

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **September 16, 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 (August 12, 2010 and August 26, 2010)
5. Continued Public Hearings

Case 665-AT-10 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by revising paragraph 4.3.3 G. as follows:**

- A. Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on residential lots in the AG-1 and AG-2 Zoning Districts.**
- B. Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:**
 - (1) In Residential Zoning Districts, all fencing that is in the front yard**
 - (2) On residential lots in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling**
- C. Increase the maximum allowed height of all fencing to allow up to three inches of ground clearance.**

Case 666-AT-10 Petitioner: **Champaign County Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by revising Subsection 6.1 and paragraph 9.1.11D.1. to clarify that the standard conditions in Subsection 6.1 which exceed the requirements of Subsection 5.3 in either amount or kind are subject to waiver by the Zoning Board of Appeals or County Board.**

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6. New Public Hearings

***Case 674-V-10**

Petitioner: Dobbins Downs Community Improvement Assoc., NFP

Request: Authorize the construction and use of a public park in the R-3 Two Family Residence Zoning District, with the following variances:

- A. Construction and use of a basketball court with a side yard of zero feet in lieu of the required minimum side yard of five feet for accessory structures; and**
- B. No off-street parking spaces in lieu of the minimum required one off-street parking space per three patrons based on the estimated number of patrons during peak attendance; and**
- C. Front yards of six feet and setbacks of 36 feet in lieu of the minimum required 25 feet front yard and 55 feet setback with regard to Campbell Drive and Kingsway Drive, minor streets in the R-3 Zoning District; and**
- D. A waiver of the application fees for the proposed variance application.**
- E. A waiver of the Zoning Use Permit Application fees for the proposed public park.**

Location: Lot 33 in Regency West Subdivision in Section 35 of Hensley Township and commonly known as the vacant lot at 2603 Campbell Drive, Champaign.

7. Staff Report

A. August, 2010 Monthly 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.**

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 1776 E. Washington Street

4 Urbana, IL 61801

5 **DATE:** August 12, 2010

6 **PLACE:** Lyle Shields Meeting Room
1776 East Washington Street

7 **TIME:** 7:00 p.m.

8 Urbana, IL 61802

9 **MEMBERS PRESENT:** Doug Bluhm, Thomas Courson, Melvin Schroeder, Paul Palmgren

10 **MEMBERS ABSENT :** Catherine Capel, Roger Miller, Eric Thorsland

11 **STAFF PRESENT :** Lori Busboom, John Hall, J.R. Knight

12 **OTHERS PRESENT :** Shirley Schroeder, Tom Finger, Jim Finger, Linda Finger

13 **1. Call to Order**

14 The meeting was called to order at 7 P.M.

15 **2. Roll Call and Declaration of Quorum**

16 The roll was called and a quorum declared present with three members absent.

17 **3. Correspondence**

18 None

19 **4. Approval of Minutes (July 29, 2010)**

20 **Mr. Courson moved, seconded by Mr. Schroeder to approve the July 29, 2010, minutes as submitted.**
21 **The motion carried by voice vote.**

22 **5. Continued Public Hearing**

23 **Case 671-AM-10** Petitioner: **James Finger, President and Lisa M. Feig, Vice President, d.b.a. Triad**
24 **Shredding, Inc.** Request: **Amend the Zoning Map to change the district designation from the AG-2**
25 **Agriculture Zoning District to the B-4 General Business District to allow Triad Shredding to construct**
26 **a new facility as requested in related Case 672-S-10. Location: A 4.35 acre tract in the East Half of the**
27 **East Half of the Southwest Quarter of the southeast Quarter of Section 33 of Harwood Township and**
28 **commonly known as the Triad Shredding property at 2074 CR 3000N (US136), Rantoul.**

29 **Case 672-S-10** Petitioner: **James Finger, President and Lisa M. Feig, Vice President, d.b.a. Triad**

1 this use, especially given the low amount of traffic, and he would be surprised if there are any changes
 2 required by IDOT. He said that if there are any changes that the Petitioner desires then those changes should
 3 be reviewed by IDOT. He said that Mr. Knight spoke to a permit technician at IDOT and they indicated that
 4 he would try to contact the petitioners, although it is unknown if this was done yet. Mr. Hall stated that the
 5 above condition is a standard condition that the Board reviews when properties front roadways under IDOT
 6 jurisdiction.

7
 8 Mr. Hall noted that there are five new items which actually appear in both the map amendment and the
 9 special use permit and they are all very favorable for the project. He said that in order to save time he will
 10 read the new evidence and all of the evidence that he will read, with the exception of the last one, will be
 11 added to both the map amendment and the special use finding of facts. He said that the last item of evidence
 12 is exclusively for the map amendment.

13
 14 Mr. Hall stated that the following should be added as new Item 12.C(1) on page 11 of 31 and new Item
 15 #13.B(1)(c) on page 16 of 31 of the Finding of Fact for Case 671-AM-10, and new Item #7.H on page 8 of
 16 24 of the Summary of Evidence for Case 672-S-10: In a phone call with J.R. Knight, Associate Planner, on
 17 August 4, 2010, co-petitioner Lisa Feig indicated the following: i: The petitioners discussed locating their
 18 business in the Rantoul Industrial Park but the Village did not want to locate a business such as Triad
 19 Shredding on any available properties; and ii: The petitioners discussed locating their business on properties
 20 in the former Chanute Air Base, but those properties are not under the Village of Rantoul’s jurisdiction yet.

21
 22 Mr. Hall stated that the existing evidence for Item #12.D(3) should be renumbered as Item #12.D(3)(a) and
 23 the following added as new Item # 12.D(3)(b) on page 13 of 31; and the second sentence of Item #13.C(1)
 24 should be replaced with the following on page 18 of 31 of the Finding of Fact for Case 671-AM-010; and the
 25 second sentence of existing Item #8.E. should be replaced with the following on page 10 of 24 of the
 26 Summary of Evidence for Case 672-S-10: In a phone conversation with J.R. Knight, Associate Planner, on
 27 August 9, 2010, Chief Rich McFadden of the Gifford Fire Protection District indicated that the Triad
 28 Shredding property had been discussed at an officer’s meeting of the fire department and no issues or
 29 concerns were raised.

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 31 Mr. Hall stated that the existing evidence for Item #3.B(3) should be renumbered as Item #13.B(3)(a) and the
 32 following added as new Item #13.B(3)(b) on page 17 of 31 of the Finding of Fact for Case 671-AM-10, and
 33 the following should be added as new Item #8.N, renumbering as necessary on page 12 of 24 of the
 34 Summary of Evidence for Case 672-S-10: An EcoCAT report from the Illinois Department of Natural
 35 Resources indicated there are no endangered species of Illinois Natural Areas Inventory (INAI) sites in the
 36 vicinity of the subject property.

37
 38 Mr. Hall stated that the following should be added as new Item #15.B(1)(c) on page 20 of 31 of the finding
 39 of Fact for Case 671-AM-10, and revised Item #8.D(2) on page 9 of 24 of the Summary of Evidence for
 40 Case 672-S-10: A condition has been proposed to require the petitioners to meet any IDOT requirements
 41 regarding their driveway entrance to US136.

42
 43 Mr. Hall stated that the following should be added as new Item #16.E(2) and new Item #16.F on page 23 of

1 31 of the Finding of Fact for Case 671-AM-10: (2) Policy 8.5.2 states, “The County will require in its
2 discretionary review that new development causes no more than minimal disturbance to the stream corridor
3 environment.” The proposed rezoning CONFORMS to Policy 8.5.2 because of the following: (a) An
4 EcoCAT report from the Illinois Department of Natural Resources indicated there are no Illinois Natural
5 Areas Inventory (INAI) sites in the vicinity of the subject property. (b) The proposed use will not affect the
6 stream corridor, which is under the jurisdiction of the Dillsburg Special Drainage District. He continued to
7 F. Objective 8.6 states, “Champaign County will encourage resource management which avoids loss or
8 degradation of areas representative of the pre-settlement environment and other areas that provide habitat for
9 native and game species.” The proposed rezoning ACHIEVES Objective 8.6 because of the following: 1.
10 Objective 8.6 has six subsidiary Policies. Policies 8.6.1, 8.6.5, and 8.6.6 do not appear to be relevant to the
11 proposed rezoning; and 2. Policy 8.6.2 is as follows: a. For new development, the County will require land
12 use patterns, site design standards and land management practices to minimize the disturbance of existing
13 areas that provide habitat for native and game species, or to mitigate the impacts of unavoidable disturbance
14 to such areas. He said that he will not read Item b. because it does not relate to the proposed rezoning
15 although it should remain because it is part of the policy. He continued to read that the proposed rezoning
16 CONFORMS to policy 8.6.2 because of the following: (1) An EcoCAT report from the Illinois Department
17 of Natural Resources indicated there are no threatened or endangered species in the vicinity of the subject
18 property; and (2) An EcoCAT report from the Illinois Department of Natural Resources indicated there are
19 no INAI sites in the vicinity of the subject property. 3. Policy 8.6.3 states, “For discretionary development,
20 the County will use the Illinois Natural Areas Inventory and other scientific sources of information to
21 identify priority areas for protection or which offer the potential for restoration, preservation, or
22 enhancement.” The proposed rezoning CONFORMS to Policy 8.6.3 because an EcoCAT report from the
23 Illinois Department of Natural Resources indicated there are no INAI sites in the vicinity of the subject
24 property; and 4. Policy 8.6.4 states, “The County will require implementation of IDNR recommendations
25 for discretionary development sites that contain endangered or threatened species, and will seek to ensure
26 that recommended management practices are maintained on such sites.” The proposed rezoning
27 CONFORMS to Policy 8.6.4 because an EcoCAT report from the Illinois Department of Natural Resources
28 indicated there are no endangered or threatened species in the vicinity of the subject property.
29

30 Mr. Hall stated that the attachment to the Supplemental Memorandum dated August 12, 2010, is the
31 EcoCAT report which documents that staff checked and there were no relevant resources in the vicinity. He
32 said that he also distributed a separate attachment relating to Case 672-S-10. He said that staff realized that
33 during the review of Item #9 of the special use case, which has to do with preserving the essential character
34 of the district, the simple approach to the case is that it is a rezoning to B-4 and the use preserves the
35 character of the B-4 district as an authorized use. He said that a more realistic view would recognize that
36 this is B-4 surrounded by AG-2 and there are no concerns about spot zoning and it conforms to all of the
37 County’s policies therefore staff would recommend that Item 9.E. be revised as follows: Regarding the
38 requirement that the Special Use preserve the essential character of the district: (1) In regards to the
39 proposed B-4 General Business Zoning District that is the subject of related Case 671-AM-10, the proposed
40 use is non-hazardous materials recycling (all indoors), which is a business use and thus is assumed to part of
41 the essential character of the B-4 District; and (2) In regards to the AG-2 District that borders each side of
42 the property the proposed Special Use preserves the essential character of the AG-2 District because of the
43 following: (a) the proposed Special Use is similar to a Truck Terminal or Contractor Facility which are both

1 authorized by Special Use Permit in the AG-2 District; and (b) As documented in related Case 671-AM-10
2 the proposed Special Use does not generate any wastewater as part of the business operations; and will have
3 buildings that are similar to large agricultural pole barns; and is a use that is provided better in a rural area;
4 and (c) As documented in related Case 671-AM-10 the proposed Special Use and rezoning will not interfere
5 with surrounding agricultural activities or negatively affect agricultural drainage systems, rural roads, or
6 other agriculture related infrastructure; and (d) A special condition in related Case 671-AM-10 will limit
7 wastewater generation from business uses on the subject property to the equivalent of a three bedroom
8 dwelling.

9
10 Mr. Hall noted that tonight is the first time that the Petitioners have had the opportunity to review the
11 proposed special condition.

12
13 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

14
15 Mr. Bluhm called Mr. Jim Finger to testify.

16
17 Mr. Jim Finger, President of Triad Shredding Corp. thanked the Board for convening tonight's meeting to
18 accommodate their request. He said that this is the first time that he has seen the proposed special condition
19 regarding the existing driveway entrance. He said that they are not planning on changing the entrance
20 because it is approximately 40 feet wide and the previous owner drove a semi. He said that over the past
21 five years they had looked at approximately 54 different properties in and around the Rantoul area.

22
23 Mr. Bluhm asked the Board if there were any questions for Mr. Finger.

24
25 Mr. Schroeder asked Mr. Finger if he has any response from the neighbors about the proposed use.

26
27 Mr. Finger stated that he has only received positive feedback. He said that many of the neighbors did not
28 realize that there was a problem with the proposed use and zoning because the property previously housed a
29 meat locker.

30
31 Mr. Bluhm asked Mr. Finger if he had any issues with the special condition.

32
33 Mr. Finger stated no.

34
35 Mr. Palmgren asked Mr. Finger if there will be any noise issues with the proposed use and its machinery.

36
37 Mr. Finger stated that they use very large industrial machinery and they currently operate within a building
38 which has tenants on the opposite side of the wall and they have never received a complaint from those
39 tenants. He said that the nearest neighbor from the subject property is approximately 500 feet therefore he
40 does not see a big issue with the noise. He said that the building will be well insulated.

41
42 Mr. Bluhm asked the Board if there were any additional questions for Mr. Finger and there were none.

1 Mr. Bluhm asked if staff had any questions for Mr. Finger and there were none.

2
3 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Finger and there was no one.

4
5 Mr. Bluhm asked the audience if anyone would like to sign the witness register to present testimony
6 regarding Cases 671-AM-10 and 672-S-10 and there was no one.

7
8 Mr. Bluhm closed the witness register.

9
10 Mr. Bluhm asked Mr. Hall if an item of evidence should be added indicating Mr. Finger’s testimony
11 regarding the fact that they have looked at approximately 54 properties within the last five years.

12
13 Mr. Hall stated that it is good that the Petitioner can actually give that kind of detailed evidence. He said
14 that the testimony is most relevant to Objective 5 which states “Champaign County will encourage urban
15 development that is compact and contiguous to existing cities, villages, and existing unincorporated
16 settlements.” He said that Policy 5.1.1 states “The County will encourage new urban development to occur
17 within the boundaries of incorporated municipalities.” He said that the new evidence that was in the
18 memorandum regarding Mr. Knight’s discussion with Lisa Feig would also be relevant. He said that a new
19 Item #13.A(2)(g) could be added to page 16 for Case 671-AM-10 which would state the following: Co-
20 Petitioner Jim Finger testified at the August 12, 2010, public hearing that the petitioners have looked at 54
21 properties in the past five years in the Rantoul vicinity and none were adequate or as well suited to the
22 proposed use as the subject property.

23
24 Mr. Knight stated that the same item could be added as new Item #7.I for the special use indicating public
25 convenience.

26
27 Mr. Bluhm asked staff if there were any new items of evidence to add to the Documents of Record.

28
29 Mr. Hall stated that he would change the numbering and Item #6 should be the Supplemental Memorandum
30 for Cases 671-AM-10 and 672-S-10 dated August 12, 2010, with attachment. He said that Item #7 should be
31 Revised Item #9.E. in Case 672-S-10 Handout distributed at the August 12, 2010, public hearing; and Item
32 #8 should be All Documents of Record for the related Zoning Case, which will be included in both cases.

33
34 Mr. Bluhm stated that the Board will review the special conditions for Case 671-AM-10 at this time.

35
36 Mr. Bluhm read the special conditions as follows:

- 37
38 **A. The owners of the subject property hereby recognize and provide for the right**
39 **of agricultural activities to continue on adjacent land consistent with the Right**
40 **to Farm Resolution 3425.**

41 The above special condition is necessary to ensure the following:

42 **Provide conformance with policies 4.2.3 and 5.1.5.**

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- B. Business use of the entire property shall not generate more wastewater than the equivalent of a three bedroom dwelling as specified in the *Illinois Private Sewage Disposal Licensing Code*.
The above stated special condition is necessary to ensure the following:
No use that is otherwise allowed in the B-4 General Business Zoning District, but is not appropriate in a rural setting or best served by public sanitary sewer, Is established on the subject property.**

- C. The Zoning Administrator shall not approve a Zoning Use Permit on the subject property without a letter from the Champaign county Health Department certifying as follows:**
 - (a) The proposed use will not generate more wastewater than a three bedroom dwelling; and**
 - (b) In the case that a new onsite wastewater disposal system is installed, the owner has consulted with the County Health Department and has identified the most appropriate location on the property for a wastewater treatment and disposal system and said location will be fenced and protected during other construction activities.**
 - (c) In the case that an existing wastewater treatment and disposal system is used, the owner has consulted with the County Health Department and has determined whether the existing system is adequate for the proposed use of the property, identified the location of the existing system, and that said location will be fenced and protected during construction activities.**
The above stated special condition is necessary to ensure the following:
The use of an existing onsite wastewater treatment and disposal system or the installation of a new system complies with all relevant and necessary requirements enforced by the Champaign County Health Department.

- D. The zoning Administrator shall not approve any Zoning Use Permit on the subject property unless the Zoning Use Permit Application includes floor plans for all buildings that explicitly indicate whether floor drains will be provided.**
The above stated special condition is necessary to ensure the following:
The Zoning Administrator is able to review building plans for floor drains and ensure that proper procedures are followed in their installation.

- E. The Zoning Administrator shall not approve a Zoning Compliance Certificate without the following documentation:**
 - (a) Any floor drain must have been approved by the Illinois Plumbing Code Inspector.**
 - (b) If the Certificate is approved after July 1, 2011, there must be a certification that the building complies with the 2006 edition of the International Building Code as required by 20 ILCS 3105/10.09-1.**

- F. 1. The petitioners shall provide IDOT with all information necessary to either approve the existing driveway for the proposed use or to determine what improvements are necessary to meet IDOT standards.
- 2. The Zoning Administrator shall not approve a Zoning Use Permit for the subject property without documentation of IDOT’s approval of either the existing driveway entrance or the existing driveway with recommended proposed necessary improvements.
- 3. The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of IDOT’s approval of any newly constructed driveway entrance including any necessary as-built engineering drawings.

The special conditions stated above are required to ensure the following:
All traffic related to the proposed use can safely enter and exit the subject property with adequate visibility and regardless of weather conditions.

Mr. Bluhm asked the Petitioners if they were agreeable to the special conditions.

Mr. Finger asked if, in the future, the property is sold would it remain under the B-4 zoning.

Mr. Hall stated yes.

Mr. Finger stated that they are agreeable to the special conditions.

Mr. Schroeder moved, seconded by Mr. Courson to accept the special conditions for Case 671-AM-10. The motion carried by voice vote.

Mr. Bluhm stated that Items #12, #12.C, #13, #13.A of the Supplemental Memorandum dated August 6, 2010, indicate that they require Board action in regards to ACHIEVES/DOES NOT ACHIEVE.

Mr. Hall stated that at a staff level everything is either ACHIEVES or CONFORMS.

Mr. Palmgren moved, seconded by Mr. Courson to accept staff’s recommendations regarding ACHIEVES and CONFORMS. The motion carried by voice vote.

Mr. Schroeder moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended for Case 671-AM-10. The motion carried by voice vote.

Mr. Courson moved, seconded by Mr. Palmgren to close the public hearing for Case 671-AM-10. The motion carried by voice vote.

Mr. Bluhm informed the petitioners that three Board members are absent from tonight’s meeting therefore it is at their discretion to either continue Case 671-AM-10 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

Mr. Finger requested that the present Board move forward to the Final Determination.

Final Determination for Case 671-AM-10:

Mr. Palmgren moved, seconded by Mr. Schroeder that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the rezoning requested in Case 671-AM-10 should BE ENACTED by the County Board in the form attached hereto. Subject to the following special conditions:

A. The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.

The above special condition is necessary to ensure the following:
Provide conformance with policies 4.2.3 and 5.1.5.

B. Business use of the entire property shall not generate more wastewater than the equivalent of a three bedroom dwelling as specified in the *Illinois Private Sewage Disposal Licensing Code*.

The above stated special condition is necessary to ensure the following:
No use that is otherwise allowed in the B-4 General Business Zoning District, but is not appropriate in a rural setting or best served by public sanitary sewer, Is established on the subject property.

C. The Zoning Administrator shall not approve a Zoning Use Permit on the subject property without a letter from the Champaign county Health Department certifying as follows:

- (a) The proposed use will not generate more wastewater than a three bedroom dwelling; and
- (b) In the case that a new onsite wastewater disposal system is installed, the owner has consulted with the County Health Department and has identified the most appropriate location on the property for a wastewater treatment and disposal system and said location will be fenced and protected during other construction activities.
- (c) In the case that an existing wastewater treatment and disposal system is used, the owner has consulted with the County Health Department and has determined whether the existing system is adequate for the proposed use of the property, identified the location of the existing system, and that said location will be fenced and protected during construction activities.

