

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **December 15, 2011**
Time: **6:30 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 P.M.
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
 - A. Closed Session: July 28, 2011
 - B. Open Session: July 14, 2011, August 11, 2011, November 3, 2011, November 10, 2011)
5. Continued Public Hearings
 - Case 685-AT-11 Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any County Board approved special use permit for a Rural Residential Development in the Rural Residential Overlay district as follows:**
 - (1) Require that each proposed residential lot shall have an area equal to the minimum required lot area in the zoning district that is not in the Special Flood Hazard Area;
 - (2) Require a new public street to serve the proposed lots in any proposed RRO with more than two proposed lots that are each less than five acres in area or any RRO that does not comply with the standard condition for minimum driveway separation;
 - (3) Require a minimum driveway separation between driveways in the same development;
 - (4) Require minimum driveway standards for any residential lot on which a dwelling may be more than 140 feet from a public street;
 - (5) Require for any proposed residential lot not served by a public water supply system and that is located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results;
 - (6) Require for any proposed RRO in a high probability area as defined in the Illinois State Agency Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy of the ISHPA response;
 - (7) Require that for any proposed RRO that the petitioner shall contact the Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of the agency response.

*Note: The full ZBA packet is now available
on-line at: co.champaign.il.us.*

- Case 695-I-11 Petitioner: **Zoning Administrator**
Request: **Determine if the requirement of paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as follows:**

- (1) Considers a vehicle to be any motorized or non-motorized device used to carry, transport, or move people, property or material either on road or primarily off road; or a piece of mechanized equipment on which a driver sits.

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Case 695-I-11 cont:

- (2) Limits the number of non-farm vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, including trailers and off-road vehicles but excluding patron or employee personal vehicles.
- (3) Limits the number of vehicles weighing more than 8,000 pounds gross vehicle weight to no more than three self-propelled vehicles.

Location: **Lot 1 of Orange Blossom Estates in Section 18 of Hensley Township and commonly known as the house and shed at 700 County Road 2175N, Champaign.**

6. New Public Hearings

* Case 681-S-11 Petitioner: **Kopmann Cemetery**

Request: **Authorize an expansion of a nonconforming cemetery with waivers (variances) in related Case 682-V-11 in the AG-1 Zoning District.**

Location: **A 4.45 acre tract in the Southeast Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.**

* Case 682-V-11 Petitioner: **Kopmann Cemetery**

Request: **Authorize the following in the AG-1 District:**

- A. **Variance of setbacks for existing headstones along CR 2400E with a setback of 33 feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;**
- B. **Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet;**
- C. **Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland;**
- D. **Waiver (variance) of standard conditions for a lot area of 4.45 acres in lieu of the required 10 acres for a cemetery; and a front yard setback of 33 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required 100 feet; side yard setback of 15 feet in lieu of the required 50 feet; and rear yard setback of 25 feet in lieu of the required 50 feet.**

Location: **A 4.45 acre tract in the Southeast Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.**

7. Staff Report

8. Other Business

- A. Review of ZBA Docket
- B. Cancellation of December 29th meeting
- C. Review of 2012 ZBA Calendar
- D. October and November, 2011 Monthly Reports

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

10. Adjournment

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

CASE NO. 695-I-11

SUPPLEMENTAL MEMORANDUM

Champaign County
December 8, 2011

Department of
Petitioner: **Zoning Administrator**

**PLANNING &
ZONING**

Prepared by: **John Hall**
Zoning Administrator

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

(217) 384-3708

Request: Determine if the requirement of paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as follows:

- (1) **Considers a vehicle to be any motorized or non-motorized device used to carry, transport, or move people, property, or material either on road or primarily off road; or a piece of mechanized equipment on which a driver sits.**
- (2) **Limits the number of non-farm vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross vehicle weight, including trailers and off-road vehicles but excluding patron or employee personal vehicles.**
- (3) **Limits the number of vehicles weighing more than 8,000 pounds gross vehicle weight to no more than three self-propelled vehicles.**

Location: Lot 1 of Orange Blossom Estates in Section 18 of Hensley Township and commonly known as the house and shed at 700 County Road 2175N, Champaign.

STATUS

This case opened on July 28, 2011, and was continued to the October 13, 2011, meeting at which time it was continued without testimony to the December 15, 2011, meeting.

The only new information in this case that has been received by the Department of Planning and Zoning is an email received from Bruce and Melody Pinks on September 22, 2011 (see attached).

The minutes of the July 28, 2011, public hearing are also attached. No formal Finding of Fact has been drafted because Interpretation cases have historically not had formal Findings of Fact like other cases.

ATTACHMENTS

- A Email letter to the Champaign County Zoning Board of Appeals from Bruce and Melody Pinks received on September 22, 2011
- B Approved ZBA minutes of July 28, 2011, for Case 695-I-11

Jamie Hitt

From: Melody Pinks [mpinks@yahoo.com]
Sent: Thursday, September 22, 2011 9:19 AM
To: Jamie Hitt
Subject: letter

TO: THE CHAMPAIGN COUNTY ZONING BOARD OF APPEALS MEMBERS

FROM: MELODY AND BRUCE PINKS

I am concerned about the NUMBER of vehicles Mr. Dillard wants to store outdoors. First, his original application dated and signed on 3/14/07 said he would not store ANY equipment outdoors. On 5/16/11 this was amended and crossed out. So now backhoes, graders, etc are setting out. These pieces of equipment are NOT farm related and do not belong in an agricultural environment.

Mr. Dillard stated the operation to the east and south of his lot has semi - trucks. That land acreage has 5+ acres to accomodate the vehicles. I feel part of my issue comes from Mr. Dillard only having 2.18 acres and most of that is his house, shed and set backs. Even 10 vehicles are crowded into his small remaining space.

Next, we have the RHO 50' requirement that states commercial vehicles must be parked NO LESS than 50' from ANY lot line. According to the site map there is only 100' from my lot line and the west side of Mr. Dillard's storage shed. That means parking on the asphalt slab is too close to meet the requirements. The slab also does not absorb the rain and run off so more drainage runs onto my property.

