

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **August 26, 2010**
Time: **7:00 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave.,
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes
5. Continued Public Hearings

***Case 645-S-09** Petitioner: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.**

Location: **An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

6. New Public Hearings

***Case 673-V-10** Petitioner: **Harl and Donna Parkinson**

Request: **Authorize the use of an existing detached accessory storage building less than 150 square feet in area with a side yard of zero feet and a rear yard of zero feet in the AG-2 Agriculture Zoning District.**

Location: **Lot 1 of Headlee 2nd Subdivision in Section 14 of Mahomet Township and commonly known as the house at 204 South Lake of the Woods Road.**

7. Staff Report
8. Other Business
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

*** Administrative Hearing. Cross Examination allowed.**

CASE NO. 645-S-09

SUPPLEMENTAL MEMORANDUM

August 20, 2010

Petitioners: **Robert and Barbara Gerdes**

Request: **Authorize the construction and use of a "Restricted Landing Area" as a Special Use in the AG-1 Agriculture Zoning District**

Site Area: **approx. 83 acres**

Location: **An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.**

Time Schedule for Development:
Immediate

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

(217) 384-3708

STATUS

This is the seventh meeting for this case. It was continued from the May 27, 2010, public hearing. At that meeting the Zoning Board of Appeals continued this case to the August 26, 2010, public hearing with the intent to take final action at that time. Supplemental Notices to that effect were sent out on June 8, 2010.

The memo contains a discussion of several topics relevant to final action on this case. New evidence has been proposed for the Summary of Evidence and a new revised draft Summary of Evidence is included.

ANTICIPATED COAL MINE

There is now an anticipated coal mine in the vicinity of the anticipated Horizon wind farm. The coal mine is believed to have the effect of reducing the number of wind turbines that can be located in Vermilion County, and possibly increasing the number of turbines in Champaign and Douglas counties. See the new evidence under item 7.R.

TREES WILL ENCROACH INTO RUNWAY APPROACH SLOPE

As reported in the Supplemental Memorandum of April 15, 2010, a row of trees has been planted on adjacent properties on the east and south sides of the subject property. Both rows of trees will eventually encroach into the imaginary aeronautical surfaces of the landing area based on the site plan received on June 19, 2009.

The eventual encroachment on the east side can be eliminated by moving the landing area to the west to provide an 85 feet separation to the east lot line. The petitioner has not yet provided a revised site plan but this could be made a condition of approval.

The eventual encroachment on the south side cannot be eliminated by moving the landing area to the north because the subject property is only 2,411 feet long and there is limited space available on the subject property. A tree height of 40 feet is the tallest tree height for which there is enough space on the subject property to accommodate the minimum 240 feet long runway safety area at the north end plus the

Champaign
County
Department of

**PLANNING &
ZONING**

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

minimum 1,600 feet long runway and still have the runway approach slope (a slope of 15 feet horizontal for each one foot of vertical height) above the top of the tree. Thus, when the trees surpass 40 feet in height they will encroach into the runway approach slope and create a safety hazard.

Therefore, at this time, the Board has been asked to authorize an RLA with a known anticipated encroachment into a runway approach slope. Encroachment into the runway approach slope will create a safety hazard and unless it is corrected the encroachment will presumably lead to a loss of IDOT Safety Certification. The Board should consider this known safety hazard in the final determination of this case. The range of alternatives appears to be defined by the following two alternatives:

- **Leave the safety hazard to be dealt with by IDOT in the safety certification.** The Board could leave the safety hazard that will be caused by the trees to be addressed by IDOT at such time as the trees actually encroach into the runway approach slope. The trees on the south will encroach into the south runway approach slope when they exceed 40 feet in height.

In this alternative the Board may want to recognize the anticipated safety hazard in the Findings related to items 8, 9, and 10 but note that the Board will rely on the IDOT safety certification to ensure safe operations.

- **Deny the request due to unsafe conditions.** The presence of the trees is a known future safety hazard (and thus the RLA will be injurious to the district; see item 8) and the subject property will not be suitable for an RLA when the trees mature to a height of more than 40 feet (and thus the RLA does not conform to the applicable standards; see item 9) and for these reasons the RLA is not in harmony with the general purpose and intent of the Ordinance (see item 10).

The Board should probably select this alternative if it feels that it is better to deny the request outright rather than leave the safety issue completely up to IDOT.

REVISED CONDITIONS OF APPROVAL

The special conditions of approval have been revised. The original 12B. has been deleted, and the following items have been renumbered.

- A. The proposed RLA must receive a Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics (IDOT). Likewise, IDOT requires the RLA to have any necessary county zoning approvals. The following condition will ensure that the proposed RLA must be in conformance with IDOT in order to remain in conformance with the Champaign County Zoning Ordinance:

The Restricted Landing Area must be used in compliance with the approved Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics

The above condition is necessary to ensure that:

The proposed RLA is operated so as to ensure public safety.

~~B. In the event that a wind farm is developed around the proposed RLA, requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following special condition will ensure that the RLA will not result in unreasonable limitations for the RLA neighbors in the Champaign County wind farm zoning jurisdiction:~~

~~The petitioner shall not oppose a waiver of the minimum required RLA wind farm separation (as otherwise required by subpar. 6.1.4 C. 11. of the Champaign County Zoning Ordinance) in any proposed wind farm county board special use permit.~~

The condition above is necessary to ensure that

~~The presence of the RLA does not unreasonably limit adjacent Champaign County landowners in their ability to host wind farm turbine towers.~~

B. Only one of the follow conditions may be necessary based on how the Board views public safety in this case. Condition 12.B.(1) is not necessary if the Board feels that public safety can be adequately protected with condition 12.B.(2). Condition 12.B.(2) is only essential if the Board wants to clearly authorize the RLA to continue after wind farm development and without wind farm separations. However, that approach is only recommended if supplemental evidence is provided regarding the testimony of pilot Rick Reed about public safety at the June 25, 2009, public hearing.

(1) The proposed RLA is located in the area of the anticipated Horizon wind farm. If the RLA is authorized and the anticipated wind farm is developed, about 56% of the required RLA separation from the wind farm would be under other zoning jurisdictions and not within the Champaign County zoning jurisdiction. Requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following condition will remove the burden of the RLA separation from neighboring land owners in the case that the anticipated wind farm is developed.

The Special Use Permit authorization for a Restricted Landing Area will become void if either of the following occurs:

(a) In the event that the Champaign County Board authorizes a waiver of the standard condition for a minimum separation of a wind farm from the proposed RLA as established in paragraph 6.1.4 C. 11.; or

(b) In the event that some other County Board authorizes a wind farm turbine that will be closer to the proposed RLA than the minimum separation required by paragraph 6.1.4 C.11. of the Champaign County Zoning Ordinance.

The above special conditions are required to ensure the following:

That landowners and taxing bodies in the Champaign County wind farm jurisdiction are not unduly restricted in their ability to benefit from an anticipated wind farm.

- (2) The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used for the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications. The following special condition will ensure that the proposed RLA is used primarily only by agricultural aerial applicators:

The proposed RLA may only be used by agricultural aerial applicators except as may be necessary for emergency landings when it may be used by anyone.

The condition above is necessary to ensure that:

The proposed RLA is principally used by skilled agricultural aerial applicators.

ATTACHMENTS

- A Amended Site Plan received on June 19, 2009
- B Gerdes Farm Map submitted on July 30, 2009
- C Map of anticipated Sunrise Coal mine, handed out on July 8, 2010
- D Approximate Wind Farm Jurisdiction for Allerton and Broadlands & Anticipated Coal Mine, dated August 20, 2010
- E Shumard Oak Information submitted by Carl Smith on April 15, 2010
- F Revised Draft Summary of Evidence, Finding of Fact, and Final Determination for Case 645-S-09

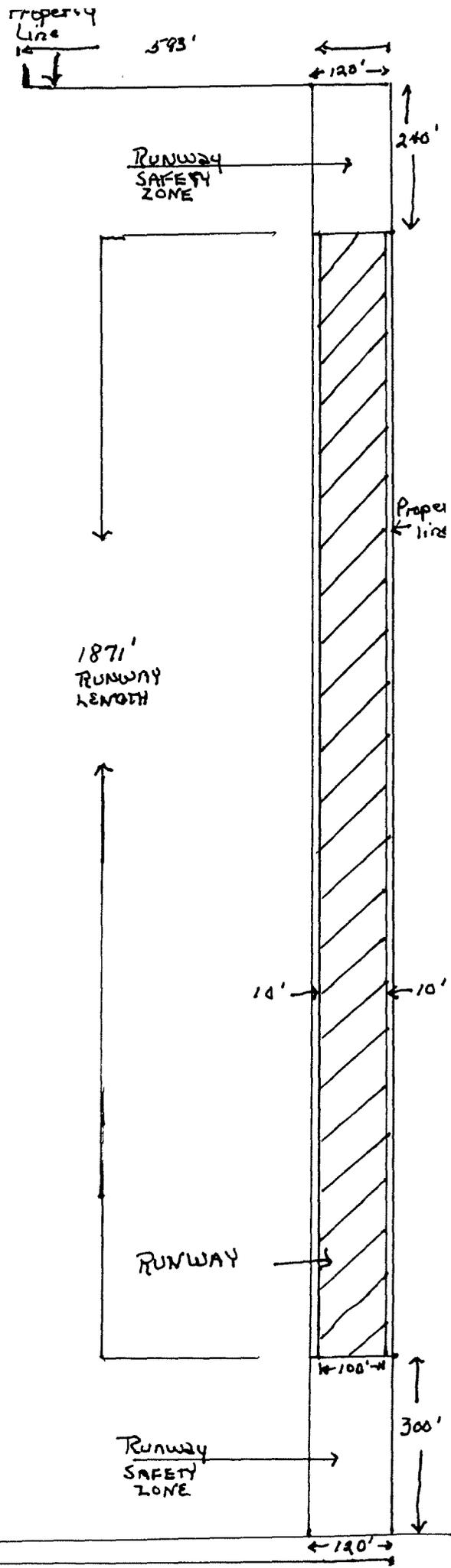
PLA MAP
FOR
ROBERT AND
BARBARA
BERDES

CASE 645.S.09

RECEIVED

JUN 19 2009

CHAMPAIGN CO. P & Z DEPARTMENT



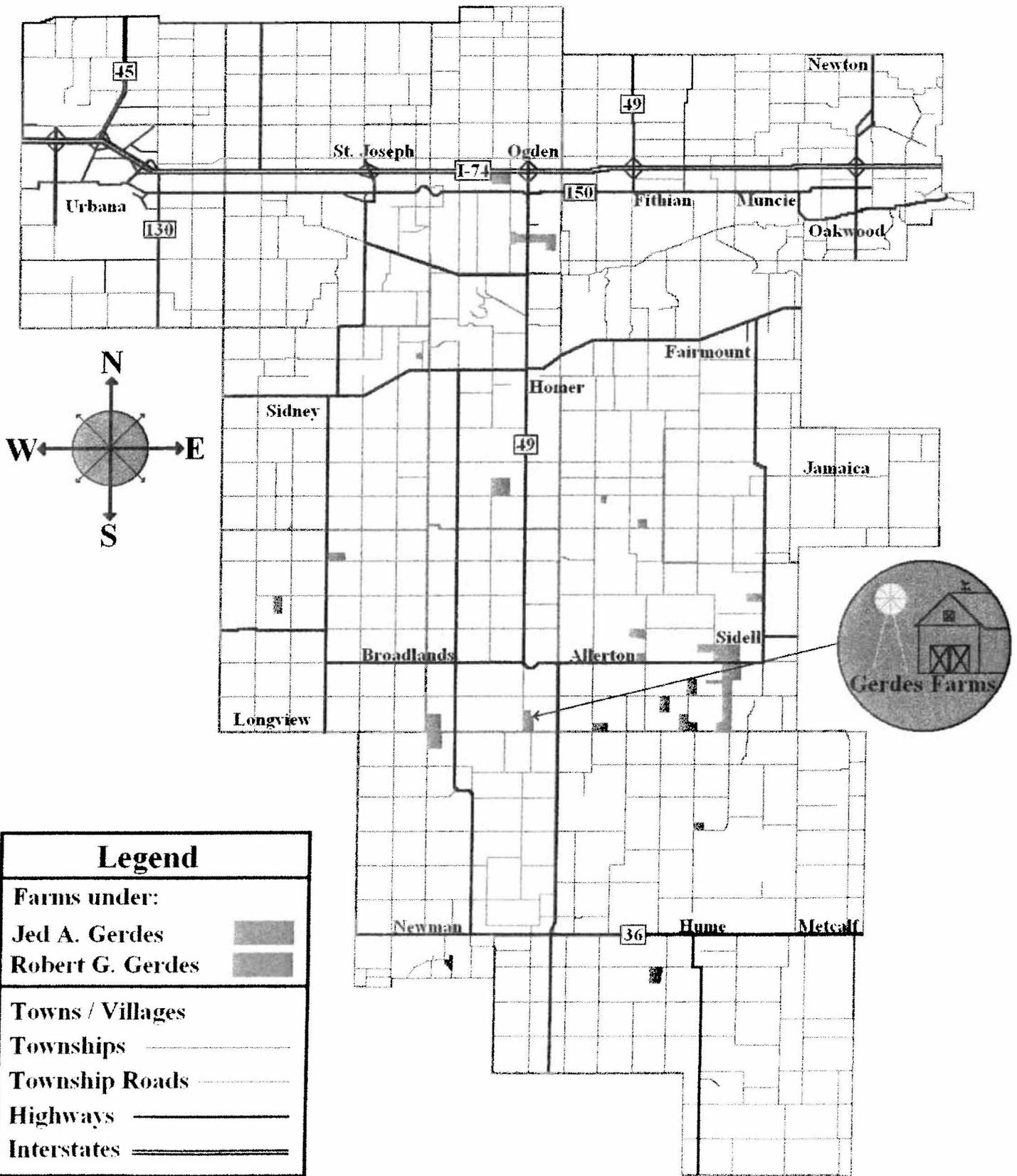
North RST

1313'

