



**CHAMPAIGN COUNTY BOARD
COMMITTEE OF THE WHOLE – ELUC/Highway/County
Facilities**

*County of Champaign, Urbana, Illinois
Tuesday, March 6, 2012 – 6:00 p.m.*

*Lyle Shields Meeting Room, Brookens Administrative Center
1776 E. Washington Street, Urbana, Illinois*

VII. Environment & Land Use

- A. Direction to Zoning Administrator Regarding Proposed Zoning Ordinance Text Amendment to Amend Limits on Vehicles and Equipment in Rural Home Occupations 15-46
- B. Direction to Zoning Administrator Regarding Proposed Zoning Ordinance Text Amendment to Modify Wind Farm Separation from CR District 47-53
- C. Monthly Report *(to be distributed)*
- D. Other Business
- E. Designation of Items to be Placed on Consent Agenda

Champaign
County
Department of

PLANNING &
ZONING

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

(217) 384-3708

To: **Champaign County Board Committee of the Whole**
From: **John Hall, Director & Zoning Administrator**
Date: **February 29, 2012**
RE: **Zoning Ordinance requirements for Rural Home Occupations**

Request: **Request approval to proceed with a public hearing for an amendment to the Zoning Ordinance limits for numbers of vehicles and large equipment authorized in Rural Home Occupations**

STATUS

This item is continued from the February 7, 2012, meeting. The Committee requested the minutes of the zoning case at the ZBA and the minutes are attached.

The proposed amendment remains unchanged (see attached).

This memorandum includes text (see below) that would "grandfather" all existing vehicles and equipment at any existing Rural Home Occupation (RHO), including the RHO that was the subject of the Interpretation Case.

If the Committee desires to grandfather existing vehicles and equipment, the motion (or direction) to proceed with the proposed amendment must include grandfathering existing vehicles and equipment at existing RHOs.

GRANDFATHERING OF EXISTING VEHICLES AND EQUIPMENT

Even if the Committee agrees with the proposed amendment for future Rural Home Occupations (RHOs), the Committee could decide that the proposed amendment should not apply to any existing vehicles and equipment at any authorized RHO, including the subject RHO. If that is the Committee's desire the following text must be added to the proposed paragraph 7.1.2E.:

- (9) The above requirements of paragraph 7.1.2E. shall apply to any RURAL HOME OCCUPATION for which an application is received after May 1, 2012, and to the expansion of any RURAL HOME OCCUPATION for which an application had been received on or before May 1, 2012.
- (10) The above requirements of paragraph 7.1.2E. and the requirements of Section 8 notwithstanding:
 - (a) Any MOTOR VEHICLE or licensed trailer or piece of equipment that was included in any application for, or authorization of, any RURAL HOME OCCUPATION for which an application had been received by the Zoning Administrator on or before May 1, 2012, may continue be used in that RURAL HOME OCCUPATION provided that the total number of MOTOR VEHICLES in the RURAL HOME OCCUPATION are not more than 10 and further provided that no more than 3 such MOTOR VEHICLES are each more than 15,000 pounds gross weight.

- (b) Any RURAL HOME OCCUPATION that complies with subparagraph 7.1.2E.(10)(a) shall be authorized to have that same number of MOTOR VEHICLES or licensed trailers or pieces of equipment as long as it continues in business at that location and any MOTOR VEHICLE or licensed trailer or piece of equipment may be replaced with a similar MOTOR VEHICLE or licensed trailer or piece of equipment.

Note that the grandfathering only applies to the following:

1. No more than 10 MOTOR VEHICLES in total. The existing Ordinance clearly establishes this limit.
2. No more than 3 MOTOR VEHICLES that are each more than 15,000 pounds gross weight. All other MOTOR VEHICLES must be less than 15,000 pounds gross weight. The existing Ordinance clearly establishes a limit of no more than 3 vehicles that are than 8,000 pounds gross weight. The proposed amendment increases that weight limit to 15,000 pounds and so that is also what is proposed to be grandfathered. Note a large SUV, van, or dually pickup truck are each less than 15,000 pounds gross weight.
3. Any number of trailers and pieces of equipment with no weight limits, provided that the trailers and equipment were included on the application. The ZBA agreed that the existing Ordinance was not clear regarding limits on equipment and so all existing equipment is proposed to be grandfathered so long as it was included on (or is added to) the application.

ATTACHMENTS

- A** Approved Minutes for Case 695-I-11 from the July 28, 2011, ZBA Meeting
B Approved Minutes for Case 695-I-11 from the July 28, 2011, ZBA Meeting
C Proposed Paragraph 7.1.2 E.

1 Mr. Hall stated that the septic system information should be submitted by the petitioner for review by
2 staff and the Board.

3
4 Mr. Thorsland stated that it appears that this case will be continued to a later date and the next
5 available date on the ZBA Docket is October 13th which is past the 100 day limit for a continuance.
6

7 Ms. Capel moved, seconded by Mr. Schroeder to suspend the 100 day rule for a continuance
8 date for Case 692-V-11. The motion carried by voice vote.
9

10 Ms. Capel moved, seconded by Mr. Courson to continue Case 692-V-11, Rollae Keller to the
11 October 13, 2011, meeting. The motion carried by voice vote.
12

13 Mr. Thorsland requested a motion for the Board to go into closed session.
14

15 Mr. Miller moved that the Board enter into closed session pursuant to 5 ILCS 120/2 (c) (11) to
16 consider pending litigation against Champaign County. Mr. Miller further moved that the
17 following individuals remain present: County's legal counsel, John Hall, Planning and Zoning
18 Administrator, Connie Berry, Planning and Zoning Technician and Lori Busboom, Planning
19 and Zoning Technician. The motion was seconded by Ms. Capel and carried by voice vote.
20

21 The Board entered into closed session at 7:35 p.m. and resumed open session at 7:57 p.m.
22

23 The roll was called and a quorum declared present.
24

25 Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of
26 paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as
27 follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry,
28 transport, or move people, property or material either on road or primarily off road; or a
29 piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm
30 vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross
31 vehicle weight, including trailers and off-road vehicles but excluding patron or employee
32 personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds
33 gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange
34 Blossom Estates in Section 18 of Hensley Township and commonly known as the house and
35 shed at 700 County Road 2175N, Champaign.
36

37 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
38 witness register. He reminded the audience that when they sign the witness register they are
39 signing an oath.
40

41 Mr. Hall stated that the Board does not hear interpretation cases often and in this case he offered to
42 bring this case to the Zoning Board because he agrees with Mr. Kelly Dillard, the owner of the

1 property in question, that 7.1.2 E. of the Ordinance is very poorly written. Mr. Hall said that
2 Paragraph 7.1.2 E. is attached to the Preliminary Memorandum dated July 22, 2011. He said that he
3 implements Paragraph 7.1.2 E. the way that the request was read and it would be fair to say that
4 when Paragraph 7.1.2 E. is read it isn't clear what is meant. He said that Attachment B. of the
5 Preliminary Memorandum reviews the background of why this case is before the ZBA. He said that
6 understanding why the interpretation is before the Board is partly related to the background of the
7 case. He said that Mr. Dillard has a Rural Home Occupation and Rural Home Occupations are one
8 of the most difficult uses. He said that staff asks the applicant many questions which eventually
9 appears to be prying into their business although staff does not pry any more than they are allowed.
10 He said that staff has the right to pose the questions to the applicant to assure conformance with the
11 Ordinance. He said that Attachment C-H are various documents related to the background included
12 in Attachment B.
13

14 Mr. Hall stated that color photographs were distributed to the Board for review which indicates the
15 things that he is calling vehicles, although Mr. Dillard disagrees. He said that black and white
16 photographs were marked up to indicate the number of vehicles on the subject property. He said that
17 the photographs indicate that there are more vehicles on the property than what is allowed under a
18 Rural Home Occupation and three times staff has requested that the applicant indicate the number of
19 vehicles on the property. Mr. Hall stated that finally the applicant submitted the number of vehicles
20 and staff disagreed therefore triggering this interpretation case.
21

22 Mr. Hall stated that the current Rural Home Occupation requirements were added in Case 794-AT-
23 92 and adopted in 1993. He said that he was not the Zoning Administrator in 1992 and was not the
24 current planner but he was on staff with little involvement in that case. He said that the amendment
25 was adopted in 1993 and Frank DiNovo was the Zoning Administrator at the time and continued to
26 be until 2002. Mr. Hall stated that he, Jamie Hitt, Zoning Officer, and Lori Busboom, Zoning
27 Technician have been in the department since 1993 and the rules have not been changed since they
28 were adopted. He said that this is the first time that there has been a disagreement like this due to the
29 number of vehicles on a property. He said again, that he agrees that Paragraph 7.1.2 E. is poorly
30 written but he believes that Paragraph 7.1.2 E. is so poorly written that the way that staff has always
31 administered it is legal. He said that Paragraph 7.1.2 E. starts off by suggesting that the paragraph
32 relates to all non-farm, second division vehicles as defined by the Illinois Vehicle Code. He said that
33 Kelly Dillard wrote a letter to Pius Weibel, Champaign County Board Chair that included an excerpt
34 from the Illinois Vehicle Code which reads as follows: Those motor vehicles which are designed for
35 carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor
36 vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and
37 those motor vehicles of the First Division remodeled for use and used as motor vehicles of the
38 Second Division.
39

40 Mr. Hall stated that a pick-up painted with a company name becomes a Second Division vehicle. He
41 said that Paragraph 7.1.2 E. includes three subparagraphs and subparagraph iii. begins with all
42 Second Division vehicles which is confusing because it was thought that all three of the

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1 subparagraph relates to Second Division vehicles therefore why do they point out in the third
2 subparagraph that all Second Division vehicles shall be stored indoors. He said that there are a lot of
3 inconsistencies in Paragraph 7.1.2 E. He said that subparagraph ii indicates that no more than 10
4 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, trailers and off-road
5 vehicles shall be permitted excluding patron or employee personal vehicles. He said that again
6 subparagraph ii indicates no more than 10 vehicles in total and it discusses vehicles which weigh less
7 than 8,000 pounds and it makes it clear that trailers and off-road vehicles are included but not
8 exempted and they fall into the limit of 10 vehicles. He said that if subparagraph ii only discussed
9 Second Division vehicles then why exclude personal vehicles because personal vehicles are by
10 definition not Second Division vehicles. He said that subparagraph i indicates that no more than
11 three self propelled vehicles over 8,000 pounds gross vehicle weight shall be permitted. He said that
12 it is his interpretation that a self-propelled vehicle could be a semi-tractor, pick-up truck with the
13 business name painted on the side, caterpillar, bulldozer, road grader, and a trailer for hauling
14 equipment for the business. He said that the term vehicles is not capitalized in Paragraph 7.1.2 E
15 because it is not being used as the defined term in the Ordinance. He said that the Ordinance has the
16 definition of motor vehicle which is a very restrictive definition. He said that Paragraph 7.1.2.E does
17 not use the term motor vehicle and it is not capitalized.
18

19 Mr. Hall stated that he previously informed the Board that since 1993 three people have worked in
20 the office under Frank DiNovo and this is how Mr. DiNovo operated. Mr. Hall said that he
21 distributed the information from Case 794-AT-92 and in the Preliminary Memorandum he referred to
22 four places in that attachment. He said that page 6, Line 17 of the minutes from the December 14,
23 1992, meeting indicates the following statement from Frank DiNovo: What is now being proposed
24 is to limit the number of self-propelled vehicles over 8,000 lbs to 3; to limit the total number of
25 vehicles, including trailers, off-road vehicles and pick-up trucks, to 10. Mr. Hall stated that he
26 believes that off-road vehicles is not a good phrase but he does know that staff was not concerned
27 about dune-buggies. He said that the off-road vehicles that were being considered in 1992 were
28 referring to equipment which was being driven off-road such as bull-dozers, road graders,
29 excavators, etc.
30