The above stated special condition is necessary to ensure the following:
The use of an existing onsite wastewater treatment and disposal system or the installation of a new system complies with all relevant and necessary requirements enforced by the Champaign County Health Department.

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- D. **The Zoning Administrator shall not approve any Zoning Use Permit on the subject property unless the Zoning Use Permit Application includes floor plans for all buildings that explicitly indicate whether floor drains will be provided. The above stated special condition is necessary to ensure the following: The Zoning Administrator is able to review building plans for floor drains and ensure that proper procedures are followed in their installation.**

- E. **The Zoning Administrator shall not approve a Zoning Compliance Certificate without the following documentation:**
 - (a) **Any floor drain must have been approved by the Illinois Plumbing Code Inspector.**
 - (b) **If the Certificate is approved after July 1, 2011, there must be a certification that the building complies with the 2006 edition of the International Building Code as required by 20 ILCS 3105/10.09-1.**

- F. **1. The petitioners shall provide IDOT with all information necessary to either approve the existing driveway for the proposed use or to determine what improvements are necessary to meet IDOT standards.**
 - 2. The Zoning Administrator shall not approve a Zoning Use Permit for the subject property without documentation of IDOT’s approval of either the existing driveway entrance or the existing driveway with recommended proposed necessary improvements.**
 - 3. The Zoning Administrator shall not issue a Zoning Compliance Certificate without documentation of IDOT’s approval of any newly constructed driveway entrance including any necessary as-built engineering drawings.**

The special conditions stated above are required to ensure the following:
All traffic related to the proposed use can safely enter and exit the subject property with adequate visibility and regardless of weather conditions.

The roll was called:

Courson-yes	Palmgren-yes	Schroeder-yes
Bluhm-yes	Capel-absent	Miller-absent
Thorsland-absent		

Mr. Bluhm stated that the Board will now review the special conditions for Case 672-S-10. He read the two special conditions as follows:

- A. **The Special Use Permit in this case shall be considered null and void if the rezoning of the subject property in related Zoning Case 671-AM-10 is denied by the Champaign County Board.**
 The above stated special condition is necessary to ensure the following:

There is no confusion regarding the approval of this case if the related rezoning is denied.

- B. If more than 3,138 square feet of impervious area is added to the subject property in addition to what is proposed in this case, the stormwater detention requirement of the Champaign County Stormwater Management Policy will apply.**
The above stated special condition is necessary to ensure the following:
The requirements of the Champaign County Stormwater Management Policy are met at such time as they apply to the subject property.

Mr. Bluhm asked staff if there were any corrections, additions or deletions regarding Case 672-S-10.

Mr. Hall stated that on Page 18 of 24 of the Revised Draft Summary of Evidence dated August 6, 2010, the first sentence in Item #11.1 should be renumbered to 11.A. and the second sentence in Item #11(1) should be renumbered to 11.B and revised as follows: In a phone conversation with J.R. Knight, Associate Planner, on August 9, 2010, Chief Rich McFadden of the Gifford Fire Protection District indicated that the Triad Shredding property had been discussed at an officer’s meeting of the fire department and no issues or concerns were raised.

Mr. Bluhm asked the petitioners if they were agreeable to the special conditions.

Mr. Finger indicated that they were agreeable to the special conditions.

Mr. Schroeder moved, seconded by Mr. Courson to accept the special conditions for Case 672-S-10. The motion carried by voice vote.

Mr. Hall stated that in a case like this where there is a special use and a map amendment the Board has some discretion. He said that the Board could continue the special use and see what action the County Board takes but he believes that it is unlikely that there will be any concerns or things happen at the County Board that would require the ZBA to change the special use permit for. He said that if the ZBA moves forward and approves the special use it would send a signal to the County Board that the ZBA is very confident of their recommendation of the map amendment. He reminded the Board that it is their call as to whether to take action tonight or wait until the County Board makes their determination. He said that Special Condition A. was included assuming that the ZBA would want to take action tonight.

The consensus of the present Board was to move forward.

Finding of Fact for Case 672-S-10:

From the documents of record and the testimony and exhibits received at the public hearing for Case 672-S-10 held on July 29, 2010, and August 12, 2010, the Zoning Board of Appeals of Champaign County finds that:

- 1 1. **The requested Special Use Permit, subject to the special conditions imposed herein,**
2 **IS necessary for the public convenience at this location.**
3

4 Mr. Palmgren stated that the requested Special Use Permit, subject to the special conditions imposed herein,
5 IS necessary for the public convenience at this location because the petitioner testified that over the past five
6 years they had looked at approximately 54 different properties in and around the Rantoul area. He said that
7 Triad Shredding is an existing non-conforming use that will be located along a highway.
8

9 Mr. Hall stated that Triad Shredding is not an existing non-conforming use. He said that there has been a
10 non-conforming business use on the subject property in years past.
11

12 Mr. Palmgren corrected his statement in that there has been an existing non-conforming use, a slaughter
13 house, on the subject property in the past.
14

15 Mr. Bluhm stated that the subject property is centrally located to the businesses that it serves.
16

- 17 2. **The requested Special Use Permit, subject to the special conditions imposed herein,**
18 **is so designed, located and proposed to be operated so that it WILL NOT be**
19 **injurious to the district in which it shall be located or otherwise detrimental to the**
20 **public health, safety, and welfare.**
21

- 22 a. **The street has ADEQUATE traffic capacity and the entrance location has**
23 **ADEQUATE visibility.**
24

25 Mr. Courson stated that the street has ADEQUATE traffic capacity and the entrance location has
26 ADEQUATE visibility.
27

- 28 b. **Emergency services availability is ADEQUATE.**
29

30 Mr. Courson stated that emergency services availability is ADEQUATE because of the phone conversation
31 that staff had with Chief Rich McFadden of the Gifford Fire Protection District indicating that no issues or
32 concerns were raised.
33

34 Mr. Palmgren stated that the subject property is less than three miles from Gifford and is about the same
35 distance from emergency facilities in Rantoul.
36

- 37 c. **The Special Use will be designed to CONFORM to all relevant County**
38 **ordinances and codes.**
39

40 Mr. Courson stated that the Special Use will be designed to CONFORM to all relevant County ordinances
41 and codes.
42

- 43 d. **The Special Use WILL be compatible with adjacent uses.**

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Mr. Courson stated that the Special Use WILL be compatible with adjacent uses because the petitioner indicated that their buildings will be constructed as a pole barn style building that are quite common in rural areas.

Mr. Bluhm stated that the petitioner testified that no complaints have been received from adjoining tenants in which they share their existing location regarding noise.

e. Surface and subsurface drainage will be ADEQUATE.

Mr. Palmgren stated that surface and subsurface drainage will be ADEQUATE because the letter from Bruce Stickers of the Champaign County Soil and Water Conservation District, received on July 27, 2010, indicates that there are no issues and there are no wastewater generation problems.

f. Public safety will be ADEQUATE.

Mr. Palmgren stated that public safety will be ADEQUATE.

g. The provisions for parking will be ADEQUATE.

Mr. Schroeder stated that the provisions for parking will be ADEQUATE.

Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

3. a. The requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the District in which it is located.

Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the District in which it is located.

b. The requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the District in which it is located because:

- a. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.**
- b. The Special Use WILL be compatible with adjacent uses.**
- c. Public safety will be ADEQUATE.**

1 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein
2 DOES preserve the essential character of the District in which it is located because: a. the Special Use will
3 be designed to CONFORM to all relevant County ordinances and codes; and b. the Special Use WILL be
4 compatible with adjacent uses; and c. public safety will be ADEQUATE.
5

6 **4. The requested Special Use Permit, subject to the special conditions imposed herein,
7 IS in harmony with the general purpose and intent of the Ordinance because:**
8

9 **a. The Special Use is authorized in the District**

10 **b. The requested Special Use IS necessary for the public convenience at this
11 location.**

12 **c. The requested Special Use Permit, subject to the special conditions imposed
13 herein, is so designed, located and proposed to be operated so that it WILL
14 NOT be injurious to the district in which it shall be located or otherwise
15 detrimental to the public health, safety and welfare.**

16 **d. The requested Special Use Permit, subject to the special conditions imposed
17 herein, DOES preserve the essential character of the District in which it is
18 located.**
19

20 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein,
21 IS in harmony with the general purpose and intent of the Ordinance because: a. the Special Use is authorized
22 in the District; and b. the requested Special Use Permit IS necessary for the public convenience at this
23 location; and c. The requested Special Use Permit, subject to the special conditions imposed herein, is so
24 designed, located and proposed to be operated so that it WILL NOT be injurious to the district in which it
25 shall be located or otherwise detrimental to the public health, safety and welfare; and d. the requested Special
26 Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the
27 District in which it is located.
28

29 **5. The requested Special Use IS NOT an existing nonconforming use.**
30

31 Mr. Palmgren stated that the requested Special Use IS NOT an existing nonconforming use.
32

33 **6. The Special Conditions imposed herein are required to ensure compliance with the
34 criteria for Special Use Permits and for the particular purposes described below:**
35

36 **A. The Special Use Permit in this case shall be considered null and void if the rezoning
37 of the subject property in related Zoning Case 671-AM-10 is denied by the
38 Champaign County Board.**

39 The above stated special condition is necessary to ensure the following:

40 **There is no confusion regarding the approval of this case if the related rezoning
41 is denied.**
42

43 **B. If more than 3,138 square feet of impervious area is added to the subject property**

in addition to what is proposed in this case, the stormwater detention requirement of the Champaign County Stormwater Management Policy will apply.

The above stated special condition is necessary to ensure the following:

The requirements of the Champaign County Stormwater Management Policy are met at such time as they apply to the subject property.

Mr. Schroeder moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended. The motion carried by voice vote.

Mr. Courson moved, seconded by Mr. Palmgren to close the public hearing for Case 672-S-10. The motion carried by voice vote.

Mr. Bluhm informed the petitioners that three Board members are absent from tonight’s meeting therefore it is at their discretion to either continue Case 672-S-10 until a full Board is present or request that the present Board move forward to the Final Determination. He informed the petitioners that four affirmative votes are required for approval.

Mr. Finger requested that the present Board move forward to the Final Determination.

Final Determination for Case 672-S-10:

Mr. Palmgren moved, seconded by Mr. Courson that 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 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 672-S-10 is hereby GRANTED WITH SPECIAL CONDITIONS, to the petitioners James Finger, President, and Lisa M. Feig, Vice President, d.b.a. Triad Shredding Corp to authorize Triad Shredding to do recycling of nonhazardous materials (confidential paper shredding and recycling) with all processing and storage of materials taking place indoors in the B-4 General Business Zoning District (the subject of related Zoning Case 671-AM-10). Subject to the following special conditions:

A. The Special Use Permit in this case shall be considered null and void if the rezoning of the subject property in related Zoning Case 671-AM-10 is denied by the Champaign County Board.

The above stated special condition is necessary to ensure the following:

There is no confusion regarding the approval of this case if the related rezoning is denied.

B. If more than 3,138 square feet of impervious area is added to the subject property in addition to what is proposed in this case, the stormwater detention requirement of the Champaign County Stormwater Management Policy will apply.

The above stated special condition is necessary to ensure the following:

The requirements of the Champaign County Stormwater Management Policy are met at such time as they apply to the subject property.

The roll was called:

Palmgren-yes	Schroeder-yes	Courson-yes
Bluhm-yes	Capel-absent	Miller-absent
Thorsland-absent		

Mr. Hall informed Mr. Finger that the Board has recommended an approval for the map amendment and an approval for the special use. He said that the map amendment will be forwarded to the Champaign County Board Committee of the Whole on September 7, 2010, with presumable final action by the full County Board on September 23rd.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

A. June and July, 2010 Monthly Reports

Mr. Hall stated that the monthly reports are supplied to the Board as information only. He said that except for zoning cases staff is seeing less of everything else than in previous years. He said staff will be seeking direction from the Committee of the Whole for two big text amendments at the September meeting. He said that at the end of July 2010 there were 17 cases filed in 2010 versus 12 at the end of July, 2009. He said that 2009 ended with 16 cases total therefore the Board will complete at least three more cases than they did in 2009 and if any additional cases are received from the private sector the Board will complete even more. He said that in terms of permitting the numbers are much lower than they were in 2009. He said that a lot of progress has been made by staff to reduce the backlog of enforcement cases and big strides have been made in completion of the backlog of compliance inspections. He said that staff has been doing at least as much in terms of activity but it is mainly in the way of catching up on backlogs.

Mr. Schroeder stated that, especially in regards to the previously heard cases, he appreciates staff and the petitioners bringing everything to the Board for review without having to continually request additional information. He said that such a practice makes the Board's work much easier.

9. Audience Participation with respect to matters other than cases pending before the Board

None

8-10-10

DRAFT

SUBJECT TO APPROVAL

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10. Adjournment

The meeting adjourned at 7:57 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

1 **MINUTES OF REGULAR MEETING**

2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

3 1776 E. Washington Street
4 Urbana, IL 61801

5 **DATE:** August 26, 2010

6 **PLACE:** Lyle Shields Meeting Room
7 1776 East Washington Street
8 Urbana, IL 61802

9 **TIME:** 7:00 p.m.

10 **MEMBERS PRESENT:** Doug Bluhm, Catherine Capel, Thomas Courson, Roger Miller, Melvin
11 Schroeder, Eric Thorsland, Paul Palmgren

12 **MEMBERS ABSENT :** None

13 **STAFF PRESENT :** Lori Busboom, John Hall, J.R. Knight, Christina Papavasiliou (Assistant
14 State's Attorney)

15 **OTHERS PRESENT :** Neal Toler, Jeff Tock, Donna Parkinson, Ray Parkinson, Jay Hageman, Jed
16 Gerdes, Terry Ladage, Carl Smith, Shawn Walker, Dwight Farber

17 **1. Call to Order**

18 The meeting was called to order at 7:05 P.M.

19 **2. Roll Call and Declaration of Quorum**

20 The roll was called and a quorum declared present.

21 **3. Correspondence**

22 None

23 **4. Approval of Minutes**

24 None

25 **Mr. Thorsland moved, seconded by Ms. Capel to rearrange the agenda and hear Case 673-V-10, Harl
26 and Donna Parkinson prior to Case 645-S-09, Robert and Barbara Gerdes. The motion carried by
27 voice vote.**

28 **5. Continued Public Hearing**

29 **Case 645-S-09 Petitioner: Robert and Barbara Gerdes Request to authorize the construction and use
30 of a "Restricted Landing Area" as a Special Use in the AG-1 Agriculture Zoning District. Location:
31 An approximately 83 acre tract that is approximately the West Half of the Southwest Quarter of**

1 Section 33 of Ayers Township and commonly known as the farm at 52 CR 2700E, Broadlands.

2
3 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
4 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands
5 for those who would like to cross examine and each person will be called upon. He requested that anyone
6 called to cross examine go to the cross examination microphone to ask any questions. He said that those
7 who desire to cross examine are not required to sign the witness register but are requested to clearly state
8 their name before asking any questions. He noted that no new testimony is to be given during the cross
9 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
10 from cross examination.

11
12 Mr. Hall stated that there is no new memorandum for this case tonight. He clarified that the mailing
13 included the Supplemental Memorandum with all attachments listed except for the attachment titled, "Tables
14 Comparing Relevant Evidence for the Finding of Fact" which was inserted into the packet at the minute. He
15 said that the new attachment should be added as an item to the Documents of Record. He said that he did
16 find out from the State's Attorney that the court has joined the State with the case, Illinois Department of
17 Transportation Division of Aeronautics and the court has asked for information from IDOT.

18
19 Ms. Papavasiliou stated that when another party joins a case a complaint has to be re-filed and then a 60 day
20 time period is allowed for response. She said that Mr. Tock informed her that they intend to re-file within 10
21 days.

22
23 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

24
25 Mr. Bluhm called Mr. Jeff Tock to testify.

26
27 Mr. Jeff Tock, attorney representing the petitioners, stated that he would like to attempt to go through the
28 case based upon the attachment titled, "Tables Comparing Relevant Evidence for the Finding of Fact." He
29 said that he thought that this might be an orderly way of trying to approach the elements of what is being
30 proposed.

31
32 Mr. Tock stated that page 1 of the Table compares relevant evidence for the Finding that the Proposed
33 Special Use is necessary for public convenience. He said that Section 9.1.11.B. Special Use Criteria of the
34 *Champaign County Zoning Ordinance* states that a Special Use permit shall not be granted by the Board
35 unless the public hearing record and written application demonstrate: 1. that it is necessary for the public
36 convenience at this location. He said that if the Board would review the types of uses listed under Section
37 6.1.3 Schedule of Requirements and Standard Conditions the Board would find, in his opinion, more public
38 uses rather than private uses. He said that government buildings, airports, amusement parks, cemeteries,
39 electrical substation, fairgrounds, are all things that are for public use. He said that for a public use being
40 proposed it seems fair that the petitioner would need to show that the use is for the public convenience at
41 that specific location. He said that he is troubled by the requirement of the *Zoning Ordinance* where they are
42 asking for a Special Use for a restricted landing area which by definition is a private use. He said that RLA's
43 are defined by the *Illinois Administrative Code* as a private use and airports are referred to as a public use

1 therefore the distinction between an airport and restricted landing area is that one is public and one is private.
2 He said that from the beginning the *Zoning Ordinance* requires that a public convenience must be proven for
3 a private use which is impossible because it is difficult to show public convenience for a private use. He
4 said that you can't have a public use with a private convenience therefore he does not believe that this aspect
5 of the *Zoning Ordinance* should apply.
6

7 Mr. Tock stated that there have been past cases where RLA's have come before this Board and the same
8 criteria was looked at where there was a restricted landing area. He said that in 1988 Case 672-S-88, Stu
9 Moment, the petitioner, indicated that his RLA would be used for aerial surveying purposes. Mr. Tock
10 stated that it appears that the use in Mr. Moment's case was a private use on his own land. Mr. Tock stated
11 that Mr. Moment also indicated that a fertilizer company would be invited and the RLA could be utilized for
12 general inspection of farmer's crops. Mr. Tock stated that he could not find anything in the record which
13 indicated that Mr. Moment's RLA was necessary for public convenience at that location.
14

15 Mr. Tock stated that in August, 1990 Case 724-S-90, Dean Schwenk, the petitioner, indicated that the RLA
16 would be used for his own private plane and recreational purposes only. Mr. Schwenk also indicated that on
17 occasion the airstrip may be used by his guests and his son would also be flying. Mr. Tock stated that the
18 ZBA stated that the proposed use was necessary for public convenience at the proposed location because it
19 would be a good location for crop dusting uses and that it should not be injurious to the area in which it is
20 located because it is not in a residential area. Mr. Tock stated that even though Mr. Schwenk admitted that
21 the RLA would be used for recreational use the ZBA indicated that the RLA could also be used for crop
22 dusting therefore it is a good use for the public in that location.
23

24 Mr. Tock stated that in 1991 Case 750-S-91, Lowell Routh, the petitioner, indicated that he desired to
25 establish an airstrip for not only private use but for possible emergency landings and crop dusting emergency
26 landings if needed. He said that there was a statement at the public hearing that the petitioner must show
27 that the request is necessary for the public convenience and the petitioner stated it was three to five miles to
28 the nearest landing strip and the requested RLA is located in an area out in the middle of no where. He said
29 that the ZBA indicated that to grant the request would provide a convenience to the general public because it
30 would provide for an emergency landing and crop dusting emergency landings in this area. He said that
31 those interpretations of the *Zoning Ordinance* indicating that this was a public convenience also applies to
32 the application made by the Gerdes family because their RLA will be used for crop dusting, seed application,
33 herbicide, pesticide, fungicide and will be available for emergency landings and other crop dusting. He said
34 that there is nothing in the record of any one of the previous cases that indicates that this is a public use in
35 any way therefore how can the Board consider this as a public convenience when it is really a private use. He
36 said that it would make it difficult for the Board to make this type of interpretation and it makes it difficult
37 for him to make the argument when it is an oxymoron.
38

39 Mr. Tock stated that there has been some discussion if the use of the RLA is appropriate or generally needed
40 by agriculture. He said that Jed Gerdes indicated that he applies rye grass as a cover crop and does it by
41 aerial application and the response was that there has not been any other farmer who has come in and
42 indicated that they need to have an air strip for aerial application of a cover crop. Mr. Tock stated that this
43 has created a vacuum as to whether or not this is something that is recognized in agriculture as an

1 appropriate way to apply the cover crop of rye grass over growing corn. He submitted a handout, on behalf
2 of the Gerdes family, from the Natural Resources Conservation Service regarding cover crop conservation
3 practices. He said that the cover crop, rye grass, is planted over growing corn so that when the corn is
4 harvested the growing rye grass is there to benefit the soil into next spring when soybeans will be planted.
5 He said that the first page of the handout indicates the following purposes for cover crop practices: 1. reduce
6 erosion from wind and water; 2. increase soil organic matter; and 3. manage excess nutrients in the soil
7 profile; and 4. promote biological nitrogen fixation; and 5. increase biodiversity; and 6. weed suppression;
8 and 7. provide supplemental forage; and 8. soil moisture management. He said that the second page
9 provides a chart which requires the method of seeding which may be by drill, broadcast or aerial application.
10 He said that this is a worksheet which is provided by the USDA/NRCS where they recognize the aerial
11 application of a cover crop. He said that also attached to the handout is Table 1. Common Cover Crops and
12 it indicates rye as the second listing which is easily established with rapid growth in fall and spring and has
13 allelopathic, weed killer properties. He said that he has provided this handout in support of the viability of
14 what Jed Gerdes is doing and how he is expanding his farming practice in working with the application of
15 rye grass by aerial means therefore requiring the requested RLA.