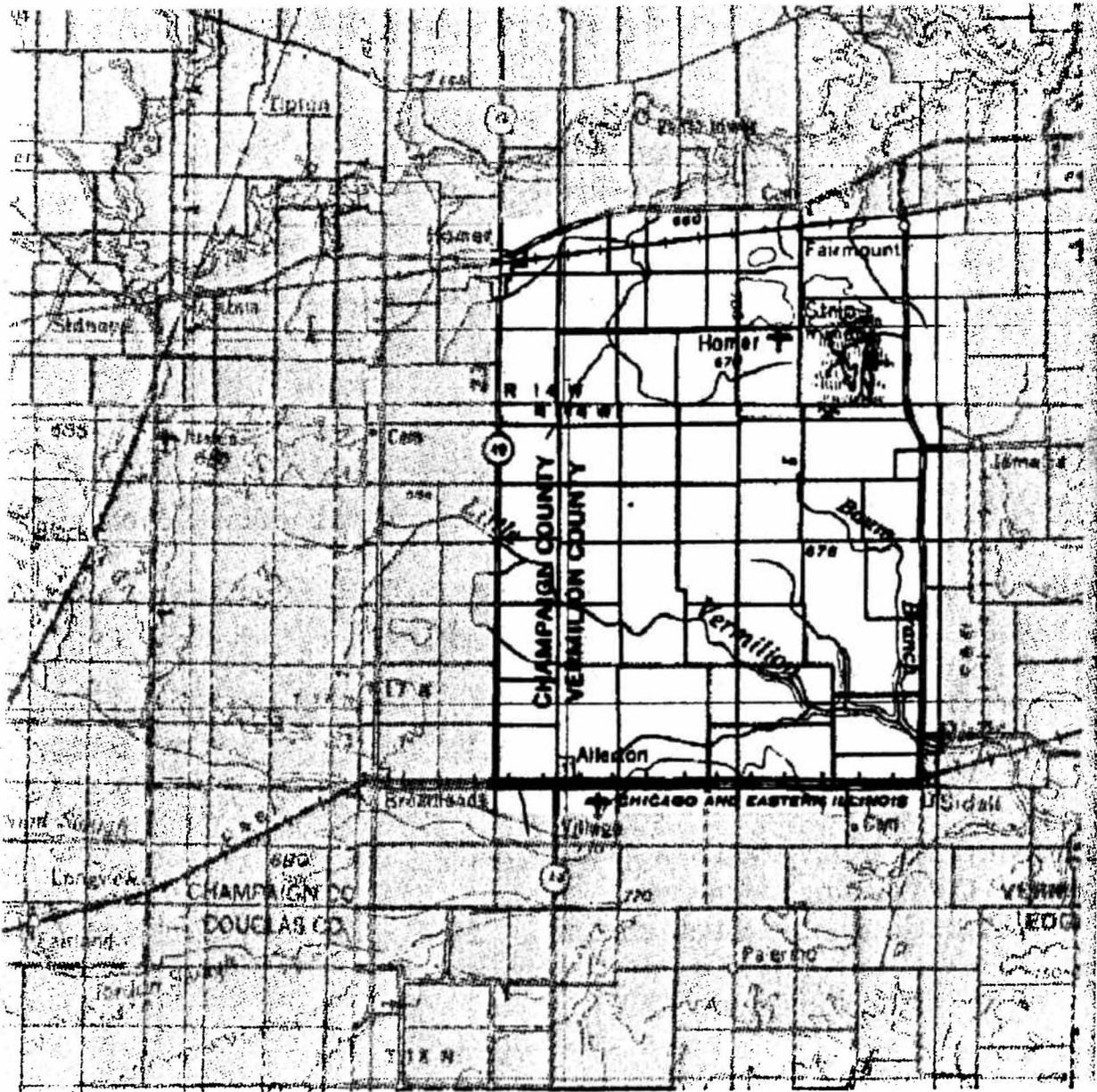
120'

4/7/2019
J.G.

GERDES FARM MAP



Proposed Underground Mine Site: bordered by Homer, Fairmount, Sidell and Allerton

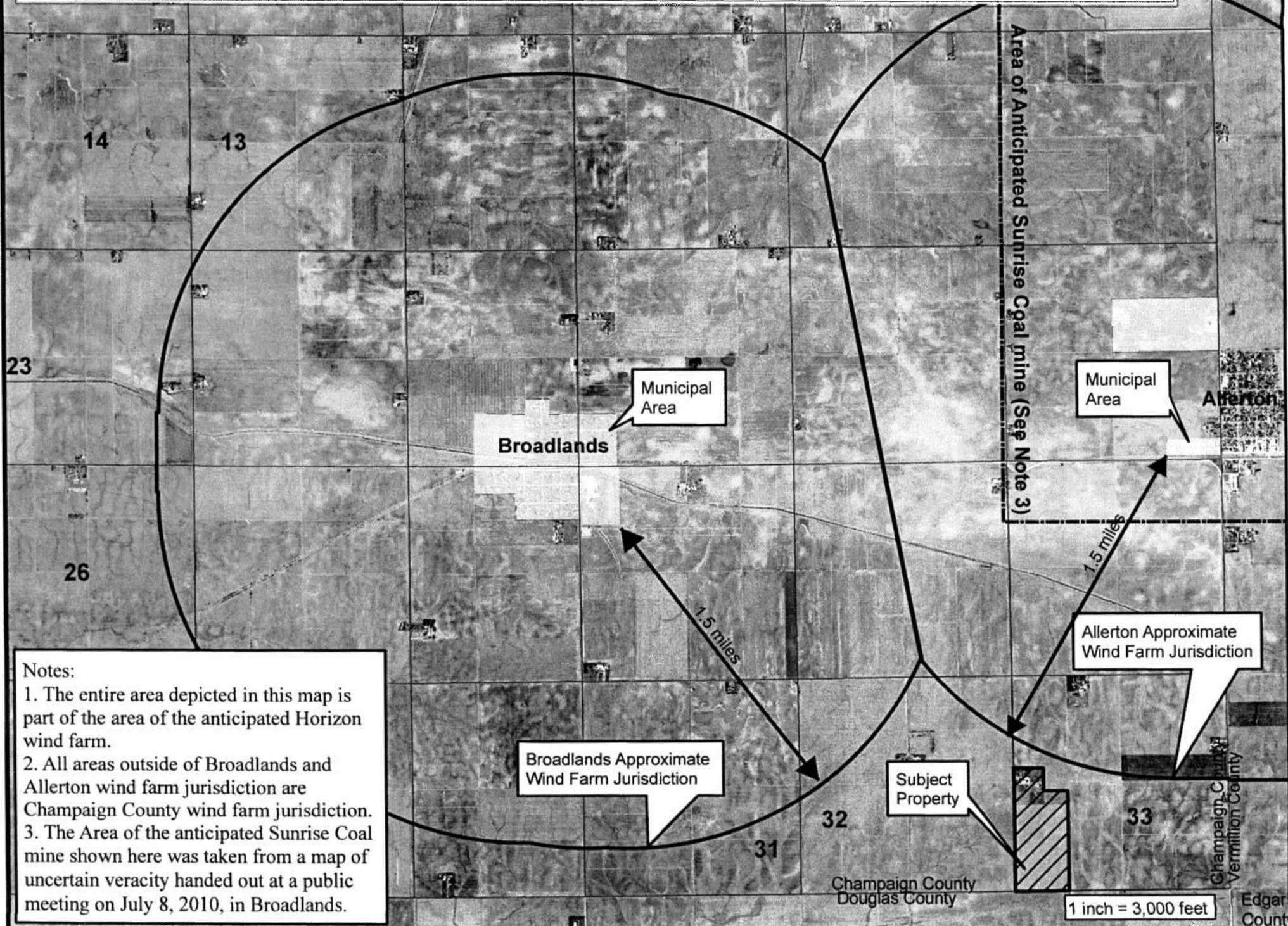


Note: This map was handed out at a public meeting on July 8, 2010, in Broadlands. As far as is known this map was not prepared by the Sunrise Coal Company and is not official in any way.

Approximate Wind Farm Jurisdiction for Allerton and Broadlands & Anticipated Coal Mine

AUGUST 20, 2010

Zoning Case 645-S-09



Notes:

1. The entire area depicted in this map is part of the area of the anticipated Horizon wind farm.
2. All areas outside of Broadlands and Allerton wind farm jurisdiction are Champaign County wind farm jurisdiction.
3. The Area of the anticipated Sunrise Coal mine shown here was taken from a map of uncertain veracity handed out at a public meeting on July 8, 2010, in Broadlands.

1 inch = 3,000 feet

Edgar Count

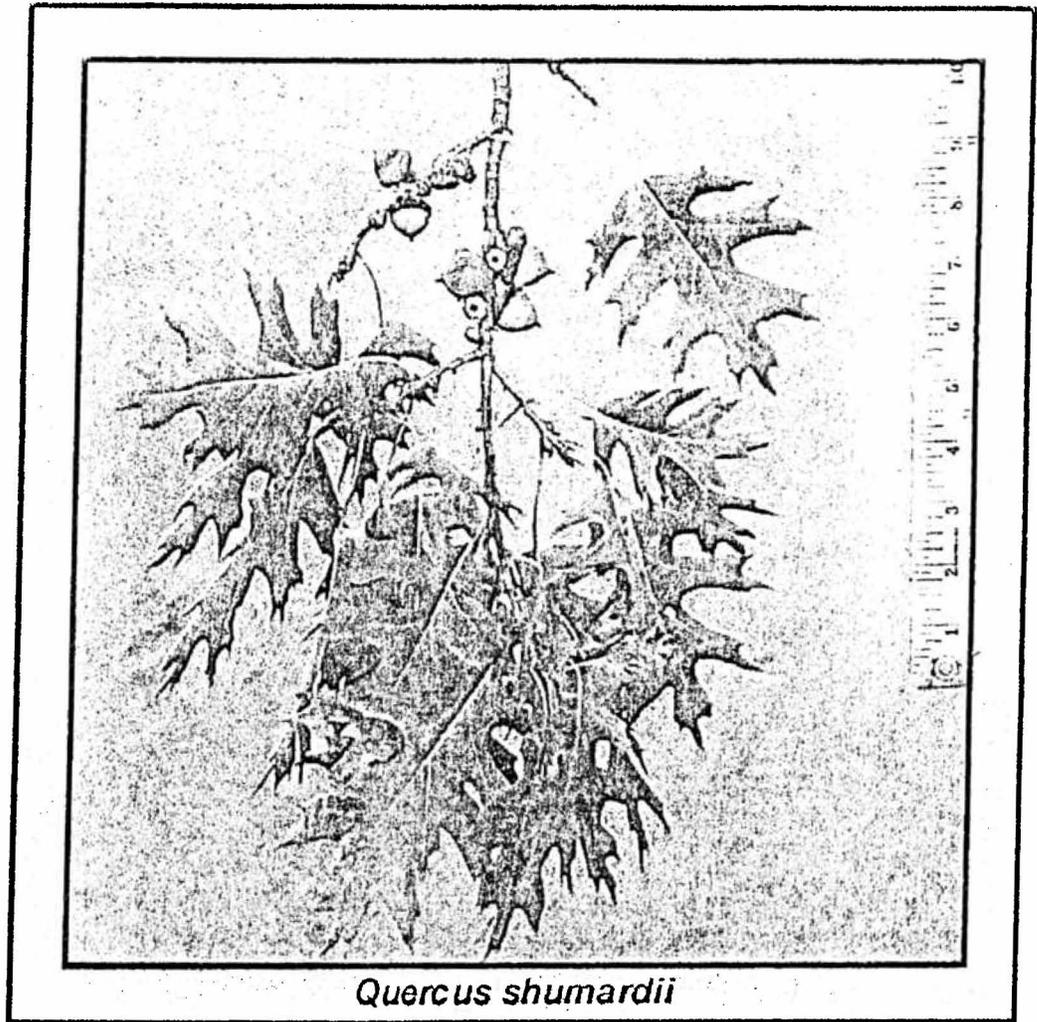
Shumard oak (*Quercus shumardii*)

Shumard oak is one of the largest species in the southern red oak group. It is a fast-growing tree used widely for commercial lumber, interior trim, cabinetry and furniture. Shumard oak is also an excellent shade tree because of its broad, rounded canopy.

The fruit is an important component of the diets of numerous species of songbirds, wild turkeys, waterfowl, white-tailed deer, and various species of squirrels. White-tailed deer utilize the twigs and leaves for winter browse as well.

The wood is used commercially for cabinets, furniture, floors, and lumber.

Shumard oak ranges from the mid-Atlantic coastal plain south to northern Florida and west to central Oklahoma and Texas. It is occasionally found as far north as southern Michigan or Pennsylvania.



Twigs and leaves

Identifying Characteristics

Size/Form:

Shumard oak is a large tree that often grows to heights of 125'. It

	has a slightly buttressed trunk and broad, open crown.
Leaves:	The leaves are simple, alternately arranged and deciduous, with a general obovate shape, 6" to 8" long and 4" to 5" wide. Each leaf has from 5 to 7 rounded lobes with bristle-like tips. Leaves are dark green and smooth on the upper surface and are of paler color underneath, with scattered deposits of brownish, waxy hairs.
Fruit:	The fruit is an acorn about 1" long, with striping along the sides. It is partially covered by a slightly hairy, saucer-shaped cup.
Bark:	The lower bark is thick, dark and deeply furrowed, with lighter colored, scaly ridges. Bark nearer to the top of the tree is smoother in texture.
Habitat:	Shumard oaks prefer deep, moist, rich soils and are generally found bordering streams or swampy areas.

