existing structures include:
 - a. A residence constructed under ZUPA #168-76-01; and
 - b. One 16 feet by 24 feet (384 square feet) detached shed constructed under ZUPA #168-76-01.

- (3) Proposed construction, contingent upon approval of the variance and approval of a proposed subdivision by the Village of Mahomet, would include:
 - a. A single-family residence to be located on the proposed east lot.
- B. There is one previous Zoning Use Permit for the 2.83-acre lot:
 - (1) ZUPA #168-76-01 was approved on June 17, 1976 to construct a single-family residence with an attached garage and a detached garage.
- C. The requested 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) “AREA, LOT” is the total area within the LOT LINES.
 - (2) “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.
 - (3) “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.
 - (4) “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.
 - (5) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
 - B. Section 5.4.2 A.3. of the Zoning Ordinance states, “no LOT that is 5 acres or less in area may be further divided.”
 - 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: **“The three other lots on the south side of W Brookside Lane are approximately 1.3-1.5 acres each. Therefore, dividing the approximate 2.83 acres into two lots would harmonize with the other lots.”**
 - B. Minimum lot size of a lot created after September 21, 1993 without access to a public water supply system is 30,000 square feet (0.69 acre). Both of the proposed lots would be at least one acre each.
 - C. The Village of Mahomet approved a similar circumstance when it allowed a replat of Westbrook Estates in 2013, to split a 1-acre lot from the original 5.07-acre Lot 11 so that two dwellings would be allowed.

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: **“After residing at 1503 W Brookside for over 38.5 years, not approving this variance would prohibit a new house from being built without tearing down a house worth approx. \$250,000.”**
- B. Without the proposed variance, the 2.83-acre property could only have one residence even though that acreage would be more than sufficient to create two new lots in the AG-2 Agriculture District.

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: **“Not Applicable.”**
 - B. The Zoning Ordinance only allows one dwelling per lot in the AG-2 Agriculture Zoning District, even if there is sufficient lot area for more than one dwelling.

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: **“Granting the requested variance will harmonize Lot 18 with the other three lots situated on the south side of W Brookside Lane.”**
 - B. Regarding the variance for division of a lot that is 5 acres in area or less: the requested variance is 100%.
 - C. Regarding the variance 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.
- D. 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 driveway either on Brookside Lane or on the unnamed dead-end road east of the subject property that provides access to the farm ground south of the subject property.
 - b. Brookside Lane is a local township road that is approximately 17 feet wide.
 - c. The Illinois Department of Transportation's *Bureau of Local Roads and Streets Manual* 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.
 - d. 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 N Westbrook Dr, which is the closest available count, was 175 vehicles. No significant increase in traffic is expected, so the road capacity appears adequate.
 - (2) *Effects on nearby farmland and farm operations.*
 - a. The proposed variance for splitting a lot 5 acres or less in area would result in no farmland being taken out of production.
 - b. The unnamed road to the east of the subject property provides unique access to the farmland to the south. Care will need to be taken by any motorists and farm equipment operators in the area.
 - c. There is a drainage swale running generally north-south through the subject property that bisects the farmland to the south, making the unnamed road the only access to the farmland's east side.
 - (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.
 - (4) *The LESA (Land Evaluation and Site Assessment) score of the subject site.*
 - a. The soil on the 2.83-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam; 679B Blackberry silt loam; and 56B Dana silt loam, and has an average LE of 98.

- b. The Site Assessment (SA) portion of the LESA analysis scored 118 out of 200 points.
 - c. The total LESA Score of 216 receives the second lowest protection rating in LESA which is “moderate rating for protection.”
 - d. The subject property has been out of agricultural production since at least 1976, when the residence was built.
- (5) *Effects on drainage both upstream and downstream.* The subject property drains to the south. Both proposed lots would drain toward the swale bisecting the property.
- (6) *The suitability of the site for onsite wastewater systems.* The soil on the 2.83-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam; 679B Blackberry silt loam; and 56B Dana silt loam, and has an average LE of 98.

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 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. 56B Dana silt loam has high suitability for septic tank leach fields with a soil potential index of 93. Dana soil has a severe wetness limitation. It has permeability that is rated as a “moderate” limitation and only a slight limitation due to slope. The typical corrective measure is to use a conventional system with a standard absorption field and a curtain drain. There are 41 soil types listed in the report that have lower suitability potential than Dana.
- (7) *The availability of water supply to the site.* The subject property is located over the Mahomet Aquifer. A new well or connection to public water will be required for

the proposed second lot. The proposed subdivision should have little effect on water availability.

- (8) *The availability of emergency services to the site.* The subject property is approximately 2.1 road miles from the Cornbelt Fire Protection District station in Mahomet.
- (9) *The flood hazard status of the site.* No part of the subject property is within the Special Flood Hazard Area, per FEMA FIRM panel 17019C0258D effective October 2, 2013.
- (10) *Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat.* The subject property contains no known wetlands, 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 not remove any land from production and would add one dwelling unit.