16
17 Mr. Tock submitted a letter dated August 26, 2010, from John Richard Reed, Reed's Fly-On Farming. Mr.
18 Tock said that Mr. Reed was unable to attend tonight's meeting but wanted to clarify his testimony of June
19 11, 2009. Mr. Tock stated that the testimony that Mr. Reed wanted to clarify was in reference to what the
20 impact would be if the setback from the runway to the nearest turbine was made less than 3,500 feet. Mr.
21 Reed previously stated that it is more difficult and dangerous to fly when there is a closer setback. Mr. Tock
22 stated that Mr. Reed's letter explains that it is desirable to have as great a setback as possible between a
23 runway and a 500 foot tower but if the towers are going to be moved closer than 3,500 feet setback, as
24 dictated by the *Champaign County Zoning Ordinance*, to only meet the setback that is established by IDOT
25 then even though it is closer to the runway it does not present a problem to him as a licensed, commercial,
26 experienced pilot and he can certainly operate within that setback without any difficulty.

27
28 Mr. Tock stated that it was pointed out in April by Carl Smith and verified by staff that trees had been
29 planted at the south end of the runway and along the east side of the proposed runway and that those were an
30 obstruction to the use of this runway that needed to be taken into consideration during the Board's approval
31 or denial of special use permit application. He submitted photographs which were taken during the week of
32 August 16th by Mr. Gerdes of the trees. Mr. Tock stated that the sheet with the two photographs on it was
33 taken from the soybean field on the Gerdes property and the first photograph is from the south end looking to
34 the south and the grass strip that is apparent is an unimproved ROW located in Douglas County. He said
35 that the second photograph on this sheet was taken at the edge of the Gerdes' field looking south into
36 Douglas County, south end of the runway, and the road which is indicated is Ayers Township Road 000N.
37 Mr. Tock stated that one of the photographs indicate a view looking to the west where trees, which most did
38 not survive, had been planted south of CR 000N by Carl Smith. Mr. Tock stated that if the Board is
39 concerned about the planting of 20 to 40 foot trees out there then this photograph will prove that this is not
40 the case. He said that the trees were only saplings when they were planted and many did not survive. He
41 said that if the saplings had survived in order to interfere with the runway they would need to grow to a
42 substantial size of 40 feet in height or more and at a growth rate of two feet a year it will be 20 years before
43 they would interfere with the runway. He said that he does not believe that the Board should take the trees

1 into consideration today as to whether or not these trees will create an impediment to the safe use of the
2 proposed restricted landing area. He noted that IDOT controls all of the RLA's and IDOT will review the
3 field to make sure that there are no obstructions at the time that they issue the permit for the restricted
4 landing area. He said that there is a self governing requirement that if at any point in time the field becomes
5 noncompliant, for instance the existence of trees interfering with the glide slopes and side setbacks as
6 established by IDOT, the operator is suppose to close the runway and self report it and then the State of
7 Illinois would decertify it and it would no longer be an approved restricted landing area. He said that if
8 sometime in the future the trees were to grow and become an impediment then the runway would be closed
9 down and would not be allowed to continue to operate.

10
11 Mr. Tock stated that another issue which has come up since the last time he was before the Board is the coal
12 mine in Vermilion County. He said that there was a map included as an attachment to the Supplemental
13 Memorandum dated August 20, 2010, which indicated the location of the coal mine area which extends
14 approximately one mile into Champaign County east of Broadlands and goes ten miles to the north and then
15 ten miles to the east. He said that during conversations between Mr. Hall and the representative from
16 Horizon Wind Energy it has been determined that it is very doubtful that any wind turbines will be located
17 within the area of the proposed coal mine. He said that this emphasizes that it is all speculation as to if or
18 when Horizon Wind Energy will ever put any wind turbines in this area. He said that Horizon has indicated
19 that they will not place wind turbines within the coal mine area therefore Mr. Hall has made the assumption
20 that Horizon may be pulling the wind turbines into Champaign County. Mr. Tock stated that he has heard
21 that the wind turbines that will be pulled into Champaign County will start at Broadlands and go north of
22 Sidney but all of this information is only speculation and it is inappropriate for the Board to consider the
23 speculative nature of what might happen. He said that a wind farm may never happen in Champaign County
24 and if there is one where will it be located. He said that in not knowing where the wind farm is going to be
25 located any action that the Board takes indicating that the RLA will not be approved because of the proposed
26 wind turbine farm is only speculation and the Board needs to address the facts which is that Horizon is
27 interested in the area but they have not committed to placing the turbines in the area.

28
29 Mr. Tock stated that there was a concern raised by staff that the RLA should not be approved because the
30 Board cannot guarantee the safety of what will happen in Vermilion and Douglas County. He said that this
31 concern is not within the Board's jurisdiction and the Board cannot guarantee everyone's safety everywhere.
32 He said that under the *Champaign County Zoning Ordinance* the Board must look at the setbacks and
33 determine what requirements can be imposed for the land or the land use that is located in Champaign
34 County, not what is in Douglas or Vermilion County. He said that it is the job of IDOT Division of
35 Aeronautics enforcing the glide path and the side setbacks and it is their job to assure that there are no
36 obstructions whether it is in Champaign, Douglas or Vermilion County. He said that the Board should only
37 enforce the Champaign County Zoning Ordinance and if something is beyond your jurisdiction then let
38 someone else address it. He requested that the Board base their decision on the facts and not conjecture.

39
40 Mr. Bluhm asked the Board if there were any questions for Mr. Tock and there were none.

41
42 Mr. Bluhm asked if staff had any questions for Mr. Tock and there were none.

1 Mr. Bluhm called Mr. Terry Ladage to testify.

2
3 Mr. Terry Ladage, who resides at 344 CR 1300N, Champaign distributed a one page handout to the Board
4 for review. He said that he resides in the west side of Champaign County on the Litchfield RLA and he is
5 present tonight to be able to answer questions and discuss with the Board what the RLA operations consist
6 of. He said that he has resided at his home location for over 40 years and he agrees with Mr. Tock's
7 testimony that an RLA is private property. He said that in order for someone else to utilize the RLA they
8 would have to be invited or otherwise there are issues of litigation, etc. He said that having the RLA
9 provides many benefits with regard to the absence of air traffic control operation that are at typical
10 commercial airports, terminals and airport security. He said that these are all issues that everyone takes for
11 granted but it amounts to time and real money for someone that has to go through an airport operation to do
12 his business. He said that obviously it provides greater latitude for any operation and yet we are all working
13 within the FAA confines and the Illinois DOT regulations makes certain that what they do is safe. He said
14 that there have been issues about the economics of what is being addressed which is a crop dusting operation
15 that must continuously return back and forth to the Mattoon area for reloading. He said that he just spoke to
16 Flightstar within the past two hours and the current cost of 100 gallons of low lead aviation fuel is \$5.40 per
17 gallon. He said that many of the crop dusters are averaging a 20 gallon per hour operation and if the man has
18 to leave the Gerdes farm and fly to Mattoon and back he would estimate that the round trip would cost over
19 \$60 in gas not counting the labor, maintenance and depreciation therefore making it approximately \$100 per
20 trip. He said that if an operator is doing this several times per day then economically it is a real concern.

21
22 Mr. Ladage stated that his handout pointed out historical information, education, community service,
23 research support, personal use and summation. He said that several years ago he invited the Medivac Air
24 Life helicopter to come sit on their RLA so that they could teach EMT programs to their own volunteer fire
25 department personnel. He said that this training included people involved in the Scott Fire Protection
26 District and many were from Bondville, Seymour and Ivesdale. He said that the training including landing,
27 loading, safety and night operations and the training was so intense that it cannot be discussed in just a few
28 words. He said that the volunteers are professionals who need high skills in working with their equipment
29 and within a few weeks after the training session there was a terrible accident on the Monticello Road which
30 required these skills from the Scott Fire Protection District. He said that he would suspect that the areas of
31 Broadlands and Allerton would appreciate it if the Gerdes family would provide the same type of training for
32 their fire protection districts.

33
34 Mr. Ladage stated that he has worked with the U of I Extension Office 4-H Clubs to give kids exposure to
35 flight and has worked with the National EAA Young Eagles. He said that these opportunities help kids with
36 science projects and classes. He said that crop dusters have landed upon his RLA and the farmer's gather
37 around very quickly because they too want to learn about the GPS systems that are being used in this
38 equipment, the glide bars and where they are positioned, etc. He said that his RLA provides a lot of
39 community service in that farmers are interested to view their crops to view storm damage, wind damage,
40 rain, damage, etc. He said that he has taken township drainage district supervisors for flights so that they can
41 see if the contractor has fulfilled his obligations or if scheduled work has been completed. He said that he
42 has taken farmers for flights for land acquisition and investments and crop insurance agents to view damage
43 fields in Champaign County. He said that he also has a neighbor who raises Simmental Cattle and he brings

8/26/10

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 people in from Colorado, Ohio, Louisiana and Minnesota to land on the RLA so that they can see what he
2 has for auction.

3
4 Mr. Ladage stated that there are five research farms within a five mile radius from his home and the
5 managers want aerial views of commodities, tile laterals, irrigation systems, facility inspections, land
6 development and future land investments to view farms. He said that adjacent test plot areas are being used
7 around his RLA by Illini F.S., Pioneer, and Monsanto and those people come out to park on the airstrip so
8 that they can view the research areas. He said that Hobbico has their own research and development
9 operations on his RLA and when he left tonight they were out there flying their models. He said that it has
10 been very beneficial to have the RLA because as a teacher in the aviation program at the U of I he has
11 experimented with equipment himself.

12
13 Mr. Ladage stated that he owned and operated a private balloon business and he does all of the construction,
14 maintenance and repair for a lot of his balloon customers and all types of peoples from all walks of life are
15 gaining exposure to this aviation oriented program and seeing what an RLA operation is all about. He said
16 that he has entertained experimental aircraft groups for over 30+ years at their home and he operates his own
17 personal aircraft. He said that an RLA really is for the public good because it provides a positive community
18 asset for public health, safety and community operations. He requested that the Board not choke the
19 proposed RLA and allow it the full benefits of its operation. He said that people in the community who
20 require the Gerdes family's support will seek them out whether they know it or not and they will utilize the
21 RLA for community related activities. He said that he hopes that the Gerdes family can enjoy the benefits of
22 an RLA with no restrictions for the benefit of the community and their farming profession.

23
24 Mr. Bluhm asked the Board if there were any questions for Mr. Ladage and there were none.

25
26 Mr. Bluhm asked if staff had any questions for Mr. Ladage and there were none.

27
28 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Ladage.

29
30 Mr. Jay Hageman, who resides at 7558 North 300 East Road, Fairmount stated that he lives in Vermillion
31 County but farms in Champaign County. He asked Mr. Ladage if he just indicated that his RLA and
32 hopefully the one for the Gerdes' will be used for health, safety and community.

33
34 Mr. Ladage stated that his focus is that the RLA is a private enterprise on private property and with that said
35 they can allow people, such as what he has done with his RLA, by inviting them to improve the community
36 and their education and research.

37
38 Mr. Hageman asked Mr. Ladage if he is speaking in favor of the proposed RLA because his RLA is good
39 and doing wonderful.

40
41 Mr. Ladage stated yes.

42
43 Mr. Hageman asked Mr. Ladage if his RLA was being utilized for people looking for land and land

1 development and hopefully the Gerdes family would be able to use their RLA for the same purpose.

2
3 Mr. Ladage stated yes. He said that a farmer may come to his home to request a flight to look at a potential
4 interest that he has for a farm and not for land development. He said that land development for him is the
5 implementation of tiles, laterals, creek improvement, drainage district, etc.

6
7 Mr. Hageman thanked Mr. Ladage for the clarification. He asked Mr. Ladage if he serves the five research
8 farms.

9
10 Mr. Ladage stated that there are five research farm around his home area and because of the location of the
11 RLA sometimes the five research companies will call him once or twice a summer so that they can take
12 aerial photographs of their research farm plots for the purpose of plot identification, stock holder meetings,
13 etc.

14
15 Mr. Hageman asked Mr. Ladage if the companies are making money from these aerial flights.

16
17 Mr. Ladage stated that the companies may be but he isn't.

18
19 Mr. Hageman asked if this was an agricultural use.

20
21 Mr. Ladage stated that it is his belief that he is providing a community service to these people by allowing
22 the use of his aircraft and his services for his neighbors to go out and look at their products. He said that he
23 isn't hanging out a sign that indicates that for a certain fee he will do everything that they ask him to do.

24
25 Mr. Hageman asked Mr. Ladage if he makes any money during these community service flights.

26
27 Mr. Ladage stated no.

28
29 Mr. Hageman asked Mr. Ladage if he allows aerial application operators to fly from his RLA.

30
31 Mr. Ladage stated no. He said that he is not engaged in farming and the farmers who are adjacent to him do
32 not have the type of operations that the Gerdes family has described.

33
34 Mr. Hageman asked Mr. Ladage if he is aware of the amount of acres that the Gerdes family has seeded in
35 rye grass in the past.

36
37 Mr. Ladage stated no.

38
39 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Ladage.

40
41 Mr. Carl Smith, who resides at 214 County Road 2700E, Allerton stated that has a Vermilion County address
42 but lives in Champaign County and has a landowner which owns adjacent ground to the proposed RLA. He
43 said that he agrees with Mr. Ladage that the EMT training is a wonderful idea but this is a service that is

1 practiced throughout the area without any airstrips. He said that the exact same type of training was done in
2 Allerton in which U.S. Route 49 was closed and a helicopter was brought in at Heritage High School in
3 Broadlands for a simulated car accident therefore he does not believe that an RLA has to be in place for
4 training purposes. He said that a big difference between Mr. Ladage's RLA and the proposed RLA by the
5 Gerdes family is that Mr. Ladage owns an airplane and the Gerdes family does not own a plane and
6 testimony has indicated that they do not intend on owning an airplane. He said that in terms of flying to look
7 at tile lines, holes in the fields, and flooding can be accomplished from existing runways in the area where
8 there are pilots to serve them. He asked Mr. Ladage if someone has the same benefits if they do not own a
9 plane but owns an RLA.

10
11 Mr. Ladage stated that the RLA is a matter of convenience. He said that the convenience of having an RLA
12 located at your home is beneficial if you desire to have an aerial view of your neighbor's tiles, fields, etc. He
13 said that the benefit of having an RLA beats the option of driving to Mattoon or fighting with security at
14 Willard.

15
16 Mr. Smith asked Mr. Ladage if he would meet someone at the Vermilion County airport because they
17 wanted to view property in that county.

18
19 Mr. Ladage stated yes, if the land was located in that area. He said that his testimony is in regards to local
20 neighbors, community people within the Gerdes family farm or within his area. He said that people who are
21 within 20 miles or so normally contact him for aerial flights and he accommodates them.

22
23 Mr. Smith asked Mr. Ladage if he owned a plane.

24
25 Mr. Ladage stated yes.

26
27 Mr. Bluhm asked the audience if anyone else desired to cross examine Mr. Ladage and there was no one.

28
29 Mr. Bluhm called Carl Smith to testify.

30
31 Mr. Smith stated that there has been a lot of testimony and most things speak for themselves. He said that it
32 is his understanding that most of the cases that Mr. Tock previously discussed involved a property owner
33 who owned an airplane and then the RLA was opened up to other uses. Mr. Smith stated that on page 2 of
34 32 Item #5.B. indicates that there is a runway safety area located entirely on the subject property that is 120
35 feet wide, centered on the runway. He said that he is concerned as an adjoining landowner that the runway is
36 supposed to be 100 feet wide and the safety area is 120 feet centered on it therefore in reality there is only 10
37 feet of safety area to the side of the runway. He said that if he is on his property watering his trees or
38 inspecting his crops and a plane comes in to land on the RLA it could hit one bump and be on top of him.
39 He said that he considers 10 feet to be far too little of a safety area and he would request that if the RLA is
40 approved that the safety area be increased dramatically.

41
42 Mr. Smith stated that Mr. Gerdes previously presented testimony indicating that he would save five to ten
43 dollars per acre by providing a landing strip closer to where he farms. Mr. Smith stated that he has farmed

1 all of his life and has had thousands of acres sprayed year after year and he has never realized any savings or
2 been told from a pilot that there is any savings if he could move closer to the fields. He said that Mr. Reed
3 has indicated that he flies all of his loads out of Mattoon because his tanks and equipment are located there
4 and he is not interested in moving which appears to be the case with most applicators.
5

6 Mr. Smith stated that Item #7.F(3) indicates that Mr. Reed testified that rye grass is a difficult crop to apply
7 and time is of the essence, so being able to load close is imperative because there is not a single helicopter in
8 the State of Illinois that can apply rye grass. Mr. Smith stated that a helicopter operator is present at
9 tonight's meeting therefore it might be valid to ask him if Mr. Reed's statement is valid.
10

11 Mr. Smith stated that the trees were planted and watered on a regular basis and they were told when they
12 purchased the trees that they are mechanically harvested and to expect approximately 15% loss on average
13 but he believes that he has had a 20% loss. He said that a majority of the trees were killed by what appears
14 as overspray from an adjacent field. He invited the Board to visit the field in which the trees are planted to
15 view how the tops of the trees have been damaged due to chemical application. He said that he has
16 purchased additional trees and as soon as the crops are taken out of the fields the trees will be planted. He
17 said that if necessary he will bring in a tree spade and plant 20 foot trees because that is how committed they
18 are on their side of the RLA.
19

20 Mr. Courson asked Mr. Smith if he planted the trees to prevent the RLA.
21

22 Mr. Smith stated yes. He said that he believes in the wind farm and he would like to see it come to benefit
23 the entire community.
24

25 Mr. Courson asked Mr. Smith if there were no wind farms anticipated in the area, would he care about the
26 RLA?
27

28 Mr. Smith stated that if he was guaranteed that the wind farm company was not interested in the area and
29 was not just being chased away then he would not be as opposed to the RLA but he would request that the
30 safety area be expanded rather than allowing ten feet from their field.
31

32 Mr. Courson asked Mr. Smith if he owns the land.
33

34 Mr. Smith stated no, his aunt owns the land.
35

36 Mr. Courson asked Mr. Smith if he received crop subsidy from the farm land.
37

38 Mr. Smith stated yes.
39

40 Mr. Courson asked Mr. Smith if he would take the strip of land out of production.
41

42 Mr. Smith stated that the strip of land is currently out of production and he is not receiving any crop subsidy
43 on the strip. He said that directly across the county line is additional acreage that one of his other landlords

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1 own and it will also be affected by the RLA. He said that he personally owns ground to the north of the RLA
2 that will also be affected.

3
4 Mr. Bluhm asked the Board if there were any further questions for Mr. Smith and there were none.

5
6 Mr. Bluhm asked Mr. Smith if he had anything sprayed.

7
8 Mr. Smith stated yes, all of his corns and beans were sprayed.

9
10 Mr. Bluhm asked Mr. Smith how much he was charged to spray the fungicide.