Photos

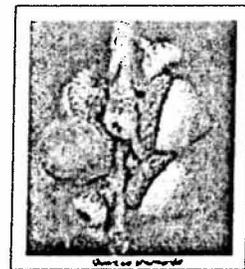
Click on thumbnails to see a larger image in a new window.
Close the window to return to this page.



Bark



Leaf



Acorns

[\[Forest Trees\]](#)

[\[Forest Plants\]](#)

[\[Home\]](#)

REVISED DRAFT – AUGUST 20, 2010

645-S-09

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

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

Date: August 20, 2010

Petitioners: Robert and Barbara Gerdes

Request: Authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **June 11, 2009, July 30, 2009, December 3, 2009, January 14, 2010, April 15, 2010, May 27, 2010, and August 26, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Robert and Barbara Gerdes, own the subject property.
2. The subject property is an approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is currently zoned AG-1 Agriculture and is in use as a farmstead and associated farmland.
 - B. Land north, east, and west of the subject property is zoned AG-1 and is in use as farmland.
 - C. Land to the south of the subject property is in Douglas County, which does not have a zoning ordinance. The land is in use as farmland.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the proposed site plan for the proposed RESTRICTED LANDING AREA (RLA), as follows:

ITEM 5. CONTINUED.

- A. The runway is located along the east lot line of the subject property. It is a strip of land 100 feet wide and 1900 feet long. Based on comments on the application the actual runway is only 1600 feet long and is located 300 feet north of CR 0N.
- B. An amended site plan was received on June 19, 2009, that indicates the following:
 - (1) The runway surface is 100 feet wide and 1,871 feet long running north to south.
 - (2) There is a runway safety area located entirely on the subject property that is 120 feet wide, centered on the runway, and extending 240 feet north of the runway and 300 feet south of the runway.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a “RESTRICTED LANDING AREA” as a Special Use in the AG-1 Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes a “RESTRICTED LANDING AREA” as a Special Use in the AG-1, AG-2, I-1, and I-2 Districts.
 - B. Section 6.1.3 establishes the following standard conditions for RESTRICTED LANDING AREAS:
 - (1) Must meet the requirements of the Federal Aviation Administration and Illinois Department of Transportation, Division of Aeronautics.
 - (2) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.
 - (3) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B District nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
 - (a) Within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or
 - (b) Within the Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the Primary Surface, 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.
 - (4) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.
 - C. Ordinance No. 848 (Zoning Case 634-AT-08 Part A) was adopted on May 21, 2009, and added requirements for wind farms to the *Zoning Ordinance*. Part of those requirements included a 3500 feet separation between any wind turbine tower and an RLA.

ITEM 6. CONTINUED.

- D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) “AIRCRAFT” is any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.
 - (2) “RESTRICTED LANDING AREA” is any area described or defined as a Restricted Landing Area under the *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)* and as further regulated by the Illinois Department of Transportation, Division of Aeronautics.
 - (3) “SPECIAL CONDITION” is a condition for the establishment of the SPECIAL USE.
 - (4) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- E. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:

ITEM 7. CONTINUED.

- A. The Petitioner has testified on the application, **“Our farming operation has used aerial spraying and/or seeding for 5 years. An air landing strip we have used to load is not available, the land has been tilled. Rye grass is bulky and requires frequent loading.”**
- B. The proposed RLA is intended for private use, but the owner does not fly and it is intended solely for use by the aerial applicator. The owner has other land approximately 13 ½ miles to the north.
- C. The subject property is located in an area where a wind farm is anticipated, as follows:
 - (1) Horizon representative, Dwight Farber, has discussed the anticipated wind farm and its general location with Planning and Zoning staff on multiple occasions.
 - (2) At the June 11, 2009, public hearing, attorney Paul Cole, representing several neighbors to the west, indicated that if it were possible to place a wind turbine on their property then his clients would like to have that opportunity.
 - (3) At the June 11, 2009, public hearing, Carl Smith, tenant of the ground immediately to the east of the subject property, indicated he owned land in the vicinity and had signed a contract with Horizon Wind to place a turbine on his property.
 - (4) At the June 11, 2009, public hearing a letter from Mrs. Carole Horst was received and it indicated that she also had a contract on her property to place a wind turbine from Horizon Wind Farms.
- D. The subject property is located beyond the one and one-half mile wind turbine jurisdiction of the nearby Villages of Allerton and Broadlands. However, some neighboring property is located in those areas.
- E. Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing, as follows:
 - (1) He and his parents farm together therefore he is assisting them with this request.
 - (2) Having a runway is not entered into lightly because if there is anything a farmer hates to do it is mow grass all the time.
 - (3) The petitioners were using an RLA, which belonged to Steve Riggins, and was just a few miles away, but that RLA has now been plowed up and planted in crops. They need to establish a new landing strip so they can continue using rye grass to protect their fields from erosion.
 - (4) The old landing strip would also have been located in the area of the anticipated wind farm, therefore there would be no net effect on the number of turbines that could be located in the anticipated wind farm.

ITEM 7.E. CONTINUED.

- (5) The main reason they need the proposed RLA is to allow aerial application of rye grass. He said that he is one of the only farmers in Central Illinois who has been working with rye grass.
- (6) Mike Plummer from the University of Illinois has been trying to promote rye grass because it is one of the best ways to preserve Champaign County farmground.
- (7) In early August when the corn and beans are beginning to turn the rye grass seed is flown on and when it receives a good one-inch rain it starts growing. By the time the corn and beans are ready to be harvested there is a good stand of rye grass on his fields and it is an excellent erosion preventer.
- (8) He has also experienced some significant yield boosts on thin Vermillion County ground. His corn fields have averaged around 200 bushels to the acre and up to 74 bushels for beans.
- (9) Working with rye grass is not very popular because it takes some trial and error, but he has been working with the National Rye Grass Association from Oregon and they have had some success.
- (10) He stated that when a field is tilled carbon is released into the atmosphere, but a no-till field actually sequesters carbon at the rate of 1300 kilograms per year. As compared to a tillage field, a no-tillage field can sequester the same amount of carbon that an average home would release from a coal powered plant. When you add rye grass to a no-tillage field the amount almost doubles because there is a crop growing on the field year round. The effect of this carbon sequestration is to help out the environment in the same way as wind turbines.
- (11) The main challenge with rye grass is that it is very bulky, and even spreading it at a light rate an airplane can only hold 70 acres worth of seed, and if urea fertilizer is mixed in only 35 acres worth can be carried. This is can make things quite difficult if the airplane has a long way to fly while loaded.
- (12) Spreading the seed has to be done early in the morning when the wind is very still, usually before 9 AM.
- (13) He stated that he raises good quality seed beans and he has to spray fungicides, which means he could save five to ten dollars per acre by providing a landing strip closer to where he farms. When you multiply those savings by thousands of acres that is a large financial incentive, and also helps with the cost of setting aside the ground for the RLA.
- (14) He understands there is a wind farm anticipated in this area, but Horizon has not applied for any permits to date.

ITEM 7.E. CONTINUED.

- (15) The subject property is the home base of his and his family's farming operations.
 - (16) He and his partner, Charles Goodall, farm in six different counties, and the bulk of his farming area is in the Broadlands, Allerton, and Sidell area, encompassing approximately 2500 acres. He lives in his grandmother's old home near Ogden.
 - (17) It is possible that his spray applicator would load fungicides and he could install a loading pad if necessary. According to current regulations his applicator does not need a loading pad as long as there is permanent chemical storage at his main facility.
 - (18) He stated that his aerial applicator does not have an ownership interest in the proposed RLA, but he needs the RLA for rye grass application and to keep input costs down. He said he would make the RLA available for other pilots as well. He wants to benefit his neighbors as well.
 - (19) He said that he currently plants between 200 and 400 acres of rye grass and he hopes to increase that substantially over the years. He said that the farm where he applies the rye grass is in the anticipated wind farm area.
 - (20) He said that if the proposed RLA was not approved and not located on the subject property he would only be able to spread rye grass on 100 acres because it would take too long for the applicator to fly back and forth.
 - (21) Mr. Goodall is located primarily in the Sidell area, which is anticipated to be part of the same wind farm as in Mr. Gerdes's area. He also stated that the fields he spreads rye grass on are located next to Mr. Goodall's fields.
- F. Mr. John Richard Reed, 18 Stonegate, Charleston, testified at the June 11, 2009, public hearing, as follows:
- (1) He is the co-owner of Reed's Fly-On Farming and has been based out of Coles County Memorial Airport for 33 years.
 - (2) He feels that this RLA is a great idea because he has just lost the use of another RLA. He normally flies out of Mattoon, but he can also fly out of Danville and Tuscola. However, there are no other places in the middle of those hard surface airports that he can use.
 - (3) Rye grass is a difficult crop to apply and time is of the essence, so being able to load close is imperative. He said there is not a single helicopter in the State of Illinois that can apply rye grass.
 - (4) His business has tripled in the last few years and he plans to use the RLA in the spring for application of fungicides on corn and soybeans.

ITEM 7.F. CONTINUED.

- (5) Over the past ten years the existing RLA's have been disappearing, but over the past two years there have been more and more applications for RLA's across the state, for reasons mostly similar to Mr. Gerdes's.
 - (6) The potential for Asian Rust to move into Illinois is a good possibility and the number of acres that would have to be covered in a short time is extremely high.
- G. Carl Smith, 214 CR 2700E, Allerton, testified at the June 11, 2009, public hearing, as follows:
- (1) Although he has an Allerton address he lives in Champaign County.
 - (2) He and his brother are the tenants of the farm directly on the east side of the subject property, and he submitted a letter from the land owner.
 - (3) Mr. Smith, Mrs. Horst, the land owner of the farm directly to the east, and her sister own considerable property in the area, and they all signed contracts with Horizon several months before the RLA was proposed.
 - (4) An airstrip to service agricultural uses is a good idea. Mr. Reed has sprayed thousands of acres that he farmed over the years, but to the best of his knowledge, Mr. Reed has always been able to service his farms out of Mattoon.
- H. Carole Smith Horst, landowner of the property directly bordering the subject property on the east, gave her tenant a letter that he submitted at the June 11, 2009, public hearing, which indicated the following:
- (1) Her nephews/tenants, Carl and Vic Smith, and Horizon Wind Farms are allowed to speak on her behalf against the placement of this landing strip.
 - (2) She has signed a contract to allow Horizon Wind Farms to place a turbine on her property.
 - (3) She feels that if the landing strip is approved she and her tenants and heirs should be reimbursed for the loss of income from the wind farm.
- I. Other than the petitioners and Jed Gerdes, no other farmer in the vicinity has asserted that the proposed RLA is necessary for public convenience.
- J. Other than Jed Gerdes, there is no evidence that any other farmer in the vicinity plants rye grass with row crops.
- K. Regarding previous SUP applications for RLA's in Champaign County:

ITEM 7.K. CONTINUED.

- (1) The Special Use Permit requirements for RLA's were added to the *Zoning Ordinance* in Ordinance No. 320 (Zoning Case 642-AT-88) adopted on August 23, 1988. At that time there were many RLA's in operation in the County that became legal nonconforming uses at that time.
- (2) Since the adoption of Ordinance No. 320, Champaign County has authorized three SUP's for RLA's, as follows:
 - (a) Case 672-S-88 was approved on for petitioner Stu Moment in Section 7 of Sidney Township, however, this RLA does not appear to be in use anymore. The SUP is attached to the land so an RLA could be reestablished on that location, presuming all the County zoning and IDOT requirements could still be met.
 - (b) Case 724-S-90 was approved on for petitioner Dean Schenk in Section 12 of Pesotum Township, and appears to still be in use.
 - (c) Case 750-S-91 was approved on for petitioner Lowell Routh in Section 36 of St. Joseph Township, and appears to still be in use.
- (3) In Cases 672-S-88 and 724-S-90 the Board included in its Finding of Facts that those RLA's were necessary for the public convenience because of their use for agricultural purposes.
- (4) Regarding other known RLA's in Champaign County on August 23, 1988:
 - (a) In Section 12 of Newcomb Township a Mr. Furtney established an RLA on July 1, 1986, but did not obtain a Zoning Use Permit (ZUP) for the use. It does not appear that this RLA is still in use.
 - (b) In Section 1 of Hensley Township, Riley McCulley established an RLA on June 21, 1973, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. This RLA appears to still be in use.
 - (c) In Section 12 of Mahomet Township, Voyle Spence established an RLA on June 26, 1969, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. However, this RLA was not in use as of August 23, 1988, and would have to be reestablished by way of a SUP.
 - (d) In Section 28 of Hensley Township, Frank Andrew established an RLA on January 18, 1949, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (e) In Section 28 of Mahomet Township, William Herriot established an RLA on April 8, 1977, but did not obtain a ZUP for the use. It does not appear that this RLA is still in use.

ITEM 7.K.(4) CONTINUED.

