

# CASE NO. 853-S-16

PRELIMINARY MEMORANDUM

November 3, 2016

**Petitioner:** Kevin and Angela Pagel

**Request:** Authorize a Special Use Permit for construction of an artificial lake of 1 or more acres in area in the AG-1 Agriculture Zoning District

**Location:** A tract of land in the Northeast Quarter of the Southeast Quarter of Section 23 of Township 21 North, Range 7 East of the Third Principal Meridian in Newcomb Township with an address of 2639 CR 500E, Mahomet, Illinois.

**Site Area:** 10.18 acres

**Time Schedule for Development:** In progress

**Prepared by:** **Susan Chavarria**  
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## BACKGROUND

The petitioners have a permit (ZUPA #239-16-01, approved September 29, 2016) to construct a single family home with attached garage, a detached storage shed and a pond less than one acre in area. They will use the dirt from creating the pond for fill around the proposed house.

They are currently building a smaller pond, which does not require a Special Use Permit, and will soon construct a shed to protect the lumber for construction of the house in the spring. They are pursuing the Special Use Permit for a 1.6-acre pond because they anticipate needing more fill around the house. An artificial lake of 1 acre or more requires a Special Use Permit.

If the Special Use Permit is denied, the petitioners plan to haul in dirt to fill around the house.

## EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

The subject property is located within Newcomb Township, which has a Plan Commission. Townships with Plan Commissions do not have protest rights on Special Use Permits; however, they do receive notice of such cases and they are invited to comment.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Vacant	AG-1 Agriculture
North	Residential	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Residential	AG-1 Agriculture
South	Residential	AG-1 Agriculture

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## BEST PRIME FARMLAND STATUS

The 10-acre lot size was reviewed for Best Prime Farmland in order to determine if a maximum lot size variance would be required as per Section 5.3, Footnote 13. The review showed that the property was lawfully created before the establishment of the current definition of Best Prime Farmland, making it a non-conforming lot that does not need a variance for exceeding maximum lot area. The following information can be found in the Summary of Evidence:

Under Item 8:

- F. The subject property is considered Best Prime Farmland. The soil on the subject property consists of Drummer silty clay loam 152A, Blount silt loam 23A, Blount silt loam 23B2, and Camden silt loam 134B, and has an average Land Evaluation Factor (LE) of 84 as per the Natural Resource Report received from the Champaign County Soil and Water Conservation District on October 3, 2016.

Under Item 9.B:

- (2) Regarding Best Prime Farmland:
  - a. The subject property is non-conforming with respect to the current definition of Best Prime Farmland by virtue of the Plat of Survey that was recorded on October 5, 2005, prior to the adoption of Case 711-AT-12 on November 27, 2012, which established the current definition of Best Prime Farmland.
    - (a) The minimum Land Evaluation Factor for Best Prime Farmland at the time of survey was 85.
    - (b) Even though the site includes a significant amount (approximately 24%) of Agriculture Value Group 1 soils as determined by the Champaign County LESA system, which would make it Best Prime Farmland by current definition, this lot was lawfully created and is therefore nonconforming with respect to the maximum lot size requirement.

## STORMWATER AND EROSION CONTROLS

Approved ZUPA #239-16-01 included special conditions related to stormwater and erosion control because the petitioners will disturb greater than an acre of land during construction. The petitioners were notified that they require an Illinois Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) ILR10 General Construction Storm Water Permit. Compliance with state and local regulations will be checked during construction and during the Zoning Compliance Certificate inspection done post-construction.

A copy of the IEPA Notice of Coverage Under Construction Site Activity Storm Water General Permit dated October 6, 2016 and petitioner's Notice of Intent for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit dated August 29, 2016, was received November 1, 2016.

## CONSTRUCTION CONCERNS

The following evidence was added under Item 8:

- I. Regarding neighborhood concerns:
  - a. On October 5, 2016, staff was contacted with a concern that the construction stockpiles are too close to the property line.
  - b. Staff visited the site on October 19, 2016, and noted that stockpiles did seem to be closer than 30 feet from the property line as required by the IEPA and the Champaign County Stormwater Management and Erosion Control Ordinance.