11
12 Mr. Smith stated that he just paid the bill the other day and it was in the thousands of dollars but per acre it
13 was approximately \$16 per acre.

14
15 Mr. Bluhm asked if staff had any questions for Mr. Smith.

16
17 Mr. Hall asked Mr. Smith how much separation he would like the Board to require between the runway and
18 the east property line.

19
20 Mr. Smith stated that he would prefer 200 to 300 feet because within a blink of an eye a plane could be
21 landing.

22
23 Mr. Hall asked Mr. Smith to confirm that he does intend to replant the trees.

24
25 Mr. Smith stated yes, the trees have been purchased and invited staff to come down to look at them if so
26 desired.

27
28 Mr. Hall stated that staff has seen the trees and photographs have been taken although they did not believe
29 that the photographs were needed at tonight's meeting therefore they are unavailable for the Board's review.
30 He said that it was staff's intent to visit the site today but due to illness in the office it was not feasible. He
31 asked Mr. Smith if he planted the trees along the east line of the RLA.

32
33 Mr. Smith stated yes.

34
35 Mr. Hall stated that, as the Zoning Administrator, if Mr. Smith had planted the trees after the RLA had been
36 approved he would be obligated to have the trees removed or maintained at a height such that they would not
37 encroach into the imaginary surfaces of the RLA. He said that it is his position that the trees were planted
38 well before the RLA was approved therefore he will not be taking any action on those trees. He said that Mr.
39 Smith has voiced his position in that he plans to maintain a row of trees along the east side but there is a time
40 frame in which if the trees are absent and the RLA is approved Mr. Smith may not be able to be replant the
41 trees. He said that obviously at the end of the growing season Mr. Smith may lose young stock and provided
42 that the stock is replaced in a timely manner and as long as Mr. Smith keeps record of which trees are
43 replaced so that if there is ever a question about the trees he does not lose the right to keep the trees in their

1 location.

2
3 Mr. Smith stated that if the trees were planted before the RLA approval then replanting would be legitimate.

4
5 Mr. Hall stated that if the trees were dead and gone for an extended period then Mr. Smith could lose the
6 right to replant those trees. He said that he has a great deal of difficulty with someone suggesting that the
7 Board should ignore the trees.

8
9 Mr. Smith stated that the trees on the south were planted at the exact same time as the trees to the east.

10
11 Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Smith and there was no one.

12
13 Mr. Bluhm called Dwight Farber to testify.

14
15 Mr. Dwight Farber, Project Manager for Horizon Wind Energy, stated that they are currently making plans to
16 develop in this area. He said that they are planning to develop a 300 megawatt project located in parts of
17 Champaign, Vermilion, Douglas and Edgar counties. He said that Horizon Wind Energy has invested a
18 considerable amount of money in the last two years, approximately ¾ of a million dollars, to get ready to
19 build this project in transmission line studies. He said that one of the transmission line studies has come
20 back looking very good which gives them the first hurdle to get a project connected to that transmission line
21 so that they have good commitment in terms of the study and the results of the study. He said that they
22 expect the other results of the other study to be back soon. He said that Horizon Wind Energy has invested
23 in four met towers to verify the wind speed and three of the met towers have been up since 2008 and the
24 wind speeds certainly support the development of a wind farm in this area. He said that their project
25 footprint has been altered somewhat due to the proposed coal mine therefore they will not be going into
26 areas that will have a coal mine lease upon it therefore shifting their footprint a little further into Champaign
27 County. He said that currently they have signed up approximately 3,000 acres within the project area and
28 they have commitments for close to 8,000 acres of other landowners that have not completed leases yet. He
29 said that the commitment level appears to be very strong in the entire project area and certainly in
30 Champaign County. He said that a timeline as to when the project will begin is a function of when they are
31 able to get all of the necessary land signed up, all the designing completed, and they are in the process of
32 bidding this project for a power purchase agreement. He said that should they secure the power purchase
33 agreement they could be building the first phase in the area as early as 2012 but that is yet to be known based
34 on a lot of the factors.

35
36 Mr. Palmgren asked Mr. Farber when a permit application will be filed.

37
38 Mr. Farber stated that a permit application, if they are able to build in 2012, could be submitted as early as
39 next year.

40
41 Mr. Palmgren asked Mr. Farber when the first tower would be constructed.

42
43 Mr. Farber stated that if the first phase was able to be constructed in 2012, based on all these factors, the first

1 tower could be constructed in 2012.

2
3 Mr. Palmgren stated that since there is a not a date specific would he have a problem with an agreement for
4 an RLA for agricultural/conservation work and when a tower is planned to be built, assuming that contracts
5 are completed at that time, the RLA agreement could be discussed again at that time.

6
7 Mr. Farber stated that the issue with Horizon losing land in this area is that when a bigger buffer is taken out
8 it removes land that is very important to the layout of the project. He said that there has been testimony
9 received which indicates that there are several landowners who have already signed up for the project and
10 there are other landowners who have committed to the project but some of their land is located in the area of
11 the proposed RLA. He said that not completing such an agreement would not only be for Horizon Wind
12 Energy's benefit for an efficient layout of the project but also for the benefit of any landowners that would be
13 precluded from participating in the project.

14
15 Mr. Palmgren asked Mr. Farber if he would be opposed to an RLA in this specific location at any time.

16
17 Mr. Farber stated that Horizon works with existing land areas and they comply with all of the regulations for
18 those but in this particular area Horizon plans to do a wind farm in the area and has been planning to do so
19 since 2008. He said that Horizon has landowners in the area who have committed to the project and desire
20 to be part of it. He said that it is not his decision as to whether an RLA is approved or not but Horizon does
21 have landowners that are already committed and the wind farm would benefit the community.

22
23 Mr. Bluhm asked the Board if there were any additional questions.

24
25 Mr. Courson stated that Mr. Farber indicated that the layout of the wind farm in Champaign County would
26 be changed somewhat due to the proposed coal mine. He asked Mr. Farber why the wind farm was not
27 considered in the new location to begin with.

28
29 Mr. Farber stated that originally they had looked at an area along a ridge that they felt like the wind would be
30 better and there was more contiguous land and smaller footprint. He said that as they began looking at the
31 areas that had coal mine leases and they started to see where there were some other landowners that may not
32 interested in signing on to the wind farm project they shifted the project more into Champaign County. He
33 said that this is not uncommon with wind farm projects as they are being developed because the companies
34 begin signing up land in a project area and find that the project requires shifting.

35
36 Mr. Bluhm asked the Board if there were any further questions for Mr. Farber and there were none.

37
38 Mr. Bluhm asked if staff had any questions for Mr. Farber.

39
40 Mr. Hall stated that he believes the finding indicates that wind turbines in a wind farm go in at about 70
41 acres per turbine. He said that it is his understanding with most wind farms in central Illinois that the towers
42 are in rough rows and not in a uniform distribution over a rectangular area because they respond to the
43 topography and the wind. He asked Mr. Farber if it would be fair to indicate 70 acres per turbine.

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Mr. Farber stated that the general rule that they use is one turbine to every 80 to 100 acres and that depends upon all of the setbacks that they comply with in relation to homes, roads, transmission lines and non-participating landowners. He said that he has areas where landowners would like to have a turbine but they may only receive one because of all of the setbacks yet for other landowners may be able to have more. He said that the intent for this project is to get land signed up in a contiguous fashion so that they could design the wind farm more at a straight line.

Mr. Bluhm asked the audience if anyone desired to cross examine Mr. Farber and there was no one.

Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding Case 645-S-09 and there was no one.

Ms. Papavasiliou stated that even though it is a private use the Ordinance requires that it obtain a Special Use and the Board must make sure that their decision is based on the fact that the criteria has been met. She said that the criteria regarding public convenience at that location sometimes creates confusion but it is only emphasizing that the Board's roll is to protect the public convenience and that the Special Use Permit process is about harmony of uses. She said that the Board's planning power is very broad.

Mr. Bluhm closed the witness register.

Mr. Hall reasserted that the Board is not obligated to ignore the trees if he is obligated to make sure that they are removed. He said that no other farmer has testified that they require an RLA to apply rye grass but the evidence is that no other farmer has testified that there is a need for the RLA. He said that this Board deals with the finding for public convenience for private lakes all of the time and the necessity for the public need for truck terminals, major rural businesses, contractor's facilities therefore this is nothing new. He said that it is a problem with the Ordinance and after this case is over and settled he would love to ask for Mr. Tock's help in asking the County Board to amend the required criteria. He said that he would like to eliminate this one requirement from the Zoning Ordinance because there are other ways to deal with these issues than having to make a finding of public convenience but it is the Board's obligation in this case. He said that regarding the trees one thing that the Board might consider, if they believe that the absence of trees is an issue, is ask for a statement from the landowner. He said that the Board accepts the tenant farmer's testimony for many things therefore it is reasonable to accept Carl Smith's testimony regarding the intention of replanting the trees. He said that if for some reason the Board finds Mr. Smith's testimony lacking then he would encourage the Board to provide time for some statement from the landowner rather than determine that the trees are not there therefore they are not relevant. He said that staff has summarized the evidence for the Board and it is a good road map for the Board but the distributed table has evidence underlined indicated to be added as Item #8.W. He said that Item #8.X should read as follows: *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. 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 80 to 100 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

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1 streets and utilities) will also have a significant affect on the location of wind turbines. Reducing the ability
2 of neighbors to lease land for wind farm turbines reduces their possible income and also reduces the taxes
3 paid by the wind farm to local taxing bodies such as school districts.
4

5 Mr. Hall stated that a new Item #8.Y should indicate Mr. Reed's letter of August 26, 2010, stating that the
6 revised RLA wind farm separation is a safe separation. Mr. Hall stated that he is not aware of any other
7 testimony which was given at tonight's hearing that really needs to be added to the Summary of Evidence
8 unless the Board members heard testimony that they thought was especially compelling.
9

10 Mr. Thorsland stated that in a way the trees and the wind farm are similar in that the seeds for the wind farm
11 were planted in 2008 although it doesn't exist yet and the actual trees were planted prior to the RLA and are
12 established before the RLA was approved. Mr. Thorsland stated that perhaps a condition could be proposed
13 that the RLA could be approved for agricultural aerial application until such time the wind farm is developed
14 and if the wind farm is not developed then the RLA can continue as approved.
15

16 Mr. Hall stated that the courts have determined that the Board cannot impose conditions on petitioners unless
17 the petitioner agrees therefore if Mr. Gerdes rejected the condition then the Board could not require it.
18

19 Ms. Capel stated that there are other ways to apply rye grass.
20

21 Mr. Palmgren stated that there was mention that IDOT Department of Aeronautics will shut down the RLA
22 if they felt that the RLA was dangerous. He said that if the RLA is already in place then perhaps the
23 placement of the wind towers would be controlled.
24

25 Mr. Hall stated that IDOT does not control any separation in regards to wind farm towers.
26

27 Mr. Palmgren stated that if a wind tower was placed at the end of the runway in Douglas County it would be
28 very hard to travel over 500 feet and drop down to the airstrip therefore he would think that IDOT would
29 have a problem with that and decertify the RLA. He said that he would assume that the RLA and the wind
30 farm will try to co-exist until some point and time when things get too close. He said that if the wind farm
31 company went ahead and placed their wind towers wherever they have contracts eventually one or more
32 would become too close and the Division of Aeronautics would interfere.
33

34 Ms. Capel asked if IDOT had the power to regulate where the wind turbines are placed.
35

36 Mr. Hall stated no.
37

38 Mr. Hall stated that if the Board approves the RLA then the Board has identified the landowners who cannot
39 participate in the wind farm. He said that there is an absolute conflict currently in that there are trees
40 planted in Champaign County which will encroach into the imaginary surfaces. He said that the trees are
41 very young and the fight will not come for several years but it will come.
42

43 Mr. Thorsland stated that Mr. Smith was not averse to planting 20 foot trees if necessary. Mr. Thorsland

1 asked if Mr. Smith planted such trees after the RLA would it be an IDOT issue or a County issue enforced by
2 the Zoning Administrator.

3

4 Mr. Hall stated that IDOT has already indicated that a big tree is a big problem.

5

6 Mr. Palmgren stated that no one can tell us at this point where a turbine is going to be located therefore how
7 can the Board predict the future. He said that the speculative wind farm is holding up everything else in the
8 area.

9

10 Mr. Hall stressed that the Board should look at every required finding and if the Board believes that the RLA
11 is necessary for public convenience and not injurious to the district regarding safety problems then the exact
12 location of the turbines may be the only issue.

13

14 Mr. Thorsland clarified to the other Board members that a positive finding must be made on all findings.

15

16 Mr. Hall stated that any condition must be agreed to by Mr. Gerdes.

17

18 Mr. Bluhm stated that his comments are in regards to Mr. Smith's testimony. Mr. Bluhm asked if there was
19 anything in the Ordinance, except for the 120 feet centered on the runway that would satisfy his request of
20 the safety area being further from his property line.

21

22 Mr. Hall stated that the minimum staff recommendation is 85 feet to ensure that there is no encroachment
23 into the side imaginary surface for the trees that are planted. He said that the Ordinance does not have
24 anything and this is not really a structure so it cannot be looked at for a 10 foot minimum yard.

25

26 Mr. Bluhm stated that Mr. Smith indicated his concern that if the safety area is only 10 feet off of his
27 property and a plane comes in and hits a bump it would not take long to get to his property and what damage
28 could occur. He asked Mr. Hall if the 85 feet is from the property line to the safe zone.

29

30 Mr. Hall stated that the 85 feet would be from the property line to the edge of the runway. He said that
31 IDOT requires a clear distance for 85 feet at the side of the runway and if the trees overgrow the property
32 line it would make sense to make it more than 85 feet but it is his understanding that if an overgrowth of
33 vegetation occurs then the overgrowth can be removed at the property line.

34

35 Mr. Bluhm asked Mr. Hall if the 85 feet has been incorporated into the finding or as a condition.

36

37 Mr. Hall stated that staff has mentioned this several times and no revised site plan was submitted.

38

39 Mr. Thorsland asked if the Board should ask Mr. Gerdes if he was agreeable to the 85 feet setback from the
40 east property line.

41

42 Mr. Bluhm stated that Mr. Gerdes would need to sign the witness register.

43

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1 Mr. Tock stated that Mr. Gerdes would be in agreement with an 85 foot setback to the east property line. He
2 said that it should actually be 90 feet due to the layout of the trees.

3
4 Mr. Thorsland asked if the trees to the south are in Champaign County.

5
6 Mr. Bluhm stated no the trees to the south of the runway are in Douglas County.

7
8 Mr. Knight distributed text that should be included as new Item #12.C on page 27 of 32. The text reads as
9 follows: The petitioner shall apply for a Change of Use Permit within 30 days of the approval of the special
10 use permit, and shall also provide with the permit application an amended site plan which indicates that the
11 runway shall be located no closer than 85 feet to the east property line. The above condition is necessary to
12 ensure the following: Compliance with the Zoning Ordinance within a reasonable time frame.

13
14 Mr. Bluhm asked Mr. Hall if any text existed in the RLA description which indicates that a person has to
15 own their own plane.

16
17 Mr. Hall stated no, not that he is aware.

18
19 Mr. Bluhm stated that someone owning an RLA who does not own their own plane is a concern. He said
20 that all of the other RLA's that have been approved in Champaign County has included the owner's own
21 aircraft.

22
23 Mr. Hall stated that this might be an interesting item of evidence to add to Item #7.K(7) indicating the
24 following. There has never been a request for an RLA in Champaign County by a landowner who did not
25 own an airplane nor was not a pilot. He said that Item #7.S on page 12 of 32 is redundant and should be
26 stricken.

27
28 Mr. Bluhm stated that it is probably classified information but it would be nice to find out who has signed a
29 lease for the wind farm project or has given an indication of intent.

30
31 Mr. Thorsland stated that there were property owners who testified that they were hopeful for a wind farm
32 and Mr. Gerdes testified that he was not happy about a wind farm.

33
34 Mr. Bluhm asked if the Board is creating a conflict in regards to public convenience for the RLA if the
35 public already signed contracts for the wind farm before the application for the RLA was submitted.

36
37 Mr. Hall asked Mr. Bluhm if his question is based on when the contracts were signed and not who signed the
38 contracts.

39
40 Mr. Bluhm stated yes, although it would be nice to know who signed the contracts and when they signed
41 them.

42
43 Ms. Capel stated that Item #7.G(3) indicates that Mr. Smith and Mrs. Horst, the land owner of the farm

1 directly to the east, and her sister own considerable property in the area and they all signed contracts with
2 Horizon several months before the RLA was proposed. She said that Item #7.H(2) refers to Ms. Horst's
3 letter indicating that she had signed a contract to allow Horizon Wind Farms to place a turbine on her
4 property.
5

6 Mr. Hall stated that Paul Cole also submitted a letter on behalf of his clients which indicated that they too
7 were hopeful for the opportunity to sign a contract with Horizon.
8

9 Mr. Palmgren stated that Mr. Gerdes testified that his aerial applicator previously used an airstrip that has
10 since been tilled. Mr. Palmgren stated that Mr. Gerdes testified that a proposal for a land trade between
11 himself and a neighbor was declined.
12

13 Mr. Thorsland asked if Allerton has indicated any concerns regarding the RLA or the wind farm.
14

15 Mr. Hall stated that Allerton has jurisdiction although staff does not know what they have done or even if
16 they plan to do anything in regards to the wind farm. He said that staff has tried for some time to obtain
17 something in writing indicating that Allerton has an adopted zoning ordinance and staff has been
18 unsuccessful.
19

20 Mr. Thorsland asked if staff had received comments from Broadlands.
21

22 Mr. Hall stated that Broadlands has the same jurisdiction as Allerton.
23

24 Mr. Thorsland stated that Mr. Farber testified that landowners had signed commitments in 2008 for the wind
25 farm.
26

27 Mr. Hall stated he does not believe that there has been any testimony received from Mr. Farber, prior to
28 tonight. He said that there is an item of evidence about what was known about a proposed wind farm.
29

30 Mr. Bluhm stated Item #7.C(1) on page 4 of 32 indicates that Horizon representative, Dwight Farber, has
31 discussed the anticipated wind farm and its general location with Planning and Zoning staff on multiple
32 occasions.
33

34 Mr. Hall stated that a new Item #7.C(5) could be added to supplement Item #7.C as follows: Mr. Dwight
35 Farber testified at the August 26, 2010, public hearing that Horizon Wind Energy began working on the
36 project in 2008.
37

38 **Mr. Schroeder moved, seconded by Mr. Thorsland to recess the meeting for a five minute break. The**
39 **motion carried by voice vote.**
40

41 **The meeting recessed at 9:40 p.m.**

42 **The meeting resumed at 9:45 p.m.**
43

8/26/10

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Mr. Thorsland stated that an issue which has bearing upon his decision is whether or not the court finds that
2 the ZBA has jurisdiction.

3
4 Mr. Hall stated that the Board has jurisdiction tonight.

5
6 Mr. Bluhm stated that he agrees with Mr. Thorsland in that if the ZBA does have jurisdiction then they may
7 look at the RLA differently or may obtain something from the court case which would benefit the Board's
8 decision.

9
10 Ms. Capel stated that the Board must operate under what the regulations are and not what they could be.

11
12 Mr. Hall stated that he received recent information from the IDOT engineer which is in charge of airport
13 safety and who is the interim head of the group which approves RLA's because staff has had another
14 landowner make a claim of an agricultural RLA. Mr. Hall stated that the landowner informed IDOT that he
15 had Champaign County's approval for the RLA. Mr. Hall stated that IDOT called staff to verify that the
16 landowner had received Champaign County's approval because they were receiving complaints and he made
17 clear that no one had approval from Champaign County for any agricultural RLA and Steve Long, interim
18 chief, explained that it is his view that an RLA is an aeronautical facility that has to also comply with local
19 zoning. Mr. Hall stated that Mr. Long does not establish policy for IDOT Division of Aeronautics, he is in
20 charge of enforcing it at this time on an interim basis, and it is unknown as to how much authority Mr. Long
21 has but at this time this is the latest information that he has from IDOT regarding RLA's and whether or not
22 the IDOT office which enforces RLA restrictions is interested in local zoning. Mr. Hall stated that per Mr.
23 Long, IDOT is interested in local zoning and the landowner who claimed that he had County approval has
24 had his RLA application placed on hold until he obtains local approval. Mr. Hall stated that things might
25 change once IDOT becomes involved and the judge makes a decision on the court case but this is the latest
26 information that staff has received from IDOT as to how important local zoning is.

