

CASE# 2019-009 7-1
RESOLUTION NUMBER _____

DENYING A REZONING AND GRANTING A REZONING, A USE VARIANCE, AND VARIANCES AND GRANTING A REZONING AND VARIANCES
FOR CERTAIN PROPERTY LOCATED AT
8788 MECHANICSBURG ROAD, DAWSON
SANGAMON COUNTY, ILLINOIS

WHEREAS, the Zoning Board of Appeals has presented to the Sangamon County Board, Sangamon County, Illinois, its Findings of Fact and Recommendation that the Sangamon County Board **deny an amendment, but in the alternative, grant an amendment, a Use Variance, and variances and grant an amendment and variances** to the Sangamon County Zoning Ordinance with respect to the following described property, to-wit:

See Exhibit A

WHEREAS, the Petitioner, **Brian Reilly**, has petitioned the Sangamon County Board for **Proposed Parcel 1: a rezoning from “A” Agricultural District to “B-3” General Business District; a variance to allow two (2) uses on one (1) parcel: (1) single-family residence and (2) catering establishment; a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat; a variance to allow the front yard setback to be approximately two (2) feet instead of the required fifteen (15) feet; and, a variance to allow a single-family residence in the “B-3” General Business District. Petitioner further requests for Proposed Parcel 1 that if the rezoning to “B-3” General Business District is deemed inappropriate that a Use Variance be granted in accordance with Chapter 17.68; and, a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet. For Proposed Parcel 2: a rezoning from “A” Agricultural District to “R-1” Single-Family Residence District; a variance to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, a variance to allow the accessory structure.**

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to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the “R-1” Single-Family Residence District; and,

WHEREAS, a public hearing was held at the Sangamon County Building on **April 18, 2019** after proper notice was posted on said property and given by news publication, as is required by said Ordinance, and all procedural and jurisdictional requirements of the Sangamon County Zoning Ordinance have been met; and,

WHEREAS, the Sangamon County Zoning Board of Appeals has presented to the Sangamon County Board of Sangamon County its Findings of Fact and Recommendation that the Sangamon County Board **deny the rezoning, but in the alternative, grant a rezoning, a Use Variance, and variances and grant a rezoning and variances;** and,

WHEREAS, the Sangamon County Board does hereby adopt the recommendation of the Sangamon County Zoning Board of Appeals.

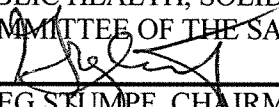
NOW, THEREFORE, BE IT RESOLVED by the County Board of Sangamon County, Illinois, in session assembled this **14th Day of May, 2019** that **the requests for Proposed Parcel 1: a rezoning from “A” Agricultural District to “B-3” General Business District is denied, but in the alternative a rezoning to “R-1” Single-Family Residence District and, a Use Variance to allow the catering establishment on Proposed Parcel 1 provided the business is not open to the public and the business has no more than four employees; a variance to allow two (2) uses on one (1) parcel: (1) single-family residence and (2) catering establishment; a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat; a variance to allow the front yard setback to be approximately two (2) feet instead of the required fifteen (15) feet; a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet; and, a variance to allow the accessory**

structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District; and, for Proposed Parcel 2: a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; a variance to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, a variance to allow the accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District on the above described property are hereby approved.

Signed and passed by the Sangamon County Board in session on this 14th day of May, 2019.

Respectfully submitted,

PUBLIC HEALTH, SOLID WASTE & ZONING
COMMITTEE OF THE SANGAMON COUNTY BOARD



GREG STUMPF, CHAIRMAN

DAVID MENDENHALL, VICE CHAIRMAN

CRAIG HALL

SAM SNELL

ABE FORSYTH

JASON RATTS

LINDA DOUGLAS WILLIAMS

ANNETTE FULGENZI

LINDA FULGENZI

LISA HILLS

MIKE SULLIVAN

ROSE RUZIC

ATTEST:

SANGAMON COUNTY CLERK

COUNTY BOARD CHAIRMAN

EXHIBIT A

The West 330 feet of the Northeast Quarter of the Northeast Quarter of Section Thirty-six (36), Township Sixteen (16) North, Range Four (4) West, of the Third Principal Meridian, situated in Sangamon County, Illinois.