- (f) In Section 31 of Somer Township, Roy Reifsteck established an RLA on September 9, 1959, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (g) In Section 21 of Scott Township, Mark Igoe established a Heliport/RLA on March 17, 1988, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (h) In Section 27 of Scott Township, John Litchfield established an RLA on September 5, 1980, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (i) In Section 29 of Rantoul Township, Robert Schmidt established an RLA on July 21, 1983, but did not obtain a ZUP for the use. However, a ZUP was obtained at a later date and the lot containing the RLA was the subject of Zoning Case 528-V-05. This RLA appears to still be in use.
 - (j) In 6 of St. Joseph Township, Roscoe Knott established an RLA on November 29, 1949, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (k) In Section 16 of St. Joseph Township, Dale Busboom established an RLA on August 3, 1970, but did not obtain a ZUP for the use. This RLA appears to still be in use.
 - (l) In Section 22 of Sidney Township, Harry Justus established an RLA on August 23, 1966, which was before the adoption of zoning and allowed it to be used as a legal nonconforming use. It does not appear that this RLA is still in use.
 - (5) No Special Use Permit for an RLA has ever been authorized in Ogden, South Homer, Ayers, Raymond, Philo, Crittenden, or Tolono Townships.
 - (6) There has never been a previous request for an RLA in Champaign County in an area where a wind farm had already been anticipated.
- L. As noted above in Item 7.E.(21), Mr Gerdes testified at the June 11, 2009, public hearing that his farming partner, Mr. Goodall is also located in the anticipated wind farm area, and that the fields Mr. Gerdes plants with rye grass are near Mr. Goodall. If the rye grass fields are also located in the wind farm area it is possible that even if the RLA is approved wind turbine towers surrounding the rye grass fields could obstruct the spreading of the seed.
- M. Jed Gerdes, son of the petitioners, testified at the July 30, 2009, public hearing as follows:

ITEM 7.M. CONTINUED.

- (1) As soon as he found out that the airstrip that he was previously utilizing was tilled under then he started his application for this request.
 - (2) He contacted Steve Riggins, owner of the previous airstrip, and asked why the air strip no longer existed and Mr. Riggins informed him that he had sold his airplane and no longer needed the airstrip.
 - (3) He said that there are a lot of RLA's in Champaign County but they are all in the northern portion of the County and not within his area.
 - (4) He has also spoken to his local fertilizer dealer offering the airstrip to utilize their needs. He said that his local fertilizer dealer's pilot clipped a power line and had to fly back to Rantoul because there was no place for him to land in the area that he was serving therefore there is a safety concern in having no facility for those pilots to land in the southern portion of the County.
 - (5) Mr. Gerdes indicated on a map indicating the general location of his farm ground to show how the RLA is centrally located for his use. He said that the subject property is where the central hub of his operation is located because it is where he stores the seed, farming equipment, etc.
 - (6) One aerial applicator serves many farmers.
- N. Rick Reed, owner of Reed's Fly-On Farming, testified in a letter submitted by Jed Gerdes at the July 30, 2009, public hearing as follows:
- (1) He works a great deal between Villa Grove and Oakwood and there is no suitable place for him to land in that area. If he had a landing strip on Jed's ground today, it would have saved about three hours of extra flight time while working seed corn in the Oakwood area.
 - (2) He respectfully urges the Board to consider the potential good that will come from allowing the construction of this airstrip, good not just for the Gerdes family but for all the agricultural community.
- O. Paul Cole, attorney representing Robert and Barbara Miller, neighbors to the west, testified at the July 30, 2009, public hearing that none of his clients have a contract for a wind turbine to be placed on their property.
- P. Carl Smith, 214 CR 2700E, Allerton, testified at the July 30, 2009, public hearing as follows:
- (1) The fact that few pilots serve many farmers is absolutely true and Mr. Reed has sprayed several acres for him over the years.

ITEM 7.P. CONTINUED.

- (2) In all of the years that Mr. Reed has serviced his fields Mr. Reed has flown out of his Mattoon location although the Tuscola airport or Danville airport would have been much closer.
 - (3) Currently he is in the midst of having fields sprayed and the pilots are flying from Paris and Rantoul and do not choose Champaign, Danville or Tuscola. He said that they choose to fly out of their home location where their equipment is set up for their chemicals and everything else.
 - (4) If it were more economical for them to move to a closer location he would imagine that they would therefore the availability of this RLA will not act as a magnet to attract pilots to use as a base of operation.
 - (5) There has been testimony that the RLA would save area farmers money although he has never been told from a pilot that if he could move to a closer location he would charge less.
- Q. In a note dated November 19, 2009, that was forwarded by Attorney Paul Cole who represents Robert and Barbara Miller, neighboring landowners to the west of the proposed RLA, Ty Trisler stated the following:
- (1) Trisler Farms owns and operates an air strip in southern Vance Township in Vermilion County, IL.
 - (2) Trisler Farms allows custom applicators to use the air strip provided that they provide proof of insurance and list Trisler Farms as an additional insured and Trisler Farms will continue to provide this service for as long as the strip is in operation.
- R. A coal mine is anticipated in the vicinity. Regarding the anticipated Sunrise Coal mine:
- (1) There has been no formal application made yet.
 - (2) A map of the anticipated Sunrise Coal mine was handed out at a public meeting on July 8, 2010, in Broadlands. The map indicates the anticipated coal mine area includes all land in Vermilion County between Allerton and Sidell, and extending north approximately ten miles, and extending one mile into Champaign County between Allerton and Homer.
 - (3) Based on discussions between Horizon Wind Energy representative Dwight Farber and the Zoning Administrator, it is unlikely that wind farm turbines can be placed over the coal mine.

ITEM 7.R. CONTINUED.

- (4) Comparing the map of the anticipated Sunrise Coal mine to the Gerdes Farm Map submitted by the petitioners on July 30, 2009, indicates that much of the land owned by Charles Goodall, a farming partner of the petitioners' son Jed Gerdes, is within the area of the anticipated coal mine. Jed Gerdes, the petitioners' son, has also testified that the fields he spreads rye grass on are located next to Mr. Goodall's fields.
 - (5) Thus it is not clear whether the public convenience is better served by the RLA being at the subject property or on land in Vermilion County where the rye grass is actually being used and where there is likely to be less conflicts with the anticipated wind farm.
- S. Based on discussions that the Zoning Administrator has had with Horizon Wind Energy representative Dwight Farber, the location of the anticipated Sunrise Coal mine may decrease the number of wind farm turbine towers that can be located in Vermillion County as part of the anticipated Horizon wind farm, and that could well increase the number of towers that will be placed in Champaign and Douglas counties.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
 - A. The Petitioner has testified on the application, **“Dale Rust, Flight Safety Coordinator of Illinois Department of Transportation has inspected the site, stated it is satisfactory, and it follows his recommendations. It allows 1900’ for landing area (300’ for road). It is a positive tool for agriculture.”**
 - B. The proposed RLA is located on the southern line of Champaign County, such that neither the required 3500 feet wind turbine separation (Note: the RLA separation for wind turbines was revised in Zoning Case 658-AT-10, and it is no longer a flat 3500 foot separation.) nor the required Runway Clear Zones (see Item 6) can be fully enforced for the proposed RLA, as follows:
 - (1) Based on analysis of Attachment B to the Supplemental Memorandum dated July 24, 2009, “IDOT Imaginary Surfaces and Zoning Standard Conditions” the area covered by the 3500 feet separation from the proposed RLA would include approximately 1208 acres.
 - (2) Of the 1208 acres covered by the RLA separation 560 acres are included in other separations that are part of the *Zoning Ordinance* and assumed minimum separations in other jurisdictions based on the model wind farm ordinance.

ITEM 8.B. CONTINUED.

- (3) Approximately 529 acres (or about 44%) of the area within 3,500 feet of the proposed RLA is within the Champaign County wind farm zoning jurisdiction due to the subject property's location on the county line between Champaign and Douglas County, and its proximity to the Village of Allerton's Wind Turbine Jurisdiction.
 - (4) Of the 529 acres that is within 3,500 feet of the proposed RLA and within the Champaign County wind farm zoning jurisdiction, about 285 acres (54%) is also within other required wind farm separations.
- C. Regarding surface drainage:
- (1) The subject property is located in the Union Drainage District.
 - (2) The existing amount of impervious area on the subject property does not trigger any requirement for stormwater detention under the *Champaign County Stormwater Management Policy*, and no new impervious area is proposed as part of the RLA.
 - (3) Notice was sent to the Union Drainage District, but no comments have been received.
- D. The subject property is located on CR 2700E, one-half mile from CR 0N. The subject property is accessed from CR 2700E on the west side of the property. Regarding the general traffic conditions on CR 2700E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data, in the vicinity of the subject property, is from 2001, as follows:
 - (a) Along CR 2700E where it passes the subject property the ADT is 50 trips.
 - (b) The proposed RLA is for private use only and is proposed to be used for agricultural purposes making an increase in traffic unlikely.
 - (2) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
 - (a) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - (b) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.

ITEM 8.D.(2) CONTINUED.

- (c) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - (d) A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
 - (e) The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet.
- (3) The width of CR 2700E was measured by J.R. Knight, Associate Planner, during a site visit on June 2, 2009, to be 16 feet wide.
 - (4) The Township Road Commissioner has been notified of this case, but no comments have been received at this time.
- E. Regarding fire protection of the subject property, the subject property is within the protection area of the Allerton Fire Protection District and is located approximately three road miles from the fire station. The Fire Protection District Chief has been notified of this request, but no comments have been received at this time.
 - F. The subject property does not appear to be located within a Special Flood Hazard Area.
 - G. Regarding outdoor lighting on the subject property, there is no indication on the site plan of outdoor lighting for any purpose.
 - H. Regarding subsurface drainage, the site plan does not contain any information regarding agricultural field tile.
 - I. Regarding wastewater treatment and disposal on the subject property, the proposed use has no need for any wastewater treatment and disposal.
 - J. Paul Cole, attorney representing Hester L. Miles and Robert and Barbara Miller, adjacent landowners west of the subject property, testified at the June 11, 2009, public hearing that if it were possible to place a wind turbine on their property his clients would like the opportunity to do so.
 - K. Rick Reed, owner of Reed's Fly-On Farming, testified at the June 11, 2009, public hearing, as follows (Note: the RLA separation for wind turbines that Mr. Reed mentions was revised in Zoning Case 658-AT-10, and it is no longer a flat 3500 foot separation.):
 - (1) This location would create safety concerns if the 3500 feet separation was not available and only standard separations from wind turbines were enforced.

ITEM 8.K. CONTINUED.

- (2) In discussions with wind farm developers one of the items they are reviewing is a circle at least 3500 feet around landing strips.

- L. A letter from Mrs. Carole Horst was submitted at the June 11, 2009, public hearing which indicated that if the proposed RLA was approved she felt that she, her tenants, and heirs should be compensated for the lost income from no longer being able to take part in the anticipated Horizon wind farm.

- M. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

- N. Regarding the efficacy of the RLA wind farm separation required by the Champaign County Zoning Ordinance for the proposed RLA if a wind farm is also developed (Note: the RLA separation for wind turbines was revised in Zoning Case 658-AT-10, and it is no longer a flat 3500 foot separation.):
 - (1) If the RLA is authorized and the anticipated wind farm is developed, about 56% of the required RLA separation from the wind farm would be under other zoning jurisdictions and not within the Champaign County zoning jurisdiction.

 - (2) Requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton.

- O. Regarding the economic impact of proposed RLA versus the impact of the anticipated wind farm:
 - (1) The average annual per acre value of wind farm lease payments is approximately \$50 per acre assuming a gross density of one turbine per 70 acres and a lease value of \$3,500 based on information about the first wind turbine developments in McLean County in 2002.

 - (2) Jed Gerdes, son of the petitioners, testified at the June 11, 2009, public hearing that he raises good quality beans which require fungicides to be sprayed, and he can save five to ten dollars an acre by providing a landing strip closer to where he farms. When that savings is multiplied over thousands of acres it provides a strong financial incentive to have a landing strip.

ITEM 8.O. CONTINUED.

- (3) There would also be a significant positive effect on local property tax revenues that staff has not tried to estimate.
- (4) In a letter dated November 24, 2009, that was forwarded by Attorney Paul Cole who represents Robert and Barbara Miller, neighboring landowners to the west of the proposed RLA, Andrew Larson, Superintendent of the Heritage School District #8, stated the following:
 - (a) Heritage School District #8 is a small rural school district of 540 students that covers approximately 105 square miles.
 - (b) Heritage School District #8 must continue to look for funding avenues outside of state funding sources because of State of Illinois funding deficits.
 - (c) The development of wind farms would provide additional dollars to be generated that is not directly impacting property taxes of home and land owners.
 - (d) Each megawatt of wind turbine rated output will generate tax receipts equal to the fair cash value of \$360,000 per megawatt times the Consumer Price Index less the depreciation of 2 to 4% per year divided by 331/3 to get the assessed value multiplied by the tax rate which for Heritage is 4.53 which yields an estimated \$5,381 per megawatt in the second year of operation. This amount will vary by year depending upon the Consumer Price Index, depreciation, and the tax rate.
 - (e) Mr. Larson's fair cash value of \$360,000 per megawatt comes from Public Act 644 which established wind energy property assessment practices.
 - (f) Based on the example tax calculation for a wind turbine Superintendent Larson states that a 1.5MW wind farm turbine would generate approximately \$9,161.
- P. The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used by the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications.
- Q. ~~The petitioner's agricultural aerial applicator may use the petitioner's land as a landing strip for aerial agricultural purposes without designation as an RLA. However, RLA designation provides the benefit of IDOT enforcement of the runway approach slopes for a distance of 3,000 feet off the ends of the runway.~~
- R. If a wind farm is developed around the proposed RLA the approach slopes that extend off the ends of the proposed RLA will apparently fall into typical wind farm separations and should limit placement of wind farm turbines, as follows:

ITEM 8.R. CONTINUED.