On the original permit application dated 2/27/07 it states that the proposed shed was to be only 5' higher than the house. I do not think this is accurate. My guess is 12' to 25' higher. My point to this is that Mr. Dillard has tried to conceal accurate information from the board from the original application date. He did this so he could recieve the zoning and then do as he wished. The deception has continued.

PLEASE limit his vehicles and activities.

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

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

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

9
10 **Ms. Capel moved, seconded by Mr. Courson to continue Case 692-V-11, Rollae Keller to the**
11 **October 13, 2011, meeting. The motion carried by voice vote.**

12
13 Mr. Thorsland requested a motion for the Board to go into closed session.

14
15 **Mr. Miller moved that the Board enter into closed session pursuant to 5 ILCS 120/2 (c) (11) to**
16 **consider pending litigation against Champaign County. Mr. Miller further moved that the**
17 **following individuals remain present: County’s legal counsel, John Hall, Planning and Zoning**
18 **Administrator, Connie Berry, Planning and Zoning Technician and Lori Busboom, Planning**
19 **and Zoning Technician. The motion was seconded by Ms. Capel and carried by voice vote.**
20

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

22
23 **The roll was called and a quorum declared present.**

24
25 **Case 695-I-11 Petitioner: Zoning Administrator Request: Determine if the requirement of**
26 **paragraph 7.1.2 E. limiting vehicles that may be used in a Rural Home Occupation is as**
27 **follows: (1) Considers a vehicle to be any motorized or non-motorized device used to carry,**
28 **transport, or move people, property or material either on road or primarily off road; or a**
29 **piece of mechanized equipment on which a driver sits; and (2) Limits the number of non-farm**
30 **vehicles to no more than 10 vehicles in total, including vehicles under 8,000 pounds gross**
31 **vehicle weight, including trailers and off-road vehicles but excluding patron or employee**
32 **personal vehicles; and (3) Limits the number of vehicles weighing more than 8,000 pounds**
33 **gross vehicle weight to no more than three self-propelled vehicles. Location: Lot 1 of Orange**
34 **Blossom Estates in Section 18 of Hensley Township and commonly known as the house and**
35 **shed at 700 County Road 2175N, Champaign.**
36

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

40
41 Mr. Hall stated that the Board does not hear interpretation cases often and in this case he offered to
42 bring this case to the Zoning Board because he agrees with Mr. Kelly Dillard, the owner of the

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

13
14 Mr. Hall stated that color photographs were distributed to the Board for review which indicates the
15 things that he is calling vehicles, although Mr. Dillard disagrees. He said that black and white
16 photographs were marked up to indicate the number of vehicles on the subject property. He said that
17 the photographs indicate that there are more vehicles on the property than what is allowed under a
18 Rural Home Occupation and three times staff has requested that the applicant indicate the number of
19 vehicles on the property. Mr. Hall stated that finally the applicant submitted the number of vehicles
20 and staff disagreed therefore triggering this interpretation case.

21
22 Mr. Hall stated that the current Rural Home Occupation requirements were added in Case 794-AT-
23 92 and adopted in 1993. He said that he was not the Zoning Administrator in 1992 and was not the
24 current planner but he was on staff with little involvement in that case. He said that the amendment
25 was adopted in 1993 and Frank DiNovo was the Zoning Administrator at the time and continued to
26 be until 2002. Mr. Hall stated that he, Jamie Hitt, Zoning Officer, and Lori Busboom, Zoning
27 Technician have been in the department since 1993 and the rules have not been changed since they
28 were adopted. He said that this is the first time that there has been a disagreement like this due to the
29 number of vehicles on a property. He said again, that he agrees that Paragraph 7.1.2 E. is poorly
30 written but he believes that Paragraph 7.1.2 E. is so poorly written that the way that staff has always
31 administered it is legal. He said that Paragraph 7.1.2 E. starts off by suggesting that the paragraph
32 relates to all non-farm, second division vehicles as defined by the Illinois Vehicle Code. He said that
33 Kelly Dillard wrote a letter to Pius Weibel, Champaign County Board Chair that included an excerpt
34 from the Illinois Vehicle Code which reads as follows: Those motor vehicles which are designed for
35 carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor
36 vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and
37 those motor vehicles of the First Division remodeled for use and used as motor vehicles of the
38 Second Division.

39
40 Mr. Hall stated that a pick-up painted with a company name becomes a Second Division vehicle. He
41 said that Paragraph 7.1.2 E. includes three subparagraphs and subparagraph iii. begins with all
42 Second Division vehicles which is confusing because it was thought that all three of the

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

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

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

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

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

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

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

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

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

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

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

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

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

40 Mr. Dillard stated yes.
41

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8
9 Mr. Dillard stated that on June 7, 2011, he received a letter indicating that the only violation that was
10 unresolved was the number of vehicles on the lot. He said that the letter indicated that there were as
11 many as 22 vehicles on his lot which is untrue. He said that he does not own 22 vehicles or 22 of
12 anything. He said that the letter also indicated that a 20,000 pound trailer was considered a Second
13 Division vehicle but he disagrees because obviously if it is not self-propelled it is not a Second
14 Division vehicle. He said that in the same letter staff misquoted 7.1.2 E(2) by leaving out the text
15 indicating that trailers and off-road vehicles shall be permitted.

16
17 Mr. Dillard stated that the last letter that he received from staff was dated July 24, 2011, which
18 indicated that there were 17 vehicles located on his property which was again untrue. He said that
19 there are two vehicles on the property next door which is not his property and is not his concern. He
20 said that his neighbor was using two pieces of his equipment, which are not vehicles, and if staff
21 desires to count all of his equipment then they will have to go to Vermilion and Piatt counties to do
22 so. He said that Mr. Hall has indicated that he has been on staff for twenty years therefore he should
23 know the Ordinance inside and out and part of his job is to read and understand the English
24 language. He said that the Ordinance is written very clearly and all you have to do is put the
25 punctuation in the right location. He said that it is very clear that 7.1.2 is only about Second Division
26 vehicles which is defined in the letter that he sent the Board for review.