27
28 Ms. Capel asked Mr. Hall if the Ordinance would have to be amended to not allow an agricultural RLA.

29
30 Mr. Hall stated that Champaign County does not have agricultural RLA's.

31
32 Mr. Bluhm stated that the Zoning Ordinance addresses RLA's, period.

33
34 Mr. Hall stated that he had been presented a claim of agriculture and he outlined what he believed was
35 reasonable and someone else disagreed therefore now we are in court.

36
37 Mr. Bluhm asked Mr. Hall what will happen if the new person comes to the office to apply for a special use
38 permit, the case is docketed, the Board begins going through the case and in 90 days a decision is still not
39 made. He said that IDOT may believe that the County has control over an agricultural RLA but it hasn't
40 been determined what the courts believe. He said that the Board could begin another case regarding an RLA,
41 which claims agriculture, and a decision is made by the courts that the County has no jurisdiction therefore
42 wasting staff and the Board's time as well as money.

1 Mr. Hall stated that as far as he is concerned no money or time has been wasted because staff and the Board
2 are doing what they are suppose to be doing.

3
4 Mr. Bluhm stated that if it is a case that the court decides that the County has no jurisdiction over then staff
5 and the Board could have been using the time and resources on other cases.

6
7 Mr. Hall stated that if the Board is not ready to take action on this case then the Board should not take action
8 on this case.

9
10 Ms. Papavasiliou stated that her motion to dismiss the case was denied but she wanted the judge to indicate
11 that as a matter of law there were no agricultural RLA's that could exist but the judge stated that he could
12 not do that because he believed that the facts of this particular case were of interest to him. She said that the
13 discussion of this case is relevant to the court case and if the judge decides that this application is exempt
14 then any decision that the Board made to the contrary will be void.

15
16 Mr. Bluhm asked Ms. Papavasiliou if there is any bit of evidence that could come out of the court case that
17 may be of interest to the Board in making their decision.

18
19 Ms. Papavasiliou stated that the Board is interpreting the facts before them according to the existing
20 Ordinance. She said that the judge must determine if the existing Ordinance is valid as it stands right now.

21
22 Mr. Bluhm stated that if the Ordinance is invalid then the Board will have to do something to correct it. He
23 asked if the Board makes a decision on this case based upon an invalid Ordinance will the case have to come
24 back and be reviewed.

25
26 Ms. Papavasiliou stated that the Board's decision will be void.

27
28 Mr. Bluhm stated that the case would have to be done over again if they want the RLA under what the
29 judge's determination was therefore he would rather wait to see what the judge is going to say.

30
31 Ms. Papavasiliou stated that it really isn't a legal question because it is the Board's decision.

32
33 Ms. Capel stated that if the Board approves the case the judge could void the Board's decision by indicating
34 that the use is exempt. She said that if the Board denies the case and the judge voids the Board's decision
35 then there is delay. She said that if the Board approves or denies the case and the judge upholds the
36 Ordinance as written then the Board's decision stands. She said that if the Board does make a decision the
37 Board has expressed how they feel about the Ordinance therefore contributing to the judge's decision with
38 respect to the Ordinance.

39
40 **Ms. Capel moved, seconded by Mr. Thorsland to extend the August 26, 2010, public hearing for ten**
41 **minutes. The motion carried by voice vote.**

42
43 Mr. Bluhm stated that Mr. Hall has indicated that all the testimony which is relevant to the case has been

1 added to the Summary of Evidence.
2
3 Mr. Hall stated yes.
4
5 Mr. Bluhm asked the Board if they desired to move forward to the Finding of Fact.
6
7 The consensus of the Board was to move forward to the Finding of Fact.
8
9 Mr. Thorsland stated that the proposed a condition would require that the petitioner agree to shut down the
10 RLA should a wind farm be approved.
11
12 Mr. Bluhm stated that this is almost a mute point because the wind farm company has to determine where
13 the wind turbines will be placed before construction can begin. He said that if an RLA is in place then the
14 wind farm will be required to meet the separation guidelines.
15
16 Mr. Thorsland stated that the condition would be that the RLA would shut down if the wind farm is
17 developed.
18
19 Mr. Hall asked Mr. Thorsland which trigger he would like Mr. Gerdes to react to a wind farm in Champaign
20 County or in Douglas County.
21
22 Mr. Thorsland stated that the wind farm company has the intent to build a wind farm within the location of
23 the RLA and the process began in 2008. He said that the trigger for Mr. Gerdes would be when Horizon
24 submits a wind farm application to Champaign County for the proposed site.
25
26 Mr. Hall stated that with one wind farm tower proposed closer than the separation.
27
28 Mr. Thorsland asked Mr. Gerdes if he would be willing to use the RLA until such time that the wind farm is
29 developed.
30
31 Mr. Tock stated that such a condition would not be acceptable.
32
33 Mr. Hall stated that Mr. Tock's indication that such a condition would not be acceptable eliminates both
34 options under Item #12.B.
35
36 Mr. Bluhm asked Mr. Hall if Item #12.A. should remain.
37
38 Mr. Hall stated that Item #12.A. will not remain if the petitioners do not accept it.
39
40 Mr. Palmgren stated that ultimately the safety issue is the pilot's responsibility.
41
42 Mr. Hall asked Mr. Thorsland if he desired to enter the petitioner's rejection of the special condition into the
43 Summary of Evidence.

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Mr. Thorsland stated yes.

Mr. Hall suggested that Item #12 be renumbered to Item #13 and new Item #12 would include everything from original Item #12.B(1), as included in the Revised Draft Summary of Evidence dated August 20, 2010, beginning with the following: The Board considered a condition that would:. He said that the following sentence will be added: The petitioners rejected the condition. He said that this keeps it nice and simple and it indicates that the petitioners had the option but they rejected it.

Ms. Capel moved, seconded by Mr. Thorsland to extend the meeting to 10:30 p.m. The motion carried by voice vote.

Mr. Bluhm asked Mr. Hall if the Board should ask the petitioners if they accepted the proposed condition in Item #12.B(2).

Mr. Hall asked the Board what purpose Item #12.B(2) would serve.

The consensus of the Board was the Item #12.B(2) would not serve any purpose therefore there is no need to ask the petitioners to accept or reject it.

Mr. Bluhm read the proposed special condition included in Item #12.A as follows:

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.

Mr. Bluhm asked Mr. Tock if the petitioners agreed to the special condition as read.

Mr. Tock stated that he does not understand why the proposed condition is necessary because the petitioners could not and would not operate unless they were in compliance with a Certificate of Approval from IDOT.

Mr. Bluhm stated that if the ZBA is aware that there is another authority which governs uses the proposed special condition is included to make sure that everyone is aware that the petitioner must follow that authority's rules and regulations.

Mr. Tock stated that they intend to follow the rules and regulations set forth by IDOT. He said that they do agree to the condition.

Mr. Thorsland moved, seconded by Mr. Courson to approve proposed special condition #12.A as follows:

The Restricted Landing Area must be used in compliance with the approved Certificate

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DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Of Approval for operation from the Illinois Department of Transportation Division of
2 Aeronautics.

3 The above condition is necessary to ensure that:

4 **The proposed RLA is operated so as to ensure public safety.**
5

6 **The motion carried by voice vote.**
7

8 Mr. Bluhm read the proposed special condition for Item #12.C as follows:
9

10 **The petitioner shall apply for a Change of Use Permit within 30 days of the**
11 **approval of the special use permit, and shall also provide with the permit application**
12 **an amended site plan which indicates that the runway shall be located no**
13 **closer than 85 feet to the east property line.**

14 The above condition is necessary to ensure that:

15 **Compliance with the Zoning Ordinance within a reasonable time frame.**
16

17 Mr. Tock stated that the petitioners agree to the special condition included in Item #12.C.
18

19 **Mr. Thorsland moved, seconded by Mr. Courson to approve special condition Item #12.C as follows:**
20

21 **The Restricted Landing Area must be used in compliance with the approved Certificate**
22 **Of Approval for operation from the Illinois Department of Transportation Division of**
23 **Aeronautics.**

24 The above condition is necessary to ensure that:

25 **The proposed RLA is operated so as to ensure public safety.**
26

27 **The motion carried by voice vote.**
28

29 Mr. Hall stated that the following items should be added as Documents of Record: #18: NRCS Practice
30 Code 340, submitted by Jeff Tock on August 26, 2010; and #19: Letter from Rick Reed, Reed's Fly-On
31 Farming dated August 26, 2010, submitted by Jeff Tock; and #20: Photographs of trees taken by Jed Gerdes
32 within the last week; and Item #21: Statement from Terry Ladage submitted on August 26, 2010.
33

34 **Finding of Fact for Case 645-S-10:**
35

36 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
37 645-S-09 held on June 11, 2009, July 30, 2009, December 3, 2009, January 14, 2010, April 15, 2010, May
38 27, 2010 and August 26, 2010, the Zoning Board of Appeals of Champaign County finds that:
39

- 40 1. **The requested Special Use Permit, subject to the special conditions imposed**
41 **herein, IS NOT necessary for the public convenience at this location because the**
42 **RLA is not convenient for the public and despite the efficiency of aerial application**
43 **of rye grass from the petitioner's home location.**

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Mr. Palmgren stated that the requested Special Use Permit, subject to the special conditions imposed herein IS necessary for the public convenience at this location because it is an agricultural operation in AG-1 and the petitioner is also trying to do some conservation work by the spreading of rye grass and having the RLA close to the home site reduces the petitioner’s costs. The previous airstrip that was utilized by the petitioner is gone. All additional uses that were described by Terry Ladage could be utilized.

Mr. Hall noted that it is not an agricultural operation.

Mr. Palmgren stated that, “it is an agricultural operation in AG-1,” should be stricken from his finding.

Mr. Miller stated that he would indicate that the Special Use Permit IS NOT necessary for the public convenience at this location because there are other methods of administering the applications to the fields.

Ms. Capel agreed with Mr. Miller. She said that the Trisler’s Farm air strip in Vermillion County is available.

Mr. Miller stated that “necessary” is the key word.

Mr. Thorsland stated that the Special Use Permit IS NOT necessary for the public convenience at this location because the air strip would be useful for the petitioner but it is not for the public’s convenience.

Mr. Bluhm stated that the Board discussed public convenience earlier and part of that discussion was about the landowners who have already signed up for the wind farm therefore he would determine that IS NOT is the correct finding.

Mr. Courson stated that the school districts do not receive any extra money from the wind towers. He said that the money goes into a general fund on property taxes and the State hands it out. He said that the individual school districts do not receive a dime unless they request it.

Mr. Thorsland stated that the Board received testimony which would contradict Mr. Courson.

Mr. Courson stated that the witness that provided such testimony was misinformed because the general budget comes from the State. He said that just because a wind farm is located within a wind farm area does not mean that the school district will receive a bunch of extra money.

Mr. Bluhm disagreed.

Mr. Courson stated that all of the generated money goes to a general fund and the State distributes the money. He said that lottery funds do not go to the schools, it goes to the general fund and the State cuts the budget for schools therefore the schools do not receive any extra money.

Mr. Hall asked Mr. Courson if he is indicating the local jurisdictions do not receive any benefit from the

1 investment of the wind farm and the increased property taxes.

2
3 Mr. Courson stated that the local jurisdictions may see a small increase in jobs but not in local tax receipts.

4
5 Mr. Courson stated that the wind farm companies are lobbying the State to become tax exempt from property
6 taxes and all it will take is the right people to get such passed and the wind farms won't pay any property
7 taxes. He said that people have this impression that a lot of revenue is going to be made with the wind farms
8 and such an impression is false because it isn't going to happen.

9
10 Ms. Capel stated that the use is more inconvenient for more people than it is convenient for the public.

11
12 Mr. Palmgren stated that his point was that he was trying to find a way for the petitioner to continue, at a
13 reasonable cost, to spray his crops and plant the rye grass. He said that other methods do not work very well
14 when the ground is wet therefore aerial application is a viable option.

15
16 **Mr. Thorsland moved, seconded by Paul Palmgren that the requested Special Use Permit, subject to**
17 **the special conditions imposed herein, IS necessary for the public convenience at this location.**

18
19 The roll was called:

20			
21	Courson-yes	Miller-no	Palmgren-yes
22	Schroeder-no	Thorsland-no	Capel-no
23	Bluhm-no		

24
25 **The motion failed.**

26
27 **Mr. Thorsland moved, seconded by Mr. Miller that the requested Special Use Permit, subject to the**
28 **special conditions imposed herein, IS NOT necessary for the public convenience at this location.**

29			
30	Miller-yes	Palmgren-no	Schroeder-yes
31	Thorsland-yes	Capel-yes	Courson-no
32	Bluhm-yes		

33
34 **The motion carried.**

35
36 Mr. Thorsland stated that the Board should use Mr. Palmgren's comments in reference to the "despite"
37 portion for Item #1 of the finding.

38
39 **Ms. Capel moved, seconded by Mr. Miller to extend the meeting to 10:45p.m. The motion carried by**
40 **voice vote.**

41
42 Mr. Miller read the following text regarding the "despite" portion for Item #1 of the finding: the RLA is not
43 absolutely necessary for the proposed use and it is not publically accepted or convenient despite, include Mr.

1 Palmgren's previous comments.

2
3 Mr. Hall requested that Mr. Palmgren indicate the text for the "despite" portion of Item #1.

4
5 Mr. Palmgren stated that the efficiency of aerial application of rye grass from the petitioner's home location.

6
7 **2. The requested Special Use Permit, subject to the special condition imposed**
8 **herein, is so designed, located and proposed to be operated so that it WILL**
9 **be injurious to the district in which it shall be located or otherwise detrimental**
10 **to the public health, safety, and welfare.**

11
12 **a. The street has ADEQUATE traffic capacity and the entrance location has**
13 **ADEQUATE visibility.**

14
15 Mr. Thorsland stated that the street has ADEQUATE traffic capacity and the entrance location has
16 ADEQUATE visibility.

17
18 **b. Emergency services availability is ADEQUATE.**

19
20 Ms. Capel stated that emergency services availability is ADEQUATE.

21
22 **c. The Special Use will be designed to CONFORM to all relevant County ordinances**
23 **and codes.**

24
25 Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County ordinances
26 and codes.

27
28 **d. The Special Use WILL be compatible with adjacent uses.**

29
30 Mr. Palmgren stated that the Special Use WILL be compatible because the use is compatible with AG-1
31 zoning.

32
33 Ms. Capel stated that the Special Use WILL NOT be compatible with adjacent uses due to previous
34 commitments that the neighbors have made with the wind farm company.

35
36 Mr. Bluhm stated that the Special Use WILL NOT be compatible with the adjacent uses because there are
37 trees located in the adjacent land.

38
39 Mr. Hall stated that the Board could word Item #2.d as both ways because what matters is the overall
40 assessment of the criteria. He said that it would make sense to have a disagreement on these items but the
41 Board will have to vote on the overall assessment.

42
43 **e. Surface and subsurface drainage will be ADEQUATE.**

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Mr. Miller stated that surface and subsurface drainage will be ADEQUATE.

f. Public safety will be INADEQUATE.

Mr. Thorsland stated that public safety will be INADEQUATE because the Board is unaware of the amount of commitments signed by landowners with the wind farm company and the Board is not aware of any required safety separation from wind farm towers and other features in other in other jurisdictions.

Mr. Hall asked Mr. Thorsland if the following text would be adequate for his finding: Public safety will be INADEQUATE because the Board is unaware of safety separations for wind towers and other features in other jurisdictions.

Mr. Thorsland stated that Mr. Hall’s text was adequate for the finding for Item #2.f.

Ms. Capel moved, seconded by Mr. Thorsland that the requested Special Use Permit, subject to the special condition imposed herein, is so designed, located and proposed to be operated so that it WILL be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

The roll was called:

Palmgren-no	Schroeder-yes	Thorsland-yes
Capel-yes	Courson-no	Miller-yes
Bluhm-yes		

3a. The requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the district in which it is located.

Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the district in which it is located because the petitioners agreed to follow all the laws of the IDOT regulations and IDOT will have to review and recertify the RLA and decertify it if they find that it is unsafe.

Mr. Courson moved, seconded by Mr. Palmgren that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the district in which it is located. The motion carried by voice vote.

3b. The requested Special Use Permit, subject to the special conditions imposed herein, DOES NOT preserve the essential character of the district in which it is located because:

- a. **The Special Use will be designed to CONFORM to all relevant County ordinances and codes.**

Mr. Thorsland stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

- b. **The Special Use WILL NOT be compatible with adjacent uses.**

Ms. Capel stated that the Special Use WILL NOT be compatible with adjacent uses.

- c. **Public safety will be INADEQUATE.**

Mr. Thorsland stated that public safety will be INADEQUATE.

Ms. Capel moved, seconded by Mr. Miller that the requested Special Use Permit, subject to the special conditions imposed herein, DOES NOT preserve the essential character of the district in which it is located.

The roll was called:

Schroeder-yes	Thorsland-yes	Capel-yes
Courson-no	Miller-yes	Palmgren-no
Bluhm-no		

- 4. **The requested Special Use Permit, subject to the special conditions imposed herein, IS NOT in harmony with the general purpose and intent of the Ordinance.**

- a. **The Special Use is authorized in the district.**
- b. **The requested Special Use Permit IS NOT necessary for the public convenience at this location.**

Mr. Thorsland stated that the Special Use Permit 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 be injurious to the district in which it is located or otherwise detrimental to the public health, safety and welfare.**

Ms. Capel stated that 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 be injurious to the district in which it is located or otherwise detrimental to the public health, safety and welfare.

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- d. **The requested Special Use permit, subject to the special conditions imposed herein, DOES NOT preserve the essential character of the district in which it is located.**

Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES NOT preserve 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 conform to the applicable regulations and standards of the district in which it is located.**

Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards of the district in which it is located.

Mr. Thorsland moved, seconded by Ms. Capel the requested Special Use Permit, subject to the special conditions imposed herein, IS NOT in harmony with the general purpose and intent of the Ordinance.

The roll was called:

Thorsland-yes	Capel-yes	Courson-no
Miller-yes	Palmgren-no	Schroeder-yes
Bluhm-yes		

Mr. Thorsland moved, seconded by Mr. Palmgren to extend the meeting for fifteen minutes. The motion carried by voice vote.

- 5. The requested Special Use IS NOT an existing nonconforming use.**

Mr. Thorsland stated that the requested Special Use IS NOT an existing nonconforming use.

- 6. The special conditions imposed herein are required to ensure compliance with the criteria for Special Use Permits and for the particular purposes described below:**

- A. 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. The petitioner shall apply for a Change of Use Permit within 30 days of the approval of the special use permit, and shall also provide with the permit application an amended site plan which indicates that the runway shall be located no**

1 closer than 85 feet to the east property line.

2 The above condition is necessary to ensure that:

3 Compliance with the Zoning Ordinance within a reasonable time frame.

4
5 Mr. Courson moved, seconded by Mr. Thorsland to adopt the Summary of Evidence, Documents of
6 Record and Finding of Fact as amended. The motion carried by voice vote.

7
8 Mr. Courson moved, seconded by Mr. Thorsland to close the public hearing for Case 645-S-09. The
9 motion carried by voice vote.

10
11 Final Determination for Case 645-S-09:

12
13 Mr. Thorsland moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals
14 finds that, based upon the testimony and other evidence received in this case, that the requirements of
15 Section 9.1.11B HAVE NOT been met, and pursuant to the authority granted by Section 9.1.6B of the
16 Champaign County Zoning Ordinance, determines that the Special Use requested in Case 645-S-09 is
17 hereby DENIED to the petitioners Robert and Barbara Gerdes to authorize the construction and use
18 of a "Restricted Landing Area" as a Special Use in the AG-1 Agriculture Zoning District, subject to
19 the following special conditions:

- 20
21 1. The Restricted Landing Area must be used in compliance with the approved Certificate
22 Of Approval for operation from the Illinois Department of Transportation Division of
23 Aeronautics.

24 The above condition is necessary to ensure that:

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

- 26
27 2. The petitioner shall apply for a Change of Use Permit within 30 days of the
28 approval of the special use permit, and shall also provide with the permit application
29 an amended site plan which indicates that the runway shall be located no
30 closer than 85 feet to the east property line.