- (1) The approach slope at the north end of the proposed RLA will be located in the separation around the petitioner's property as a non-participating landowner in relation to the wind farm and in the separation around a neighbor's dwelling (also expected to be a non-participating landowner in relation to the wind farm) that is located north of the proposed RLA along CR100N.
 - (2) The approach slope at the south end of the proposed RLA will be located in the separation around CR2750E in Douglas County which is assumed to be 550 feet wide on either side of CR2750E.
- S. If a wind farm is developed around the proposed RLA and no RLA wind farm separation is provided, a 1,000 feet wide wind turbine free zone would be centered on public roads CR100N in Champaign County at the north end of the RLA and along Illinois Route 49 located ¼ mile east of the RLA and along CR2750E in Douglas County.
- T. Jed Gerdes, son of the petitioners, testified at the July 30, 2009, public hearing regarding the Miles' farm property to the west, as follows:
- (1) He said that he spoke to the pilots and they indicated that just losing 300 foot on one side of the airstrip would not be a big deal and they could work with it.
 - (2) The 3500 feet separation (Note: the RLA separation for wind turbines was revised in Zoning Case 658-AT-10, and it is no longer a flat 3500 foot separation.) would only give the Miles' neighbor 350 feet away from a wind turbine and, with the Board's approval, it could be moved back to 3200 feet on the north/south line which would allow them 650 feet which would give ample room to set a wind turbine and give them at least a 100 foot leeway.
 - (3) With this approval the Miles' could have a wind turbine and he could have the rye grass flown on it.
- U. Regarding basic safety and land use compatibility concerns related to any RLA:
- (1) Footnote 11 to Section 5.3 of the Ordinance requires that no BUILDING or STRUCTURE be erected or vegetation be maintained that would create an obstruction in an approach slope or transition slope for an existing AIRPORT, RESIDENTIAL AIRPORT, HELIPORT, RESTRICTED LANDING AREA or HELIPORT-RESTRICTED LANDING AREA permitted under the terms of this ordinance unless a SPECIAL USE permit is granted per Section 9.1.5 D.4.
 - (2) The requirement of Footnote 11 in Section 5.3 cannot be enforced at the south end of the proposed RLA because the subject property abuts the south line of Champaign County and the approach slope for the south end of the proposed RLA is primarily in Douglas County on land apparently owned by Brian Wulff.

ITEM 8.U. CONTINUED.

- (3) Notice of the proposed RLA was mailed to Douglas County landowner Brian Wulff in care of Greg Luth, 1285CR2580E, Newman IL, and no comments have been received.
- (4) If the proposed RLA is approved, protection of the south approach slope will be a private matter and the responsibility of the applicant.

V. Regarding the recently planted rows of trees on the south and east sides of the subject property:

- (1) Carl Smith, who farms land adjacent to the subject property, reported to the Zoning Administrator the following:
 - (a) A row of trees has been planted along the east property line of the subject property and also along CR0 south of the subject property.
 - (b) The trees are Shumard Oak trees that are anticipated to get 120 feet tall.
- (2) James R. Knight, Associate Planner, inspected the rows of trees on April 13, 2010, and prepared a diagram illustrating the locations that was an attachment to the April 15, 2010, memo.
- (3) When the trees south of CR0 surpass 40 feet in height they will encroach into the runway approach slope and create a safety hazard.
- (4) The Board has the option of leaving the safety concerns related to the trees on the south property line completely up to IDOT or basing the Board's decision on this known safety hazard.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
 - A. The Petitioner has testified on the application, **“Yes, Grass areas are part of agriculture, as pastures and waterways.”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) The proposed RLA complies with all area and placement requirements for the AG-1 District in Section 5.3,
 - (2) Regarding parking on the subject property, it is unclear what the exact parking requirements for an RLA would be, however, there appears to be more than adequate area around the farmstead to accommodate parking for the proposed use.

ITEM 9.B. CONTINUED.

(3) Regarding compliance with the standard condition requiring a proposed RLA must meet the requirements of the Federal Aviation Administration (FAA) and Illinois Department of Transportation, Division of Aeronautics (IDOT/DOA):

- (a) The FAA requirements for RLA's mostly deal with operation of the RLA once it is established. However, the FAA does make an airspace determination before the RLA is established. This airspace determination must be favorable for the RLA to be established, the IDOT/DOA requirements incorporate this requirement.
- (b) IDOT/DOA enforces the *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)* which contains regulations for establishment of a RLA.
- (c) RLA's are required to be private use only, to provide a sufficient landing area taking into account the skill of the pilots using the facility and the type of aircraft used, and to meet minimum dimensional standards.

The petitioners submitted a letter from Dale Rust, Flight Safety Coordinator, with IDOT/DOA, dated April 21, 2009, that indicates the proposed location of the landing area provides sufficient length for a safe operation and takes into account other aeronautical facilities in the area.

- (d) RLA's are required to obtain a Certificate of Approval from IDOT/DOA, which involves an application process with an initial inspection of the proposed area, obtaining an FAA airspace determination, publication of notice in a local newspaper, the chance for concerned neighbors to request a hearing, and a final inspection.

The petitioners submitted a letter from Dale Rust, Flight Safety Coordinator, with IDOT/DOA, dated April 21, 2009, that indicates Mr. Rust performed the initial inspection and has indicated a favorable result. There is no information regarding the FAA airspace determination, but Mr. Rust did indicate that a negative determination is unlikely.

- (e) RLA's are also required to meet minimum runway dimensions and to have imaginary surfaces of specified slope on all four sides of the runway that are free from obstruction by any structures or natural obstructions, as follows:
 - i. An RLA runway is required to be a minimum of 100 feet wide and to have a minimum length of 1600 feet. It is possible that due to certain obstructions a runway may be longer than 1600 feet but only for landings or take offs in certain directions.

The petitioner has indicated on the site plan and application that the runway will be 1871 feet long and separated from CR 0N by 300 feet.

ITEM 9.B.(3)(E) CONTINUED.

- ii. There are also requirements for separation distances between a runway, taxiway, and aircraft parking, but the petitioner has not indicated any taxiway or aircraft parking on the site plan.
- iii. At either end of the runway a 15:1 slope extending 3,000 feet beyond the end of the runway.

~~There are now several only obstructions near the runway that appears to require a minimum clearance, is These include CR 0N, which requires a 15-foot clearance according to IDOT/DOA requirements a row of trees on the east property line of the subject property, and a row of trees across CR 0N from the south property line of the subject property. The runway's current location will not provide adequate clearance for either row of trees once they are approximately 40 feet tall is located 300 feet north of the street providing 20 feet of clearance.~~

- iv. On either side of the runway a 4:1 slope extending 135 feet from the centerline of the runway.

There does not appear to be any obstruction that would interfere with the side transition slopes.

- (f) Overall it appears that if the petitioners obtain a positive airspace determination from the FAA they will meet all state and federal requirements for establishing an RLA. There are also numerous requirements for safe operation of an RLA, which the petitioners are also required to meet or be in violation of their SUP.
- (4) The RESTRICTED LANDING AREA shall provide for a runway plus a runway safety area both located entirely on the LOT. The runway safety area is an area centered 120 feet wide and extending 240 feet beyond each end of the runway.

The petitioner has indicated the required runway safety area on the site plan,

- (5) No part of a BUILDING or STRUCTURE intended for regular human occupancy located within a R or B District nor any PUBLIC ASSEMBLY or INSTITUTIONAL USE may be located:
 - (a) Within the Primary Surface, an area 250 feet wide centered on the runway centerline and extending 200 feet beyond each end of the runway; or
 - (b) The Runway Clear Zones, trapezoidal areas centered on the extended runway centerline at each end of the Primary Surface, 250 feet wide at the end of the primary surface and 450 feet wide at a point 1,000 feet from the primary surface.

ITEM 9.B.(5) CONTINUED.

- (c) These areas are not indicated on the site plan, but they are not required to be entirely contained on the subject property and there are no structures within the described areas.
- (d) No Runway Clear Zone will exist at the south end of the runway on the other side of CR 0N because that is Douglas County, which does not have zoning.
- (6) After a RESTRICTED LANDING AREA is established, the requirements in Section 4.3.7 and Table 5.3 note (12) shall apply.

This condition does not appear to be a requirement on the petitioners, but instead on anyone who is building a structure of some sort close enough to the RLA that it might be a hazard to aircraft.

- C. Regarding compliance with the *Stormwater Management Policy*, the proposed use will not require any stormwater detention.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
 - (1) The subject property does not appear to be located in a Special Flood Hazard Area.
 - (2) The subject property complies with the Subdivision Regulations.
- E. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Zoning District, the RLA is proposed to support agricultural activities.
- F. Regarding the recently planted rows of trees on the south and east sides of the subject property:
 - (1) Carl Smith, who farms land adjacent to the subject property, reported to the Zoning Administrator the following:
 - (a) A row of trees has been planted along the east property line of the subject property and also along CR0 south of the subject property.
 - (b) The trees are Shumard Oak trees that are anticipated to get 120 feet tall.
 - (2) James R. Knight, Associate Planner, inspected the rows of trees on April 13, 2010, and prepared a diagram illustrating the locations that was an attachment to the April 15, 2010, memo.
 - (3) When the trees south of CR0 surpass 40 feet in height they will encroach into the runway approach slope and create a safety hazard.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:

A. A “RESTRICTED LANDING AREA” may be authorized in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements are met.

B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

(1) Subsection 5.1.7 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.

(2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

(1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

(a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan is in full compliance with those requirements.

(b) The proposed RLA *{with the special conditions will provide adequate safety / will not provide adequate safety due to (1) the presence of a row of trees to the south that will encroach into the Required Approach Slope when they are 40 feet tall; (2) the inability to ensure adequate separation from an anticipated wind farm in Douglas County and within one and one half miles of the Village of Allerton}*.

(2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

(a) In regards to the value of nearby properties, the proposed Special Use Permit will likely have a negligible effect on property value provided that those properties are not restricted in their ability to lease ground for wind farm turbine towers.

ITEM 10.C.(2) CONTINUED.

- (b) With regard to the value of the subject property, the proposed Special Use Permit will likely have a negligible effect on property value
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

The current IDOT traffic count is from 2001, and indicates that CR 2700E could handle a 200% increase in traffic.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
 - (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
 - (c) The proposed RLA *{with the special conditions will provide adequate safety / will not provide adequate safety due to (1) the presence of a row of trees to the south that will encroach into the Required Approach Slope when they are 40 feet tall; (2) the inability to ensure adequate separation from an anticipated wind farm in Douglas County and within one and one half miles of the Village of Allerton}*.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

ITEM 10.C.(6) CONTINUED.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in full compliance.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions. No special conditions appear to be necessary

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and the proposed Special Use is not an existing nonconforming use.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

ITEM 10.C. CONTINUED.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

There are no natural areas on the subject property.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

This purpose is not relevant to the proposed Special Use Permit because the AG-1 District is not for urban development.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

D. Regarding the recently planted rows of trees on the south and east sides of the subject property:

- (1) Carl Smith, who farms land adjacent to the subject property, reported to the Zoning Administrator the following:
- (a) A row of trees has been planted along the east property line of the subject property and also along CR0 south of the subject property.
- (b) The trees are Shumard Oak trees that are anticipated to get 120 feet tall.
- (2) James R. Knight, Associate Planner, inspected the rows of trees on April 13, 2010, and prepared a diagram illustrating the locations that was an attachment to the April 15, 2010, memo.
- (3) When the trees south of CR0 surpass 40 feet in height they will encroach into the runway approach slope and create a safety hazard.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. The proposed Special Use is an existing NONCONFORMING USE because the existing use has been on the subject property since before the adoption of the *Zoning Ordinance* on October 10, 1973.
- A. The Petitioner has testified on the application, **“Does not apply”**

GENERALLY REGARDING ANY SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval:

- A. The proposed RLA must receive a Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics (IDOT). Likewise, IDOT requires the RLA to have any necessary county zoning approvals. The following condition will ensure that the proposed RLA must be in conformance with IDOT in order to remain in conformance with the Champaign County Zoning Ordinance:

The Restricted Landing Area must be used in compliance with the approved Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics

The above condition is necessary to ensure that:

The proposed RLA is operated so as to ensure public safety.

- ~~B. In the event that a wind farm is developed around the proposed RLA, requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one half miles of the Village of Allerton. The following special condition will ensure that the RLA will not result in unreasonable limitations for the RLA neighbors in the Champaign County wind farm zoning jurisdiction:~~

~~The petitioner shall not oppose a waiver of the minimum required RLA wind farm separation (as otherwise required by subpar. 6.1.4 C. 11. of the Champaign County Zoning Ordinance) in any proposed wind farm county board special use permit.~~

~~The condition above is necessary to ensure that~~

~~The presence of the RLA does not unreasonably limit adjacent Champaign County landowners in their ability to host wind farm turbine towers.~~

- B. Only one of the follow conditions may be necessary based on how the Board views public safety in this case. Condition 12.B.(1) is not necessary if the Board feels that public safety can be adequately protected with condition 12.B.(2). Condition 12.B.(2) is only essential if the Board wants to clearly authorize the RLA to continue after wind farm development and without wind farm separations. However, that approach is only recommended if supplemental evidence is provided regarding the testimony of pilot Rick Reed about public safety at the June 25, 2009, public hearing.

- (1) The proposed RLA is located in the area of the anticipated Horizon wind farm. If the RLA is authorized and the anticipated wind farm is developed, about 56% of the required RLA separation from the wind farm would be under other zoning jurisdictions and not

ITEM 12.B.(1) CONTINUED.

within the Champaign County zoning jurisdiction. Requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent the adjacent neighbors from hosting wind farm turbine towers east and west of the RLA and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced either in Douglas County or within one and one-half miles of the Village of Allerton. The following condition will remove the burden of the RLA separation from neighboring land owners in the case that the anticipated wind farm is developed.