## PROPOSED SPECIAL CONDITIONS

- A. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit approval process and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

The above special condition is required to ensure the following:

**The construction of the pond conforms to the requirements of the Stormwater Management and Erosion Control Ordinance.**

- B. **A Change of Use Permit application shall be submitted with the Stormwater Drainage Plan.**

The above special condition is required to ensure the following:

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

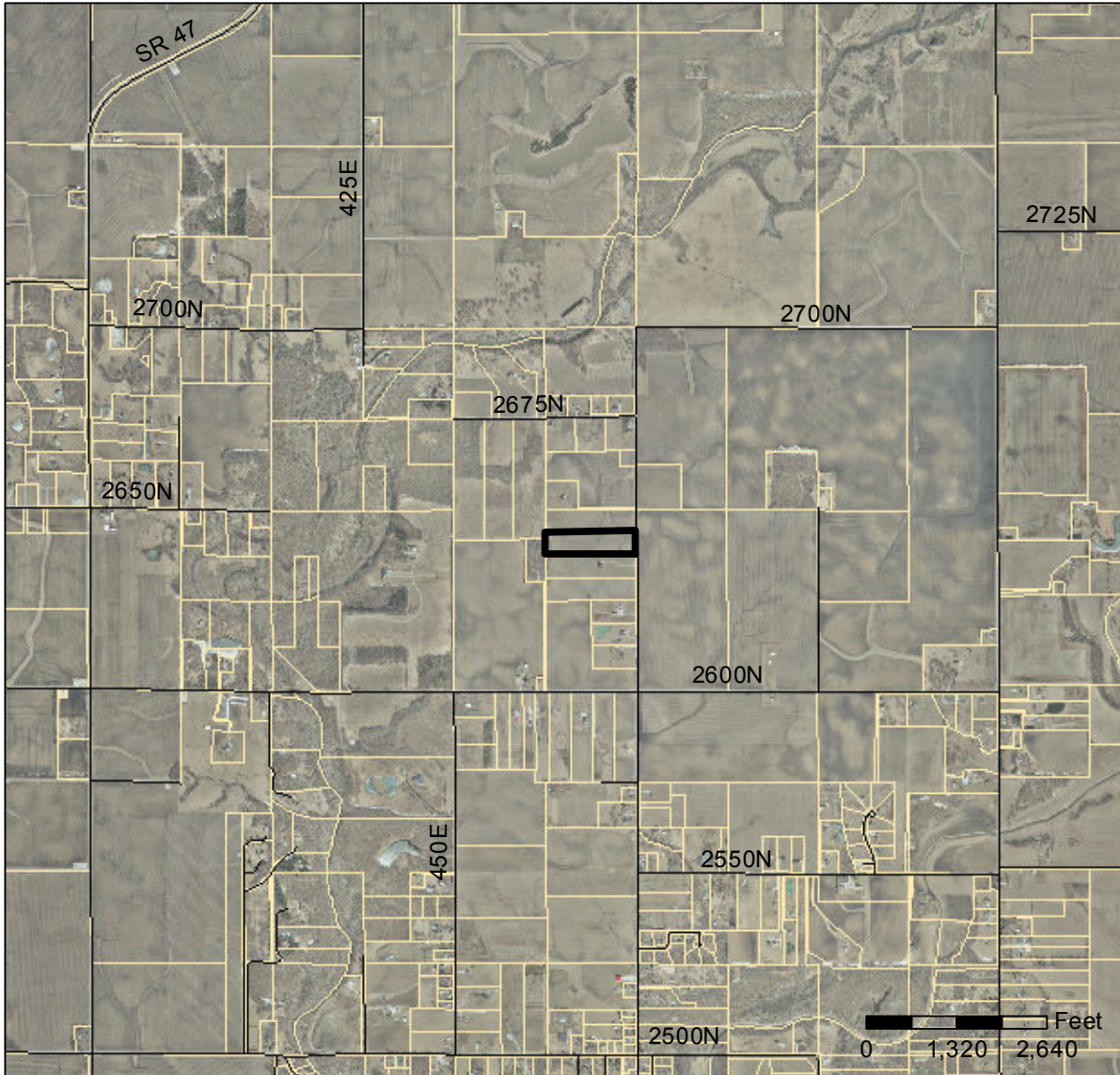
## ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received August 29, 2016
- C Revised Site Plan received November 1, 2016
- D Approved Site Plan from Zoning Use Permit Application #239-16-01
- E Zoning Use Permit #239-16-01, including special conditions
- F Natural Resources Report received October 3, 2016 from Champaign County Soil and Water Conservation District
- G IEPA Notice of Coverage Under Construction Site Activity Storm Water General Permit dated October 6, 2016 and petitioner's Notice of Intent for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit dated August 29, 2016, and received November 1, 2016
- H Site Visit Photos taken September 26, 2016
- I Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated November 3, 2016