31 Mr. Hall stated that page 7, Line 9 of the December 14, 1992, meeting indicates that Mr. DiNovo
32 stated that if the person is operating from the home premises, they can have 3 tractors and 7 trailers,
33 which is consistent with having one family member as a driver and 2 employees. Mr. Hall stated that
34 within the same paragraph there is discussion if a Special Use Mechanism was necessary and that
35 violation of this provision would not be likely be a problem unless it became a regular occurrence
36 and the office would probably only become aware of the violation if it was reported as a complaint.
37 Mr. Hall stated that at the bottom of page 7, Line 40 begins a discussion between Ms. Weckel and
38 Mr. DiNovo regarding Section E regarding the number of vehicles allowed. Mr. Hall stated that Mr.
39 DiNovo explains that in Section E, it is proposed that there can be 3 trucks over 8,000 and up to 7
40 more under 8,000 pounds. Mr. Hall stated that the same paragraph indicates that there was
41 discussion of deleting 7.1.2 I (iv) which created what is before the Board tonight.
42

1 Mr. Hall stated that what he has shown the Board with the previous hearing minutes is a discussion
2 that is consistent with the way that he administers this portion of the Ordinance and it has been
3 administered this way since 1993. He said that Second Division as defined in the Illinois Vehicle
4 Code would not relate to equipment such as bulldozers and road graders that are not Second Division
5 Vehicles but they are motorized things that people ride on that are used in Mr. Dillard's Rural Home
6 Occupation therefore it is Mr. Hall's belief that it is reasonable to consider those things in the
7 number of vehicles allowed on the property.
8

9 Mr. Hall stated that if the Board is interested in viewing the types of vehicles that are in question
10 then he would suggest that the Board review the staff photographs.
11

12 Mr. Hall noted that Jamie Hitt, Zoning Officer sends her apologies for not being in attendance
13 tonight but she had a vacation scheduled prior to the scheduling of the docket for this case. He said
14 that Lori Busboom, Zoning Technician, who has been with the department since 1993, is present
15 tonight to answer any questions. He said that the Board is aware that the Zoning Technicians are
16 aware of the rules as well as anyone else in the department.
17

18 Mr. Thorsland stated that it is his understanding that the Board received a letter from Mr. Dillard
19 which was similar to Mr. Weibel's letter.
20

21 The Board agreed that they did indeed receive Mr. Dillard's letter.
22

23 Mr. Thorsland called Mr. Kelly Dillard to testify.
24

25 Mr. Dillard, who resides at 700 CR 2175N, Champaign, Illinois, stated that he is not sure how to
26 address the Board regarding this case because Mr. Hall has made the issue at hand about him rather
27 than how staff interprets the Ordinance. Mr. Dillard said that if the case is going to be about me then
28 we need to talk about the other 21 omissions and errors that the zoning staff has made in regards to
29 this issue. He said that there have been mistakes and misstatements by staff and he can either go into
30 that or just keep it to the Ordinance.
31

32 Mr. Thorsland asked Mr. Dillard if when he talks about misstatements if he is discussing the
33 particular paragraph that is in discussion.
34

35 Mr. Dillard stated that some of the misstatements are in regards to the paragraph.
36

37 Mr. Thorsland asked Mr. Dillard if he has his comments in written form which could be entered as
38 Documents of Record.
39

40 Mr. Dillard stated yes.
41

42 Mr. Thorsland asked Mr. Dillard to summarize the ones that pertain to Paragraph 7.1.2.

1
2 Mr. Dillard stated that the Rural Home Occupation handout that he received from staff indicates the
3 following under Item D: Non-farm commercial vehicles (Second Division vehicles are defined by the
4 Illinois Vehicle Code), used in any rural home occupation are limited to. He said the Ordinance that
5 this speaks to says nothing about commercial vehicles therefore staff has changed the statement to
6 include commercial vehicles. He said that there are at least four other places in the paperwork that
7 he was given refers to commercial vehicles although, again, the Ordinance does not. He said that the
8 Ordinance is very clear for anyone who wants to read it unless it doesn't say what they want it to say.
9

10 Mr. Dillard stated that the letter that he sent to the Board members indicated his concerns regarding
11 Paragraph 7.1.2 E.
12

13 Mr. Hall noted that the Board received a copy of the Rural Home Occupation handout as well as a
14 copy of the regulations so that the Board can compare the information within the two documents.
15

16 Mr. Dillard stated that Mr. Hall refers to the Ordinance in Paragraphs and Subparagraph although the
17 Ordinance is not in paragraphs but is all in one sentence. He said that he knows how to read the
18 English language and the sentence, Non-farm, Second Division vehicles as defined by the Illinois
19 Vehicle Code, used in any Rural Home Occupations shall be limited as follows, has a colon after it.
20 He said that a colon, as defined in the dictionary, as a rule informs the reader that what follows the
21 colon proves, explains or simply provides elements of what comes before the colon. He said that
22 everything after the colon in 7.1.2 E refers to Second Division vehicles. He said that a Second
23 Division vehicle is a motor vehicle that operates on a highway therefore the only thing that can be a
24 Second Division vehicle has to have a motor and cannot be a trailer.
25

26 Mr. Dillard stated that Mr. Hall stated that the Ordinance exempts personal vehicles and that they
27 cannot be Second Division vehicles although it is very clear in the Ordinance that any pick-up truck
28 can be a Second Division vehicle because it hauls cargo. He said that a pick-up is not taxed in the
29 State of Illinois as a Second Division vehicle but it is considered a Second Division vehicle. He said
30 that each portion of 7.1.2 of the Ordinance can be read with Second Division in each of its sentences.
31 He said that since the issue is about Second Division vehicles, and Second Division vehicles are
32 motor vehicles, the Ordinance indicates that a motor vehicle is a vehicle that operates on a highway,
33 a licensed vehicle. He said that a licensed vehicle is not a bulldozer or a road-grader because there is
34 nothing in the Ordinance which refers to heavy equipment because they wanted to exempt farm type
35 equipment. Mr. Dillard stated that all of his equipment is equipment that some farmers use on their
36 farm. He said that if the Board intends to say that a backhoe or excavator are not farm equipment
37 then the farmers of Champaign County will have to told that they cannot have that equipment either.
38 He said that the Ordinance is very clear and he is operating within the Ordinance as he understands
39 it. He said that he has three Second Division vehicles which are over 8,000 pounds, two parked in
40 his shed and one parked outside in a parking area that is 50 feet from any property line. He said that
41 he has spent several thousands of dollars installing a tree berm around the parking area so that all of
42 the vehicles will eventually be hidden from view. He said that the Ordinance required screening

1 therefore he planted 20 arborvitae trees around the parking area in a position that was approved by
2 Mr. Hall. Mr. Dillard stated that the screening would take care of any outdoor storage issues and
3 vehicle parking issues therefore he was very surprised when staff contacted him for an inspection and
4 indicated that they were concerned about the number of vehicles that were stored inside the shop and
5 outside. He said that he has nine vehicles outside and only one is a Second Division vehicle.
6

7 Mr. Dillard stated that from the time that he constructed the building on his property until now every
8 time he receives a letter from staff it has some new unexpected requirements. He said that originally
9 he received letters regarding garbage and debris outside of the building but there was no garbage
10 only building materials, rock piles, normal items that would be seen that a contractor might have. He
11 said that they worked diligently to clean up what they called garbage and debris and currently there is
12 nothing stored outside other than a few Bobcat buckets, some equipment and one Second Division
13 vehicle. He said that they have moved all of the building materials, bricks and blocks, inside the
14 building. He said that it was his understanding, until the time of the inspection, that the zoning
15 department did not care what was inside the building but once the inspection was completed he was
16 informed that the lift, forklift, Bobcat, etc. were vehicles although there is nothing in the Ordinance
17 which discusses this type of equipment.
18

19 Mr. Dillard stated that he is asking the Board to interpret 7.1.2 as it was written. He said that 7.1.2
20 does not consist of four paragraphs but is only one sentence with a period at the end. He said that
21 7.1.2 discusses Second Division vehicles only.
22

23 Mr. Dillard stated that Mr. Hall included the minutes from a previous hearing in the mailing packet.
24 He said that the minutes only indicate a discussion about this Ordinance. Mr. Dillard stated that a
25 trailer, in any sense of the word, is not a motor vehicle under the *Champaign County Zoning*
26 *Ordinance* or the Illinois Vehicle Code therefore a trailer cannot be a Second Division vehicle.
27

28 Mr. Dillard stated that during discussions with staff it was indicated that his property is located in a
29 residential area although his property is located in the AG-1 Zoning District therefore the area is not
30 residential but rural. He said that the area was rural when he built his home in 1972. He said that it
31 is true that other homes were built around his property but those houses were being built at the same
32 time that he built his shed. He said that the area is rural in that there are corn and soybean fields
33 surrounding the properties. He said that his property is not trashy and it is true that he has heavy
34 equipment due to his excavation business and he indicated such in his Rural Home Occupation
35 application.
36

37 Mr. Dillard stated that when he applied for a Zoning Use Permit to build his shed he was told that the
38 *American's with Disabilities Act (ADA)* applied although it does not. He said that he has a storage
39 building and a repair shop that he works in with no retail. He said that no public customers visit the
40 site. He said that he spent several thousands of dollars to make his building *ADA* accessible that he
41 should not have had to spend but he did so because he was told by the zoning department that he was
42 required to do so. He said that staff informed him that the building had to be set back 100 feet from

1 the road which is also incorrect because the building only needs to be set back 15 feet from the road.
 2 He said that staff assumed that the east side of his building was his front yard and it is not. He said
 3 that the Ordinance indicates that when you live on a corner you can only have one front lot line and
 4 his front lot line is located on CR 2175N. He said that he brought this matter to Mr. Hall's attention
 5 and Mr. Hall informed him that he needed to decide which lot line was his front lot line and he
 6 indicated such. He said that after this matter was completed he received a letter indicating that he
 7 should not park vehicles at the east side of his building because it appeared that the east side was a
 8 front yard even though it was a side yard. He said that the letter specifically indicated that even
 9 though the east side was a side yard it was still considered a front yard.

10
 11 Mr. Dillard stated that three years and six months after the building was complete and it was
 12 assumed that everything was fine he was notified by staff that he was supposed to have the building
 13 substantially completed within 365 days. He said that each time he receives a letter from the zoning
 14 department the letter is mean spirited indicating that if he does not do what staff indicates in the
 15 letter they will send the matter to the State's Attorney for an injunction. He said that the entire time
 16 he has done nothing but accommodated staff's requests.

17
 18 Mr. Dillard stated that on September 24, 2010, he received a letter that there was garbage piled up
 19 around his property but there was no garbage anywhere on his property. He said that the garbage that
 20 was indicated in the letter was on the property to the north of his property and had nothing to do with
 21 him. He said that they cleaned up the property and it looked good. He said that the brick piles that
 22 were included in a complaint were used to trim around his building which was their intended use.
 23 He said that upon staff's request he built a berm and a parking lot although it was covered with the
 24 wrong type of material. He said that he then planted the screening to hide the re-ground asphalt
 25 because it was not considered an appropriate look for the neighborhood. He said that the area is a
 26 rural area and he uses re-ground asphalt on a weekly basis upon driveways around the County.

27
 28 Mr. Dillard stated that the Ordinance indicates that his building had to be substantially completed
 29 within 365 days and it was substantially completed long before 365 days. He said that staff's
 30 interpretation of substantial was completely done with everything as they wanted it to be but that is
 31 not what substantial means. He said that four years after he built the building this was not an issue at
 32 all but now there is a threat that he cannot operate out of the building because he doesn't have his
 33 compliance certificate and the reason why he doesn't have his compliance certificate is because he
 34 believes staff is misinterpreting 7.1.2.

35
 36 Mr. Dillard stated that he again received a letter from staff indicating that there was garbage and
 37 debris on his property although there was not.