31 The above condition is necessary to ensure that:

32 Compliance with the Zoning Ordinance within a reasonable time frame.

33
34 The roll was called:

35
36 Capel-yes Courson-no Miller-yes
37 Palmgren-no Schroeder-yes Thorsland-yes
38 Bluhm-yes

39
40 Mr. Hall informed the petitioners that his request has received a denial. He said that a completed Finding of
41 Fact will be forwarded to his attorney as soon as possible.

42
43 6. New Public Hearings

1
2 **Case 673-V-10 Petitioner: Harl and Donna Parkinson Request to authorize the use of an existing**
3 **detached accessory storage building less than 150 square feet in area with a side yard of zero feet and**
4 **a rear yard of zero feet in the AG-2 Agriculture Zoning District. Location: Lot 1 of Headlee 2nd**
5 **Subdivision in Section 14 of Mahomet Township and commonly known as the house at 204 South**
6 **Lake of the Woods Road.**
7

8 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
9 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands
10 for those who would like to cross examine and each person will be called upon. He requested that anyone
11 called to cross examine go to the cross examination microphone to ask any questions. He said that those
12 who desire to cross examine are not required to sign the witness register but are requested to clearly state
13 their name before asking any questions. He noted that no new testimony is to be given during the cross
14 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
15 from cross examination.
16

17 Mr. Hall distributed a new Supplemental Memorandum dated August 26, 2010, to the Board for review. He
18 said that the new memorandum has many attachments and at this time he will review those attachments with
19 the Board. He said that Attachment One is a short letter from Mr. Parkinson which included a listing sheet
20 from RE/Max Realty dated 8/15/2001, indicating that the garden shed was on the property at that time. Mr.
21 Hall stated that Attachment Two is a short letter from neighbors Josh and Alicia Helmick indicating that they
22 have no issues with the Parkinson's shed. Mr. Hall stated that Attachment Three is a copy of the original
23 complaint. He said that a copy of the original complaint has been provided to document that when staff
24 received the complaint there was no functional complaint made about the shed but that it was too close to the
25 property line. Attachment Four includes photographs from Mr. Parkinson indicating the subject shed.
26 Attachment Five includes a site map with coordinating photographs of the subject property indicating the
27 directional view of the shed in relation to neighboring properties.
28

29 Mr. Hall stated that the new memorandum includes several items of new evidence for the Summary of
30 Evidence. He reviewed, in general, the new items of evidence with the Board and said that if the Board had
31 any specific questions regarding an individual item then staff will go back and further review it. He said that
32 the first item of evidence amends Item #1 on page 1 of 9 specifying that petitioners purchased the property
33 on October 9, 2001. He said that the second new item of evidence is a revision of Item #5 on page 2 of 9
34 which is simply a verbal description of the property. He noted that the last item in this description references
35 a mature elm tree which is located between the deck and the accessory storage building. He said that the
36 third new item of evidence is new Item #7.D on page 4 of 9 which refers to the RE/Max Realty listing, which
37 is an attachment, for the subject property indicating that there was a garden shed on the property when it was
38 purchased on October 9, 2001. He said that the fourth new item of evidence is Item #8.B. on page 5 of 9
39 which discusses the mature elm tree located in the area that would be occupied by the subject building if it
40 were relocated in the same corner of the yard to provide conforming yards. He said that it is true that if the
41 mature elm tree was not there adequate space would be available for the shed to be relocated further from
42 both lot lines although there is plenty of area on the rest of the property where the shed could have originally
43 been located but the shed was not placed on the property by the petitioners and it was there when they

1 purchased the property. Mr. Hall stated that the fifth new items of evidence are new Items #9.B and 9.C on
2 page 5 of 9. He said that Item #9.B. indicates the petitioner’s submittal including the Re/Max Realty listing
3 indicating that there was a garden shed on the property when the petitioner purchased the property and Item
4 #9.C mentions the letter from Josh and Alicia Helmick, neighbors of the subject property, indicating that
5 they have no issues with the subject storage building. He said that the sixth new item of evidence is Item
6 #10.B.(2)on page 5 of 9 indicating the rough map of the vicinity of the subject property that the petitioners
7 submitted indicating the distance from the petitioner’s house to the nearest structures on neighboring lots.
8 The nearest building is indicated as being approximately 75 feet from the east side of the house which is
9 approximately 64 feet from the east side of the subject storage building. He said that the seventh new items
10 of evidence are Items #11.D, 11.E and 11.F on page 6 of 9. He said that Item #11.D mentions that the shed
11 was on the subject property when the petitioners purchased the property on October 9, 2001, and there has
12 only been one complaint regarding the building in that time. He said that Item #11.E discusses the rough
13 map of the vicinity of the subject property and the fact that the nearest house is approximately 64 feet from
14 the east side of the subject shed. He said that Item #11.F mentions the letter from neighbors Josh and Alicia
15 Helmick. He said that Item #11.G discusses that if the variance is approved then the mature elm tree will be
16 allowed to remain on the property and continue to enhance the property value. He said that Item #11.H
17 indicates that the neighbor’s fence is attached to the subject building and altering the building or its location
18 would require a modification of the fence. He said that Item #11.I mentions that the original complaint
19 against the subject building did not specify any particular problem caused by the shed, but only that it was
20 too close to the side and rear lot lines. Mr. Hall stated that the eighth item of new evidence is Item 14 on
21 page 6 of 9 is a proposed condition which is only a rhetorical device and the Board does not have to accept
22 the condition. He said that as the Board knows, if a variance is approved and no specification is made then
23 the assumption is that the structure could be replaced if need be provided that it is the same footprint and in
24 the same location. He said that the case was not advertised in this way therefore if the Board feels that this is
25 a reasonable request and the Board is inclined to approve it a new item of evidence could be added
26 specifying that the approval also covers replacement if need be. He said that recently there have been similar
27 variances dealing with different building types but for a variance for an accessory building the Board could
28 place some limit upon what type of replacement could occur. He said that although this is not staff’s
29 recommendation the Board could find that the shed in its current location is fine but if it requires
30 replacement it would be required to meet the minimum yard requirements.

31
32 Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

33
34 Mr. Courson stated that he does not believe that the RE/Max listing indicating that the shed existed on the
35 property when the petitioner’s purchased the property is relevant to the case. He said that the shed is not in
36 compliance therefore it doesn’t matter who built the shed or who purchased the property after the fact.

37
38 Mr. Hall stated the evidence is relevant to the criteria that the special conditions, circumstances, hardship or
39 practical difficulties do not result from actions of the applicant. He said that it is relevant to the extent that
40 the petitioners did not place the building on the property. He said that it is a fact that there are no records of
41 anyone calling the office before the property was purchased verifying that everything was in compliance but
42 it is also a fact that such a practice hardly every happens.

8/26/10

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 Mr. Bluhm stated that there are a lot of realtors who do not know the rules and do not want to know the rules
2 therefore they perceive that their listed properties meet all of the County's guidelines.

3
4 Mr. Bluhm asked the Board if there were any further questions for Mr. Hall and there were none.

5
6 Mr. Hall stated that the Board can only approve a variance if there is a positive finding on each criteria and
7 some might be inclined to think that this is a positive finding for Item #9.

8
9 Mr. Courson stated that he would argue that the petitioners did take action because they did purchase the
10 property. He said that the petitioner did not have to purchase the property.

11
12 Mr. Hall stated that Mr. Courson's view is certainly one view that can be considered.

13
14 Mr. Bluhm asked the Board if there were any further questions for Mr. Hall and there were none.

15
16 Mr. Bluhm called Mr. Ray Parkinson to testify.

17
18 Mr. Ray Parkinson, who resides at 204 S. Lake of the Woods Road, Mahomet stated that staff has covered
19 just about everything. He said that there were three letters from neighbors that were supposed to be sent to
20 staff and the Board indicating that they had no issues with leaving the shed in its current location. He said
21 that they have a mutual agreement with the lady who lives behind which allows them the use of 20 feet of
22 her property. He said that they mow the area and they have two bird feeders located on the 20 feet of
23 property. He said that as long as the lady lives upon her property and as long as they live on their property
24 the mutual agreement stands but if she sells her property then they will have to speak to the new owners to
25 see if they could still utilize the 20 feet. He said that Josh and Alicia Helmick own the 20 feet to the west of
26 the shed which extends to Lake of the Woods Road and they have indicated that they have no issues with the
27 location of the shed. He said that he wishes that the realtor had told them that the shed was not in
28 compliance but the fact is that they didn't.

29
30 Mr. Hall asked Mr. Parkinson if any of the neighbors have complained about the shed's location.

31
32 Mr. Parkinson stated no. He said that the elderly couple which lives to the east of the subject property are
33 selling their property in October.

34
35 Mr. Bluhm asked the Board if there were any questions for Mr. Parkinson and there were none.

36
37 Mr. Bluhm asked if staff had any questions for Mr. Parkinson.

38
39 Mr. Hall asked Mr. Parkinson if he previously asked him if the shed could be relocated.

40
41 Mr. Parkinson stated that he does not recall such a conversation but the only way that the shed could be
42 moved would be to the north which would place it within five feet of the edge of the house. He said that the
43 there are three raised gardens to the east of their house therefore the shed could not be relocated there unless 25

1 truckloads of dirt was removed.

2

3 Mr. Hall asked Mr. Parkinson if the shed could structurally withstand relocation.

4

5 Mr. Parkinson stated no. He said that the front of the shed is rotting and the sides are not in good shape. He
6 said that if the shed requires replacement he understands that he will have to build a smaller shed but
7 currently the existing shed is loaded.

8

9 Mr. Bluhm asked Mr. Parkinson if the shed is on a foundation.

10

11 Mr. Parkinson stated no. He said that the shed is located on a concrete slab and is blocked up approximately
12 six inches to prevent the shed floor from rotting.

13

14 Mr. Bluhm asked Mr. Parkinson if the shed was sitting on 2" x 6" boards.

15

16 Mr. Parkinson stated yes, it has boards under it which sit on concrete blocks. He said that if the shed is
17 moved it will probably fall apart.

18

19 Mr. Bluhm asked the Board if there were any questions for Mr. Parkinson and there were none.

20

21 Mr. Bluhm asked if staff had any further questions for Mr. Parkinson and there were none.

22

23 Mr. Bluhm asked the audience if there were any questions for Mr. Parkinson and there were none.

24

25 Mr. Hall suggested a new Item #7.E. which would be located on page 4 of 9 of the finding to read as follows:
26 Petitioner Ray Parkinson testified at the public hearing on August 26, 2010, that the subject shed is on
27 concrete blocks on a concrete slab and it is his opinion that the shed could not be relocated without the shed
28 falling apart.

29

30 Mr. Bluhm asked Mr. Parkinson to confirm that the shed is sitting on a concrete foundation, concrete blocks
31 and 2" x 6" boards with a plywood floor inside the building.

32

33 Mr. Parkinson stated yes.

34

35 Mr. Hall stated that he would also recommend the same text included in new Item #7.E. for new Item #8.C.
36 which is on page 5 of 9.

37

38 Mr. Bluhm asked Mr. Hall if the Documents of Record are up-to-date.

39

40 Mr. Hall stated yes.

41

42 Mr. Thorsland stated that in regard to the proposed special condition included in Item #14 on page 6 of 9 the
43 special condition should read as follows: The requested variance authorized the location of the existing

1 detached accessory storage building, and at such time that a replacement for the subject structure is
2 constructed on the subject property it may be reconstructed no larger than the current footprint at the same
3 location.

4
5 Ms. Capel stated that along the west and south side of the shed which are the two boundaries in question,
6 there is an existing 25 foot easement on adjacent properties in which no construction could occur.

7
8 Mr. Hall stated that this text could be added as new Item #7.F.

9
10 Mr. Bluhm read the revised special conditions as follows:

11 **The requested variance authorized the location of the existing detached accessory storage**
12 **building, and at such time that a replacement for the subject structure is constructed on the**
13 **subject property it may be reconstructed no larger than the current footprint at the same**
14 **location.**

15 The above stated condition is necessary to ensure the following:

16 **The existing accessory storage building is allowed to remain on the property at its current**
17 **location, but any replacement structure shall be placed in a conforming location.**

18
19 Mr. Bluhm asked Mr. Parkinson if he was agreeable to the special condition.

20
21 Mr. Parkinson stated yes.

22
23 **Mr. Thorsland moved, seconded by Mr. Courson to approve the special condition. The motion**
24 **carried by voice vote.**

25
26 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding
27 Case 673-V-10 and there was no one.

28
29 Mr. Bluhm closed the witness register.

30
31 **Finding of Fact for Case 673-V-10:**

32
33 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
34 673-V-10 held on August 26, 2010, the Zoning Board of Appeals of Champaign County finds that:

- 35
36 **1. Special conditions and circumstances DO exist which are peculiar to the land**
37 **or structure involved which are not applicable to other similarly situated land**
38 **and structures elsewhere in the same district.**

39
40 Mr. Palmgren stated that special conditions and circumstances DO exist which are peculiar to the land or
41 structure involved which are not applicable to other similarly situated land and structures elsewhere in the
42 same district because the shed existed when the property was purchased and relocation would be difficult
43 due to an existing mature elm tree and the fact that the shed is currently placed on a concrete slab and

1 relocation would cause the shed to fall apart.

2
3 Mr. Thorsland stated that the corner in which the shed is located has an easement on both sides in question
4 where no construction can take place.

5
6 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
7 **regulations sought to be varied WILL prevent reasonable or otherwise permitted**
8 **use of the land or structure or construction.**
9

10 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
11 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
12 or construction because the shed cannot be moved without it falling apart and a mature elm tree would be
13 required to be removed and if the shed was relocated at the other corner of the lot three raised bed gardens
14 would have to be destroyed.

15
16 **3. The special conditions, circumstances, hardships or practical difficulties DO NOT**
17 **result from actions of the applicant.**
18

19 Mr. Thorsland stated that the special conditions, circumstances, hardships or practical difficulties DO NOT
20 result from actions of the applicant because the structure was in place prior to the current ownership and no
21 complaints have been filed regarding the shed.

22
23 Mr. Bluhm stated that the structure has existed since 2001.

24
25 **4. The requested variance, subject to the proposed special condition, IS in harmony**
26 **with the general purpose and intent of the *Ordinance*.**
27

28 Mr. Thorsland stated that the requested variance, subject to the proposed special condition, IS in harmony
29 with the general purpose and intent of the *Ordinance* because current easements allow separation from other
30 structures and an agreement with adjacent landowners to allow the shed to remain. He said that the
31 requested variance is not a prohibited variance.

32
33 **5. The requested variance, subject to the proposed special condition, WILL NOT**
34 **be injurious to the neighborhood or otherwise detrimental to the public health,**
35 **safety or welfare.**
36

37 Mr. Courson stated that the requested variance, subject to the proposed special condition, WILL NOT be
38 injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because there is
39 a 25 foot easement along both sides of the shed and the shed will not limit any egress to the surrounding
40 properties. He said that letters have been received from surrounding neighbors with no complaints about the
41 shed.

42
43 Ms. Capel stated that allowing the shed to remain remedies the fence issue.

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- 6. **The requested variance, subject to the proposed special condition, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Ms. Capel stated that the requested variance, subject to the proposed special condition, IS the minimum variation that will make possible the reasonable use of the land/structure because the shed is located right on the property line and no other accommodations will make it not in violation.

Mr. Courson stated that any movement of the building could cause the building to collapse.

- 7. **The special condition imposed herein is required to ensure compliance with the criteria for variances and for the particular purpose described below:**

The requested variance authorized the location of the existing detached accessory storage building, and at such time that a replacement for the subject structure is constructed on the subject property it may be reconstructed no larger than the current footprint at the same location.

The above stated condition is necessary to ensure the following:

The existing accessory storage building is allowed to remain on the property at its current location, but any replacement structure shall be placed in a conforming location.

Mr. Thorsland moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended. The motion carried by voice vote.

Mr. Miller moved, seconded by Mr. Schroeder to close the public hearing for Case 673-V-10. The motion carried by voice vote.

Final Determination for Case 673-V-10:

Mr. Palmgren moved, seconded by Mr. Courson that 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 been met and pursuant to the authority granted in 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 WITH CONDTIONS 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 special conditions:

The requested variance authorized the location of the existing detached accessory storage building, and at such time that a replacement for the subject structure is constructed on the subject property it may be reconstructed no larger than the current

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footprint at the same location.
The above stated condition is necessary to ensure the following:
The existing accessory storage building is allowed to remain on the property at its current location, but any replacement structure shall be placed in a conforming location.

The roll was called:

Capel-yes	Courson-yes	Miller-yes
Palmgren-yes	Schroeder-yes	Thorsland-yes
Bluhm-yes		

Mr. Hall informed the petitioners that they have received approval from the Board and nothing more is required. He said that staff will send out the necessary paperwork as soon as possible.

Ms. Capel moved, seconded by Mr. Thorsland to recess the meeting for a five minute break. The motion carried by voice vote.

The meeting recessed at 7:38 p.m.
The meeting resumed at 7:48 p.m.

Mr. Bluhm stated that the Board will now hear Case 645-S-09.

7. Staff Report

None

8. Other Business

Mr. Hall stated that the next meeting for the ZBA is September 16th and he can imagine that some of the Board members may be in the field at that time therefore it would be nice to know before 7:00 p.m. whether or a not a quorum will be present at the meeting.

Mr. Miller requested that staff call all Board members to assure attendance.

Mr. Hall stated that staff will call the Board members.

9. Audience Participation with respect to matters other than cases pending before the Board

None

10. Adjournment

8/26/10

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 The meeting adjourned at 10:50 p.m.

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3

4 Respectfully submitted

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9 Secretary of Zoning Board of Appeals

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

(217) 384-3708

CASE NO. 665-AT-10

SUPPLEMENTAL MEMORANDUM

September 10, 2010

Petitioner: **Zoning Administrator**

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

Request: **Amend the Champaign County Zoning Ordinance by revising paragraph 4.3.3 G. as follows:**

- A. **Increase the maximum fence height allowed in side and rear yards from six feet to eight feet for fences in Residential Zoning Districts and on residential lots in the AG-1 and AG-2 Zoning Districts.**
- B. **Require fencing that is higher than four feet tall to be at least 50% transparent when located in the following areas:**
 - (1) **In Residential Zoning Districts, all fencing that is in the front yard.**
 - (2) **On residential lots in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling.**
- C. **Increase the maximum allowed height of all fencing to allow for up to three inches of ground clearance.**

STATUS

This is the fifth meeting for this case. It was continued from the July 15, 2010, public hearing.

Staff has revised the description of the case and the proposed amendment to reflect the Board's discussion from the May 27, 2010, public hearing, with the exception of gates.

Staff hopes to have comments from the Sheriff regarding the transparency of gates by the meeting.

CHANGES TO CASE DESCRIPTION

Paragraph B of the description of the proposed text amendment has been revised to reflect the Board's latest discussion on this case, as follows: (Underline indicates text to be added. ~~Strikeout~~ indicates text to be removed.)

- B. Require ~~all fencing that is in the front yard and~~ that is higher than four feet tall to be at least 50% transparent ~~in Residential Zoning Districts and on residential lots in the AG-1, AG-2, and CR Zoning Districts~~ when located in the following areas:
 - (1) In Residential Zoning Districts, all fencing that is in the front yard.
 - (2) On residential lots in the AG-1, AG-2, and CR Zoning Districts, only fencing between the dwelling and the driveway within 25 feet of the dwelling.