The Special Use Permit authorization for a Restricted Landing Area will become void if either of the following occurs:

- (a) **In the event that the Champaign County Board authorizes a waiver of the standard condition for a minimum separation of a wind farm from the proposed RLA as established in paragraph 6.1.4 C. 11.; or**
- (b) **In the event that some other County Board authorizes a wind farm turbine that will be closer to the proposed RLA than the minimum separation required by paragraph 6.1.4 C.11. of the Champaign County Zoning Ordinance.**

The above special conditions are required to ensure the following:

That landowners and taxing bodies in the Champaign County wind farm jurisdiction are not unduly restricted in their ability to benefit from an anticipated wind farm.

- (2) The applicant is not a pilot and does not have a plane and does not plan to use the proposed RLA for recreational flying. The proposed RLA is intended to be used for the applicant's agricultural aerial applicator (and other agricultural aerial applicators) in servicing the surrounding farmland. Agricultural aerial applicators increasingly have to navigate around wind farms in conducting their aerial applications. The following special condition will ensure that the proposed RLA is used primarily only by agricultural aerial applicators:

The proposed RLA may only be used by agricultural aerial applicators except as may be necessary for emergency landings when it may be used by anyone.

The condition above is necessary to ensure that:

The proposed RLA is principally used by skilled agricultural aerial applicators.

DOCUMENTS OF RECORD

1. Special Use Permit Application from Robert and Barbara Gerdes received on April 24, 2009, with attachments:
 - A Proposed site plan
 - B Statement from Barbara Gerdes regarding necessity of Natural Resources Report for proposed RLA
2. Letter from Dale Rust, Flight Safety Coordinator, to Jed Gerdes dated April 21, 2009
3. Preliminary Memorandum for Case 645-S-09, with attachments:
 - A Zoning Case Maps (Location, Land Use, Zoning)
 - B Proposed site plan received April 24, 2009
 - C Letter from Dale Rust, Flight Safety Coordinator, to Jed Gerdes dated April 21, 2009
 - D Excerpts of *Illinois Aviation Safety Rules (92 Ill. Admin. Code Part 14)*
 - E IDOT Traffic Map of vicinity of subject property
 - F Preliminary Draft Summary of Evidence for Case 645-S-09
4. Staff handouts at June 11, 2009 meeting
5. Letter from Carole Horst submitted at the June 11, 2009, ZBA meeting
6. Revised site plan received on June 19, 2009
7. Supplemental Memorandum for Case 645-S-09, dated July 24, 2009, with attachments:
 - A Amended site plan received June 19, 2009
 - B Revised Imaginary Surfaces and Other Requirements
 - C Approximate Area of Village Wind Turbine Jurisdiction
 - D Revised Wind Farm Separations for subject property
 - E Map of Restricted Landing Areas in Champaign County from Zoning Case 644-AT-88
 - F Table of Restricted Landing Areas in Champaign County from Zoning Case 644-AT-88
 - G Letter from Carole Horst submitted at June 11, 2009, public hearing
 - H Excerpt of June 11, 2009, ZBA Minutes (attached separately)
 - I Revised Draft Summary of Evidence for Case 645-S-09
8. Supplemental Memorandum for Case 645-S-09, dated July 30, 2009, with attachments:
 - A Revised Wind Farm Separations
8. Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009
9. Letter from Rick Reed, received at July 30, 2009, ZBA meeting
10. Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009
11. Supplemental Memorandum for Case 645-S-09, dated November 25, 2009, with attachments:

- A Excerpt of Minutes ZBA meeting on January 26, 1989
 - B Excerpt of Minutes of ZBA meeting on August 15, 1990
 - C Mark up of imaginary surfaces submitted by Jed Gerdes on July 30, 2009 (included separately)
 - D Gerdes Farm Map submitted by Jed Gerdes on July 30, 2009 (included separately)
 - E Revised Draft Summary of Evidence for Case 645-S-09, dated November 25, 2009
12. Supplemental Memorandum for Case 645-S-09, dated December 3, 2009, with attachments:
- A Excerpt of Minutes ZBA meeting on March 28, 1991, for Case 750-S-91 (Routh RLA)
 - B Revised Diagram of Wind Farm Separations in Vicinity of Gerdes' Property (included separately)
13. Supplemental Memorandum for Case 645-S-09, dated January 7, 2010
14. Supplemental Memorandum for Case 645-S-09, dated April 9, 2010, with attachments:
- A Supplemental Memorandum for Case 645-S-09, dated November 25, 2009, without attachments
 - B Supplemental Memorandum for Case 645-S-09, dated December 3, 2009, with attachment B
 - C Revised Draft Summary of Evidence for Case 645-S-09
15. Supplemental Memorandum for Case 645-S-09, dated April 15, 2010, with attachments:
- A Proposed Gerdes RLA & Recently Planted Trees
16. Supplemental Memorandum for Case 645-S-09, dated May 21, 2010
17. Supplemental Memorandum for Case 645-S-09, dated August 20, 2010, with attachments:
- A Amended Site Plan received on June 19, 2009
 - B Gerdes Farm Map submitted on July 30, 2009
 - C Map of anticipated Sunrise Coal mine, handed out on July 8, 2010
 - D Approximate Wind Farm Jurisdiction for Allerton and Broadlands & Anticipated Coal Mine, dated August 20, 2010

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 645-S-09 held on **June 11, 2009, and July 30, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{ IS / IS NOT }* necessary for the public convenience at this location because: _____

2. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* is so designed, located, and proposed to be operated so that it *{ WILL / WILL NOT }* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because:¹}* _____

 - c. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - d. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because:¹}* _____

 - e. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because:¹}* _____

 - f. Public safety will be *{ADEQUATE / INADEQUATE}* *{because:¹}* _____

 - g. ~~The location *{ IS / IS NOT }* suitable for the proposed onsite wastewater system *{because:¹}*~~
 - h. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*

1. In each case the Board may add supporting reasoning if desired.

FINDINGS OF FACT, CONTINUED.

- 3a. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** conform to the applicable regulations and standards of the DISTRICT in which it is located because:
-
-
- 3b. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves the essential character of the DISTRICT in which it is located because:
- a. The Special Use will be designed to **{ CONFORM / NOT CONFORM }** to all relevant County ordinances and codes.
 - b. The Special Use **{ WILL / WILL NOT }** be compatible with adjacent uses.
 - c. Public safety will be **{ ADEQUATE / INADEQUATE }**.
 - d. (Note: The Board may include other relevant considerations as necessary or desirable in each case.)
-
-
4. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { IS / IS NOT }** in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit **{ IS / IS NOT }** necessary for the public convenience at this location.
 - c. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }** is so designed, located, and proposed to be operated so that it **{ WILL / WILL NOT }** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves the essential character of the DISTRICT in which it is located.
 - e. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** conform to the applicable regulations and standards of the DISTRICT in which it is located.
- e. (Note: The Board may include other relevant considerations as necessary or desirable in each case.)
-
-
5. The requested Special Use **{ IS / IS NOT }** an existing nonconforming use.
6. **{ NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW: }**

FINAL DETERMINATION

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

The Special Use requested in Case 645-S-09 is hereby *{GRANTED / GRANTED WITH CONDITIONS / DENIED}* to the petitioners **Robert and Barbara Gerdes** to authorize the construction and use of a “Restricted Landing Area” as a Special Use in the AG-1 Agriculture Zoning District.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITION(S)}

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

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

Tables Comparing Relevant Evidence for the Finding of Fact

Table Comparing Relevant Evidence for the Finding that the Proposed Special Use is Necessary For Public Convenience
Case 645-S-09 Draft August 20, 2010

Evidence that is generally affirmative towards the proposed use	Evidence that is generally negative towards the proposed use
<p>1. The petitioner's son Jed Gerdes testified on the application and at the public hearing on 6/11/09 that:</p> <p>(a) (item 7.E.(5)) the main reason they need the proposed RLA is to allow aerial application of rye grass and he is one of the only farmers in central Illinois who has been working with rye grass.</p> <p>(b)(item 7.E.(3))He was using a previous RLA that was just a few miles away that belonged to Steve Riggins but that RLA has now been planted in crops.</p> <p>(c)(item 7.E.(15))The subject property is the home base of his family's farming.</p>	
<p>2.Pilot Rick Reed testified on 6/11/09 that</p> <p>(a) (item 7.F.(2)) This RLA is a great idea because he has just lost the use of another RLA.</p> <p>(b) (item7.F.(3)) Rye grass is a difficult crop to apply and time is of the essence so being able to load close is imperative and there is not a single helicopter in the State of Illinois that can apply rye grass and</p> <p>(c) Item 7.F.(4) He plans to use the RLA in the spring for fungicides</p>	
<p>3. (item 7.E.(18)) The petitioner's son Jed Gerdes testified on 6/11/09 that he wants to benefit his neighbors and he would make the RLA available to them</p>	<p>3. (item 7.I.) Other than the petitioners and their son Jed Gerdes, no other farmer has asserted that the RLA is necessary for public convenience.</p>
	<p>4. (item 7.P.) Neighbor Carl Smith testified on 6/11/09 that pilot Rick Reed has sprayed thousands of acres for him but to the best of his knowledge Mr. Reed has always been able to service his farms out of Mattoon.</p>
<p>5. (item 7.N.(1)) Pilot Rick Reed testified in a letter on 7/30/09 that he works a great deal in the Villa Grove to Oakwood area and there is no suitable place to land in this area</p>	
<p>6. (item 7.M.(6)) The petitioner's son Jed Gerdes testified on 7/30/09 that in regard to proof of public convenience, one pilot serves many farmers.</p>	
<p>7. (item 7.P. (1)) Neighbor Carl Smith testified on 7/30/09 that it is true that one pilot serves many farmers.</p>	
	<p>8. (item 7.C) The subject property is in an area where a wind farm is anticipated to be developed by Horizon Wind Energy.</p>
<p>10. (item 7.K.(3)).In two of three previous RLA cases the Board found the RLAs were necessary for the public convenience because of their use for agricultural purposes.</p>	<p>10. (item 7.K.(6)) There has never been a previous request for an RLA in Champaign County in an area where a wind farm had already been anticipated.</p>
	<p>11. (item 8.J.) Attorney Paul Cole, representing Helter L. Miles and Barbara Miller, adjacent landowners west of the subject property, testified at the June 11, 2009, public hearing that if it were possible to place a wind turbine on their property his clients would like the opportunity to do so.</p>
	<p>12. (item 8.L.) A letter from Mrs. Carole Horst was submitted at the June 11, 2009, public hearing which indicated that if the proposed RLA was approved she felt that she, her tenants, and heirs should be compensated for the lost income from no longer being able to take part in the anticipated Horizon wind farm.</p>

Table Comparing Relevant Evidence for the Finding that the Proposed Special Use Will Not Be Injurious to the District or Otherwise Detrimental to the Public Welfare

Case 645-S-09

Draft August 20, 2010

Evidence that is generally affirmative towards the proposed use	Evidence that is generally negative towards the proposed use
<p>1. (item 8.A.) The petitioner's son Jed Gerdes testified on the application that Dale Rust, Flight Safety Coordinator for IDOT, has inspected the site and stated that it is satisfactory.</p>	
	<p>4. (new item 8.V.) (1) Carl Smith, who farms land adjacent to the subject property, reported to the Zoning Administrator that (a) A row of trees has been planted along the east property line of the subject property and also along CR0 south of the subject property. (b) The trees are Shumard Oak trees that are anticipated to get 120 feet tall.</p> <p>(2) James R. Knight, Associate Planner, inspected the rows of trees on April 13, 2010, and prepared a diagram illustrating the locations that was an attachment to the April 15, 2010, memo.</p> <p>(3) When the trees south of CR0 surpass 40 feet in height they will encroach into the runway approach slope and create a safety hazard.</p>
	<p>4. (9.B.(5)iv.) No Runway Clear Zone will exist at the south end of the runway because that land is in Douglas County.</p>
	<p>5. (item 7.C) The subject property is in an area where a wind farm is anticipated to be developed by Horizon Wind Energy.</p>
	<p><u>6. (NEW EVIDENCE TO BE ADDED AS ITEM 8.X.) The Champaign County Zoning Ordinance requires a minimum separation between any wind farm tower and any existing RLA or an RLA for which there had been a complete application received by the date of adoption of a recent amendment.</u></p> <p><u>The revised RLA wind farm separation results in about 891 acres of separation per wind farm tower. Wind farm towers generally occur at a density of about one tower per 70 acres. Even an RLA that is on 80 acres could affect as much as 811 other acres or roughly 11 wind turbines however other separations (such as for streets and utilities) will also have a significant affect on the location of wind turbines.</u></p> <p><u>Reducing the ability of neighbors to lease land for wind farm turbines reduces their possible income and also reduces the taxes paid by the wind farm to local taxing bodies such as school districts.</u></p>
	<p>7. (item 8.J.) Attorney Paul Cole, representing Hester L. Miles and Barbara Miller, adjacent landowners west of the subject property, testified at the June 11, 2009, public hearing that if it were possible to place a wind turbine on their property his clients would like the opportunity to do so.</p>

Table Comparing Relevant Evidence for the Finding that the Proposed Special Use Will Not Be Injurious to the District or Otherwise Detrimental to the Public Welfare

Case 645-S-09

Draft August 20, 2010

Evidence that is generally affirmative towards the proposed use	Evidence that is generally negative towards the proposed use
	8. (item 8.L.) A letter from Mrs. Carole Horst was submitted at the June 11, 2009, public hearing which indicated that if the proposed RLA was approved she felt that she, her tenants, and heirs should be compensated for the lost income from no longer being able to take part in the anticipated Horizon wind farm.
	9. (item 8.N.) If the RLA is authorized and a wind farm is developed, about 56% of the wind farm separation for the RLA that is required by the Champaign County Zoning Ordinance would actually not be in the Champaign County zoning jurisdiction and would likely not be provided.
	10. (item 8.K.) Rick Reed testified on June 11, 2009, that in regards to the proposed wind farm this location would create safety concerns if the 3,500 feet separation between the RLA and wind farm towers that was then provided by the Champaign County was not available.
	11. (item 8.N.(2)) Requiring the RLA wind farm separation required by the Champaign County Zoning Ordinance would only serve to prevent adjacent neighbors from leasing land for wind farm towers and would not provide any meaningful safety benefit because the RLA wind farm separation would not be enforced in either Douglas County or within one and one half miles of the Village of Allerton.