38
 39 Mr. Dillard stated that the Rural Home Occupation application requests a list of commercial
 40 vehicles. He asked why a list of commercial vehicles is necessary because there is no mention in the
 41 Ordinance about commercial vehicles and what should be listed are Second Division vehicles.
 42

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1 Mr. Dillard stated that on May 5, 2011, he was notified that he was required to screen licensed
2 vehicles that were located on the east side of his building. He said that there is no reason why he has
3 to screen these vehicles because the licensed vehicles are not considered outside storage although he
4 did move everything, other than one or two trailers, to the west side of the building. He said that up
5 to this meeting he has done everything that staff has asked and has done his best to get through this
6 matter but he now has a fear that since he is opposing Mr. Hall's determination that he will receive
7 even more harassment.
8

9 Mr. Dillard stated that on June 7, 2011, he received a letter indicating that the only violation that was
10 unresolved was the number of vehicles on the lot. He said that the letter indicated that there were as
11 many as 22 vehicles on his lot which is untrue. He said that he does not own 22 vehicles or 22 of
12 anything. He said that the letter also indicated that a 20,000 pound trailer was considered a Second
13 Division vehicle but he disagrees because obviously if it is not self-propelled it is not a Second
14 Division vehicle. He said that in the same letter staff misquoted 7.1.2 E(2) by leaving out the text
15 indicating that trailers and off-road vehicles shall be permitted.
16

17 Mr. Dillard stated that the last letter that he received from staff was dated July 24, 2011, which
18 indicated that there were 17 vehicles located on his property which was again untrue. He said that
19 there are two vehicles on the property next door which is not his property and is not his concern. He
20 said that his neighbor was using two pieces of his equipment, which are not vehicles, and if staff
21 desires to count all of his equipment then they will have to go to Vermilion and Piatt counties to do
22 so. He said that Mr. Hall has indicated that he has been on staff for twenty years therefore he should
23 know the Ordinance inside and out and part of his job is to read and understand the English
24 language. He said that the Ordinance is written very clearly and all you have to do is put the
25 punctuation in the right location. He said that it is very clear that 7.1.2 is only about Second Division
26 vehicles which is defined in the letter that he sent the Board for review.
27

28 Mr. Dillard stated that after several thousands of dollars, which he should not have had to spend to
29 begin with, and many sleepless nights worrying about whether or not Mr. Hall is going to shut down
30 his business or send this matter to the State's Attorney, he is requesting that the Board apply the law
31 as the Ordinance is written in regards to Second Division vehicles.
32

33 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.
34

35 Mr. Thorsland asked if staff had any questions for Mr. Dillard.
36

37 Mr. Hall stated that he has many questions although he is not sure where he would begin therefore he
38 will hold them for now.
39

40 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
41 regarding this case.
42

1 Mr. Thorsland called Ms. Melody Pinks to testify.

2
3 Ms. Melody Pinks, who resides at 696 CR 2175N, Champaign, Illinois, stated that her property
4 borders the Dillard property on the west side. She said that she grew up on a farm and she never saw
5 farm equipment like Mr. Dillard's equipment. She said that her farm had cultivators, disks, manure
6 spreaders and tractors but not bulldozers, backhoes and road graders. She said that the heavy
7 equipment creates damage to the Hensley Township roads and there was a lot of unsightly stuff next
8 to her lot line for several years and it was horrible to look at it every morning. She said that there
9 was an unlicensed vehicle that said "Dig It" on the side of it which sat there for three years. She said
10 that she was not the original person who complained to the Board and did not even know that she
11 had that opportunity until she was informed by someone else. She said that after she filed her
12 complaint the unlicensed vehicle was moved which is a blessing and the property does look 100%
13 better than when the business originally started there. She said that as to the neighbor next to Mr.
14 Dillard's property there was a lot of construction material on both properties because it appeared that
15 they were sharing their lot lines for storage. She said that there were tires, construction materials,
16 broken concrete and things of that nature between the two properties and it was very depressing to
17 look at every morning. She said that many times she would sit and cry over the situation. She said
18 that she contacted Mrs. Dillard and she indicated that she understood her complaint and at one time
19 she had discussed the situation with her husband but he got very upset therefore she does not
20 mention it anymore. Ms. Pinks stated that due to the unfortunate situation they are no longer on
21 speaking terms with the Dillards. She said that all they would like the Dillards to do is to abide by
22 the Ordinance regulations. She said that she did not realize that the Dillard property was going to be
23 built up but numerous semi-loads of dirt were brought on to the property and now their home is in
24 the valley in comparison to the Dillard property. She said that the building which is located on the
25 Dillard property is much higher than the property lines. She said that when Mr. Dillard built the
26 asphalt lot to the west of the building she did not realize that it was because he was required to move
27 the equipment to the back. She said that where Mr. Dillard planted the eight foot arborvitae trees the
28 tips of those trees barely gets to the tires. She said that Mr. Dillard informed Mr. Hall that the
29 arborvitae trees are fast growing and they should be screening everything within a few years but a tag
30 off of her arborvitae trees indicates that the growth rate is slow. She said that she has been very
31 disappointed and has tried to speak with the Dillards about the situation and the matter only seems to
32 gets worse. She requested the Board's assistance with this matter.

33
34 Mr. Thorsland asked the Board if there were any questions for Ms. Pinks.

35
36 Mr. Courson asked Ms. Pinks if the site is cleaned up.

37
38 Ms. Pinks stated yes and it looks much better.

39
40 Mr. Courson asked Ms. Pink to indicate what else she would like to see done on the site.

41
42 Ms. Pinks stated that she does not like seeing the 17 pieces of equipment sitting on the property.

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1 She said that once Mr. Dillard received the letter he moved some of the pieces of equipment to a
2 different location.
3

4 Mr. Courson asked Ms. Pinks if her main concern right now is the equipment on the property.
5

6 Ms. Pinks stated yes.
7

8 Mr. Thorsland asked the Board if there were any additional questions for Ms. Pinks and there were
9 none.
10

11 Mr. Thorsland asked if staff had any questions for Ms. Pinks and there were none.
12

13 Mr. Thorsland closed the witness register for tonight's meeting.
14

15 Mr. Hall stated that he can appreciate the fact that the Board may have many questions based on Mr.
16 Dillard's testimony. He said that he does have the case file with him tonight and the Board is
17 welcome to review any notice that staff has sent Mr. Dillard. He requested questions from the Board
18 because there were many statements made by Mr. Dillard that could be flushed out.
19

20 Mr. Passalacqua stated that some of the vehicles are being described as farm vehicles but the
21 definition of Second Division vehicles includes implements of husbandry. He said that he would
22 categorize implements of husbandry as a backhoe and road-grader.
23

24 Mr. Hall stated that over the past few weeks he spent a lot of time reviewing the Motor Vehicle Code
25 and he can say that he is not expert on that code. He said that whatever the outcome of this case may
26 be he would like to see the County strike "Second Division" vehicles and talk about "vehicles that
27 are used in a business" because that is what is being discussed tonight. He said that there is no need
28 to use Second Division vehicles and then make everyone decide what it means. He said that he
29 assumes that the way that he has been enforcing this is the way that the County wants it enforced.
30 He said that regardless of the Board's decision regarding this case the issue is what are the rules that
31 the County wants to enforce. He said that the rules must be as clear as possible because currently
32 they are not clear.
33

34 Mr. Passalacqua stated that if the Board gets to the bare simplicity the RHO indicates that no more
35 than 10 vehicles in total are allowed.
36

37 Mr. Courson stated that 7.1.2E.ii needs to be defined more clearly because a bicycle could be
38 considered a vehicle. He said that the definition needs to be more specific. He asked Mr. Hall if he
39 contacted IDOT requesting the definition of a vehicle.
40

41 Mr. Hall stated that he printed off pages and pages of definitions therefore he knows what the
42 definitions are. He said that Mr. Dillard provided the Board the two most important definitions in

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1 his letter. He said that a Second Division vehicle can be a First Division vehicle used in the course
2 of business but it is very clear that the author of this amendment intended it to apply to trailers. He
3 said that the minutes from the previous hearing regarding this issue are the minutes which went to
4 the County Board when they voted on this amendment and there is no question that the County
5 Board wanted trailers to be part of this.
6

7 Mr. Thorsland asked Mr. Hall if there is a definition of a vehicle in the Ordinance.
8

9 Mr. Hall stated that the Ordinance has a definition for motor vehicle and, as the Board is aware,
10 when defined terms are used in the Ordinance they are capitalized.
11

12 Mr. Thorsland stated that early on Mr. Hall stated that the description of the case was more in line of
13 what he thought 7.1.2 E should say and that he took out Second Division vehicles.
14

15 Mr. Hall stated yes.
16

17 Mr. Thorsland stated that case description is how Mr. Hall is interpreting it.
18

19 Mr. Hall stated that his error is that he worked under Frank DiNovo from 1990 to 2002 and he
20 witnessed how Mr. DiNovo interpreted what he wrote. He said that if he was a new Zoning
21 Administrator coming in and read 7.1.2 E, he would still have questions and he might have reacted
22 differently. He said that even a new Zoning Administrator could read the minutes of the case that
23 went to the County Board prior to adoption of the amendment and understand that they were
24 referring to all kinds of vehicles and not just literally Second Division vehicles. He said that he
25 would argue that he has been speaking the English language for at least 55 years and he knows what
26 a colon means and that most things are not that simple. He said that he believes it is fair to interpret
27 this amendment as 10 vehicles in total that are used in the course of business.
28

29 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall.
30

31 Mr. Hall stated that if the Board supports his decision then there needs to be a variance or special use
32 permit required for Mr. Dillard or a change in the total number of vehicles. He said that the total
33 number of vehicles does not matter if they are stored in the shed or not and it doesn't matter if they
34 are screened or not but what does matter is how many vehicles are on the property that are used in
35 the business.
36

37 Ms. Capel asked Mr. Hall to indicate what options are available for Mr. Dillard.
38

39 Mr. Hall stated that Mr. Dillard could apply for a contractor's facility which is a special use in the
40 AG-1 District.
41

42 Mr. Hall stated that what is really at issue, regardless of all of the other testimony that the Board has
43

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1 heard tonight, is has this issue regarding the number of vehicles been enforced properly. He said that
2 this interpretation is not about the *ADA* requirements or screening but again is about the number of
3 vehicles and has it been enforced properly.
4

5 Mr. Miller asked Mr. Hall if this was a farmstead and the equipment was tillage tools, tractors and
6 combines then the equipment would be exempt from zoning.
7

8 Mr. Hall stated yes.
9

10 Mr. Courson stated that he visited the site and noticed that one house had a trailer in the driveway
11 and some houses had debris and trash around the houses. He said that one house had an outbuilding,
12 boat and camper and down the road there is a trucking company which had several trucks and trailers
13 parked outdoors. He said that one of the homes in the neighborhood had a motor-grader sitting in the
14 yard as well as a boat and another trailer. He said that almost everyone in the neighborhood has
15 either boats or trailers parked outside. He said that he does not believe that a backhoe or road-grader
16 is a Second Division vehicle because he cannot see that equipment being any different than someone
17 having 10 lawnmowers in their shed for a mowing business. He said that he considers the difference
18 for a Second Division vehicle is that it is something that can be driven on the highway. He said that
19 many of the definitions regarding Second Division vehicles has to do with buses or semi-trailers but
20 not a backhoe or road-grader.
21

22 Mr. Hall asked Mr. Courson to describe off-road vehicles.
23

24 Mr. Courson stated that he is at a loss as to what an off-road vehicle would be unless it was a quad-
25 runner and he would not consider it to be a Second Division vehicle either. He said that he would
26 like clarification of the definition for an off-road vehicle but he cannot see where a bulldozer would
27 be considered as such.
28

29 Mr. Hall asked Mr. Courson if he thinks that the Ordinance does not limit how many bulldozers
30 someone could have at their home occupation.
31

32 Mr. Hall noted that enforcement action has been taken against the trucking company and they are
33 well aware of where they are supposed to be parking on the property. He said that the Second
34 Division vehicles are required to be parked 50 feet from the lot line.
35

36 Mr. Courson stated that the trucks and trailers appeared to be further than 50 feet from the lot line.
37

38 Mr. Thorsland stated that he drives by the subject property everyday and he will say that the property
39 has been greatly improved. He said that the number of vehicles seems to fluctuate and he did realize
40 that when new homes were built to the east there would probably be conflict and unfortunately he
41 was correct. He said that the Board has worked very diligently on other cases, such as the producing
42 of smoked meat in the CR District, and the Board managed to find a way to satisfy everyone