ATTACHMENT

A Revised Draft Ordinance

1. Revise Paragraph 4.3.3 G. as follows:

G. Fences

1. Fences in R Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Fences located in required FRONT YARDS shall meet the following additional requirements:
 - (1) A maximum of six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (2) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent.
 - c. Fences located in required SIDE and REAR YARDS shall meet the following additional requirements:
 - (1) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; and provided that
 - (2) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that
 - (3) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
2. Fences on residential lots in the AG Zoning Districts shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. On lots less than five acres in area the following additional requirements shall apply:
 - (1) Fences located in required FRONT YARDS shall meet the following requirements:
 - (a) They shall not exceed six feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5.; and
 - (b) Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located ~~along the driveway~~ between the DWELLING and ~~the nearest point of the driveway visibility triangle as required by 4.3.3 F.2~~ within 25 feet of the dwelling.
 - (2) Fences located in required SIDE and REAR YARDS shall meet the following requirements:
 - (a) A maximum of eight feet in HEIGHT, not including any clearance authorized in 4.3.3 G.5; and provided that
 - (b) Any portion of fence that is not in a defined SIDE YARD nor a defined FRONT YARD shall have the same HEIGHT limit as if in a SIDE YARD; provided that

- (c) Any portion of any fence that is between the DWELLING and the FRONT YARD and that is over four feet in HEIGHT must be at least 50% transparent for that portion of fence that is over four feet in HEIGHT.
- c. On lots five acres or greater in area, any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located ~~along the driveway~~ between the DWELLING and ~~the nearest point of the driveway visibility triangle~~ as required by 4.3.3 F.2 within 25 feet of the dwelling.
- 3. Fences on residential lots in the CR Zoning District shall meet the following requirements:
 - a. Any fence must meet the requirements for visibility as defined by Section 4.3.3 E. of this ordinance.
 - b. Any portion of a fence over four feet in HEIGHT must be at least 50% transparent when located ~~along the driveway~~ between the DWELLING and ~~the nearest point of the driveway visibility triangle~~ as required by 4.3.3 F.2 within 25 feet of the dwelling.
- 4. Fences in B and I Zoning Districts shall not exceed eight feet in HEIGHT not including any clearance authorized in subparagraph 4.3.3 G.5., except that any barbed wire security barrier may be up to an additional two feet in HEIGHT. Fences may be located in the required front yards provided they meet the requirements of the triangle of visibility as defined by Section 4.3.3.E of this ordinance.
- 5. The HEIGHT of fences shall be measured from the highest adjacent GRADE and may be in addition to up to three inches of clearance between the highest adjacent GRADE and the bottom of the fence. No minimum clearance is required by this Ordinance, and further, the fence HEIGHT may be increased by any portion of the allowable three inches of clearance to GRADE that is not used as clearance.

Champaign
County
Department of



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

(217) 384-3708

CASE NO. 674-V-10

PRELIMINARY MEMORANDUM

September 10, 2010

Petitioner: Dobbins Downs Community Improvement Association, with Leslie Kimble, President; Cristina Manuel, Vice President; Norman Davis, Treasurer; and Amanda Zuek, Secretary

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

Request: Authorize the construction and use of a public park in the R-3 Two Family Residence Zoning District, with the following variances:

- A. Construction and use of a basketball court with a side yard of zero feet in lieu of the required minimum side yard of five feet for accessory structures; and**
- B. No off-street parking spaces in lieu of the minimum required one off-street parking space per three patrons based on the estimated number of patrons during peak attendance; and**
- C. Front yards of six feet and setbacks of 36 feet in lieu of the minimum required 25 feet front yard and 55 feet setback with regard to Campbell Drive and Kingsway Drive, minor streets in the R-3 Zoning District; and**
- D. A waiver of the application fees for the proposed variance application; and**
- E. A waiver of the Zoning Use Permit Application fees for the proposed public park.**

BACKGROUND

Dobbins Downs subdivision is located on the urban fringe of the City of Champaign, but is not part of the city. There are no recreational facilities provided by Champaign Park District that are north of I-74.

The subject property was conveyed to Champaign County in 200 as a result of the County cleaning up the remains left when the former house burned. The County has not been able to sell the property since.

The petitioner applied to lease the subject property from Champaign County and then recently obtained a grant from KaBOOM!, Inc, a national non-profit organization that helps communities to build and improve parks. The petitioner then obtained the lease from Champaign County.

Parks are authorized by-right in the R-3 Zoning District and a Zoning Use Permit is required to establish the use and operate it on the subject property.

The subject property is a corner lot with more than 40% of the subject property covered by required setbacks. The petitioner has proposed using the existing driveway for a basketball court and hopscotch course, which will be more affordable than paying for new paving elsewhere on the property, but requires a variance since it is so close to the property line.

The petitioner has also requested a variance from the parking requirements. In conversations with local park districts staff found out that it is customary for area park districts to only provide parking at large community parks. Smaller, neighborhood parks typically operate under the assumption that most attendants will walk to the property.

The proposed site plan requires several variances and the petitioner is a public charity and is therefore seeking a waiver of the zoning case filing fees and zoning use permit application fees.

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign. 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	Vacant	R-3 Two Family Residence
North	Single Family Dwelling	R-3 Two Family Residence
East	Single Family Dwelling	Champaign SF2 Two Family
West	Single Family Dwelling	R-3 Two Family Residence
South	Single Family Dwelling	Champaign SF2 Two Family

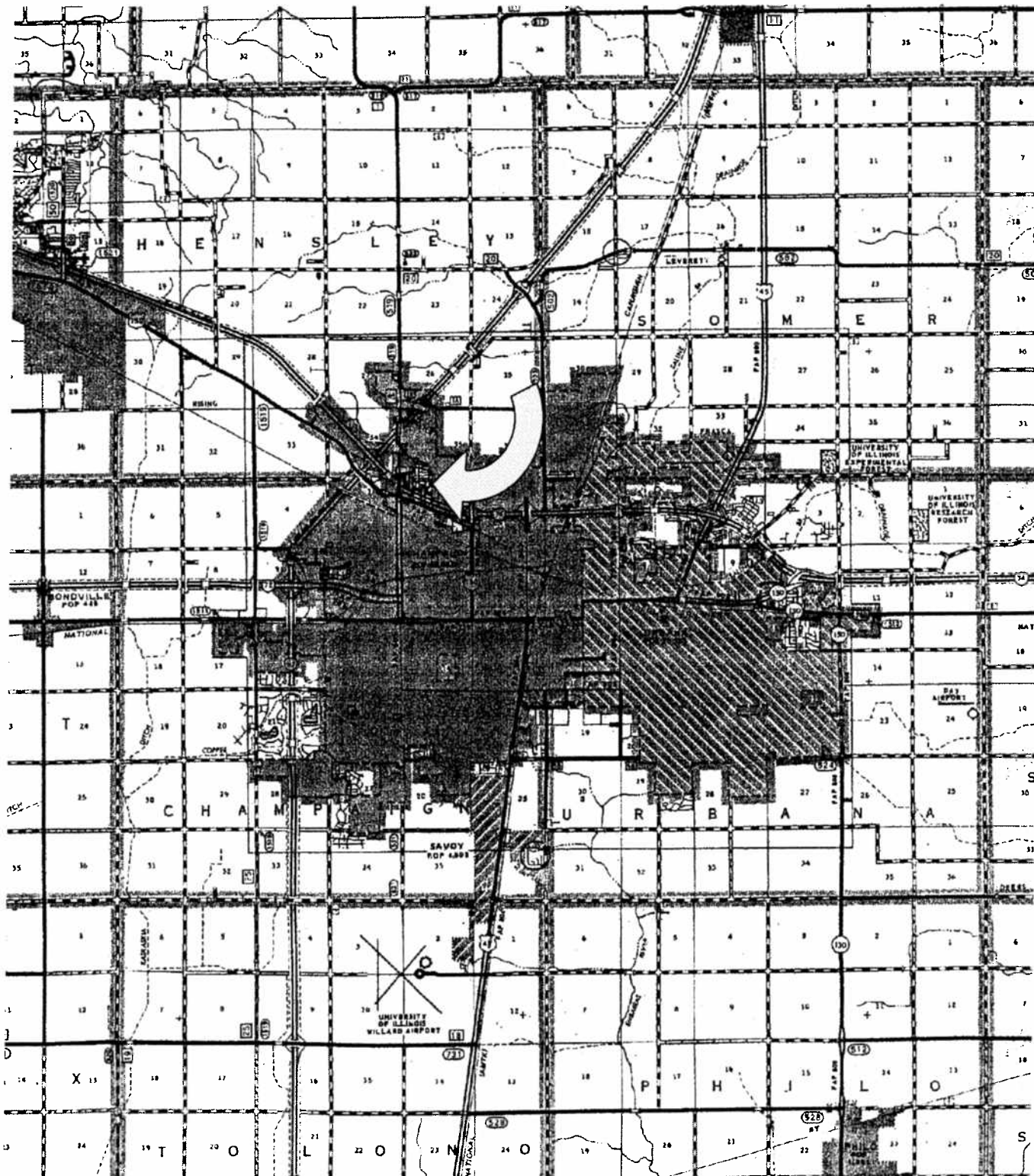
ATTACHMENT

- A Case Maps (Location, Land Use, Zoning)
- B Site plan
- C Site plan insert
- D Draft Summary of Evidence for Case 674-V-10

ATTACHMENT A. LOCATION MAP

Case 674-V-10

SEPTEMBER 10, 2010



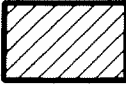
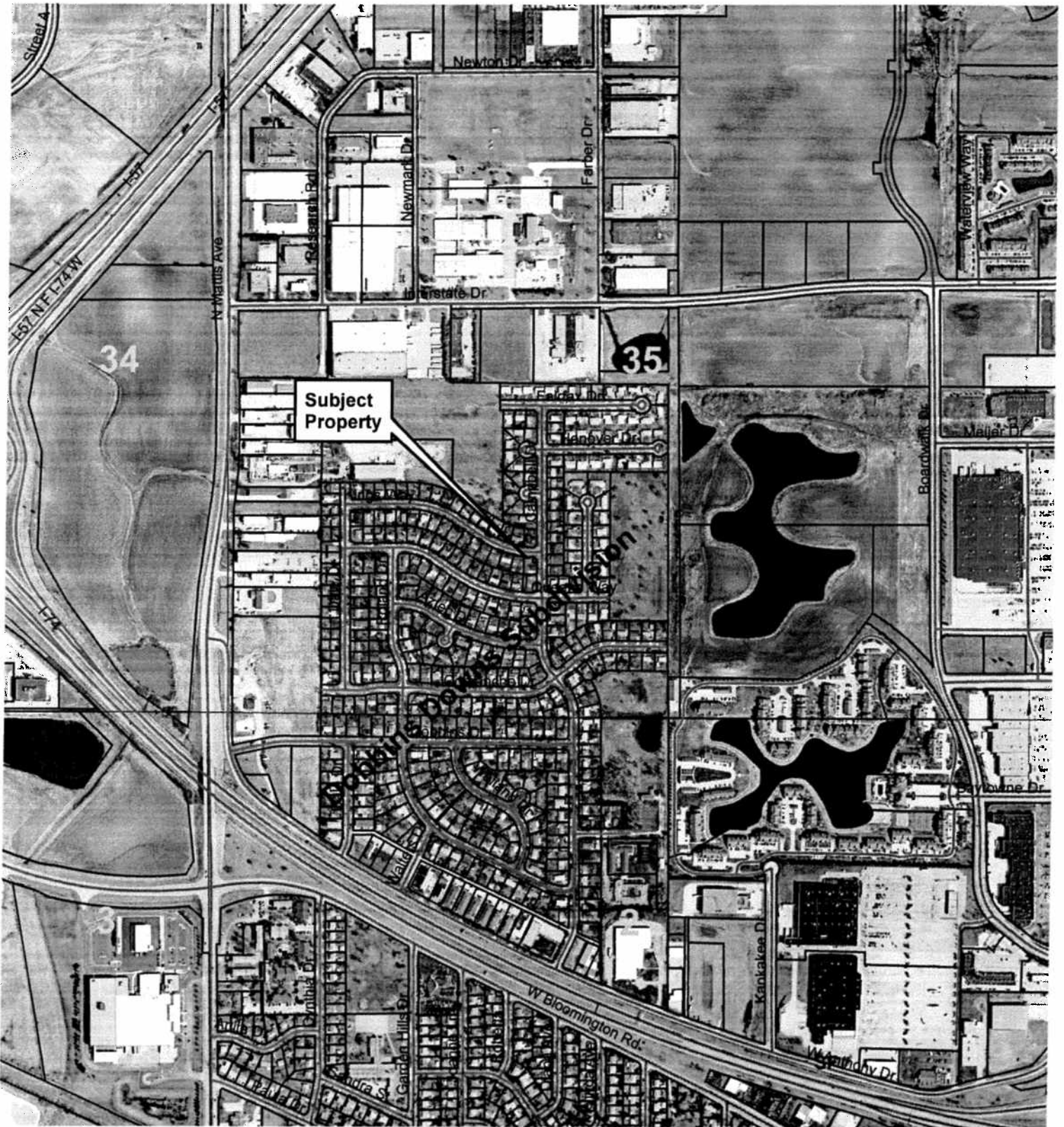
Champaign
County
Department of
**PLANNING &
ZONING**



ATTACHMENT A. LAND USE MAP

Case 674-V-10

SEPTEMBER 10, 2010



Area of Concern



Single Family



Farmstead



1 inch = 800 feet

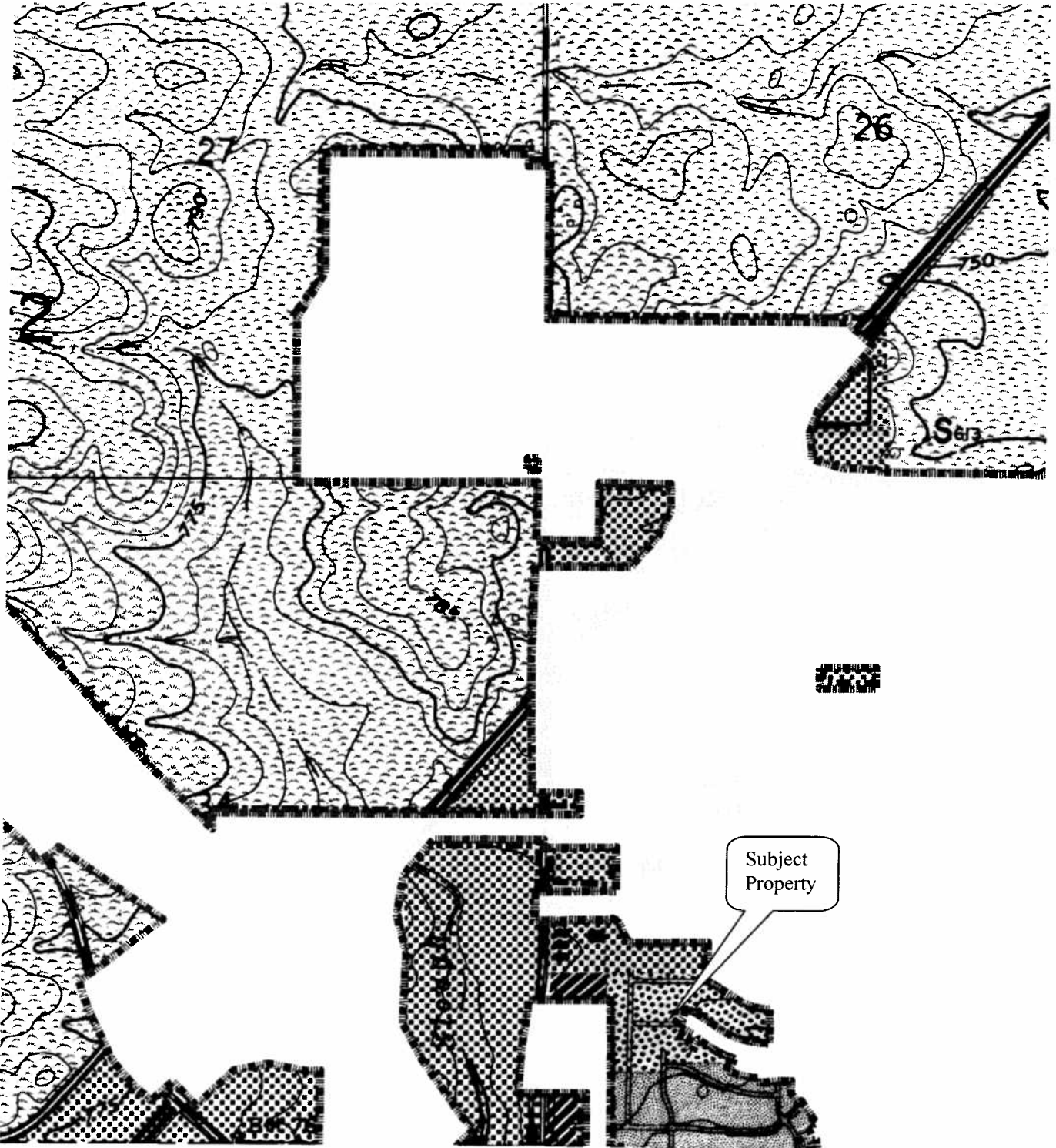
Champaign
County
Department of

**PLANNING &
ZONING**

ATTACHMENT A. ZONING MAP

Case 674-V-10

SEPTEMBER 10, 2010



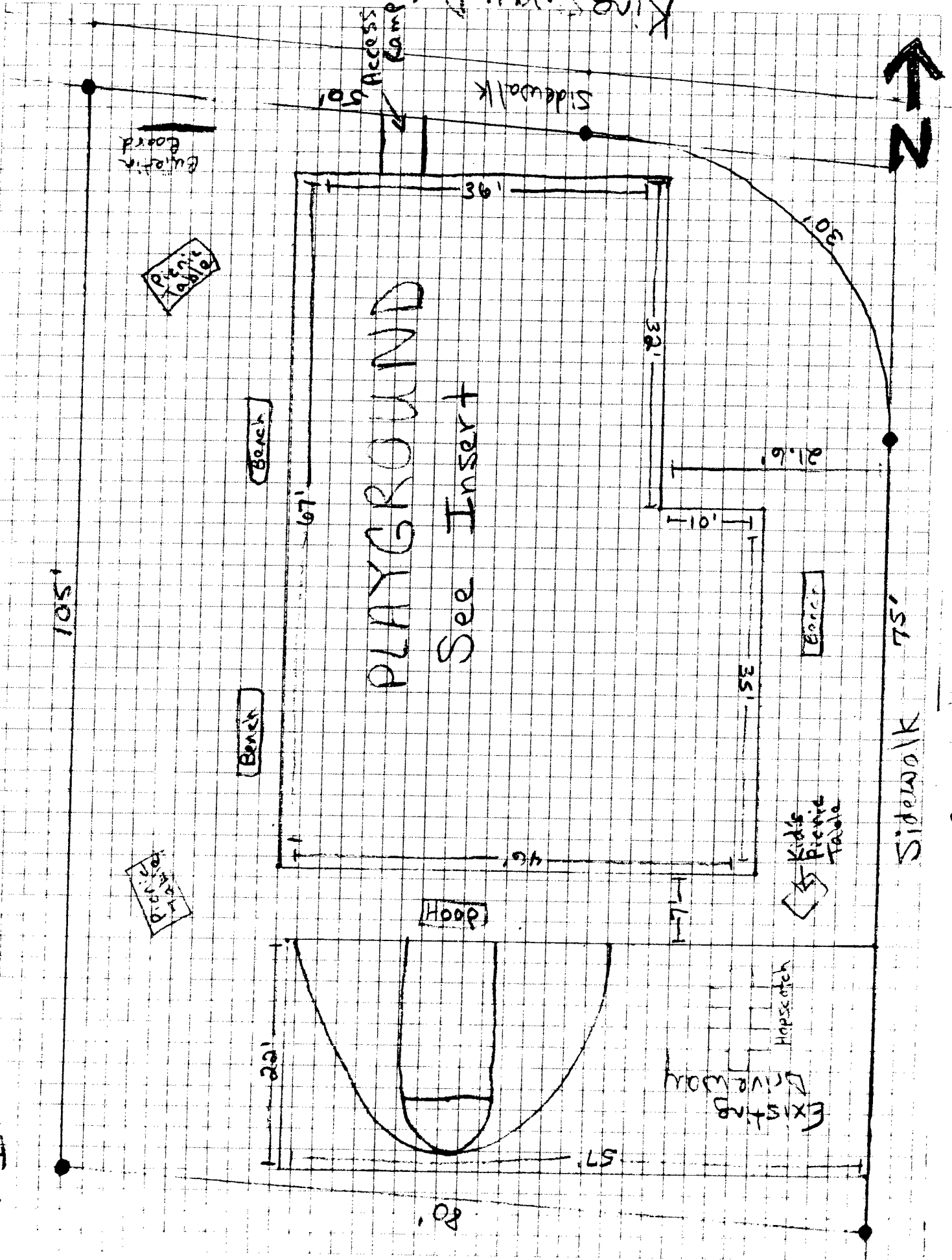
1 inch equals 800 feet

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



Champaign
County
Department of
**PLANNING &
ZONING**

1 square = 2 feet



PLAYGROUND

See Insert

Sidewalk 75'

Campbell Drive

Electric Board

Picnic Table

Bench

Bench

Hoop

Bench

Kids Picnic Table

Hopsotch

Existing Driveway

Access Ramp

Sidewalk

50'

19'

32'

21.6'

1.01'

35'

46'

16'