27
28 Mr. Dillard stated that after several thousands of dollars, which he should not have had to spend to
29 begin with, and many sleepless nights worrying about whether or not Mr. Hall is going to shut down
30 his business or send this matter to the State's Attorney, he is requesting that the Board apply the law
31 as the Ordinance is written in regards to Second Division vehicles.

32
33 Mr. Thorsland asked the Board if there were any questions for Mr. Dillard and there were none.

34
35 Mr. Thorsland asked if staff had any questions for Mr. Dillard.

36
37 Mr. Hall stated that he has many questions although he is not sure where he would begin therefore he
38 will hold them for now.

39
40 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
41 regarding this case.

1 Mr. Thorsland called Ms. Melody Pinks to testify.
2

3 Ms. Melody Pinks, who resides at 696 CR 2175N, Champaign, Illinois, stated that her property
4 borders the Dillard property on the west side. She said that she grew up on a farm and she never saw
5 farm equipment like Mr. Dillard's equipment. She said that her farm had cultivators, disks, manure
6 spreaders and tractors but not bulldozers, backhoes and road graders. She said that the heavy
7 equipment creates damage to the Hensley Township roads and there was a lot of unsightly stuff next
8 to her lot line for several years and it was horrible to look at it every morning. She said that there
9 was an unlicensed vehicle that said "Dig It" on the side of it which sat there for three years. She said
10 that she was not the original person who complained to the Board and did not even know that she
11 had that opportunity until she was informed by someone else. She said that after she filed her
12 complaint the unlicensed vehicle was moved which is a blessing and the property does look 100%
13 better than when the business originally started there. She said that as to the neighbor next to Mr.
14 Dillard's property there was a lot of construction material on both properties because it appeared that
15 they were sharing their lot lines for storage. She said that there were tires, construction materials,
16 broken concrete and things of that nature between the two properties and it was very depressing to
17 look at every morning. She said that many times she would sit and cry over the situation. She said
18 that she contacted Mrs. Dillard and she indicated that she understood her complaint and at one time
19 she had discussed the situation with her husband but he got very upset therefore she does not
20 mention it anymore. Ms. Pinks stated that due to the unfortunate situation they are no longer on
21 speaking terms with the Dillards. She said that all they would like the Dillards to do is to abide by
22 the Ordinance regulations. She said that she did not realize that the Dillard property was going to be
23 built up but numerous semi-loads of dirt were brought on to the property and now their home is in
24 the valley in comparison to the Dillard property. She said that the building which is located on the
25 Dillard property is much higher than the property lines. She said that when Mr. Dillard built the
26 asphalt lot to the west of the building she did not realize that it was because he was required to move
27 the equipment to the back. She said that where Mr. Dillard planted the eight foot arborvitae trees the
28 tips of those trees barely gets to the tires. She said that Mr. Dillard informed Mr. Hall that the
29 arborvitae trees are fast growing and they should be screening everything within a few years but a tag
30 off of her arborvitae trees indicates that the growth rate is slow. She said that she has been very
31 disappointed and has tried to speak with the Dillards about the situation and the matter only seems to
32 gets worse. She requested the Board's assistance with this matter.
33

34 Mr. Thorsland asked the Board if there were any questions for Ms. Pinks.
35

36 Mr. Courson asked Ms. Pinks if the site is cleaned up.
37

38 Ms. Pinks stated yes and it looks much better.
39

40 Mr. Courson asked Ms. Pink to indicate what else she would like to see done on the site.
41

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

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

3
4 Mr. Courson asked Ms. Pinks if her main concern right now is the equipment on the property.

5
6 Ms. Pinks stated yes.

7
8 Mr. Thorsland asked the Board if there were any additional questions for Ms. Pinks and there were
9 none.

10
11 Mr. Thorsland asked if staff had any questions for Ms. Pinks and there were none.

12
13 Mr. Thorsland closed the witness register for tonight's meeting.

14
15 Mr. Hall stated that he can appreciate the fact that the Board may have many questions based on Mr.
16 Dillard's testimony. He said that he does have the case file with him tonight and the Board is
17 welcome to review any notice that staff has sent Mr. Dillard. He requested questions from the Board
18 because there were many statements made by Mr. Dillard that could be flushed out.

19
20 Mr. Passalacqua stated that some of the vehicles are being described as farm vehicles but the
21 definition of Second Division vehicles includes implements of husbandry. He said that he would
22 categorize implements of husbandry as a backhoe and road-grader.

23
24 Mr. Hall stated that over the past few weeks he spent a lot of time reviewing the Motor Vehicle Code
25 and he can say that he is not expert on that code. He said that whatever the outcome of this case may
26 be he would like to see the County strike "Second Division" vehicles and talk about "vehicles that
27 are used in a business" because that is what is being discussed tonight. He said that there is no need
28 to use Second Division vehicles and then make everyone decide what it means. He said that he
29 assumes that the way that he has been enforcing this is the way that the County wants it enforced.
30 He said that regardless of the Board's decision regarding this case the issue is what are the rules that
31 the County wants to enforce. He said that the rules must be as clear as possible because currently
32 they are not clear.

33
34 Mr. Passalacqua stated that if the Board gets to the bare simplicity the RHO indicates that no more
35 than 10 vehicles in total are allowed.

36
37 Mr. Courson stated that 7.1.2E.ii needs to be defined more clearly because a bicycle could be
38 considered a vehicle. He said that the definition needs to be more specific. He asked Mr. Hall if he
39 contacted IDOT requesting the definition of a vehicle.

40
41 Mr. Hall stated that he printed off pages and pages of definitions therefore he knows what the
42 definitions are. He said that Mr. Dillard provided the Board the two most important definitions in

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

6
7 Mr. Thorsland asked Mr. Hall if there is a definition of a vehicle in the Ordinance.