Subject to any interest in the coal, oil, gas and other minerals underlying the lands which have been heretofore conveyed or reserved of record;

Subject to real estate taxes for the year 2018 and subsequent years;

Subject to easements, restrictions and covenants of record, including restrictions that the subject property shall not be used for commercial activity of any kind except farming, said restriction shall be considered as a covenant running with the land, as set forth in Warranty Deed dated March 26, 1963 recorded in the Sangamon County Recorder of Deeds office as Document No. 297168, Book No. 576, Page 200; and all the estate, right, title, and interest, which Nelson V. Rice, Testator, had at the time of his death, in the premises.

Parcel Number: 15-36.0-200-002

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RECAP
(For County Board Use)

COUNTY BOARD MEMBER: #3 NAME: David Mendenhall

DOCKET NUMBER: 2019-009

ADDRESS: 8788 Mechanicsburg Road, Dawson, IL 62520

PETITIONER: Brian Reilly

PRESENT ZONING CLASSIFICATION: "A" Agricultural District.

REQUESTED ZONING CLASSIFICATION: **Proposed Parcel 1:** "B-3" General Business District; a variance to allow two (2) uses on one (1) parcel: 1) single-family residence and 2) catering establishment; a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat; a variance to allow the front yard setback to be approximately two (2) feet instead of the required fifteen (15) feet; and, a variance to allow a single-family residence in the "B-3" General Business District. Petitioner further requests for Proposed Parcel 1 that if the rezoning to "B-3" General Business District is deemed inappropriate that a Use Variance be granted in accordance with Chapter 17.68; and, a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet.

Proposed Parcel 2: "R-1" Single-Family Residence District; a variance to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, a variance to allow the accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District.

AREA: 10 acres

COMMENTS: None

OBJECTORS: None

PLANNING COMMISSION RECOMMENDATION: **Proposed Parcel 1: Recommend denial of the requested B-3 zoning but instead recommend approval of R-1 zoning. The LESA score of 164 indicates the property is marginal requiring mitigating factors for non-agricultural development. In this case, the subject property is only ten acres, is bordered on three sides by other residential parcels, and is in an area of established rural residences. These mitigating factors do support the requested R-1 zoning but do not support the requested B-3 zoning, as it is inappropriate spot zoning. Staff further recommends a Use Variance for a catering establishment on proposed parcel 1 provided the business is not open to the public and the business has no more than four employees. Recommend approval of the requested variance to allow two (2) uses on one (1) parcel: 1) single-family residence and 2) catering establishment. As staff recommended approval of a Use Variance to allow the catering establishment, the requested variance is necessary to bring the subject property into compliance with the code.**

Recommend approval of the paving variance. The nature of the proposed catering business will have the employees driving to customers' events instead of customers coming to the subject property. This creates a unique circumstance to grant the requested paving variance since the proposed business on the subject property is not open to the public. Recommend approval of the setback variances. The residence and

building for the proposed catering business have been in the same location since the adoption of the Zoning Ordinance and making the petitioner move/remove the structures would reduce the reasonable return on the subject property. Recommend approval of the accessory structure height variance. Allowing accessory structures to be 24 feet instead of 18 feet in the R-1 District would be consistent with the height of accessory structures located on properties in this area that are zoned Agricultural, which has no height restriction. The Standards for Variation are met.

The variance request to allow a single-family residence in the "B-3" General Business District is not necessary due to staff's recommendation of denial for the B-3 zoning request.