1 involved whether or not that was the course that the petitioner wanted to take to get their approval.
2 He said that the details of the Illinois Vehicle Code may be something that this Board will work on in
3 the future in implementing that code into the Ordinance more clearly.
4

5 Mr. Courson stated that the definition of off-road vehicles must be clarified.
6

7 Mr. Passalacqua stated that a pick-up cannot be considered in the same class as a backhoe.
8

9 Mr. Courson stated that he believes that the State of Illinois only finds a trailer as a vehicle when it is
10 hooked up to a truck but not when it is sitting alone.
11

12 Ms. Capel stated that it appears that the other issue at hand is whether this business qualifies as a
13 home occupation or a contractor's facility. She said that the intent of the Ordinance is clear but the
14 semantics however confuses the issue. She said that to be consistent with the RHO 15 graders and
15 bulldozers on a property is more than just a RHO and is a contractor's facility.
16

17 Mr. Thorsland stated that there is a question if the business has moved from a home occupation into
18 a contractor's facility and that question may exist due to the confusion of the definitions. He said
19 that the Board needs to decide whether staff's interpretation of 7.1.2 E to mean 10 vehicles total and
20 not so much the list of 17 existing vehicles on the property is truly 17 or is it 10. He said that he
21 only counts 10 vehicles because he would argue that where he lives there are a lot of people who
22 have a lot of equipment and trailers on their property and they have not applied for a home
23 occupation. He asked the Board if they desired to make a final determination tonight or continue the
24 case to a future date.
25

26 Mr. Schroeder stated that with all of the information that has been received tonight he believes that
27 Mr. Hall is trying to keep these types of uses under control. He said that he has seen some messes in
28 the County that the County cannot control but for those that the County can control we must make
29 sure that we are controlling them in the right way.
30

31 Mr. Hall stated that if the Board upholds his decision then Mr. Dillard can apply for a variance and
32 pursue the argument that everything is properly screened and what other issues may come up. He
33 said that it is not like that there can absolutely be no more than 10 vehicles but if there are to be more
34 than 10 vehicles then the owner needs to be authorized by a variance or special use permit. He said
35 that people go through this process every two weeks of the year before this Board. He said that this
36 is not the end of Dig It Excavation but there is one more step to go through. He said that he
37 informed Mr. Dillard that it appears that his screening will work and he planted a different type of
38 arborvitae than what one would normally find and if the nursery information is accurate there should
39 be a beautiful screen there in the future. He said that if the Board does not believe that Mr. Dillard
40 needs a variance then that is a different thing and if the Board believes that the business is fine the
41 way it is then the issue is settled.
42

1 Mr. Schroeder stated that he is confused about what Mr. Dillard has done and what he should have
2 already done or what could be done. He said that he would like information as to what Mr. Dillard
3 must do to be in compliance with the Ordinance.
4

5 Mr. Miller stated that it is obvious that the Board is not ready to make a final determination
6 regarding this case at tonight's meeting.
7

8 Mr. Passalacqua stated that the Board needs more information as to what trucks and backhoes count
9 as under the vehicle code.
10

11 Mr. Hall stated that he does not know how the Board is going to get any more information. He said
12 that the Board has what the Ordinance indicates and what the County Board reviewed when they
13 voted on the amendment. He said that it has been established that this thing is very confusing but he
14 can appreciate that the Board needs more time.
15

16 Mr. Thorsland stated that staff has submitted all of the information that is available for the Board to
17 review for this case. He said that he does not believe that staff can give the Board anything further
18 because they have provided the Board with everything that they can and in addition Mr. Dillard and
19 Ms. Pinks have given their testimony. He said that Mr. Courson has visited the area and he drives by
20 the property everyday therefore two Board members are aware of the property. He said that he does
21 not believe that no course of events will be changed if the Board does not make a final determination
22 at tonight's meeting.
23

24 Mr. Schroeder asked Mr. Hal if he could give the Board any more direction for their determination.
25

26 Mr. Hall stated that the Board has everything in front of them to make a determination. He said that
27 the Board has a copy of the Ordinance and the minutes of the adoption of the amendment. He said
28 that the Board needs to determine how they would enforce this issue and vote the way the Board
29 feels. He said that the fact that he has been on staff for 20 years is irrelevant and if the Board
30 believes that he is wrong then the Board owes it to him to tell him that.
31

32 Mr. Schroeder stated that it appears that the Ordinance is pretty cut and dry.
33

34 Mr. Hall stated that he disagrees because there is a lot of room in the Ordinance for disagreement.
35 He said that he may be putting too much emphasis on the minutes but that is why minutes are sent to
36 the County Board, which is to see the ZBA's discussion.
37

38 Mr. Schroeder asked Mr. Hall if he feels that the Board has discussed this issue enough to make a
39 decision or does he believe that the Board is just pussy-footing around.
40

41 Mr. Hall stated that he sees this Board reacting the way it normally reacts when it has a difficult
42 decision in front of them. He said that it is reasonable for the Board to make sure that they are

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1 comfortable with their decision but he cannot bring back any further information that would
2 enlighten the Board any further. He said that the County could hire a consultant to interpret the
3 Illinois Vehicle Code but he does not believe that is the issue although the Board may. He said that
4 he would like to stay away from the Illinois Vehicle Code because it is very complicated.
5

6 Mr. Passalacqua stated that the original application for the RHO, which Mr. Hall approved, it
7 describes three commercial vehicles and then describes 9 more at the bottom.
8

9 Mr. Hall stated that when the application was approved it was his opinion that there were 10 vehicles
10 involved in the business. He said that under Item #8 of the application there were three commercial
11 vehicles listed and at the time of approval the four trailers were not listed. He said that listed at the
12 bottom, per a phone call to Kelly Dillard on April 24, 2007, by Jamie Hitt the following equipment is
13 listed: Bobcat, backhoe, grader, tractor, 2-excavator, small excavator, trencher, etc. He said that
14 when the application was approved he counted nine vehicles in total and he did not count small
15 excavating equipment. He said that in error he did overlook the Cat311 which would make the total
16 10 but it does state that the large excavator would never be stored on the property. He said that at the
17 time he believed that the home occupation was in conformance with the Ordinance.
18

19 Mr. Passalacqua stated that Item #11 of the application indicates text which was stricken which
20 stated that nothing will be stored outside.
21

22 Mr. Hall stated yes, but subsequently Mr. Dillard did decide to store things outside.
23

24 Mr. Thorsland stated that if the Board does not desire to make a final determination tonight then a
25 continuance date must be determined. He said that the docket is very full until October 13th, which is
26 beyond the 100-day limit for a continuance.
27

28 Mr. Courson moved, seconded by Mr. Passalacqua to suspend the 100-day limit for a
29 continuance for Case 695-I-11. The motion carried by voice vote.
30

31 Mr. Courson moved, seconded by Mr. Schroeder to continue Case 695-I-11 to the October 13,
32 2011, meeting. The motion carried by voice vote.
33

34 Mr. Courson asked Mr. Hall if staff presented the applicant with other options.
35

36 Mr. Hall stated yes, staff presented the applicant with other options several times.
37

38 Mr. Passalacqua asked Mr. Hall what would be involved in making the business a contractor's
39 facility and would it be very prohibitive.
40

41 Mr. Hall stated that such a decision will be up to the Board because there are no standard conditions
42 for a contractor's facility.

2 Mr. Thorsland stated that at this time the Board will take a five minute recess.
3

4 **The Board recessed at 9:07 p.m.**

5 **The Board resumed at 9:16 p.m.**
6

7 Mr. Thorsland stated that the Board will now hear Continued Case 685-AT-11. Zoning
8 Administrator.
9

10 7. Staff Report

11 Mr. Hall stated that August 25th is the first meeting date for the special use hearing for the proposed
12 wind farm. He said that the legal advertisements were sent in today for publication. He said that
13 there are four hearings scheduled for the wind farm case therefore he is not sure what the Board's
14 September is shaping up to be but it is real, here and moving.
15

16 He thanked Connie Berry and Lori Busboom for the assistance over the past two weeks because for
17 the past two weeks they have worked almost entirely on the wind farm. He said that Connie and Lori
18 are Zoning Technicians and not planners but they have been doing an admirable job and the legal
19 advertisements would not have been sent today if it were not for them. He said that when a County
20 has zoning it is required to submit a legal advertisement which is accurate for what is met and what
21 is not met therefore all of the work has to be done before sending in the legal and luckily we were
22 able to meet that high standard.
23

24 Mr. Thorsland noted that the Board should review the docket and make the necessary adjustments to
25 their schedule so that a full Board can be in attendance.
26

27 Mr. Hall stated that as part of the RPC's services to their member agencies, Champaign County
28 being one of those agencies, has arranged for a Planning and Zoning Institute on Wednesday,
29 September 14th, with a buffet dinner by Minneci's and a presentation starting at 6:00 p.m. He
30 said that there is no charge for the buffet dinner or the presentation and hopefully the County's
31 ZBA will be in attendance. He said that the plan commissions for the cities of Urbana and
32 Champaign and the Villages of Mahomet and St. Joseph are invited. He said that this is an
33 unusual event because these institutes do not occur often. He said that Michael Blue, FAICP,
34 Director of Community Development for the City of Highland Park, Illinois and currently the
35 Planning Officials Development Officer for the Illinois Chapter of the APA will be a speaker at
36 the 2.5 hour workshop as well as City of Champaign Attorney Joe Hooker.
37

38 8. Other Business

39 A. Proposed ZBA Bylaws Amendments

40 Mr. Hall stated the State's Attorney has reviewed the ZBA Bylaws therefore if there are no further
41 questions the Board will make a final determination at the August 11th meeting. He said that there is
42 plenty of time for the Bylaws to be adopted prior to the wind farm hearings therefore if the Board

1 **Illinois State Historic Preservation Agency (ISHPA) about the proposed RRO development**
2 **undertaking and provide a copy of the ISHPA response; (7) require that for any proposed**
3 **RRO that the petitioner shall contact the Endangered Species Program of the Illinois**
4 **Department of Natural Resources and provide a copy of the agency response.**
5

6 Mr. Hall stated that there are no updates for Case 685-AT-11. He said that he is still trying to
7 recover from the wind farm cases and a lot of non-zoning case work has been occupying a lot of his
8 time. He requested that Case 685-AT-11 be continued to the proposed January 12, 2012, meeting.
9 He said that if Case 691-S-11 takes up a lot of the meeting time then the Board could continue Case
10 685-AT-11 to a later date. He said that he is confident that he can have documentation for the
11 Board's review by January 12, 2012.
12

13 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the proposed January 12, 2012,
14 meeting.
15

16 Mr. Palmgren moved, seconded by Mr. Passalacqua to continue Case 685-AT-11 to the
17 proposed January 12, 2012, meeting. The motion carried by voice vote.
18
19

20 **Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of**
21 **paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as**
22 **follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry,**
23 **transport, or move people, property or material either on road or primarily off road; or a**
24 **piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm**
25 **vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross**
26 **vehicle weight, including trailers and off-road vehicles but excluding patron or employee**
27 **personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds**
28 **gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange**
29 **Blossom Estates in Section 18 of Hensley Township and commonly known as the house and**
30 **shed at 700 County Road 2175N, Champaign.**
31

32 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
33 witness register. He reminded the audience that when they sign the witness register they are
34 signing an oath.
35

36 Mr. Thorsland asked the petitioner if they desired to make a statement outlining the nature of the
37 request.
38

39 Mr. Hall stated that interpretation cases do not have a Summary of Evidence, Finding of Fact and
40 Final Determination. He said that any previous interpretation cases have been determined by the
41 Board as documented in the minutes of the meeting. He said that he hopes that the Board can take

1 action on this case tonight. He encouraged the Board and whoever makes the final motion, that if
2 they believe that the minutes of the previous meetings and tonight's meeting adequately provide all
3 of the information necessary and the Board just wants to approve or deny it then that is all the Board
4 has to do. He said that to the extent that there may be some information or evidence that was
5 especially compelling since there is no written finding the Board may want to mention that
6 information or evidence but the Board is certainly not obligated to.
7