8
9 Mr. Hall stated that the Ordinance has a definition for motor vehicle and, as the Board is aware,
10 when defined terms are used in the Ordinance they are capitalized.

11
12 Mr. Thorsland stated that early on Mr. Hall stated that the description of the case was more in line of
13 what he thought 7.1.2 E should say and that he took out Second Division vehicles.

14
15 Mr. Hall stated yes.

16
17 Mr. Thorsland stated that case description is how Mr. Hall is interpreting it.

18
19 Mr. Hall stated that his error is that he worked under Frank DiNovo from 1990 to 2002 and he
20 witnessed how Mr. DiNovo interpreted what he wrote. He said that if he was a new Zoning
21 Administrator coming in and read 7.1.2 E, he would still have questions and he might have reacted
22 differently. He said that even a new Zoning Administrator could read the minutes of the case that
23 went to the County Board prior to adoption of the amendment and understand that they were
24 referring to all kinds of vehicles and not just literally Second Division vehicles. He said that he
25 would argue that he has been speaking the English language for at least 55 years and he knows what
26 a colon means and that most things are not that simple. He said that he believes it is fair to interpret
27 this amendment as 10 vehicles in total that are used in the course of business.

28
29 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall.

30
31 Mr. Hall stated that if the Board supports his decision then there needs to be a variance or special use
32 permit required for Mr. Dillard or a change in the total number of vehicles. He said that the total
33 number of vehicles does not matter if they are stored in the shed or not and it doesn't matter if they
34 are screened or not but what does matter is how many vehicles are on the property that are used in
35 the business.

36
37 Ms. Capel asked Mr. Hall to indicate what options are available for Mr. Dillard.

38
39 Mr. Hall stated that Mr. Dillard could apply for a contractor's facility which is a special use in the
40 AG-1 District.

41
42 Mr. Hall stated that what is really at issue, regardless of all of the other testimony that the Board has

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

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

8 Mr. Hall stated yes.
9

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CASE NO. 681-S-11 & 682-V-11

PRELIMINARY MEMORANDUM

December 9, 2011

Champaign
County
Department of

PLANNING &
ZONING

Petitioners: Kopmann Cemetery

Request: CASE: 681-S-11

Authorize an expansion of a nonconforming cemetery with waivers (variances) of standard conditions and variances in related Case 682-V-11 in the AG-1 Zoning District on the subject property described below.

CASE: 682-V-11

Authorize the following in the AG-1 District:

- A. Variance of setbacks for existing headstones along CR 2400E with a setback of 33 feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;
- B. Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet;
- C. Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland;
- D. Waiver (variance) of standard conditions for a lot area of 4.45 acres in lieu of the required 10 acres for a cemetery; and a front yard setback of 33 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required 100 feet; side yard setback of 15 feet in lieu of the required 50 feet; and rear yard setback of 25 feet in lieu of the required 50 feet on the subject property described below.

Location: A 4.45 acre tract in the Southeast Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.

Site Area: 4.45 acres

Time Schedule for Development: Winter 2011/Spring 2012

Prepared by: **John Hall**
Zoning Administrator

Andy Kass
Associate Planner

BACKGROUND

Kopmann Cemetery in Compromise Township is nearing capacity. The petitioners have submitted applications for a special use permit and a variance to expand the existing Kopmann Cemetery.

***These cases are presented in a new format.**

EXTRATERRITORIAL JURISDICTION

The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of any municipality.

EXISTING LAND USE AND ZONING**Table 1. Land Use and Zoning in the Vicinity**

Direction	Land Use	Zoning
Onsite	Cemetery	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture ----- Single family dwelling	AG-1 Agriculture

COMMENTS FROM TOWNSHIP PLANNING COMMISSION

The Compromise Township Planning Commission has been notified of this case. Comments from the Planning Commission have not been received. Staff is hoping to receive a comment of no objections to these applications.

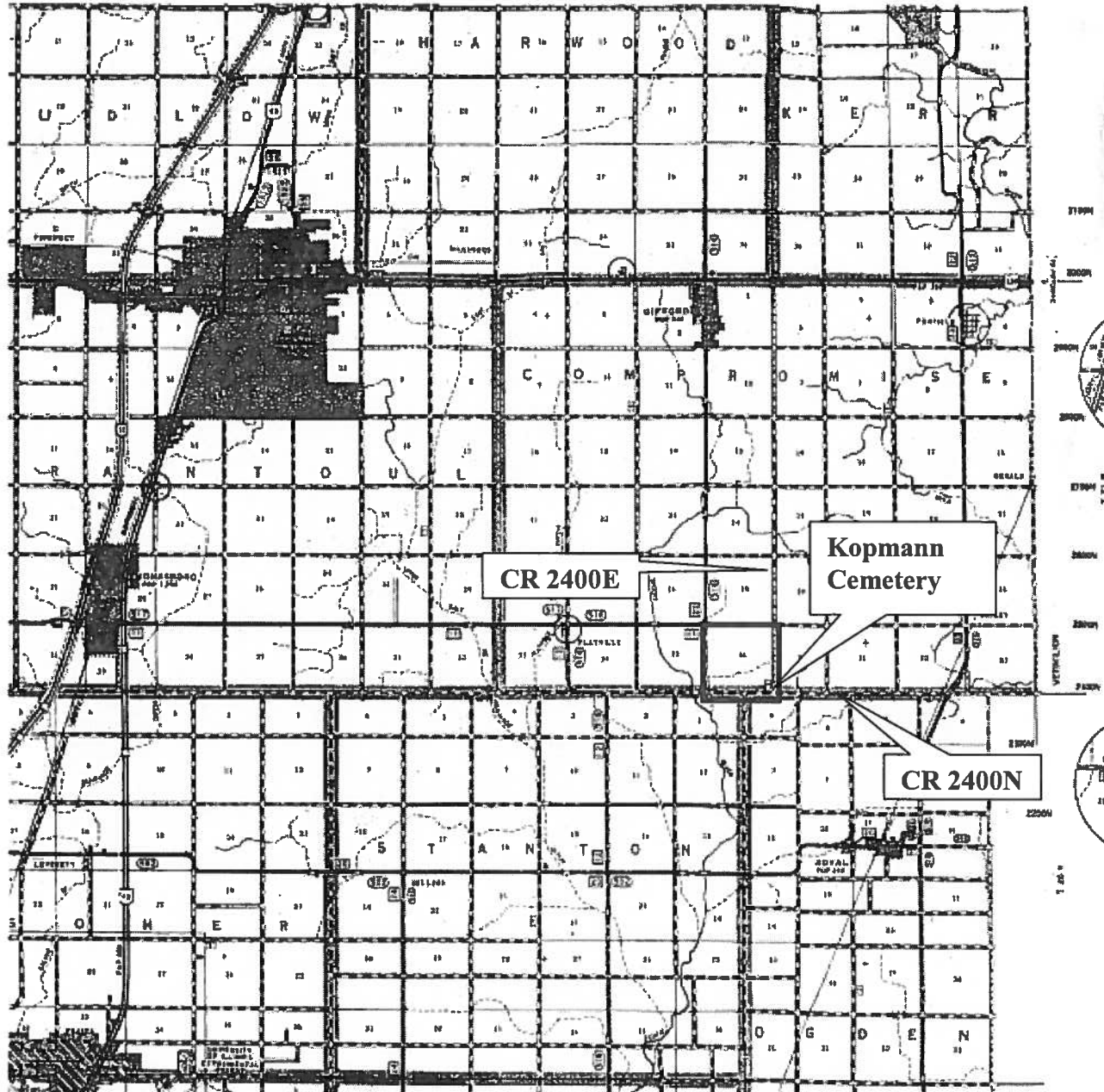
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Annotated Site Plan dated November 18, 2011
- C Site Plan (Proposed Development) received July 5, 2011
- D Draft Summary of Evidence, Finding of Fact, and Final Determination (attached separately)