Table Comparing Relevant Evidence for the Finding that the Proposed Special Use Will Conform to Applicable Regulations and Preserve the Essential Character of the District
Case 645-S-09 Draft August 20, 2010

Evidence that is generally affirmative towards the proposed use	Evidence that is generally negative towards the proposed use
1. (item 8.A.) The petitioner's son Jed Gerdes testified on the application that "Yes, grass areas are part of agriculture as pastures and waterways."	
	2. (item 9.B.(5) iv.) No Runway Clear Zone will exist at the south end of the runway because that is in Douglas County.
	3. (item 8.V.) (1) Carl Smith, who farms land adjacent to the subject property, reported to the Zoning Administrator that (a) A row of trees has been planted along the east property line of the subject property and also along CR0 south of the subject property. (b) The trees are Shumard Oak trees that are anticipated to get 120 feet tall. (2) James R. Knight, Associate Planner, inspected the rows of trees on April 13, 2010, and prepared a diagram illustrating the locations that was an attachment to the April 15, 2010, memo. (3) When the trees south of CR0 surpass 40 feet in height they will encroach into the runway approach slope and create a safety hazard.

CASE NO. 673-V-10

PRELIMINARY MEMORANDUM

August 20, 2010

Champaign
County
Department of

**PLANNING &
ZONING**

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

(217) 384-3708

Petitioners: **Harl and Donna
Parkinson**

Site Area: **approx. 11,500 sq. ft.**

Time Schedule for Development:

N/A

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Request: **Authorize the use of an existing detached accessory storage building less than 150 square feet in area with a side yard of zero feet and rear yard of zero feet in the AG-2 Agriculture Zoning District.**

Location: **Lot 1 of Headlee 2nd Subdivision in Section 14 of Mahomet Township and commonly known as the house at 204 South Lake of the Woods Road.**

BACKGROUND

On March 3, 2010, the Planning and Zoning Department received a complaint that a detached accessory storage building on the subject property was located too close to the side and rear lot lines. On March 23, 2010, Jamie Hitt, Zoning Officer, performed a drive-by inspection and noted that the subject building appeared to be closer than 10 feet to the side and rear lot lines.

A First Notice of violation was sent on July 6, 2010, which explained the above information and how to correct the violation to the petitioners. The petitioners submitted an Application for Variance on July 8, 2010.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities do not have protest rights in variance cases and are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	AG-2 Agriculture
North	Champaign County Forest Preserve Lake of the Woods Park	CR Conservation-Recreation
East	Single Family Dwelling	R-1 Single Family Residence
West	Duplex used as Single Family Dwelling	AG-2 Agriculture
South	Single Family Dwelling	AG-2 Agriculture

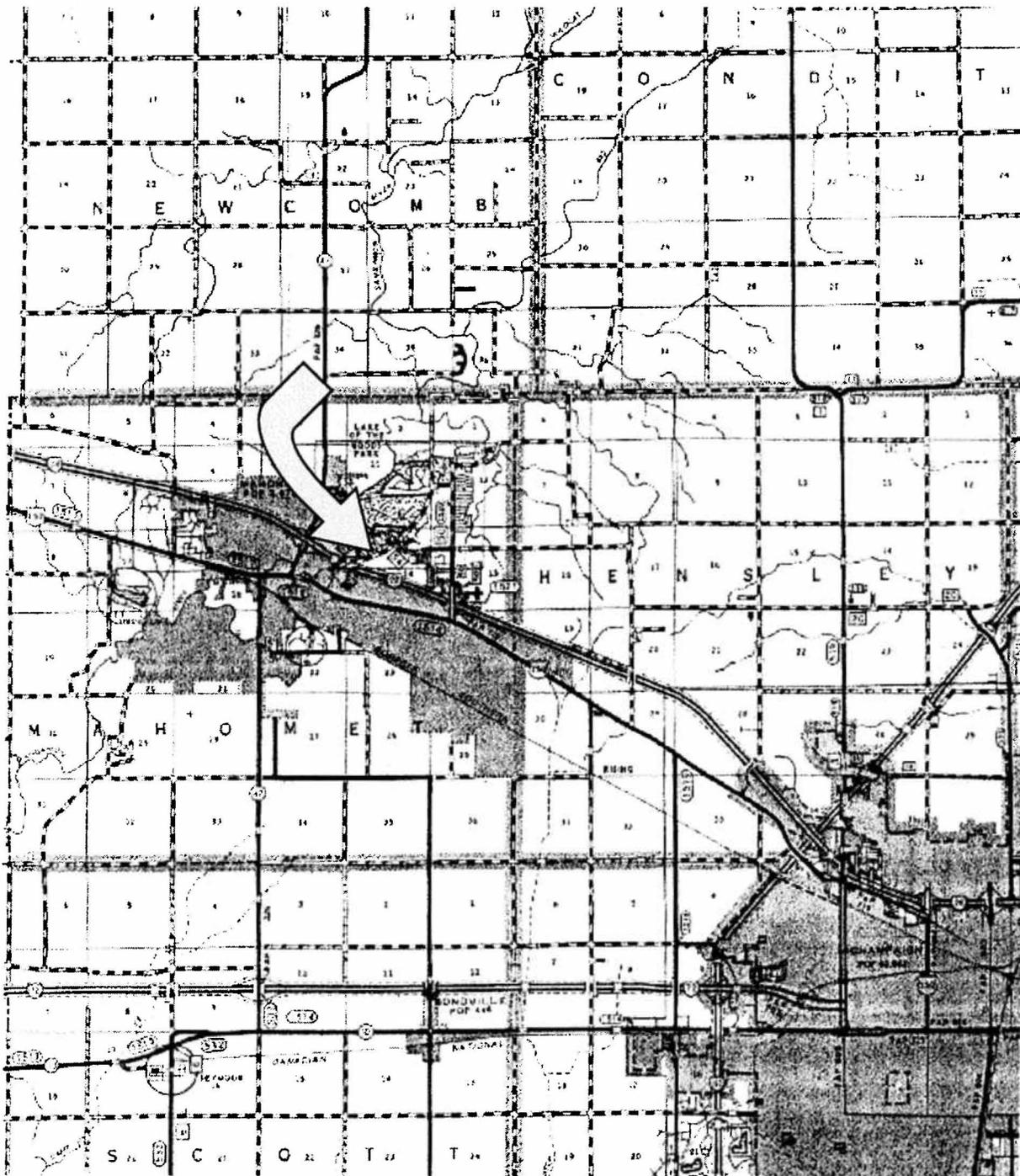
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site plan
- C Petitioner's map of distance between house on subject property and neighboring houses
- D Draft Summary of Evidence for Case 657-V-09

ATTACHMENT A. LOCATION MAP

Case 673-V-10

AUGUST 20, 2010



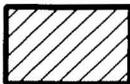
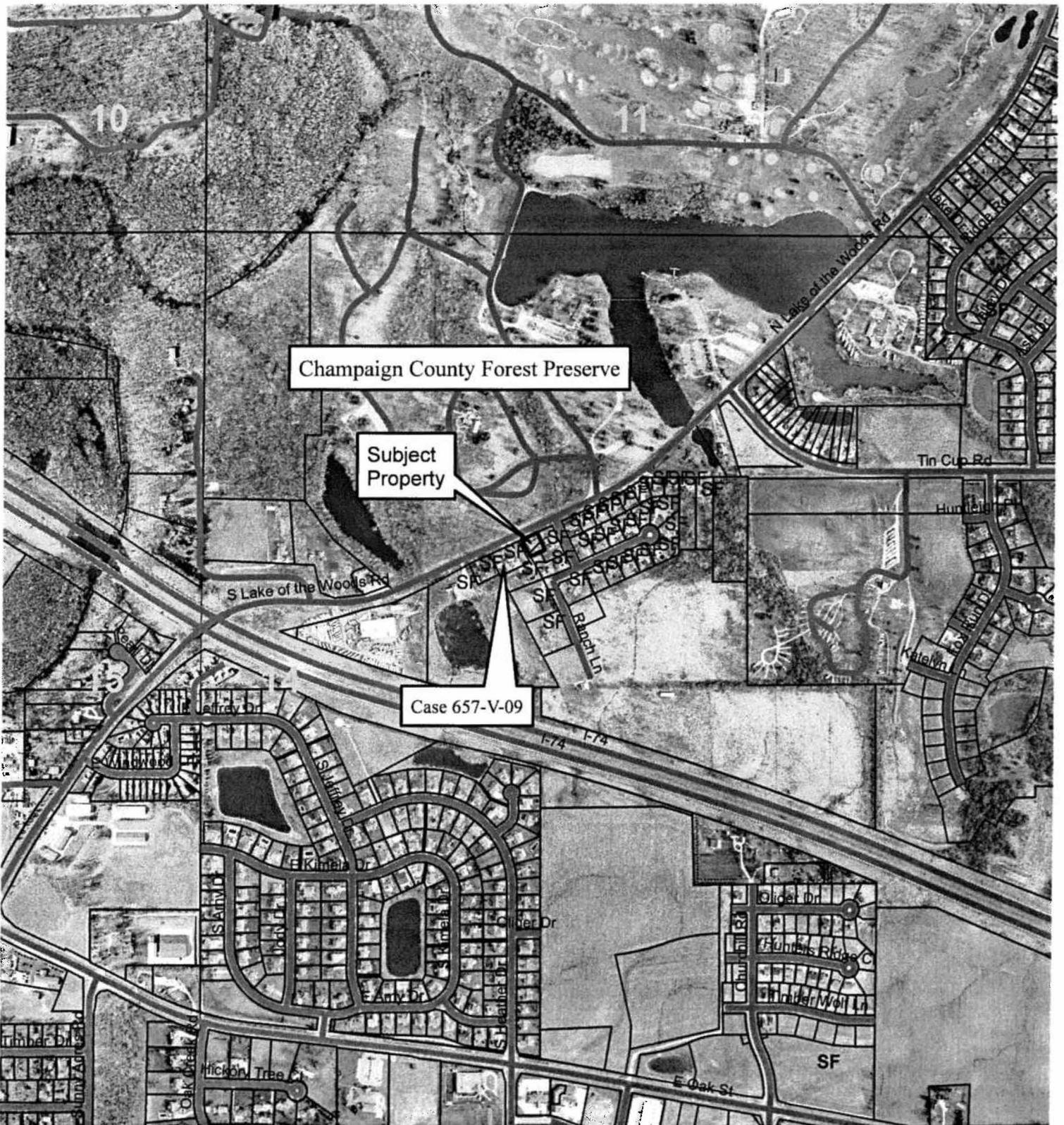
Champaign
County
Department of

**PLANNING &
ZONING**

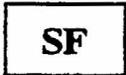
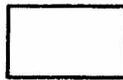


ATTACHMENT A. LAND USE MAP

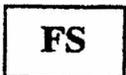
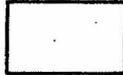
Case 673-V-10
AUGUST 20, 2010



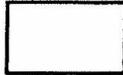
Area of Concern



Single Family



Farmstead



NORTH

1 inch = 800 feet

Champaign
County
Department of
**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 673-V-10