8 Mr. Hall read the Supplemental Memorandum dated December 15, 2011, as follows:

9 The minutes of the July 28, 2011, public hearing demonstrate that at that time the Board
10 agreed that the phrase "off road vehicles" was not defined and therefore it was not clear what
11 the Ordinance actually required.
12

13 Mr. Hall said that he had no doubts about the meaning of 7.1.2E, because he simply followed
14 the same course of action that had been followed since that amendment was added to the
15 Ordinance in 1993. He said that if he had been confused he could have referred to the same
16 minutes of adoption that were attached to the Preliminary Memorandum. He said that he
17 believes that those minutes support the actions that he has taken in this case.
18

19 Mr. Hall said that he believes that in light of the confusion in the Zoning Ordinance his
20 actions have been reasonable and appropriate including the decision to bring this issue to the
21 Board as an interpretation case rather than make Mr. Dillard pay the \$200 fee for an appeal
22 case.
23

24 Mr. Hall stated that it is now clear that the Zoning Ordinance needs to be amended so as to
25 remove the confusion about what should be required by paragraph 7.1.2E. He said that he
26 has added a new text amendment Case 704-AT-11 to the docket and will seek guidance from
27 the County Board in January 2012, however this case requires the Board to make a ruling on
28 the appropriateness of his actions regarding the Dillard property.
29

30 Mr. Hall said that this zoning case is unrelated to any other issue but there have been
31 allegations that his actions and the actions of the Department have resulted in Mr. Dillard
32 incurring costs for Zoning Ordinance compliance that should not have occurred. He said that
33 he can assure the Board that his actions and the actions of the Department have not caused
34 Mr. Dillard to incur any unreasonable costs.
35

36 Mr. Hall read the Zoning Board Alternatives as indicated in the Supplemental Memorandum dated
37 December 15, 2011. He said that the alternatives for the Zoning Board of Appeals in this case
38 include the following:
39

40 **Uphold the Zoning Administrator's interpretation of 7.1.2E.** If the Board believes that
41 Mr. Hall's interpretation of the Ordinance was reasonable it may uphold his interpretation.

1 In upholding Mr. Hall's interpretation the Board will not be ruling on anything related to the
 2 Illinois Vehicle Code but simply whether his interpretation of this confusing part of the
 3 Ordinance was reasonable and appropriate. If the Board upholds his interpretation any
 4 further action against Mr. Dillard's property will be halted because it is now clear that
 5 paragraph 7.1.2E of the Zoning Ordinance needs to be amended and it would be
 6 unreasonable to proceed with action against the Dillard property until paragraph 7.1.2E. is
 7 clarified. If the Ordinance that is eventually adopted in Case 704-AT-11 does limit the
 8 numbers of equipment in an RHO in the same way that it limits vehicles the Mr. Dillard will
 9 have to decide whether to seek a variance for the RHO or a special use permit as a
 10 contractor's facility and that will lead to another zoning case but enforcement will be stayed
 11 until the outcome of that case.
 12

13 **Find in favor of Mr. Dillard.** If the Board believes that Mr. Hall's interpretation of the
 14 Ordinance was unreasonable it may find in favor of Mr. Dillard. He said that finding in favor
 15 of Mr. Dillard will result in a Zoning Compliance Certificate being issued. Mr. Hall said that
 16 even if the Board finds in favor of Mr. Dillard he will still seek direction from the County
 17 Board regarding a text amendment of paragraph 7.1.2E of the Zoning Ordinance. He said
 18 that if the Ordinance that is eventually adopted by the County Board limits the numbers of
 19 equipment in an RHO in the same way that it limits vehicles then Mr. Dillard's current
 20 equipment would be nonconforming and allowed to remain in these numbers but not
 21 increase. He said that at this time I assume that nonconforming right would also apply to
 22 future replacement equipment.
 23

24 Mr. Hall stated that he wants to make it clear that if the Board finds in favor of Mr. Dillard then they
 25 are deciding that the numbers of equipment that Mr. Dillard has is in keeping with a reasonable
 26 interpretation of the Ordinance and that would make them nonconforming in the event that the
 27 Ordinance is amended. He said that if the Board finds in favor of the Zoning Administrator that it
 28 was a reasonable interpretation then Mr. Dillard will continue on about his way until Case 704-AT-
 29 11 is resolved. Mr. Hall stated that the earliest date that Case 704-AT-11 can be resolved will
 30 probably be in August of 2012, because it takes that much time to get direction from the County
 31 Board, place the legal advertisement for the public hearing, send it back to the County Board, await
 32 municipal protest and then determine the outcome. He said that he would not expect Case 704-AT-
 33 11 to be a controversial case but one never knows and the only thing that he would seek direction
 34 from the County Board on in Case 704-AT-11 is the limit on vehicles in 7.1.2.E. He said that at this
 35 time there are no other issues that he needs County Board guidance for but he cannot rule out
 36 something being brought up at the County Board. He said that as far as he is concerned getting this
 37 issue clarified is probably the most pressing text amendment that the Board has. He said that it is
 38 astounding how unclear 7.1.2.E. is and it would be best to get that resolved.
 39

40 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.
 41

1 Mr. Thorsland called Mr. Kelly Dillard to testify.
2

3 Mr. Kelly Dillard, who resides at 700 CR 2175N, Champaign, stated that he does not believe that the
4 Zoning Ordinance is hard to understand because the syntax is perfectly easy for him to understand.
5 He said that the Zoning Ordinance only refers to non-farm, Second Division vehicles. He said that
6 he reviewed the last meeting's minutes and Mr. Hall indicated that he did not want to discuss
7 anything about Second Division vehicles because it was too confusing. Mr. Dillard stated that it is
8 not confusing at all and each Board member had a copy of the definition of a Second Division motor
9 vehicle to review. He said that he found it odd that Mr. Hall continues to indicate that this issue is
10 hard to understand and yet his request is written in the same syntax that the Ordinance was written
11 in. Mr. Dillard stated that everything in Mr. Hall's request refers back to the first paragraph of
12 7.1.2.E. He said that it is very simple to look at 7.1.2.E and see that each item refers back to non-
13 farm, Second Division vehicles and also motor vehicles. He said that the only way that 7.1.2.E
14 would be hard to understand is if it does not say what you want it to say. He said that this is not
15 about what Mr. Hall wants it to say but what it does say which is the letter of the law.
16

17 Mr. Dillard stated that one of the things that he found disconcerting at the last meeting was that this
18 is obviously an issue of disagreement between himself and Mr. Hall. He said that during the Board's
19 discussion, after testimony, Mr. Hall was part of that discussion and Mr. Dillard had no ability to
20 rebut what Mr. Hall said during that discussion, even if it was incorrect information. Mr. Dillard
21 stated that everyone received a copy of Mr. DiNovo's memorandum with ZBA minutes attached
22 which discussed the Ordinance. Mr. Dillard stated that no one received minutes from the County
23 Board which discussed the Ordinance but it is obvious that during the amendment process that the
24 County Board did not agree with Mr. DiNovo then and they changed the Ordinance to be what it is
25 today. He said that the current Ordinance is not as far reaching as the Zoning Department would
26 like it to be because it only deals with second division motor vehicles. He said that whatever the
27 Board's decision is tonight there is no such thing as a vehicle that is a farm vehicle for a farmer and
28 not a farm vehicle for him. He said that if the Board chooses to rule that a backhoe is a vehicle that
29 is included in this then that ruling will have a far reaching affect on all of the farmers that have
30 backhoes, bobcats and bulldozers of their own.
31

32 Mr. Dillard stated that the minutes from the last meeting indicate that Mr. Thorsland noted that Mr.
33 Hall stated the description of the case was more in line of what he thought 7.1.2.E should say and
34 that he took out Second Division vehicles and Mr. Hall indicated that Mr. Thorsland was correct.
35 Mr. Dillard stated that it is a little hard to take out Second Division vehicles when that is what the
36 entire Ordinance is about.
37

38 Mr. Dillard stated that Mr. Hall indicated in the new memorandum that staff did not cause Mr.
39 Dillard any undue costs because of the way that he has enforced this issue. Mr. Dillard stated that
40 Mr. Hall is not qualified to make such a statement because staff has cost Mr. Dillard a lot of money
41 in trying to take care of things that he should not have had to take care of.

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Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.

Mr. Thorsland asked if staff had any questions for Mr. Dillard.

Mr. Hall asked Mr. Dillard to indicate what things staff required him to do that the Ordinance does not require.

Mr. Dillard stated that all of the outdoor storage, the trees and extra parking lot was not for anything but the heavy equipment which is not covered in any section of the Ordinance at all.

Mr. Hall asked Mr. Dillard if he believes that outdoor storage does not need to be screened under the Ordinance.

Mr. Dillard stated that he wouldn't because heavy equipment is not outdoor storage.

Mr. Hall stated that is not covered by paragraph 7.1.2.E.

Mr. Dillard stated that it isn't covered under any of the Ordinance.

Mr. Courson stated that paragraph 7.1.2.I.(i) indicates the following: outdoor storage of any number of unlicensed vehicles or more than two licensed vehicles awaiting automobile or truck repair is prohibited.

Mr. Dillard stated Mr. Courson is correct because the Ordinance is all one sentence and indicates that non-farm, Second Division vehicles as defined by the Illinois Vehicle Code, and used in any RHO shall be limited as follow and the three items after this statement all refer to Second Division vehicles. He said that all three items which follow Mr. Hall's request refer to the initial part of the request.

Mr. Courson stated that Mr. Dillard is correct but paragraph 7.1.2.I. indicates prohibited Rural Home Occupation activities shall include outdoor storage of any number of unlicensed vehicles.

Mr. Dillard stated that paragraph 7.1.2.I. is part of the same sentence as the first part because this is all one sentence beginning at 7.1.2.E. Non-farm, Second Division vehicles as defined.

Mr. Courson stated that the beginning of 7.1.2 indicates Rural Home Occupations and does not discuss Second Division vehicles until 7.1.2.E.

Mr. Dillard stated that Mr. Courson is correct.

1 Mr. Courson stated that paragraph 7.1.2.I. deals with 7.1.2. which has nothing to do with Second
2 Division vehicles except for paragraph 7.1.2. E.

3
4 Mr. Dillard stated that he thought Mr. Courson was discussing paragraph 7.1.2.E.(i) and not
5 paragraph 7.1.2.I.

6
7 Mr. Hall stated that paragraph 7.1.2.K on page 7-4 of the Zoning Ordinance indicates that outdoor
8 STORAGE shall be limited to SIDE YARDS or to the REAR YARD and screened as provided in
9 Section 7.6. He said that outdoor STORAGE is capitalized because it is a defined word. He said
10 that STORAGE is defined as the presence of equipment, or raw materials or finished goods
11 (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and
12 excluding the parking of operable vehicles. Mr. Hall stated that the items in question are equipment
13 therefore keeping them outside is indeed outdoor storage and outdoor storage and/or outdoor
14 operation screening requirements are indicated in Section 7.6 on page 7-16 of the Zoning Ordinance.
15 He said that a Type-D Screen is an eight foot screen.

16
17 Mr. Dillard asked Mr. Hall if he indicated that in regards to storage that operable vehicles are
18 excluded.

19
20 Mr. Hall stated that operable vehicles are not considered storage but are just parked.

21
22 Mr. Dillard stated that if the heavy equipment is considered an operable vehicle then it too is
23 excluded.

24
25 Mr. Hall stated that it is excluded from the definition of outdoor storage but there are other
26 requirements in the Ordinance that require them to be screened depending on where they are located.

27
28 Mr. Dillard stated that the only thing that he is interested in is paragraph 7.1.2.E and does it only
29 refer to non-farm, Second Division vehicles.

30
31 Mr. Passalacqua stated that he does not know if the Board can only rule on 7.1.2.E because we are
32 talking about outdoor storage of these vehicles which makes 7.1.2.I apply.

33
34 Mr. Dillard stated that the issue at hand is the number of vehicles and there is nowhere else in the
35 Ordinance that indicates a number of vehicles allowed. He said that the thing that will either rule in
36 his favor or Mr. Hall's favor is does the number of allowed vehicles apply to Second Division
37 vehicles.