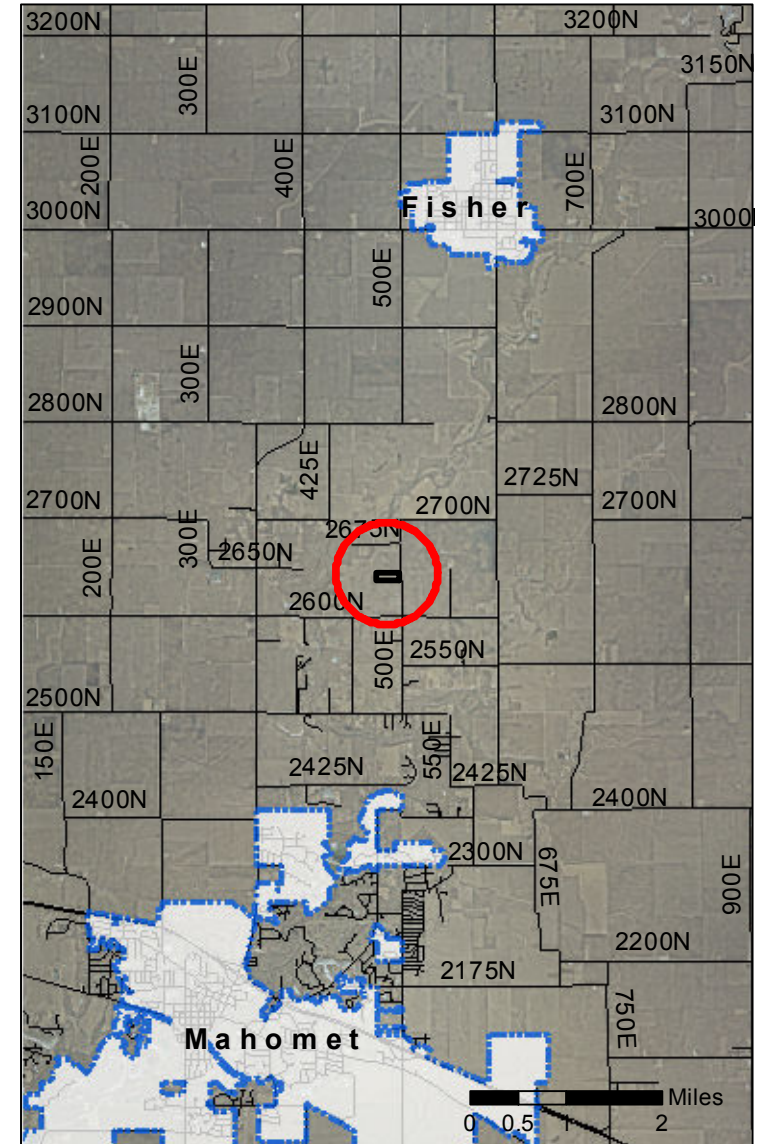
# Location Map

Case 853-S-16  
November 10, 2016

Subject Property



Property location in Champaign County