ATTACHMENT A. LOCATION MAP

Case 681-S-11 & 682-V-11

December 9, 2011



**Kopmann
Cemetery**

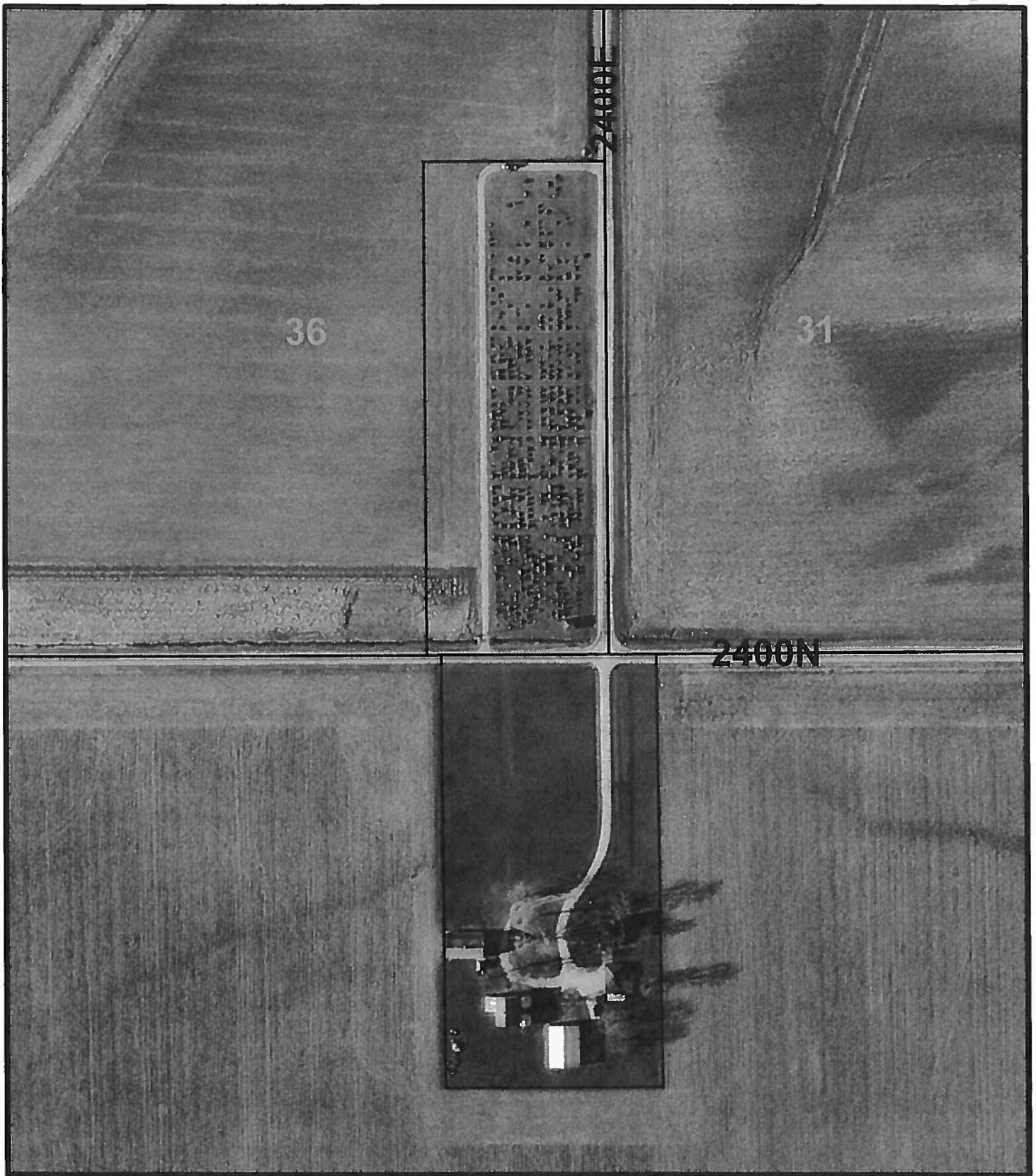
CR 2400E

CR 2400N

ATTACHMENT A. LAND USE MAP

Case 681-S-11 & 682-V-11

December 9, 2011



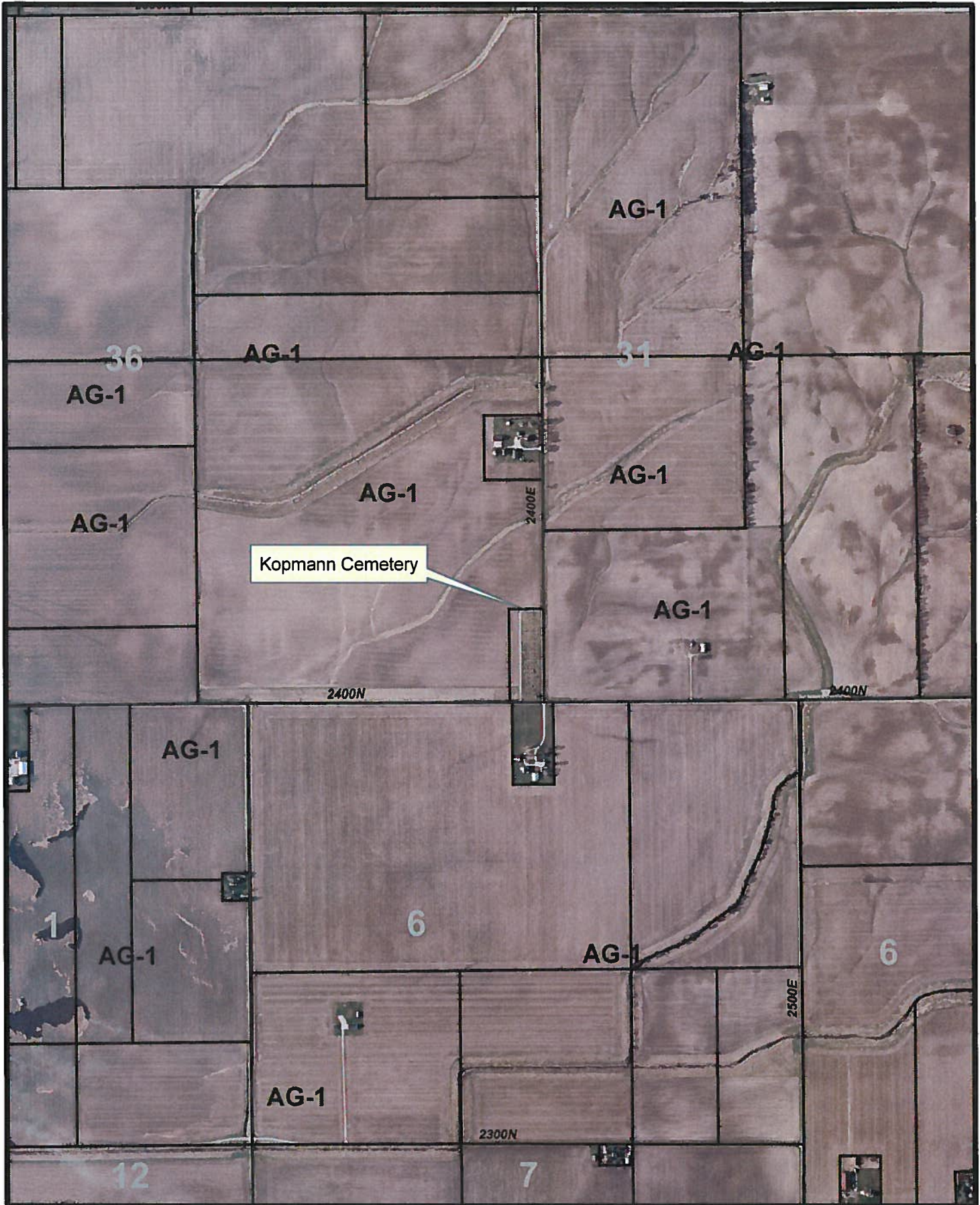
2400N

1 inch = 200 feet



Champaign
County
Department of
**PLANNING &
ZONING**

Attachment A. Zoning Map
Case 681-S-11 & 682-V-11
December 9, 2011



1 inch = 1,000 feet

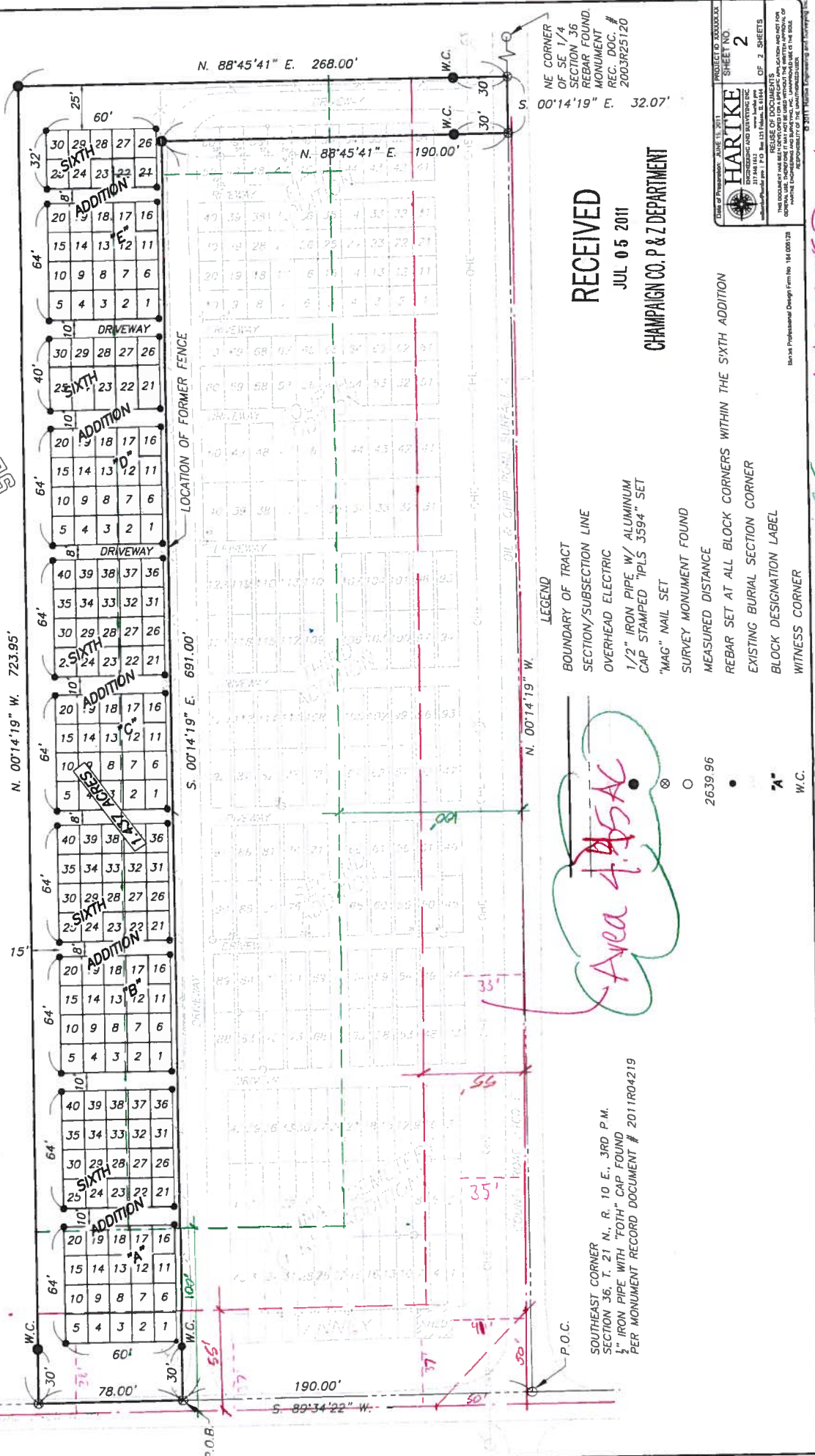
PLAT OF SURVEY

KOPMANN CEMETERY, SIXTH ADDITION
 PART OF THE SE 1/4 OF SECTION 36