38
39 Mr. Hall stated that what is issue is that given the plain language in paragraph 7.1.2.E were his
40 actions appropriate. He said that the Board determined on July 28, 2011, that paragraph 7.1.2.E is
41 unclear. He said that given that unclarity and a neighbor who is complaining which way should

1 he error, he said that he decided to error with the neighbor however he was willing to bring this issue
2 before the Board as an interpretation rather than making Mr. Dillard apply for an appeal. He said
3 that he could have brought it before the Board as an interpretation case when the issue first came up
4 but during his seventeen years of experience this is the procedure that had been exercised and this is
5 the first time someone disagreed. He said that if he brought everything before the Board when
6 someone disagreed the Board would never get cases done for people who paid the fee to obtain the
7 Board's decision. He said that as the Zoning Administrator he is to exercise his judgment when
8 necessary and that is what he did with this case. He said that he would appreciate a decision from
9 this Board on this issue when the Board is ready.

10
11 Mr. Dillard stated that the only person that has ever said that paragraph 7.1.2.E is unclear is Mr. Hall
12 because it is not unclear to Mr. Dillard at all. He said that the Board has not ruled that paragraph
13 7.1.2.E is unclear.

14
15 Ms. Capel stated that the literal interpretation of the words is not in keeping with the intent of the
16 Ordinance. She said that Mr. Hall interpreted the Ordinance with the intent of the Ordinance as a
17 guide and Mr. Dillard is using the literal words to justify his position which basically is not in
18 keeping with the intent of the Ordinance.

19
20 Mr. Passalacqua stated that the page 21 of the approved July 28, 2011, minutes indicate that the
21 Board agreed that there needs to be a more specific definition.

22
23 Mr. Dillard stated that he has always been under the impression that a law is to be enforced under the
24 letter of the law and if it is wrong then the letter of the law should be changed. He said that there is
25 nothing that indicates what the County Board's intent was and only what Mr. DiNovo's intent was
26 and that is not who made the Ordinance. He said that the County Board made the Ordinance. He
27 said that he does not know where to obtain the County Board minutes to indicate what the County
28 Board said about this issue but obviously it was different than what Mr. DiNovo wanted it to be. He
29 said that the County Board's intent was different than what has been done with the Ordinance since
30 1993.

31
32 Mr. Hall asked Mr. Dillard if he read the memorandum dated February 9, 1993, from Mr. DiNovo to
33 the County Board.

34
35 Mr. Dillard stated that he did read Mr. DiNovo's memorandum but it is not the County Board
36 minutes.

37
38 Mr. Hall stated that Mr. DiNovo's memorandum is the memorandum on which the County Board
39 took action and there are minutes attached from the ZBA. He said that Mr. Dillard is correct in
40 indicating that the Board does not have County Board minutes to review but there have never been
41 County Board minutes ever provided during the history of Champaign County that actually put down

1 substantive discussions. He said that to claim that the County Board minutes indicate one thing or
2 another is not helpful. He said that all staff knows is that Mr. DiNovo's memorandum is the
3 document that the County Board reviewed prior to adopting the Ordinance.
4

5 Mr. Dillard stated that the County Board adopted a different Ordinance than what Mr. DiNovo asked
6 them to adopt.
7

8 Mr. Hall stated that this is the final version that went to the County Board that was adopted. He said
9 that the Ordinance was changed previously in 1992 but the Ordinance was adopted in 1993.
10

11 Mr. Dillard stated that he realizes that the Ordinance was changed previously but the request in the
12 memorandum from Mr. DiNovo, which included minutes, is not what was adopted.
13

14 Mr. Hall reaffirmed to the Board that what is at issue is given the admitted and agreed to confusion
15 in the Ordinance, were his actions appropriate.
16

17 Mr. Dillard stated that his request before the Board is whether the Ordinance only applies to non-
18 farm, Second Division vehicles.
19

20 Mr. Hall stated that Mr. Dillard has not paid a fee therefore he has no request before the Board. He
21 said that the request is from the Zoning Administrator.
22

23 Mr. Thorsland stated that page 7-3 of the Zoning Ordinance indicates paragraph 7.1.2.E as follows:
24 Non-farm, Second Division vehicles are defined by the Illinois Vehicle Code, used in any
25 Rural Home Occupation shall be limited as follows:

- 26 i. no more than three self propelled vehicles over 8,000 lbs. gross vehicle weight shall
27 be permitted;
- 28 ii. no more than 10 vehicles in total, including vehicles under 8,000 lbs. gross vehicle
29 weight, trailers and off-road vehicle shall be permitted excluding patron or employee
30 personal vehicles;
- 31 iii. all Second Division vehicles shall be stored indoors or parked no less than 50 feet
32 from any lot line and no less than 100 feet from any off-site existing dwelling
33 conforming as to use.
34

35 Mr. Thorsland stated that the July 22, 2011, Preliminary Memorandum includes Mr. Dillard's
36 approved Zoning Use Permit, which is 73-07-01RHO, and the Special Conditions for 73-07-01RHO.
37 He said that Special Condition #2 clearly states that the limit of 10 non-personal vehicles also applies
38 to vehicles not intended for road use such as a trencher, an excavator, a backhoe, a bobcat, etc. He
39 said that there is also a list of the 17 vehicles that were present on the subject property on June 22,
40 2011, and 17 vehicles is more than the 10 allowed. He said that he would argue that all 17 of the
41 vehicles listed may not count. He said that what is implicit is that at the time of the issuance of 73-

1 07-01RHO, Mr. Dillard agreed to the Ordinance.
2

3 Mr. Thorsland stated that he has an RHO on his property and he farms therefore he may have more
4 than 10 vehicles on his property but his combine doesn't do anything other than harvest his corn and
5 beans. He said that he understands Mr. Dillard's position and he understands that it is staff's job to
6 take what the County has and deal with it. He said that presently he is leaning towards Alternative
7 #1 which is to uphold Mr. Hall's interpretation because the problem comes from the Second Division
8 definition included in the Illinois Vehicle Code, which is not something that the County produced.
9 He said that the County does have an Ordinance which indicates a limit of 10 vehicles in total and
10 that is something that the Board can address in Case 704-AT-11. He said that the new memorandum
11 dated December 15, 2011, from Mr. Hall spells out the Board's two alternatives for tonight and
12 neither one has an immediate effect on Mr. Dillard's operation. He said that it may be a good
13 opportunity to finish the interpretation case for Mr. Hall and let it move forward and get 704-AT-11
14 in the works to get this issue resolved. He said that depending upon the outcome it is Mr. Dillard's
15 option to either come back with a different application or not increase the number of nonconforming
16 equipment. He said that Mr. Dillard could replace his existing equipment but his use would be
17 nonconforming. He said that the real task at hand is that the Board needs to decide tonight if Mr.
18 Hall's interpretation is reasonable. He said that he is leaning towards determining that Mr. Hall's
19 interpretation is a reasonable interpretation of the limited tool that is before the Board. He said that
20 he understands Mr. Dillard's position completely because Second Division vehicles are indicated in
21 the Ordinance. He said that he read Mr. DiNovo's memorandum again and that is what the County
22 Board received in order to make their determination. He said that Mr. Hall pointed out that the
23 County Board minutes are more of an outline rather than word for word. He said that the ZBA
24 minutes are more detailed and they do reflect the actual discussion.
25

26 Mr. Thorsland asked Mr. Dillard if he had any further comments.
27

28 Mr. Dillard stated that he does not have 10 Second Division vehicles.
29

30 Mr. Thorsland stated yes, but a condition of Mr. Dillard's permit indicated a limit of 10 non-personal
31 vehicles.
32

33 Mr. Dillard stated that the limit is 10 non-personal motor vehicles.
34

35 Mr. Thorsland stated that he owns a trencher, he uses it for farming, but he does own a trencher.
36

37 Mr. Dillard stated that part of the problem is that Mr. Hall is counting the trailers yet the Ordinance
38 specifically states that trailers are permitted.
39

40 Mr. Thorsland stated that he drives past Mr. Dillard's property every day and as far as he is
41 concerned the property looks normal. He said that the Ordinance needs to be fixed to include a

1 better set of definitions for Mr. Dillard, Mr. Hall and the future ZBA. He said that he appreciates
2 that Mr. Dillard and Mr. Hall brought this issue before the Board so that it can be worked out to
3 avoid future disagreements. He said that staff and the Board had given Mr. Dillard the benefit of not
4 having to pay a fee to clarify this manner. He said that regardless of the outcome of the Board's
5 ruling or Case 704-AT-11, his operation will not stop.
6

7 Mr. Dillard stated that he has a reasonable place located in the country and he does not have an
8 unreasonable amount of anything. He said that the Ordinance is what it is currently and what it is
9 going to be amended to in the future is unknown. He requested that the Board rule in his favor and
10 when the Ordinance changes staff should administer the Ordinance as it changes.
11

12 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.
13

14 Mr. Thorsland asked if staff had any questions for Mr. Dillard and there were none.
15

16 Mr. Thorsland stated that the Board can rule Mr. Hall's interpretation as a reasonable or
17 unreasonable interpretation by ruling with one of the Zoning Board alternatives included in Mr.
18 Hall's December 15, 2011, memorandum. Mr. Thorsland stated that he would prefer that the ruling
19 be accompanied by an explanation as to why the Board ruled as it did tonight.
20

21 Mr. Thorsland stated that he believes that Mr. Hall's interpretation is a reasonable interpretation as
22 indicated in Alternative #1. He said that he would argue that some of the vehicles do not count but
23 as far as an interpretation of the Ordinance, without looking at the specific definition for vehicles, the
24 RHO is limited to 10 non-farm vehicles in total.
25

26 Mr. Courson stated that Alternative #1 is too vague because it is not specific as to motorized or non-
27 motorized vehicles. He asked Mr. Hall if he would consider a wheel barrow to be a non-motorized
28 vehicle.
29

30 Mr. Hall asked Mr. Courson to restate his question.
31

32 Mr. Courson stated that the definition of a vehicle is not consistent in the Ordinance. He said that
33 the definition of a vehicle as stated in the Ordinance could be a two-wheeled cart, wheel barrow,
34 lawnmower, etc. He asked Mr. Hall if he feels that a wheel barrow is a vehicle.
35

36 Mr. Hall stated no and he is sorry that Mr. Courson felt like he needed to ask him that question. He
37 said that he does not believe that a wheel barrow is a vehicle and he has not made an issue of wheel
38 barrows on Mr. Dillard's property.
39

40 Mr. Courson stated that he is not concerned about Mr. Dillard's property at this time but according to
41 the definition a wheel barrow would qualify because the definition is vague. He said that someone

1 could throw hundreds of different things in the definition that would not be considered a vehicle.

2
3 Mr. Hall stated that Mr. Courson was one Board member who agreed that in the Ordinance an off-
4 road vehicle was not defined therefore he did not know what to do with it.

5
6 Mr. Courson stated that he still has not been able to discover what classifies as a Second Division
7 vehicle.

8
9 Mr. Hall stated that he understands what classifies as a Second Division but what he did with off-
10 road vehicles is what is described here in this interpretation. He said that what (1), (2), and (3) are
11 his attempt to indicate what he thought and that would include a bicycle or wheel barrow and
12 perhaps that did not obtain enough review and he will apologize for that but that is not what is at
13 issue. He said that what is at issue is that paragraph 7.1.2.E includes a phrase which makes it
14 unclear.

15
16 Mr. Courson stated that he will agree that paragraph 7.1.2.E is unclear.

17
18 Mr. Thorsland stated that a reasonable person would not consider a bicycle or wheel barrow as
19 something that this Ordinance is covering. He said that he did not believe at any time that anything
20 smaller than a tractor would be included and he did not even consider that a lawnmower would be
counted.

21
22
23 Mr. Courson stated that if the Board is going to use this as a legal definition then it must be clear.

24
25 Mr. Hall stated that we are not using it as a legal definition.