AUGUST 20, 2010

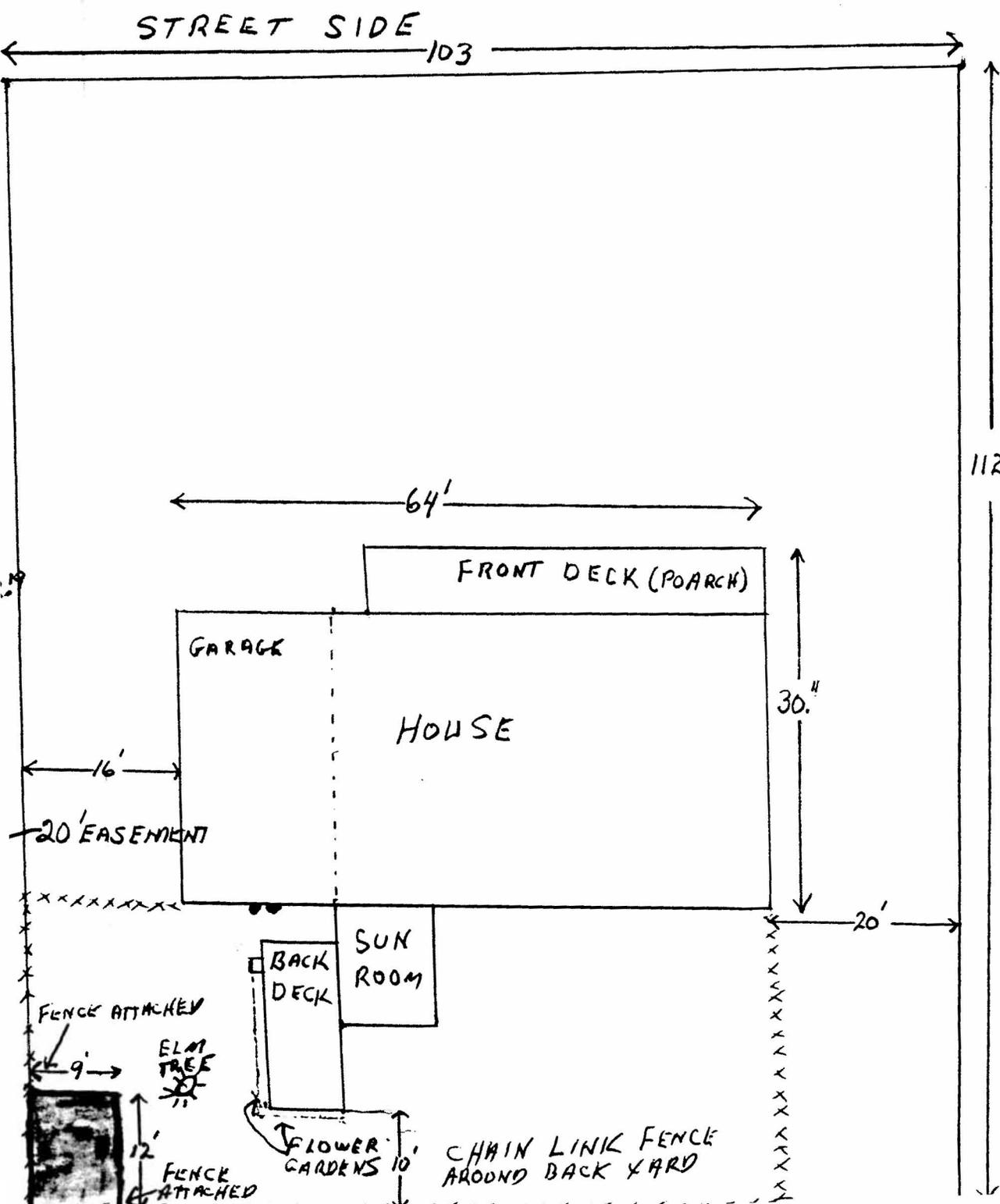


subject property

Village of Mahomet

AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH Champaign County Department of PLANNING & ZONING
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	

PURCHASED, 10-07-01



IF SHED IS MOVED UP/IN SPECIFIED DISTANCE THERE WOULD BE APPROXIMATELY 2' DISTANCE BETWEEN SHED & BACK DECK.
 ALSO, 14+ YEAR OLD ELM WOULD BE CUT DOWN

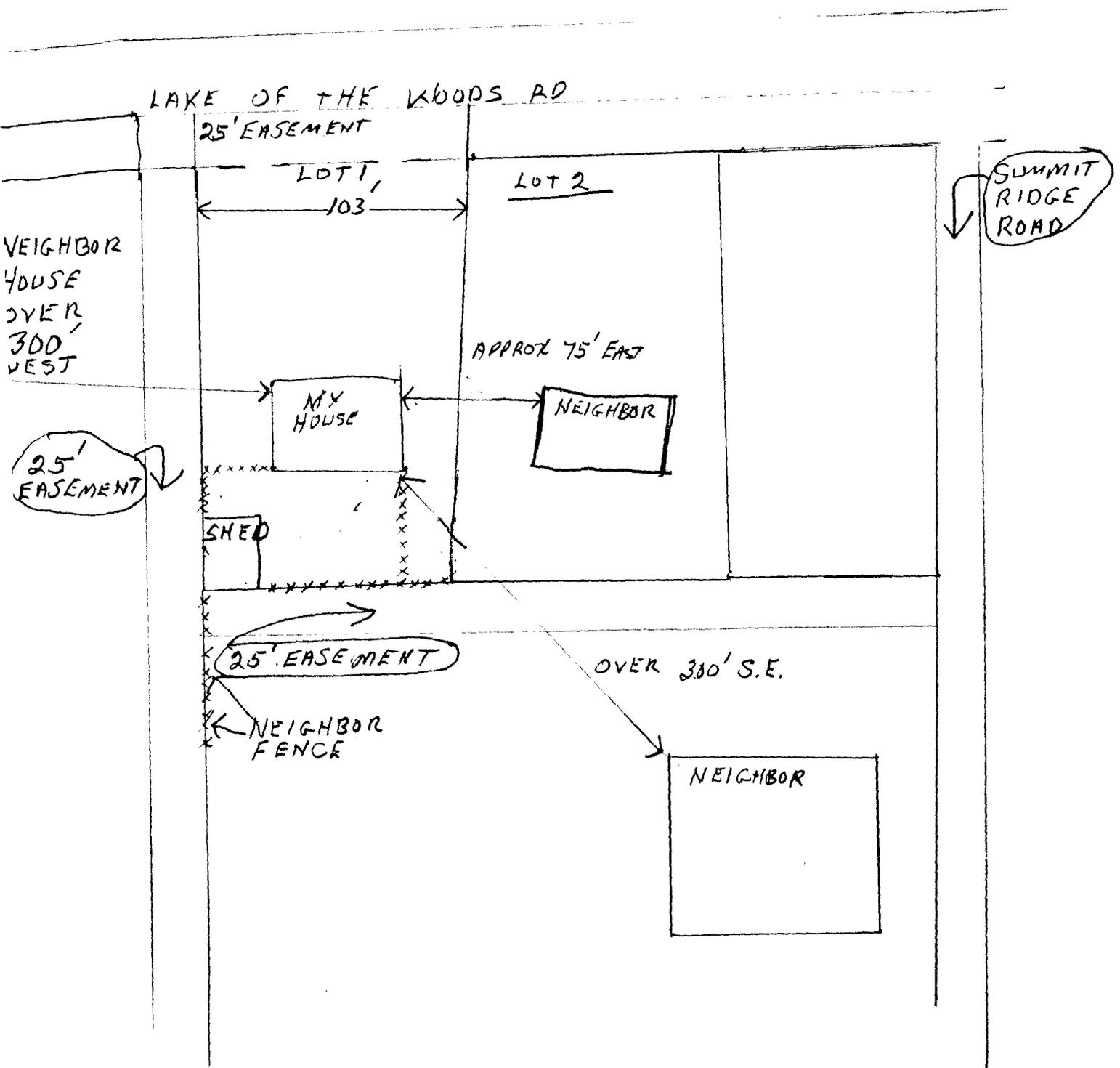
RECEIVED

JUL 08 2010

CHAMPAIGN CO. P & Z DEPARTMENT

HADLEE SECOND SUBDIVISION

(N)



RECEIVED

JUL 08 2010

CHAMPAIGN CO. P & Z DEPARTMENT

PRELIMINARY DRAFT

673-V-10

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

Final Determination: { ***GRANTED / DENIED*** }

Date: August 20, 2010

Petitioners: Harl R. and Donna A. Parkinson

Request: Authorize the use of an existing detached accessory storage building less than 150 square feet in area with a side yard of zero feet and rear yard of zero feet in the AG-2 Agriculture Zoning District.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 26, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The co-petitioners, Harl and Donna Parkinson, own the subject property. The subject accessory storage building was in place on the subject property when they purchased the property.
2. The subject property is Lot 1 of Headlee 2nd Subdivision in Section 14 of Mahomet Township and commonly known as the house at 204 South Lake of the Woods Road.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Mahomet. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned AG-2 and is in use as a single family dwelling with an accessory storage building.
 - B. Land to the north of the subject property is zoned CR Conservation-Recreation and is in use as part of the Champaign County Forest Preserve District Lake of the Woods Park.
 - C. Land to the east is zoned R-1 Single Family Dwelling and is in use as single family dwellings.
 - D. Land to the west is zoned AG-2 Agriculture and is a duplex in use as a single family dwelling, and was the subject property of Zoning Case 657-V-10.

E. Land to the south is zoned AG-2 Agriculture and is in use as a single family dwelling.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. The proposed site plan was submitted on July 8, 2010, and a full description of the subject property will be available on August 26, 2010.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance):
- (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) "ACCESSORY STRUCTURE" is a STRUCTURE on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either DETACHED from or ATTACHED to the MAIN or PRINCIPAL STRUCTURE, subordinate to and USED for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE or the main or principal USE.
 - (3) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
 - (4) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
 - (5) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (6) "LOT LINES" are the lines bounding a LOT.
 - (7) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
 - (8) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.

- (9) “YARD, REAR” is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
 - (10) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Paragraphs B. and C. in Subsection 7.2.1 of the *Zoning Ordinance* specifies the required minimum side and rear yards for detached accessory buildings or structures in the AG-1, AG-2, and CR Districts as follows:
- B. SIDE YARD

No DETACHED ACCESSORY BUILDING or STRUCTURE shall be located less than 10 feet from any side LOT LINE.
 - C. REAR YARD

No DETACHED ACCESSORY BUILDING or STRUCTURE shall be located less than 10 feet from any REAR LOT LINE.
- C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.

PRELIMINARY DRAFT

- (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

- 7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioners have testified on the application that, **“Both affected neighbors bordering property do not object what-so-ever to the present shed location. A 14+ year old elm tree would have to be cut down. The distance between shed and back deck would be approximately 2 feet and the neighbor has attached his fence to the back of the shed.”**
 - B. Regarding the sequence of events that lead to Case 673-V-10:
 - (1) On March 3, 2010, the Planning and Zoning Department received a complaint that a detached accessory storage building on the subject property was located too close to the side and rear lot lines.
 - (2) On March 23, 2010, Jamie Hitt, Zoning Officer, performed a drive-by inspection and noted that the subject building appeared to be closer than 10 feet to the side and rear lot lines.
 - (3) A First Notice of violation was sent on July 6, 2010, which explained the above information and how to correct the violation to the petitioners.
 - (4) The petitioners submitted an Application for Variance on July 8, 2010.
 - C. A review of GIS aerial photographs from 2002 show that the subject building was in place at that time. There are no earlier aerial photographs that were taken after the property was developed.

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

- 8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:

- A. The Petitioners have testified on the application that, **“Restricted movement in backyard. Adding and moving chain link fence, upsetting neighbor that has attached his fence to shed. We have several items in shed (BBQ grill, bicycles, lawn mower, etc) and smaller shed would not hold items. Unable to make shed smaller and no other land is available for purchase.”**
- B. *{Further evidence to be added}*

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

- 9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioners have testified on the application that, **“Not to my knowledge. Shed was in present location when we purchased property on October 9, 2001, and I assume it was there for several years prior to that date. Property is very small but livable for us.”**
 - B. *{Further evidence to be added}*

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

- 10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioners have testified on the application that, **“A definite hardship on me to get someone to move it for me as I do not believe the Zoning Ordinance’s intent and purpose is to complicate and confuse the general public, especially when all the neighbors live in harmony (excluding possibly one individual).”**
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the side and rear yard requirements. In general, the side and rear yards are presumably intended to ensure the following:
 - (1) Adequate light and air: The detached accessory structure is an accessory structure and does not appear to negatively affect the amount of light and air available on the subject property or the neighboring property.
 - (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is in the Cornbelt Fire Protection District and the station is approximately two road miles from the subject property.
 - (3) Aesthetics may also play a part in minimum yard requirements.

PRELIMINARY DRAFT

- C. The proposed side and rear yards of zero feet are 0% of the required 10 feet for a variance of 100% in both cases.
- D. The subject property meets all other requirements of the *Zoning Ordinance*.
- E. The requested variance is not prohibited by the *Zoning Ordinance*.

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

- 11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioners have testified on the application that, **“The location of the shed is situated in the southwest corner of our property away from any possible harm to anyone, it is not close to the roads or public access and does not obstruct any pathways.”**
 - B. The Fire Protection District has received notice of this variance, but no comments have been received.
 - C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.

GENERALLY PERTAINING TO WHETHER OR NOT THE PROPOSED VARIATION IS THE MINIMUM NECESSARY TO MAKE POSSIBLE THE REASONABLE USE OF THE LAND OR STRUCTURE INVOLVED

- 12. Generally regarding the Zoning Ordinance requirement for a finding that the proposed variation is the minimum necessary to make possible the reasonable use of the land or structure involved, the subject building already exists and the proposed variance reflects its current location. The subject building would have to be moved to reduce the amount of variance in this case.
- 13. Elsewhere on the application the petitioners testified that, **“We have traveled the world over (military for 23 years) and we love this area. We are too old to be moving and the property owned by the neighbor on the southwest side of our property has a 20 foot easement running along the side of the shed.”**

GENERALLY REGARDING ANY PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 14. There are no special conditions of approval proposed at this time.

DOCUMENTS OF RECORD

1. Variance application from Harl and Donna Parkinson, received on July 8, 2010, with attachment:
 - A Site plan
 - B Petitioner's map of distance between house on subject property and neighboring houses

2. Preliminary Memorandum for Case 673-V-10, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site plan
 - C Petitioner's map of distance between house on subject property and neighboring houses
 - D Draft Summary of Evidence for Case 657-V-09

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 673-V-10 held on August 26, 2010, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: _____

4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION(S)} {IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION(S)} {WILL NOT / WILL}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

FINAL DETERMINATION

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

The Variance requested in Case **673-V-10** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Harl and Donna Parkinson**, to authorize **the use of an existing detached accessory storage building less than 150 square feet in area with a side yard of zero feet and rear yard of zero feet in the AG-2 Agriculture Zoning District.**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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

SIGNED:

Doug Bluhm, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date