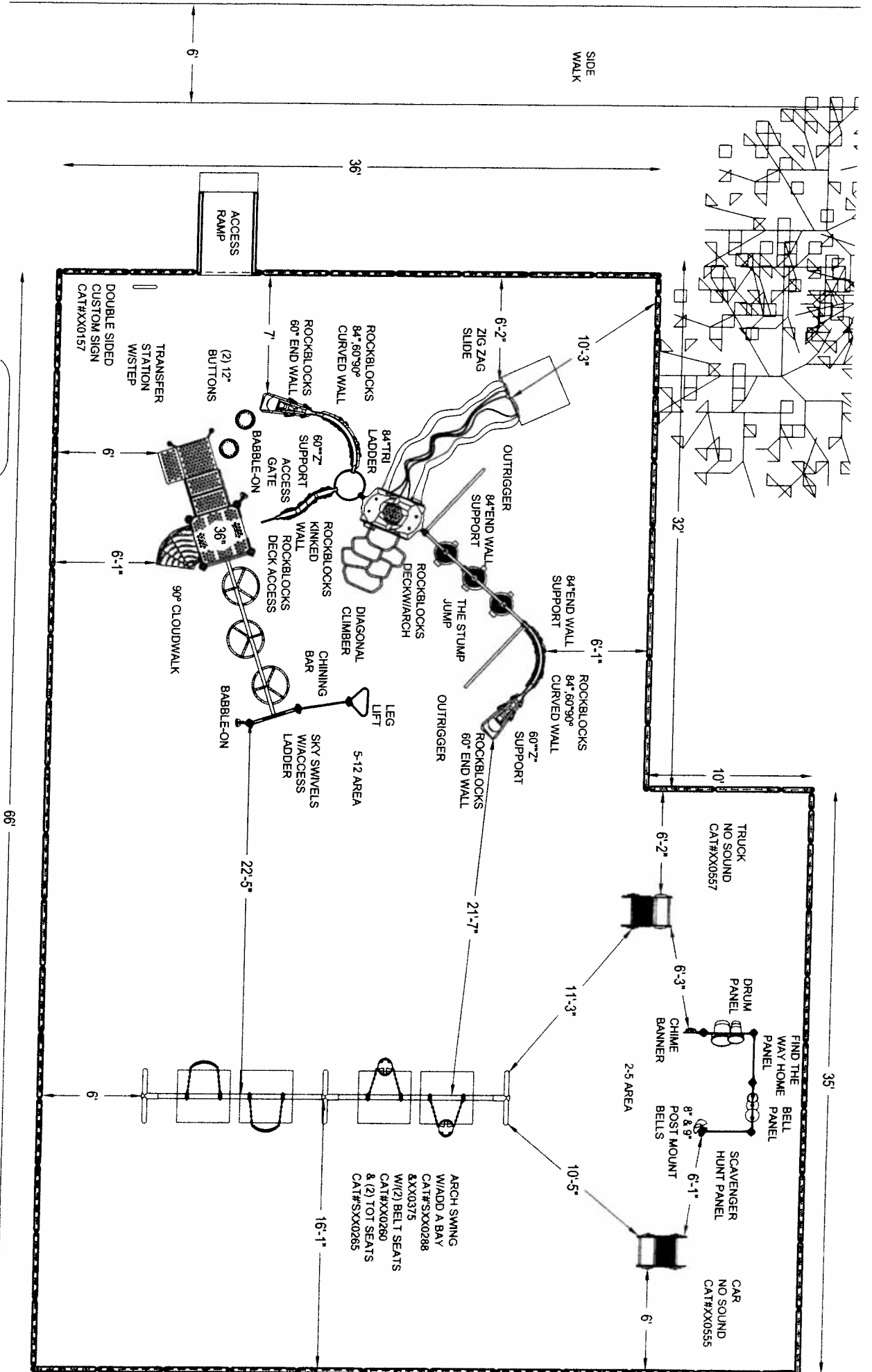
30'

105'

80'

57'

INSERT



PRELIMINARY DRAFT

674-V-10

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

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

Date: September 16, 2010

Petitioners: Dobbins Downs Community Improvement Association, with Leslie Kimble, President; Cristina Manuel, Vice President; Norman Davis, Treasurer; and Amanda Zuek, Secretary

Request: Authorize the construction and use of a public park in the R-3 Two Family Residence Zoning District, with the following variances:

- A. Construction and use of a basketball court with a side yard of zero feet in lieu of the required minimum side yard of five feet for accessory structures; and
- B. No off-street parking spaces in lieu of the minimum required one off-street parking space per three patrons based on the estimated number of patrons during peak attendance; and
- C. Front yards of six feet and setbacks of 36 feet in lieu of the minimum required 25 feet front yard and 55 feet setback with regard to Campbell Drive and Kingsway Drive, minor streets in the R-3 Zoning District; and
- D. A waiver of all of the application fees for the proposed variance application; and
- E. A waiver of all of the Zoning Use Permit Application fees for the proposed public park.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 16, 2010**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Dobbins Downs Community Improvement Association, recently obtained a lease on the subject property from the owner, Champaign County. The lot was acquired by Champaign County as a result of the County cleaning up the remains left when the former house burned. The County has not been able to sell the property since.

PRELIMINARY DRAFT

2. The subject property is Lot 33 in Regency West Subdivision in Section 35 of Hensley Township and commonly known as the vacant lot at 2603 Campbell Drive, Champaign.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign. 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 R-3 Two Family Residence, and is currently vacant. The petitioner is leasing the subject property to establish a public park for the Dobbins Downs neighborhood.
 - B. Land to the north and west of the subject property is zoned R-3 Two Family Residence, and is in use as single family dwellings.
 - C. Land to the south and east of the subject property is inside the City of Champaign, it is in the City's SF2 Two Family zoning district, and is in use as single family dwellings.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. The proposed site plan was submitted on August 20, 2010, and describes the subject property as follows:
 - A. The subject property is a corner lot located at the intersection of Campbell Drive and Kingsway Drive.
 - B. The subject property is approximately 7,700 square feet in area. Because the subject property is a corner lot, more than 40% of the lot area is covered by the minimum required setbacks.
 - B. The subject property has an existing driveway, which is proposed to be used as a basketball half-court, and a hopscotch course.
 - C. Along the west lot line there are overhanging trees from neighboring properties. There are two picnic tables and two benches proposed in this area.
 - D. The playground is located centrally on the subject property and covers 2,852 square feet. It includes a swing set, play car & truck, slide, and other playground equipment.
 - E. There several structures that encroach into the setback for each street adjacent to the property, as follows:
 - (1) There are five structures that encroach into the setback from Campbell Drive:
 - (a) A play car; and
 - (b) A play truck; and
 - (c) An unenclosed play structure; and

ITEM 5.E. CONTINUED

- (d) A kid’s picnic table; and
 - (e) A bench.
- (2) There are four structures that encroach into the setback for Kingsway Drive:
- (a) A jungle gym type play structure with a slide; and
 - (b) Another jungle gym type play structure; and
 - (c) A bulletin board; and
 - (d) A picnic table.

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 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.
 - (2) “AREA, LOT” is the total area within the LOT LINES.
 - (3) “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.
 - (4) “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.
 - (5) “LOT, CORNER” is a LOT located:
 - (a) At the junction of and abutting two or more intersecting STREETS; or
 - (b) At the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) At and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
 - (6) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.

PRELIMINARY DRAFT

ITEM 6.A. CONTINUED

- (7) "PARKING SPACE" is a space ACCESSORY to a USE or STRUCTURE for the parking of one vehicle.
- (8) "PUBLIC ASSEMBLY USE" is a USE where more than fifty persons congregate or assemble for any purpose, including a cabaret, banquet hall, church, concert hall, dance hall, exhibition hall, lecture room, music hall, THEATER, grandstand, tents and similar outdoor and indoor USES.
- (9) "SETBACK LINE" is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
- (10) "SIDEWALK" is the paved portion of the RIGHT-OF-WAY designed and intended for the movement of and use of pedestrian traffic.
- (11) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
 - (a) MAJOR STREET: Federal or State highways
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (12) "STRUCTURE" is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (13) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (14) "USE" is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted USE" or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (15) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or Zoning Board of Appeals are permitted to grant.
- (16) "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.

ITEM 6.A. CONTINUED

- (17) "YARD, FRONT" is a YARD extending the full width of a LOT and situated between the FRONT LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT. Where a LOT is located such that its REAR and FRONT LOT LINES each abut a STREET RIGHT-OF-WAY both such YARDS shall be classified as FRONT YARDS.
 - (18) "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. In Section 5.2 of the *Zoning Ordinance*, public parks are authorized by-right in the R-3 District.
- C. Paragraph B. in Subsection 7.2.2 of the *Zoning Ordinance* specifies the required minimum side yard for detached accessory buildings or structures in all R Districts as follows:
- B. SIDE YARD
- No DETACHED ACCESSORY BUILDING or STRUCTURE shall be located less than five feet from any side LOT LINE.
- D. Subparagraph 7.4.1 C.3.ii. establishes the minimum required number of parking spaces for any place of public assembly, including outdoor public parks, as follows:
- For outdoor areas, including non-permanent STRUCTURES, used for exhibit, educational, entertainment, recreational, or other purpose involving assemblage of patrons, one PARKING SPACE per three patrons based on the estimated number of patrons during peak attendance on a given day during said USE is in operation.
- E. Setback requirements are established in two sections, as follows:
- (1) Subsection 4.3.2. Setback Line states, "All BUILDINGS and all MAIN or PRINCIPAL STRUCTURES shall be positioned in conformance with the SETBACK LINE regulations and standards specified hereinafter for the DISTRICT in which they are located," and drawings in 4.3.2 further specify that in the case of a MINOR STREET the required setback is 55 feet with a front yard of 25 feet.
 - (2) Section 5.3 is the Schedule of Area, Height, and Placement Regulations by District and indicates that the setback from a MINOR STREET is 55 feet and footnote 3 further specifies that in no case shall the FRONT YARD be less than 25 feet from a MINOR STREET.
- F. Fees for various applications under the *Zoning Ordinance* are established in Section 9.3, as follows:
- (1) Fees for Zoning Cases are established in Subsection 9.3.3, and Subparagraph B.1.b. of that subsection indicates that the fee for a Variance is \$200.

PRELIMINARY DRAFT

ITEM 6.F. CONTINUED

- (2) Fees for Zoning Use Permit Applications are established in Subsection 9.3.1, and that section indicates a variety of costs based on the type of construction being undertaken.
- G. 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.
- H. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
 - (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- I. 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:

ITEM 7. CONTINUED

- A. The Petitioners have testified on the application that, **“1. This lot will be an open area playground. Thus, the non-permanent structures will not impede visibility. 2. There are no other lots designed for this use, the property is centrally located for walking and street parking is allowed. 3. DDCIA is a 501(c)(3) charity.”**
- B. The Dobbins Downs subdivision is not part of the City of Champaign and so is not served by the Champaign Park District
- C. Champaign County does not provide recreational facilities. Regarding Part A of the proposed variance, the proposed basketball court is making use of the existing driveway to provide a hard surface.
- D. Regarding Part B of the proposed variance:
 - (1) The proposed public park is only intended to serve the Dobbins Downs neighborhood. The Dobbins Downs subdivision is all located within walking distance, less than a mile, of the subject property.
 - (2) In a phone conversation on September 9, 2010, with J.R. Knight, Associate Planner, Andrew Weiss, Assistant Park Planner for Champaign Park District, indicated that the Park District does not provide parking for neighborhood parks.
- E. Regarding Part C of the proposed variance:
 - (1) The location of the playground equipment is restricted by the existing driveway and mature trees located on the west lot line of the subject property.
 - (2) Approximately 40% of the 7,700 square feet lot area is covered by setbacks from Campbell Drive and Kingsway Drive.
 - (3) There are no enclosed structures that encroach into either setback (see Item 5.E. above).
 - (4) The types of structures that are in the setback are only considered structures because they are affixed to the ground because the proposed park will be for public use.
- F. Regarding Parts D and E of the proposed variance:
 - (1) The petitioner is building the proposed park with a grant from KaBOOM!, Inc, a national non-profit organization that helps community organizations build and improve local parks. If the petitioner were a park district they would be supported by taxes.
 - (2) Paragraph 9.3.1 A.2.c. of the *Zoning Ordinance* exempts units of government, such as a park district, from Zoning Use Permit Application fees, but not zoning case filing fees.

PRELIMINARY DRAFT

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, **“1. Loss of 1,000 sq.ft. for the triangle will decrease usable area to about 5,500. This is a hardship because, for example, a pad for just a swing set requires at least 640 sq.ft. 2. Similarly, a loss of lot space for parking would likewise be a hardship. 3. DDCIA has almost no funds for administrative costs.”**
 - B. Regarding Part A of the proposed variance:
 - (1) The existing driveway has been in place on the subject property since before the adoption of the *Zoning Ordinance* on October 10, 1973.
 - (2) The petitioner is non-profit public charity, and it is more affordable to use existing paving on the subject property for a basketball court than to pay for new paving elsewhere on the property.
 - C. Regarding Part B of the proposed variance:
 - (1) The existing driveway is proposed to be used as a basketball court and hopscotch course.
 - (2) In a phone conversation on September 9, 2010, with J.R. Knight, Associate Planner, Andrew Weiss, Assistant Park Planner for Champaign Park District, indicated that the Park District does not provide parking for neighborhood parks.
 - (3) The location of the playground equipment prevents placing parking spaces adjacent to the right-of-way which would preserve lot area for park amenities by placing maneuvering space in the right-of-way.
 - D. Regarding Part C of the proposed variance:
 - (1) The location of the playground equipment and surrounding benches is restricted by the existing driveway and mature trees along the west property line.
 - (2) There is only approximately 4,700 square feet of lot area outside the required minimum setbacks.
 - E. Regarding Parts D and E of the proposed variance, Dobbins Downs Community Improvement Association is non-profit public charity that is building the proposed park with a grant from another non-profit organization. As a private organization the petitioner is not supported by tax dollars, unlike local park districts.

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, **“1. No 2. No 3. No”**
 - B. Regarding Part A of the proposed variance, the existing driveway was constructed on the subject property by a previous owner before the adoption of the *Zoning Ordinance* on October 10, 1973.
 - C. Regarding Part B of the proposed variance:
 - (1) The proposed lot was platted as a residential lot as part of the Dobbins Downs subdivision and was not originally intended for a park.
 - (2) In a phone conversation on September 9, 2010, with J.R. Knight, Associate Planner, Andrew Weiss, Assistant Park Planner for Champaign Park District, indicated that the Park District does not provide parking for neighborhood parks.
 - D. Regarding Parts D and E of the proposed variance:
 - (1) The Dobbins Downs neighborhood is not part of the City of Champaign, and so they do not receive city services, such as coverage by the Champaign Park District.
 - (2) The petitioner investigated the possibility of having the subject property annexed to the City of Champaign and the proposed park being a Champaign Park District facility, but the Park District did not want to establish a new park at this time.

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, **“1. Visibility for traffic will remain. See exhibits for type of structures in the triangle. 2. Congestion from street parking is unlikely. Most patrons will walk to site. Street parking on Kingsway would not create congestion, as the 30-foot width provides ample room for parking. 3. The purpose of this charity and this playground is to serve the public interest.”**
 - B. The Zoning Ordinance does not clearly state the considerations that underlay the setback and front yard requirements. In general, the setback is presumably intended to ensure the following:
 - (1) Right of way acquisition: The subject property is located within a fully developed subdivision, and both Campbell Drive and Kingsway Drive are unlikely to be widened in the future.
 - (2) Off-street parking: The proposed public park does not include any off-street parking, which is proposed to be authorized by variance in Part C of this case.

PRELIMINARY DRAFT

ITEM 10.B. CONTINUED

- (3) Aesthetics: Aesthetic benefit may be a consideration for any given front yard and setback but can be very subjective.
- C. The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:
- (1) Adequate light and air: The proposed public park will only contain small, unenclosed structures, which are only considered structures because they are affixed to the ground. These structures should not affect the amount of light and air available on the subject property or neighboring properties.
 - (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 located in the urban fringe around the City of Champaign and is located in the Eastern Prairie Fire Protection District, approximately three road miles from the station. Conflagration is not an issue with these structures.
 - (3) Aesthetics may also play a part in minimum yard requirements.
- D. Regarding parts D and E of the proposed variance, waivers of the zoning case filing fees and zoning use permit application fees will allow a neighborhood on the urban fringe to build a neighborhood park without adding a tax burden to the public.
- E. The proposed case represents the following amounts of variance:
- (1) In Part A of the proposed variance, the proposed side yard of 0 feet is 0% of the minimum required five feet for a variance of 100%.
 - (2) In Part B of the proposed variance, the proposed zero off-street parking spaces are 0% of the minimum required one space per three patrons at peak attendance for a variance of 100%.
 - (3) In Part C of the proposed variance, the proposed front yards of six feet are 24% of the minimum required 25 feet for a variance of 76% and the proposed setbacks of 36 feet are 65% of the minimum required 55 feet setback for a variance of 35%.
 - (4) In Parts D and E of the proposed variance, the proposed waiver of fees for the variance application and Zoning Use Permit Application are 0% of the required fees for a variance of 100%.
- F. The subject property meets all other requirements of the *Zoning Ordinance*.
- G. 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, **“1. Playground structures will not impair visibility for traffic purposes. 2. Parking is already permitted on the streets in this district. 3. The public health, safety and welfare will be improved through recreational facilities that provides the neighborhood a site for physical and social activities.”**
 - 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.
 - D. Regarding Part A of the proposed variance, the proposed basketball court is similar to many homes which use a driveway as a basketball court.
 - E. In a phone conversation on September 9, 2010, with J.R. Knight, Associate Planner, Andrew Weiss, Assistant Park Planner for Champaign Park District, indicated that the Park District does not provide parking for neighborhood parks.
 - F. Regarding Part C of the proposed variance, the structures that encroach into the setbacks (see Item 5.E. above) will not significantly affect visibility, and the subject property still provides a conforming corner visibility triangle for the intersection of Campbell Drive and Kingsway Drive.
 - G. Regarding Parts D and E of the proposed variance, a waiver of fees for the variance application and Zoning Use Permit Application should not have any detrimental effect on the public health, safety, or welfare.

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:
 - A. Regarding Part A of the proposed variance, the existing driveway is already located as the proposed variance describes and reducing the amount of variance would require moving it or building a new area for the basketball court.
 - B. Regarding Part B of the proposed variance, the proposed zero parking spaces allow as much of the lot area as possible to be used for park amenities.
 - C. Regarding Part C of the proposed variance, the location of the playground equipment is limited as reviewed above, and the proposed variance reflects those limitations.

ITEM 12. CONTINUED

- D. Regarding Parts D. and E. of the proposed variance, the petitioner has testified that it has no money for administrative costs, so a lesser waiver of the required fees would not allow the proposed park to be constructed.

GENERALLY REGARDING OTHER COMMENTS SUBMITTED BY THE PETITIONERS

13. Elsewhere on the application the petitioners testified that, **“This is the ONLY available lot. This playground will improve the quality of life for 566 residences in Dobbins Downs that are outside the park district, and are separated from nearby school playgrounds by I-74.”**

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 Dobbins Downs Community Improvement Association, received on August 20, 2010, with attachments:
 - A Site plan
 - B Site plan insert

2. Preliminary Memorandum for Case 674-V-10, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site plan
 - C Site plan insert
 - D Draft Summary of Evidence for Case 674-V-10

PRELIMINARY DRAFT

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **674-V-10** held on **September 16, 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 **674-V-10** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Dobbins Downs Community Improvement Association, with Leslie Kimble, President; Cristina Manuel, Vice President; Norman Davis, Treasurer; and Amanda Zuek, Secretary**, to authorize the construction and use of a public park in the R-3 Two Family Residence Zoning District, with the following variances:

- A. Construction and use of a basketball court with a side yard of zero feet in lieu of the required minimum side yard of five feet for accessory structures; and**
- B. No off-street parking spaces in lieu of the minimum required one off-street parking space per three patrons based on the estimated number of patrons during peak attendance; and**
- C. Front yards of six feet and setbacks of 36 feet in lieu of the minimum required 25 feet front yard and 55 feet setback with regard to Campbell Drive and Kingsway Drive, minor streets in the R-3 Zoning District; and**
- D. A waiver of the application fees for the proposed variance application; and**
- E. A waiver of the Zoning Use Permit Application fees for the proposed public park.**

{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