26
27 Mr. Passalacqua stated that as it pertains to the case at hand regarding the language of paragraph
28 7.1.2.E(2) which includes trailers and off-road vehicles but excluding patron or employee vehicles
29 then he would agree to the Zoning Administrator's interpretation and he would also note that the
30 Zoning Administrator has made every attempt to make this as easy as possible by not ensuing the
31 \$200 fee from Mr. Dillard for an appeal case. He noted that the Zoning Administrator is
32 accommodating Mr. Dillard at this time by not ensuing the appeal case and simply getting through
33 this hoop so that the Board can move on to the next one.

34
35 Mr. Thorsland asked Mr. Passalacqua if he would like to make a motion. He said that much care
36 was taken to prevent as much impact as possible to Mr. Dillard's current operation for his Rural
37 Home Occupation.

38
39 Mr. Passalacqua moved, seconded by Ms. Capel to uphold the Zoning Administrator's
40 interpretation of 7.1.2.E.

1 The roll was called:
2

3 Courson-no Miller-absent Palmgren-yes
4 Passalacqua-yes Capel-yes Thorsland-yes
5

6 Mr. Hall thanked the Board. He said that the Board's decision upholds the Zoning Administrator's
7 interpretation of 7.1.2.E. and staff will proceed as outlined in the Supplemental Memorandum dated
8 December 15, 2011. He informed Mr. Dillard that if he has any questions he should feel free to call
9 the office to speak with staff. He said that staff will keep Mr. Dillard informed of the progress in
10 getting direction by the County Board and staff will notify as to when the public hearing will begin.
11 He said that Mr. Dillard will be copied any memorandums that will come before the Board for Case
12 704-AT-11.
13

14 Mr. Hall thanked Mr. Dillard.
15

16 **6. New Public Hearings**
17

18 **Case 681-S-11 Petitioner: Kopmann Cemetery Request to authorize an expansion of a**
19 **nonconforming cemetery with waivers (variances) in related Case 682-V-11 in the AG-1**
20 **Zoning District. Location: A 4.45 acre tract in the Southwest Quarter of the Southeast**
21 **Quarter of Section 36 of Compromise Township and commonly known as the Kopmann**
22 **Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.**
23

24 **682-V-11 Petitioner: Kopmann Cemetery Request to authorize the following in the AG-1**
25 **District: A. Variance of setbacks for existing headstones along CR 2400E with a setback of 33**
26 **Feet in lieu of the required setback of 55 feet and setbacks for existing and proposed**
27 **headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;**
28 **and B. Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37**
29 **feet from CR 2400N in lieu of the required setback of 55 feet; and C. Variance of maximum lot**
30 **size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres**
31 **allowed on best prime farmland; and D. Waiver (variance) of standard conditions for a lot**
32 **area of 4.45 acres in lieu of the required 10 acres for a cemetery; and a front yard setback of**
33 **33 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required 100 feet; side yard**
34 **setback of 15 feet in lieu of the required 50 feet; and a rear yard setback of 25 feet in lieu of the**
35 **required 50 feet. Location: A 4.45 acre tract in the Southeast Quarter of the Southeast**
36 **Quarter of Section 36 of Compromise Township and commonly known as the Kopmann**
37 **Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.**
38

39 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County
40 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will
41 ask for a show of hands for those who would like to cross examine and each person will be called

1. **Revise existing paragraph 7.1.2E. to read as follows:**

(Note: Existing words to be deleted are indicated in strike out and new words to be added are underlined.)

E. ~~Non farm, Second Division vehicles as defined by the Illinois Vehicle Code~~
MOTOR VEHICLES and equipment used in any RURAL HOME
OCCUPATION shall be limited as follows:

- (1) The number of MOTOR VEHICLES and licensed trailers displaying the name of the RURAL HOME OCCUPATION or used in any way for the RURAL HOME OCCUPATION shall be within the limits established in this paragraph.
- (2) The number of complete pieces of equipment that are motorized or non-motorized and used in any way for the RURAL HOME OCCUPATION shall be within the limits established in this paragraph. Complete pieces of equipment shall include, but not be limited to, bucket loaders, road graders, bulldozers, trenchers, backhoes, riding lawn mowers, devices mounted on trailers, and any agricultural equipment used for non-agricultural uses. Equipment does not include hand tools or bench tools or tools mounted on a table or wheel barrows or similar tools.
- ~~i.~~(3) No more than three ~~vehicles~~-MOTOR VEHICLES and licensed trailers over 8,000 15,000 lbs. pounds gross weight each or three complete pieces of self-propelled equipment over 15,000 pounds gross weight each, or some combination thereof, shall be permitted but only one MOTOR VEHICLE and/or licensed trailer and/ or equipment shall be permitted with a gross weight (including vehicle, trailer and equipment in combination) over 36,000 pounds but not more than 80,000 pounds gross weight. Weights of such MOTOR VEHICLES and trailer and / or pieces of equipment (including vehicle and equipment in combination) on the public STREET shall be in conformance with the seasonal restrictions authorized by the Illinois Vehicle Code (625 ILCS 5/15-316).
- ~~ii.~~(4) No more than 10 ~~vehicles~~-MOTOR VEHICLES in total, including ~~vehicles~~ MOTOR VEHICLES under 8,000 lbs. ~~gross vehicle weight and licensed trailers and off-road vehicle~~ shall be permitted excluding patron or employee personal ~~vehicles~~-MOTOR VEHICLES. This limit shall apply to each individual MOTOR VEHICLE or licensed trailer.

- ~~iii.~~(5) All ~~Second Division vehicles~~ MOTOR VEHICLES and licensed trailers shall be stored ~~indoors~~ in an enclosed BUILDING or parked no less than 50 feet from any lot line and no less than 100 feet from any off-site existing DWELLING conforming as to USE.

- (6) No more than 10 complete pieces of equipment may be kept in outdoor STORAGE that is located no less than 50 feet from any lot line and no less than 100 feet from any off-site existing DWELLING conforming as to USE and conforming to the SCREEN requirements of Section 7.4 provided, however, that the number of pieces of equipment that may be kept in outdoor STORAGE shall be reduced by the number of MOTOR VEHICLES and trailers also parked outdoors and all other equipment must be kept in an enclosed BUILDING. This limit shall apply to each individual piece of equipment.

- (7) Parking spaces shall have required SCREENS as required by Section 7.4.

- (8) Outdoor STORAGE shall have required SCREENS as required by Section 7.6.

2. **Revise existing paragraph 7.1.2 D. to read as follows:**

(Note: Existing words to be deleted are indicated in strike out and new words to be added are underlined.)

- D. No more than one SIGN not more than six square feet in area shall be permitted on the property in addition to one MOTOR VEHICLE or one piece of equipment with the RURAL HOME OCCUPATION name or owner name affixed to the exterior and parked or stored outdoors. Any additional MOTOR VEHICLE or equipment with the RURAL HOME OCCUPATION name or owner name affixed to the exterior must be parked or stored in an enclosed BUILDING or in a parking or storage space that has a SCREEN as required by Section 7.4.

To: **Champaign County Board Committee of the Whole**

From: **John Hall, Director & Zoning Administrator**

Date: **February 29, 2012**

RE: **Zoning Ordinance requirements for Wind Farms**

Request: **Request approval to proceed with a public hearing for an amendment to the Zoning Ordinance minimum required separation between a wind farm and small isolated tracts of the CR Conservation Recreation Zoning District.**

BACKGROUND

Paragraph 6.1.4 A.2.(b) of the Zoning Ordinance requires as a standard condition for wind farms a minimum one mile separation between a wind farm and the CR Conservation Recreation Zoning District. The one mile separation was adopted because many of the environmental concerns related to wind farms (such as bird and bat kills) are greatest in the CR District and also because the CR District is generally the rural district that contains the greatest density of rural residences.

The area of the California Ridge Wind Farm included the smallest isolated area of the CR Conservation Recreation Zoning District in Section 4 of Ogden Township. See the attached zoning map for Case 696-S-11. This small, isolated CR District is approximately 32 acres in area.

Landowners adjacent to this small isolated CR District have requested that the County Board amend the Zoning Ordinance to reduce or eliminate the one mile wind farm separation for this small CR District so that if the California Ridge Wind Farm were ever to expand, their land would be eligible for the expansion.

This memorandum reviews the general intent and location of the CR Zoning District, the history of the subject CR District, and the proposed text amendment.

GENERAL INTENT AND LOCATION OF THE CR DISTRICT

Section 5.1.3 of the Zoning Ordinance states that the general intent of the CR Zoning District is the following:

The CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.

Figure 12-6 in the *Land Resource Management Plan* is a generalized zoning map of the County (see attached). The CR District is the bright green areas on the map. The subject area is called out with a note and a red arrow. No other isolated portion of the CR District is as small as this 32 acre area.

Most of the CR District also contains land in the 100-year floodplain although not all of the floodplain is contained within the CR District.

HISTORY OF THE SUBJECT CR DISTRICT

The Zoning Ordinance was adopted on October 10, 1973. Aerial photographs from 1973, 1988, and 2008 document the following conditions on the property at those times:

- The aerial photograph from 1973 (see Attachment C) indicates that at that time the subject property consisted of approximately 14 acres that was wooded to varying degrees and about 28 acres of row crop farmland. A small stream that was tributary to the Spoon River also meandered through the wooded area.
- The aerial photograph from 1988 (not attached) shows that between 1973 and 1988 the wooded land cover became even more extensive on the property.
- The aerial photograph from 2008 (see Attachment D) indicates that by this time the wooded land cover had been removed and the Spoon River tributary had been straightened. The property appears to be completely in row crop land cover except for what appears to be a grassed waterway where the Spoon River was previously located.

Other relevant considerations are the following:

- The removal of the wooded area reduced the scenic quality of this small CR District even though it did bring land into agricultural production.
- No part of the subject property is within the 100-year floodplain.
- There is one dwelling in the northwest corner of this small CR District.

PROPOSED AMENDMENT

The proposed amendment is Attachment E. The proposed amendment will apply only to this small part of the CR District because no other isolated part of the CR District was this small on April 21, 2009 (the date of adoption of the wind farm amendment). The proposed amendment would make approximately 1,841 acres of land available for future wind farm construction (about 18% of the area of the California Ridge Wind Farm in Champaign County), after subtracting the area of overlap with Vermilion County and the area within 1.5 miles of the Village of Royal.

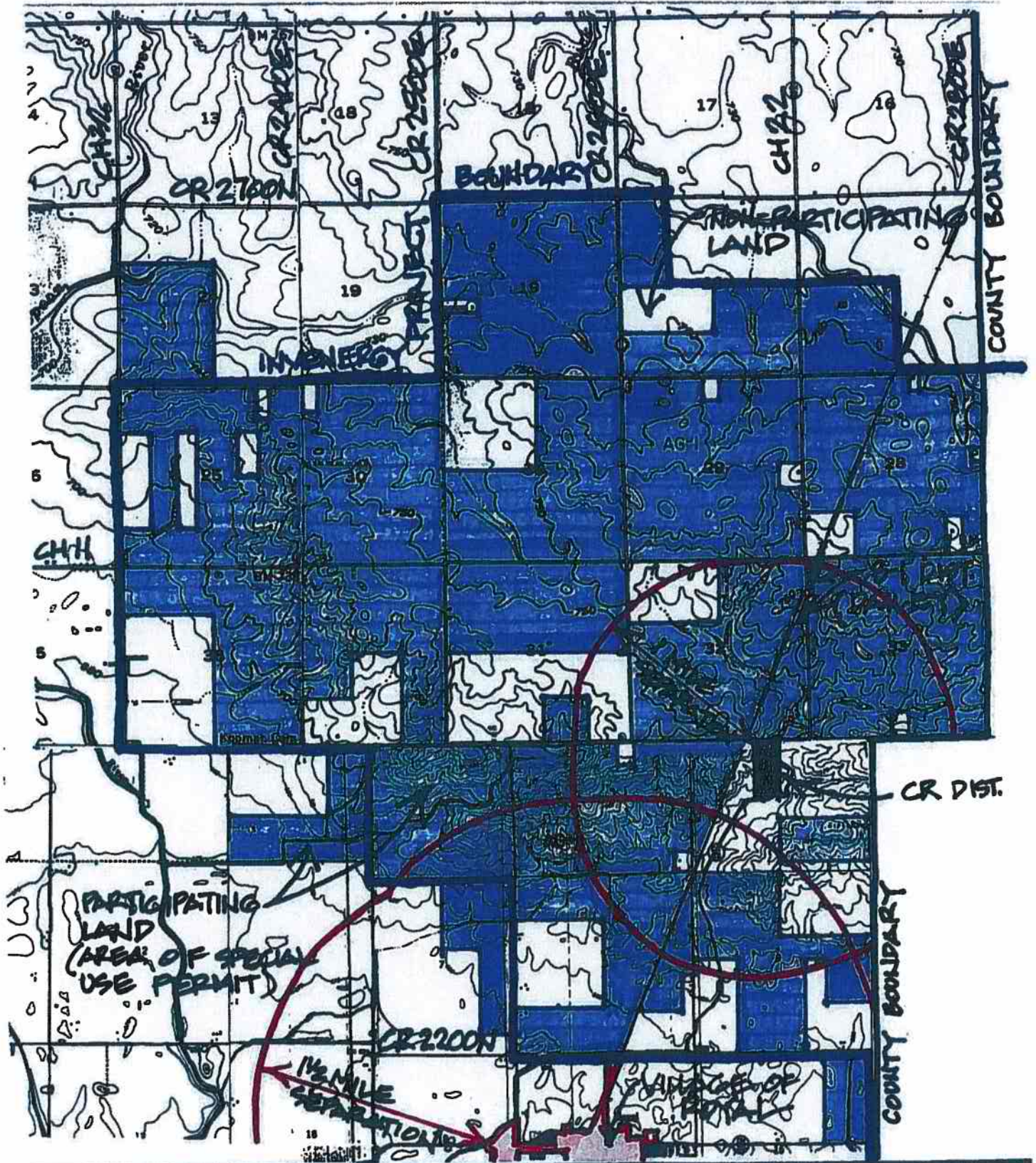
If the Committee agrees with the proposed amendment and authorizes the zoning case to proceed, the public hearing will begin May 2012 and hopefully return to the Committee no later than July 2012 with final action in August 2012.