Proposed Parcel 2: Recommend approval of the R-1 zoning. Recommend approval of the lot depth variance. Splitting the property into two single-family residential lots in an area that has an established trend of smaller single-family residential lots will allow an improved reasonable return on the property. Recommend approval of the accessory structure height variance. Allowing accessory structures to be 24 feet instead of 18 feet in the R-1 District would be consistent with the height of accessory structures located on properties in this area that are zoned Agricultural, which has no height restriction. The Standards for Variation are met.

SANGAMON COUNTY BOARD OF APPEALS
RECOMMENDATION:

Approval of Staff Recommendation.


RECORDING SECRETARY

SANGAMON COUNTY ZONING BOARD OF APPEALS

SANGAMON COUNTY, ILLINOIS

IN THE MATTER OF THE PETITION OF:)	DOCKET NO: 2019-009
Brian Reilly))
)	PROPERTY LOCATED AT:
)	8788 Mechanicsburg Road
)	Dawson, IL 62520

RECOMMENDATION OF THE BOARD OF APPEALS

THIS MATTER, Coming on for a hearing before the Sangamon County Zoning Board of Appeals of Sangamon County, Illinois, and it appearing to said Board that a petition for **amendments and variances** of the Zoning Regulations of said County has been filed herein by the above captioned petitioner (s); that legal publication has been made pursuant to law; and that a public hearing was held on **April 18, 2019** pursuant to law; and that said Board took testimony of witnesses, examined the evidence, and otherwise being fully advised in the premises, therefore finds as follows:


1. That said Board has jurisdiction to consider the petition filed herein.
2. That the above-captioned petitioner(s) is the owner(s) and/or has a beneficial interest in, contract to purchase, or is the County Board Member representing the property commonly known as: **8788 Mechanicsburg Road, Dawson, IL 62520** and more particularly described as:

See Exhibit A

- 3. That the present zoning of said property is **“A” Agricultural District.**
- 4. That the present land use of said property is a **single-family residence and outbuildings.**
- 5. That the proposed land use of said property is for a **catering establishment, single-family residences, and outbuildings.**
- 6. That the requested **rezonings and variances** of said property are for **Proposed Parcel 1: a rezoning from “A” Agricultural District to “B-3” General Business District; a variance to allow two (2) uses on one (1) parcel: (1) single-family residence and (2) catering establishment; a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat; a variance to allow the front yard setback to be approximately two (2) feet instead of the required fifteen (15) feet; and, a variance to allow a single-family residence in the “B-3” General Business District. Petitioner further requests for Proposed Parcel 1 that if the rezoning to “B-3” General Business District is deemed inappropriate that a Use Variance be granted in accordance with Chapter 17.68; and, a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet. For Proposed Parcel 2: a rezoning from “A” Agricultural District to “R-1” Single-Family Residence District; a variance to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, a variance to allow the accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the “R-1” Single-Family Residence District.**
- 7. That required findings and standards of the Sangamon County Board of Appeals are accurately stated on the attached exhibit(s).
- 8. The evidence adduced at the hearing **does not** support the proposition that the adoption of the proposed **rezoning** is in the public interest and is not solely in the interest of the petitioner(s) but, in the alternative **does** support the proposition that the adoption of **a rezoning; a Use Variance to allow the catering establishment on Proposed Parcel 1 provided the business is not open to the public and the business has no more than four employees; a variance to allow two (2) uses on one (1) parcel: (1) single-family residence and (2) catering establishment; a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat; a variance to allow the front yard setback to be approximately two (2) feet instead of the required fifteen (15) feet; a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet; and, a variance to allow the accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the “R-1” Single-Family Residence District** is in the public interest and is not solely in the interest of the petitioner(s). And the evidence adduced at the hearing **does** support the proposition

that the adoption of the proposed **rezoning and variances** is in the public interest and is not solely in the interest of the petitioner(s).