## Legend

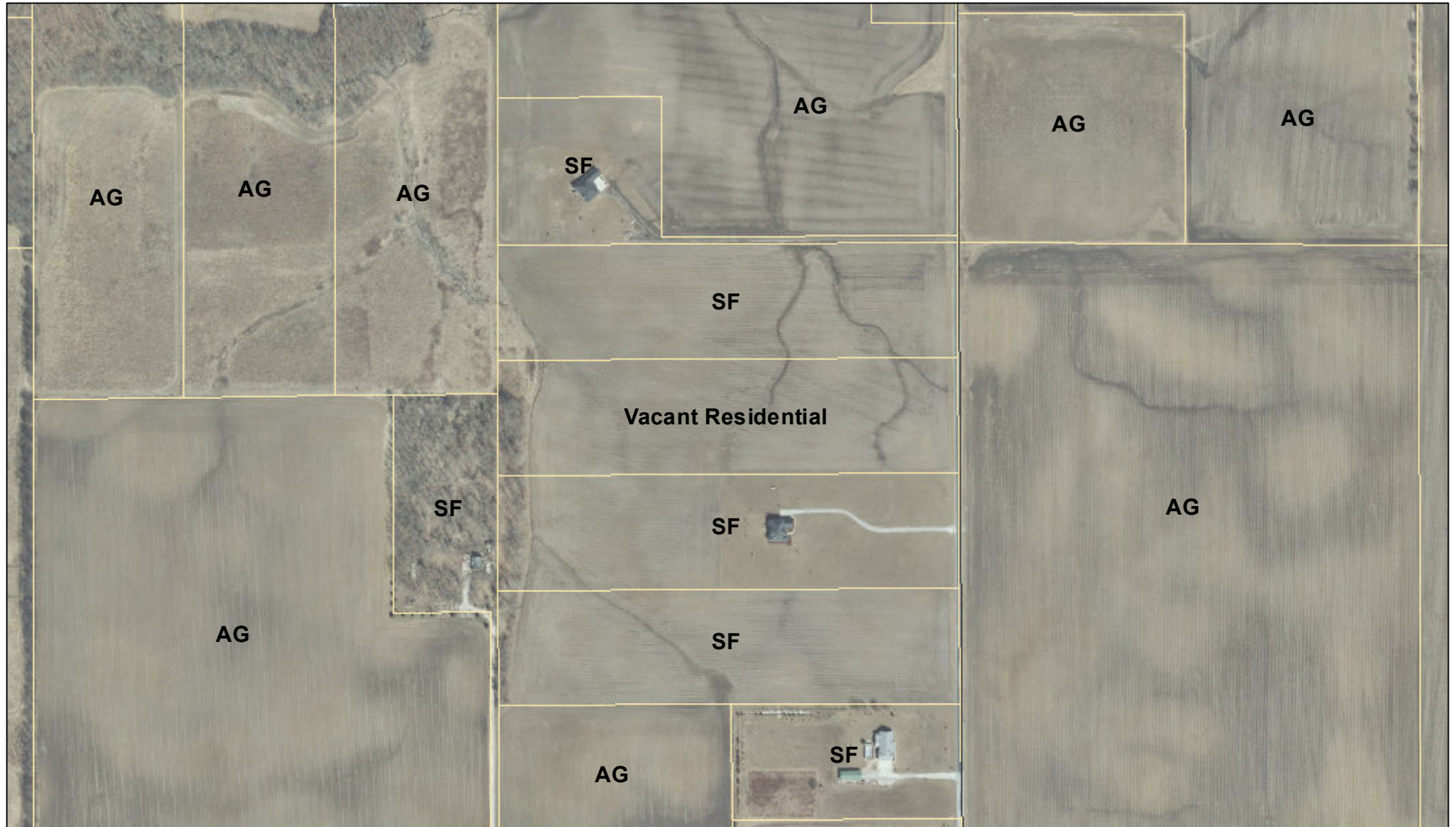
-  Subject Property
-  Municipal Boundary
-  Parcels
-  Streets