 T. 21 N., R. 10 E. OF THE 3RD P.M.
 CHAMPAIGN COUNTY, ILLINOIS

SW CORNER OF THE
 SE 1/4 SECTION 36
 IRON PIPE W/ "TOTH" CAP
 FOUND PER MONUMENT RECORD
 DOC. # 2011R04219



11/1
 23
 11/1
 23



RECEIVED

JUL 05 2011

CHAMPAIGN CO. P & Z DEPARTMENT

LEGEND

- BOUNDARY OF TRACT
- SECTION/SUBSECTION LINE
- OVERHEAD ELECTRIC
- 1/2" IRON PIPE W/ ALUMINUM CAP STAMPED "JPLS 3594" SET
- "MAG" NAIL SET
- SURVEY MONUMENT FOUND
- MEASURED DISTANCE
- REBAR SET AT ALL BLOCK CORNERS WITHIN THE SIXTH ADDITION
- EXISTING BURIAL SECTION CORNER
- BLOCK DESIGNATION LABEL
- WITNESS CORNER



SOUTHEAST CORNER
 SECTION 36, T. 21 N., R. 10 E., 3RD P.M.
 1/2" IRON PIPE WITH "TOTH" CAP FOUND
 PER MONUMENT RECORD DOCUMENT # 2011R04219

PROJECT NO. 20080000000000000000
 SHEET NO. 2
 OF 2 SHEETS

HARTKE
 SURVEYING AND ENGINEERING, INC.
 1100 S. WASHINGTON ST., SUITE 100
 CHAMPAIGN, ILLINOIS 62601
 PHONE: 217.244.1111
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 WWW.HARTKE-SURVEYING.COM

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Survey Professional Design Form No. 104 0000123