ATTACHMENT S

- A Zoning Case Map for Case 696-S-11 (California Ridge Wind Farm)**
- B Figure 12-6 from the *Land Resource Management Plan***
- C 1973 Aerial photograph of subject CR District**
- D 2008 Aerial photograph of subject CR District**
- E Proposed Text Amendment**

Attachment A. Zoning Case Map for Case 696-S-11 (California Ridge Wind Farm)

Case 696-S-11
AUGUST 17, 2011

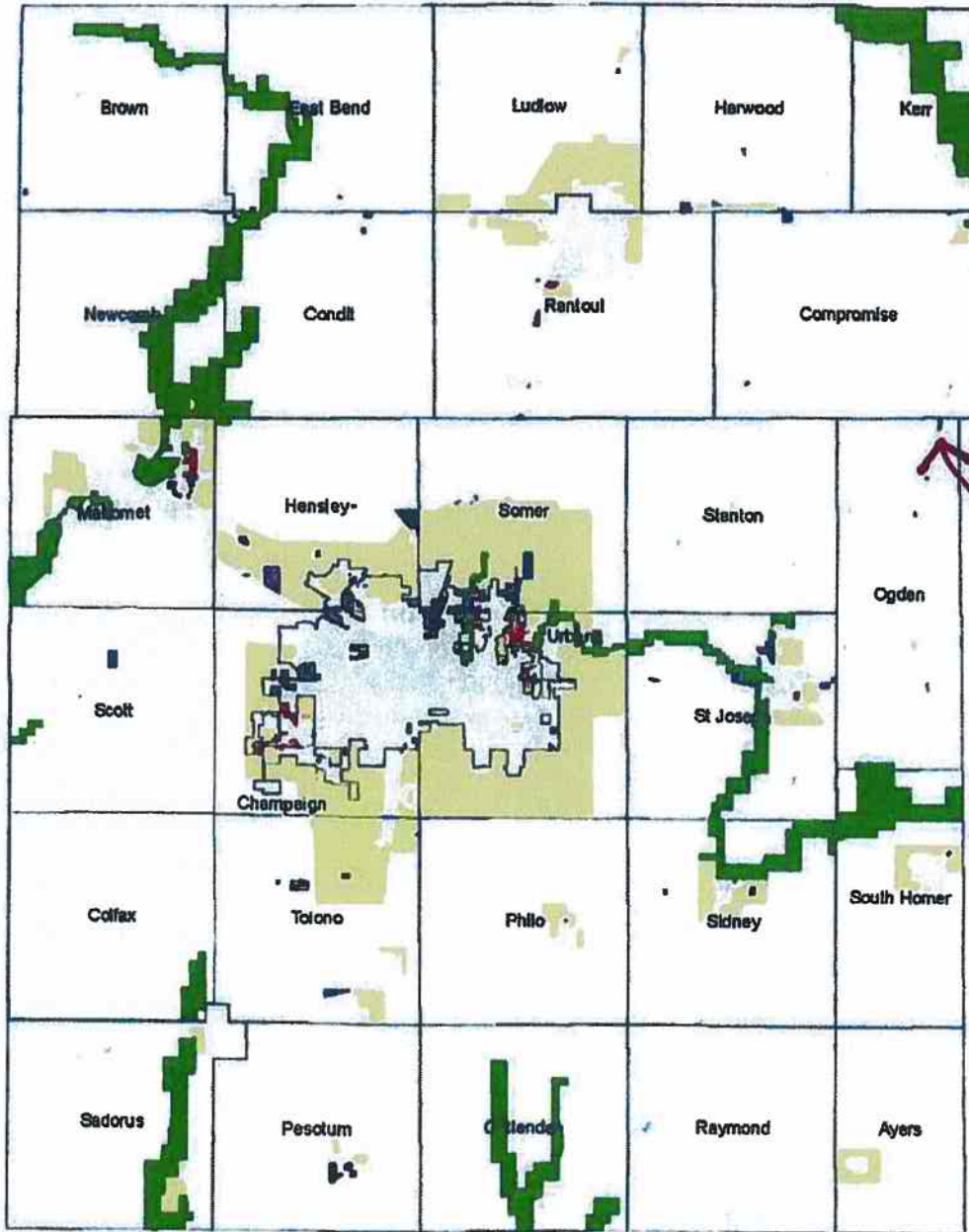


AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry
CR Conservation-Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry

NORTH

Champaign
 County
 Department of
**PLANNING &
 ZONING**

Figure 12-6: Existing Generalized Zoning - 2003



SUBJECT
CR DISTRICT

Existing Generalized Zoning - 2003
 Champaign County

LRMP

0 2.5 5 Miles

Date Map Prepared
 October 2007

Legend

- | | | |
|----------------------------|---------------------------|-------------------------------|
| Civil Township | Municipality | R-1 Single Family Residential |
| AG-1 Agriculture | B-1 Rural Trade Center | R-2 Single Family Residential |
| AG 2 Agriculture | B-2 Neighborhood Business | R-3 Two Family Residential |
| CR Conservation-Recreation | B-3 Highway Business | R-4 Multi Family Residential |
| I-1 Light Industrial | B-4 General Business | R-5 Mobile Home Park |
| I-2 Heavy Industrial | B-5 Central Business | |

Attachment C. 1973 Aerial photograph of subject CR District
FEBRUARY 29, 2012



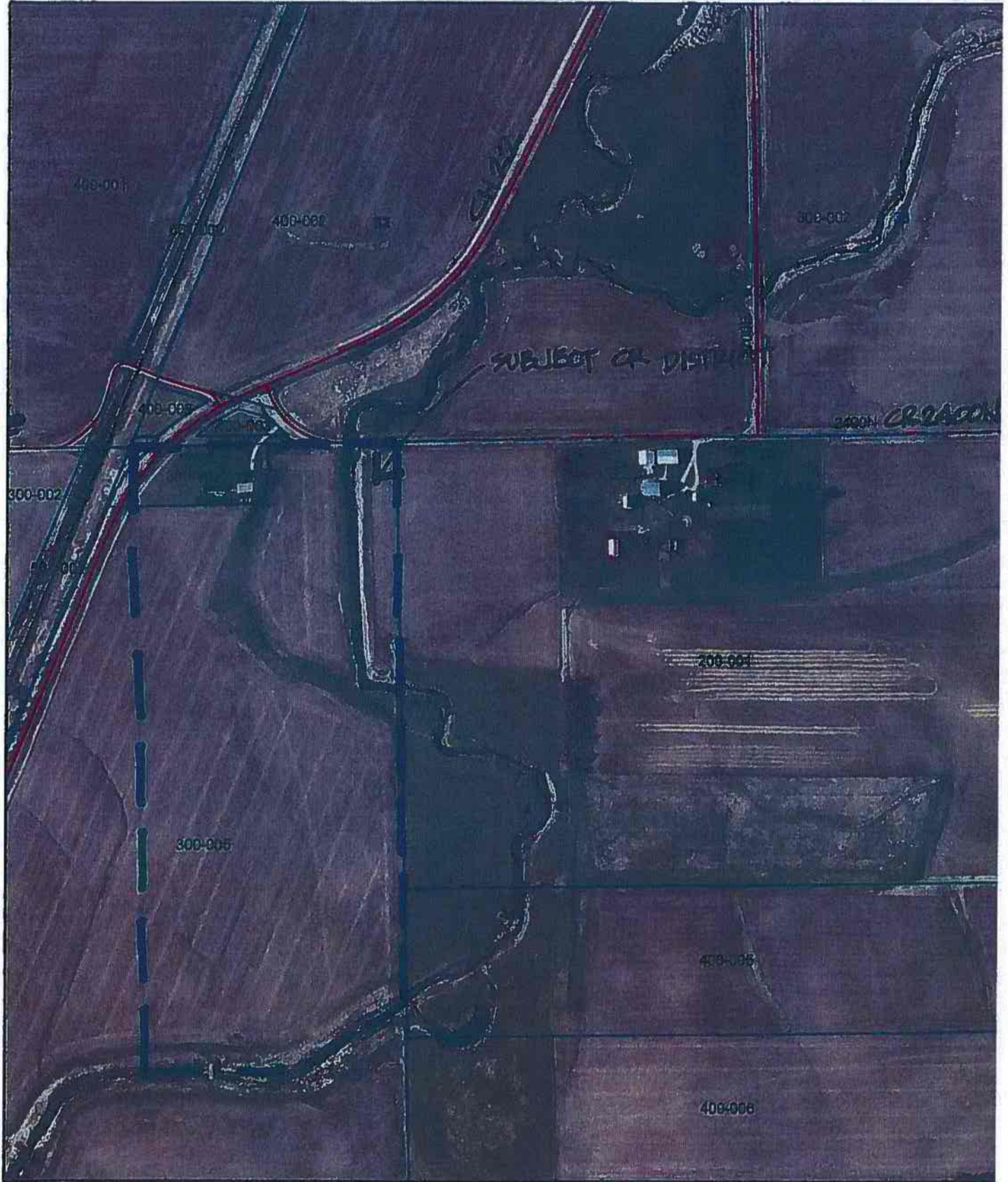
DISCLAIMER:

This map was prepared by the Champaign County GIS Consortium (CCGIS) using the best available data. This map and its underlying data is intended to be used as a general index to land related information and is not intended for detailed, site-specific analysis. CCGIS does not warranty or guarantee the accuracy of this information for any purpose.

1 inch = 400 feet



Attachment D. 2008 Aerial photograph of subject CR District
FEBRUARY 29, 2012



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1 inch = 400 feet



Attachment E. Proposed Amendment
FEBRUARY 29, 2012

Revise paragraph 6.1.4A.2. to read as follows:

2. The WIND FARM County Board SPECIAL USE Permit shall not be located in the following areas:
 - (a) Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance.
 - (b) Less than one mile from the CR Conservation Recreation Zoning District except that no such separation shall be required between a WIND FARM SPECIAL USE Permit and isolated portions of the CR District that were smaller than 40 acres on May 21, 2009, and not contiguous to other portions of the CR District.
 - (c) In any area leased for underground gas storage or under easement for same, unless the lease or easement requires that gas injection wells and other above-ground appurtenances be located in conformance with paragraph 6.1.4 C.9.