IT IS, THEREFORE, the recommendation of the Sangamon County Zoning Board of Appeals to the County Board of Sangamon County that the requested **rezoning** be **denied, but in the alternative, a rezoning, a Use Variance, and variances; and, rezoning and variances** be approved.


CHAIRMAN *7-10*

MINUTES OF THE
SANGAMON COUNTY ZONING BOARD OF APPEALS

There was a motion by Zoning Board Member, **Don Wulf**, to concur with the findings of fact and recommendation of the Regional Planning Commission and recommend to the County Board that the petition be **denied, but in the alternative, for Proposed Parcel 1: grant a rezoning; a Use Variance to allow the catering establishment on Proposed Parcel 1 provided the business is not open to the public and the business has no more than four employees a variance to allow two (2) uses on one (1) parcel: (1) single-family residence and (2) catering establishment; a variance to allow the parking to remain unpaved (rock) instead of the required bituminous seal coat; a variance to allow the front yard setback to be approximately two (2) feet instead of the required fifteen (15) feet; a variance to allow the side yard setback to be approximately seven (7) feet instead of the required ten (10) feet; and, a variance to allow the accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District; and, for Proposed Parcel 2: grant a rezoning; a variance to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, a variance to allow the accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District be approved** which was duly seconded by **Andrew Spiro**.

The vote of the Board was as follows:

YES: **Charlie Chimento, Tony Mares, Don Wulf, Andrew Spiro, Larry Beaty**

NO:

PRESENT:

ABSENT:


RECORDING SECRETARY

**SANGAMON COUNTY
RECOMMENDED - FINDINGS OF FACT**

Case #: **2019-009**

Address: **8788 Mechanicsburg Road, Dawson**

- (i) Existing uses of property within the general area of the property in question.

North, East, & West – Residence. South – Timber.

- (ii) The zoning classification of property within the general area of the property in question.

North, East, South, & West – Agricultural.

- (iii) The suitability of the property in question to the uses permitted under the existing zoning classification.

The LESA score of 164 indicates the property is marginal requiring mitigating factors for non-agricultural development. In this case, the subject property is only ten acres, is bordered on three sides by other residential parcels, and is in an area of established rural residences. These mitigating factors do support the requested R-1 zoning but do not support the requested B-3 zoning, as it is inappropriate spot zoning.

- (iv) The trend of development, within the vicinity since the property was originally classified.

The area has a rural residential trend. In 2005, a variance was approved for the lot depth to exceed 2.5 times the lot width east of the subject property.

**RECOMMENDED STANDARDS FOR USE VARIATIONS
[USE VARIANCE & MULTIPLE USES]**

Case #: **2019-009**

Address: **8788 Mechanicsburg Road, Dawson**

The Zoning Board of Appeals shall not recommend to the Sangamon County Board that the regulations of the zoning ordinance be varied as authorized in Section 17.66.010 thereof, unless it shall make findings of fact based upon the evidence presented to it in each specified case:

- (i) that the variance is justified by a showing of special circumstances demonstrating practical difficulties or particular hardship in the way of carrying out the strict letter of the Zoning Regulations.

The petition indicates no one from the public will be coming to the subject property except for three to four employees.

- (ii) that the variance is compatible with the trend of development in the area.

Since the proposed catering business will not be open to the public, there should not be a negative impact on the rural residential trend in the area.

- (iii) that the variance will benefit the community and be in harmony with the general purpose and intent of the Zoning Regulations.

The proposed catering business will not be open to the public and will be contained within the existing structure on the subject property, and therefore should be in harmony with the general purpose of the Zoning Ordinance to minimize incompatible uses.

- (iv) that the variance will not create a negative impact on the area, will not alter the essential character of the locality, impair an adequate supply of light and air to adjacent property, increase the congestion of traffic, or diminish or impair property values in the locality.

Negative impacts are not anticipated.