E. 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 6 factors:
 - a. RRO Factor F: Septic suitability
 - b. RRO Factor G: Availability of water supply
 - c. RRO Factor H: Emergency services
 - d. RRO Factor I: Flood hazard status
 - e. RRO Factor J: Effects on sensitive natural areas
 - f. RRO Factor L: Land converted from agricultural uses
- (2) “Much Better Than Typical” conditions for 4 factors:
 - a. RRO Factor C: Effects of nearby farms
 - b. RRO Factor D: LESA score
 - c. RRO Factor E: Effects on drainage
 - d. RRO Factor K: Natural or manmade hazards
- (3) “More or Less Typical” conditions for 2 factors:
 - a. RRO Factor A: Safety
 - b. RRO Factor B: Effects on farms
- (4) “Much Worse than Typical” conditions for no factors.

F. 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: **“While the covenants require 2/3 of the landowners to concur, approximately 75% of landowners have acquiesced to subdividing Lot 18 and this acquiescence has been duly recorded in the Champaign County Recorder’s Office.”**
 - B. The petitioner requested and received an amendment to the Westbrook Estates Subdivision covenants that allows him to split the lot, which was not previously allowed by the covenants. The petitioner received support via petition from three-quarters of the landowners in the subdivision, and only needed two-thirds of them to approve. While subdivision covenants are not in the purview of the ZBA, it is worth noting that there is general support in the neighborhood for allowing the lot split.
 - C. The Mahomet Township Highway Commissioner has been notified of this variance, and no comments have been received.
 - D. The Mahomet Township Supervisor has been notified of this variance, and no comments have been received.
 - E. The Mahomet Township Plan Commission has been notified of this variance, and no comments have been received.
 - F. The Cornbelt Fire Protection District has been notified of this variance, and 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 did not provide a response to this question on the application.

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 the proposed east lot unless and until a Plat of Subdivision has been duly approved by the Village of Mahomet 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.

DOCUMENTS OF RECORD

1. Application for Variance Permit received December 10, 2020, with attachments:
 - A Site Plan
 - B Quit Claim Deed
 - C Amendment to covenants, Westbrook Estates Sub

2. Preliminary Memorandum dated January 5, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received December 10, 2020
 - C Westbrook Estates Plat 1 recorded as Document No 1973R01641 on January 30, 1973
 - D Drainage Map created by P&Z Staff on December 30, 2020
 - E Amendment to covenants, Westbrook Estates Sub, received December 10, 2020
 - F Site Images taken December 29, 2020
 - G Summary of Evidence, Finding of Fact, and Final Determination dated January 14, 2021

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 994-V-20 held on **January 14, 2021**, 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:
 - a. ***Minimum lot size of a lot created after September 21, 1993 that has access to a public water supply system is 20,000 square feet (0.46 acre). Both of the proposed lots would be at least one acre each.***
 - b. ***The Village of Mahomet approved a similar lot split when it allowed a replat of Westbrook Estates in 2013, to split a 1-acre lot from the original 5.07-acre Lot 11 so that two dwellings would be allowed.***
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:
 - a. ***Without the proposed variance, a new house could not be built on the property without tearing down a house worth approximately \$250,000.***
 - b. ***Without the proposed variance, the 2.83-acre property could only have one residence even though that acreage would be more than sufficient to create two new lots in the AG-2 Agriculture District.***
3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
 - a. ***The Zoning Ordinance only allows one dwelling per lot in the AG-2 Agriculture Zoning District, even if there is sufficient lot area for more than one dwelling.***
4. The requested variance **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
 - a. ***The proposed lot would not take any agricultural land out of production.***
 - b. ***Summarizing the Rural Residential Overlay (RRO) factors, compared to “common conditions” found at rural sites in Champaign County, the subject property is “ideal or near ideal” for 6 of the 12 RRO factors, “much better than typical” for 4 of the 12 RRO factors, and “more or less typical” for the other 2 RRO factors.***
5. The requested variance **{WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
 - a. ***The Township and Fire Protection Districts have been notified, and no comments have been received.***
 - b. ***The petitioner requested and received an amendment to the Westbrook Estates Subdivision covenants that allows him to split the lot, which was not previously allowed by the covenants. The petitioner received support via petition from three-quarters of the landowners in the subdivision, and only needed two-thirds of them to approve. While subdivision covenants are not in the purview of the ZBA, it is worth noting that there is general support in the neighborhood for allowing the lot split.***

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 CONDITION IMPOSED HEREIN IS REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
 - A. **A Zoning Use Permit shall not be approved for construction on the proposed east lot unless and until a Plat of Subdivision has been duly approved by the Village of Mahomet 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.

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 **994-V-20** is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioner, **John Kindt**, to authorize the following variance in the AG-2 Agriculture Zoning District:

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:}

- A. **A Zoning Use Permit shall not be approved for construction on the proposed east lot unless and until a Plat of Subdivision has been duly approved by the Village of Mahomet 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