# Land Use Map

Case 853-S-16

November 10, 2016



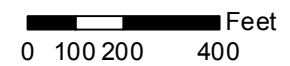
## Legend

 Subject Property

 Parcels

SF Single Family Residential

AG Agriculture









































































**PRELIMINARY DRAFT**

**853-S-16**

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

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

Date: *{November 10, 2016}*

Petitioners: **Kevin and Angela Pagel**

Request: **Authorize a Special Use Permit for construction of an artificial lake of 1 or more acres in area in the AG-1 Agriculture Zoning District**

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***GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE***

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
  - A. The Petitioner has testified on the application: **“Yes.”**
  - B. The existing use on the property is not a nonconforming use.

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

12. Regarding proposed special conditions of approval:
  - A. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit approval process and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

The above special condition is required to ensure the following:

**The construction of the pond conforms to the requirements of the Stormwater Management and Erosion Control Ordinance.**

- B. **A Change of Use Permit application shall be submitted with the Stormwater Drainage Plan.**

The above special condition is required to ensure the following:

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

**PRELIMINARY DRAFT**

**DOCUMENTS OF RECORD**

1. Application for Special Use Permit received August 29, 2016, with attachments:
  - A Site Plan received August 29, 2016
  - B Legal description
  - C Plat of survey
2. Revised Site Plan received November 1, 2016
3. Zoning Use Permit #239-16-01 case file
4. Natural Resources Report received October 3, 2016 from Champaign County Soil and Water Conservation District
5. Notice of Intent for Storm Water Discharges Associated with Construction Activity Under an NPDES General Permit dated August 29, 2016, and received November 1, 2016
6. Preliminary Memorandum dated Nov 3, 2016, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan received August 29, 2016
  - C Revised Site Plan received November 1, 2016
  - D Approved Site Plan from Zoning Use Permit Application #239-16-01
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**PRELIMINARY DRAFT****FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **853-S-16** held on **November 10, 2016**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
  - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because\*}*:
  - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because\*}*:
  - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because\*}*:
  - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because\*}*:
  - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because\*}*:
  - g. The property *{IS / IS NOT}* WELL SUITED OVERALL for the proposed improvements.
  - h. Existing public services *{ARE / ARE NOT}* available to support the proposed SPECIAL USE without undue public expense.
  - i. Existing public infrastructure together with the proposed development *{IS / IS NOT}* adequate to support the proposed development effectively and safely without undue public expense.

*(Note the Board may include other relevant considerations as necessary or desirable in each case.)*

\*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
  - a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
  - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
  - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
  - a. The Special Use is authorized in the District.
  - b. The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience at this location.

**PRELIMINARY DRAFT**

- c. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** is so designed, located, and proposed to be operated so that it ***{WILL / WILL NOT}*** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** ***{DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use ***IS NOT*** an existing nonconforming use.
6. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:***

- A. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit approval process and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

The above special condition is required to ensure the following:

**The construction of the pond conforms to the requirements of the Stormwater Management and Erosion Control Ordinance.**

- B. **A Change of Use Permit application shall be submitted with the Stormwater Drainage Plan.**

The above special condition is required to ensure the following:

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

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **853-S-16** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicants, Kevin and Angela Pagel, to authorize **the following as a Special Use on land in the AG-1 Agriculture Zoning District:**

**Authorize a Special Use Permit for construction of an artificial lake of 1 or more acres in area in the AG-1 Agriculture Zoning District.**

*{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }*

- A. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit approval process and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**
- B. **A Change of Use Permit application shall be submitted with the Stormwater Drainage Plan.**

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

SIGNED:

Eric Thorsland, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date