**SANGAMON COUNTY
RECOMMENDED - STANDARDS FOR VARIATIONS**

Case #: 2019-009

Address: 8788 Mechanicsburg Road, Dawson

The Zoning Board of Appeals shall not recommend to the Sangamon County Board that the regulations of this ordinance be varied as authorized in F. (1) hereof, unless it shall make findings of fact based upon the evidence presented to it in each specified case:

- (i) that the property in question cannot be economically used or yield a reasonable return, if permitted to be used only for the conditions allowed by the regulations.

Paving Variance: Requiring paving could have a negative impact on the reasonable return on the subject property as the proposed catering business would not have anyone from the public coming to the subject property except for the employees.

Setback Variances: The residence and building for the proposed catering business have been in the same location prior to the adoption of the Zoning Ordinance and making the petitioner move/remove the structures would reduce the reasonable return on the subject property.

Lot Depth Variance: Splitting the property into two single-family residential lots in an area that has an established trend of smaller single-family residential lots will allow an improved reasonable return on the property.

Accessory Structure Height Variance: Allowing accessory structures to be 24 feet instead of 18 feet in the R-1 District would be consistent with the height of accessory structures located on properties in this area that are zoned Agricultural, which has no height restriction.

- (ii) that the plight of the owner is due to circumstances unique to the property and not generally applicable to other property in the area.

Paving Variance: The nature of the proposed catering business will have the employees driving to customers' events instead of customers coming to the subject property. This creates a unique circumstance to grant the requested paving variance since the proposed business on the subject property is not open to the public.

Setback Variances: The residence and building for the proposed catering business have been in the same location since approximately 1969 and the land division and rezoning triggers the need for the variances in order to bring the structures into compliance.

Lot Depth Variance: The subject property is unique in that currently the lot depth exceeds 2.5 times the lot width so the variance will help bring the property into compliance, and it is a larger tract and smaller single-family residential lots have built up around the property.

Accessory Structure Height Variance: Other parcels in the area are zoned Agricultural, which has no height restrictions.

- (iii) that the variation, if granted, will not alter the essential character of the locality, impair an adequate supply of light and air to adjacent property, increase the congestion of traffic, or diminish or impair property values in the locality.

Negative impacts are not anticipated.

LAND EVALUATION AND SITE ASSESSMENT**Part 1: Site Assessment**

	Available Points	Points
<u>AGRICULTURAL/RURAL LAND WITHIN .5 MILE</u>		
90% or more	20	
75-89%	10	10
50-74%	5	
Under 50%	0	
<u>CONTIGUOUS AGRICULTURAL/RURAL LAND</u>		
90% or more	20	
75-89%	10	
50-74%	5	5
Under 50%	0	
<u>PERCENTAGE OF SITE AGRICULTURAL/RURAL</u>		
75-100%	10	
50-74%	5	10
Under 50%	0	
<u>COUNTY SECTOR</u>		
Rural	20	
0.5 mile from incorporated area	10	20
Incorporated area	0	
<u>SOIL WITH SEVERE RESTRICTIONS FOR ON-SITE WASTE DISPOSAL</u>		
75% or more	20	
50-74%	10	20
25-49%	5	
Less than 25% or sewer available	0	
<u>ENVIRONMENTAL IMPACT OF PROPOSED USE</u>		
Negative impact	15	
Little or none with protective measures	5	0
Little or none	0	
<u>IMPACT ON UNIQUE HISTORICAL/CULTURAL FEATURES</u>		
Negative impact	10	
No impact	0	0
<u>CONDITION OF ROAD</u>		
unpaved, <40' ROW, or < 16' pavement	20	0

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16'-18' pavement, 40' ROW	15	
18'-20' pavement, 40' ROW	10	
> 20' pavement, 40' ROW or County or State Highway	0	

<u>AVAILABILITY OF PUBLIC SEWER</u>		
Not available	15	
Sewer over 600'-1200' away	8	15
Private central sewage system	5	
Sewer 600' or less away and available	0	

<u>AVAILABILITY OF PUBLIC WATER</u>		
Not available	20	
1,000-1,500' away	15	0
Less than 1,000' away	5	
Public water available at site	0	

<u>DISTANCE FROM RESPONDING FIREHOUSE</u>		
Not in fire protection district	20	
More than 5 miles or fire protection by assignment	10	10
2.6-5 miles	5	
0-2.5 miles	0	

<u>DRIVING TIME TO HIGH SCHOOL</u>		
Over 30 minutes	10	
15-30 minutes	5	0
Less than 15 minutes	0	

SITE ASSESSMENT TOTAL		90
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Part 2: Agricultural Land Evaluation (Based on Sangamon County Soil Survey)

<u>Soil</u>	<u>Name</u>	<u>Type</u>	<u>%</u>	<u>Relative Value</u>	<u>Points</u>
198A	Elburn	P		100	

199A	Plano	P		100	
43A	Ipava	P		100	
7148A	Proctor	P		100	
46A	Herrick	P		100	
7037A	Worthen	P		100	
705A	Buckhart	P		98	
199B	Plano	P		98	
36B	Tama	P		98	
244A	Hartsburg	P2		98	
257A	Clarksdale	P2		98	
68A	Sable	P2		87	
679B	Blackberry	P		87	
705B	Buckhart	P		87	
86B	Osco	P		87	
684B	Broadwell	P		87	
50A	Virden	P2		87	
712A	Spaulding	P2		87	
127B	Harrison	P		87	
3077A	Huntsville	P3		87	
138A	Shiloh	P2		87	
249A	Edinburg	P2		87	
242A	Kendall	P2		87	
7242A	Kendall	P2		87	
134A	Camden	P		87	
17A	Keomah	P2		87	
3451A	Lawson	P3		75	
3107A	Sawmill	P5		75	
7075B	Drury	P		75	
8396A	Vesser	P2		75	
3074A	Radford	P3		75	
3073A	Ross	P3		75	
3284A	Tice	P3		75	
279B	Rozetta	P		75	
45A	Denny	P2		75	
134B	Camden	P		75	
112A	Cowden	P2		75	
685B	Middletown	P	60	75	45
3405A	Zook	P5		75	
131C2	Alvin	P	4	75	3
86C2	Osco	I		74	
36C2	Tama	I		74	
684C2	Broadwell	I		74	
119C2	Elco	I		74	
119D	Elco	I		74	
127C2	Harrison	I		74	
119D2	Elco	I		74	
567C2	Elkhart	I		74	
134C2	Camden	I		74	
259C2	Assumption	I		74	
685C2	Middletown	I		74	
280D2	Fayette	I		74	
119D3	Elco	N		74	
259D2	Assumption	I		74	
212C2	Thebes	I	35	74	26
630C2	Navlys	I		74	

630D2	Navlys	I	74
630D3	Navlys	I	57
131D2	Alvin	I	57
8D	Hickory	I	50
8D2	Hickory	I	50
280D3	Fayette	I	44
8D3	Hickory	I	44
8F	Hickory	N	44
549G	Marseilles	N	0
533	Urban Land	N	
536	Dumps	N	
830	Orthents, Land	N	
862	Pits, Sand	N	
864	Pits, Quarries	N	
801C	Orthents, Silty	N	
W	Water		

Prime/Important Farmlands Designations:

P: Prime farmland

P2: Prime where drained

P3: Prime where protected from flooding or flooding is less often than once in two years during the growing season.

P5: Prime where drained and either protected from flooding or flooding is less often than once in two years during the growing season.

I: Important farmland

N: Not Prime/Important Farmland

AGRICULTURAL LAND EVALUATION TOTAL	74
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GRAND TOTAL	164
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Fewer than 150 points shall be deemed acceptable for non-agricultural development.

From 150 - 175 points is considered marginal requiring mitigating factors for non-ag development.

Greater than 175 points shall be considered suitable for agricultural use only.