waiver
variance
ANNOTATED
 1/18/11

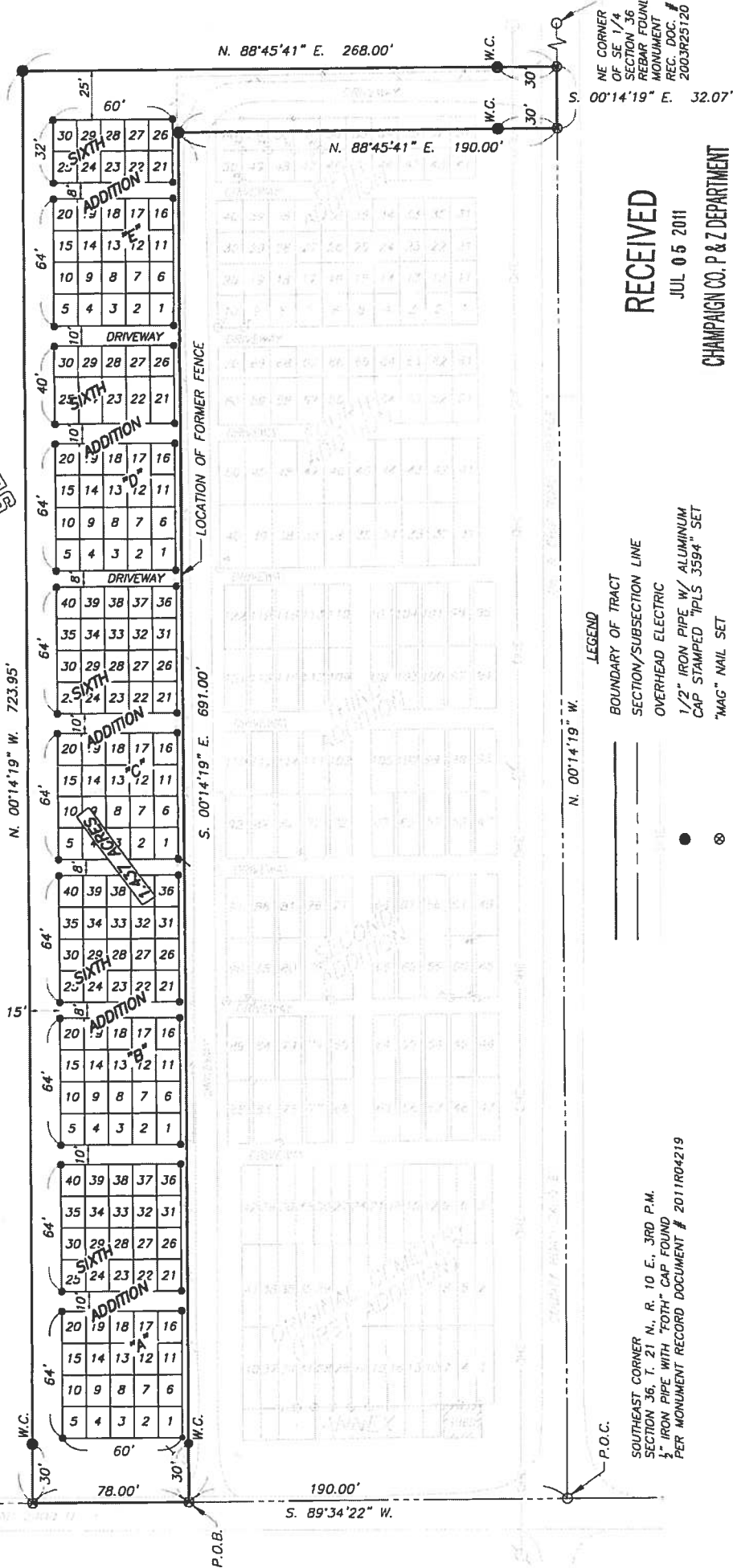
WORKING DOCUMENT



PLAT OF SURVEY

KOPMANN CEMETERY, SIXTH ADDITION
PART OF THE SE 1/4 OF SECTION 36
T. 21 N., R. 10 E. OF THE 3RD P.M.
CHAMPAIGN COUNTY, ILLINOIS

SW CORNER OF THE
SE 1/4 SECTION 36
IRON PIPE W/ "FOTH" CAP
FOUND PER MONUMENT RECORD
DOC. # 2011R04219



RECEIVED

JUL 05 2011

CHAMPAIGN CO. P & Z DEPARTMENT

LEGEND

- BOUNDARY OF TRACT
- SECTION/SUBSECTION LINE
- OVERHEAD ELECTRIC
- 1/2" IRON PIPE W/ ALUMINUM CAP STAMPED "IPLS 3594" SET
- "MAG" NAIL SET
- SURVEY MONUMENT FOUND
- MEASURED DISTANCE
- REBAR SET AT ALL BLOCK CORNERS WITHIN THE SIXTH ADDITION
- EXISTING BURIAL SECTION CORNER
- BLOCK DESIGNATION LABEL
- WITNESS CORNER

SOUTHEAST CORNER
SECTION 36, T. 21 N., R. 10 E., 3RD P.M.
1/2" IRON PIPE WITH "FOTH" CAP FOUND
PER MONUMENT RECORD DOCUMENT # 2011R04219

PROJECT NO. 2011R04219
SHEET NO. 2

HARTKE
SURVEYING AND ENGINEERING, INC.
1111 N. UNIVERSITY AVE., SUITE 100
CHAMPAIGN, ILLINOIS 61820
TEL: 309.438.1111 FAX: 309.438.1112
WWW.HARTKE-SURVEYING.COM

RELEASE OF DOCUMENTS
I, the undersigned, do hereby certify that the above described plat of survey was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of Illinois.

DATE: 07/05/2011
BY: [Signature]

ILLINOIS PROFESSIONAL ENGINEERING BOARD

PRELIMINARY

681-S-11 & 682-V-11

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

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

Date: **December 15, 2011**

Petitioners: **Kopmann Cemetery**

Request: CASE: 681-S-11

Authorize an expansion of a nonconforming cemetery with waivers (variances) of standard conditions and variances in related Case 682-V-11 in the AG-1 Zoning District on the subject property described below.

CASE: 682-V-11

Authorize the following in the AG-1 District:

- A. Variance of setbacks for existing headstones along CR 2400E with a setback of 33 feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;
- B. Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet;
- C. Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland;
- D. Waiver (variance) of standard conditions for a lot area of 4.45 acres in lieu of the required 10 acres for a cemetery; and a front yard setback of 33 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required 100 feet; side yard setback of 15 feet in lieu of the required 50 feet; and rear yard setback of 25 feet in lieu of the required 50 feet on the subject property described below.

LOCATION

A 4.45 acre tract in the Southeast Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR 2400E, St. Joseph.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **December 15, 2011**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner Kopmann Cemetery owns the subject property.
2. The subject property is a 4.45 acre tract in the Southeast Quarter of the Southeast Quarter of Section 36 of Compromise Township and commonly known as the Kopmann Cemetery at the Northwest corner of the intersection of CR 2400N and CR2400E, St. Joseph.
3. The subject property is not located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of any municipality.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. Land to the north of the subject property is zoned AG-1 Agriculture and is in use for agriculture.
 - B. Land on the east side of the subject property is zoned AG-1 Agriculture and is in use for agriculture.
 - C. Land on the south side of the subject property is zoned AG-1 Agriculture and is in use for agriculture except for one single family dwelling.
 - D. Land on the west side of the subject property is zoned AG-1 Agriculture and is in use for agriculture.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the proposed site plan for the Cemetery:
 - A. The subject property is a 4.45 acre tract where 3.01 acres are an existing cemetery and 1.437 acres will be converted from agriculture for use by the cemetery.
 - B. The Site Plan of the proposed development was received on July 5, 2011, and includes the following:
 - (1) Location and number of new and existing grave sites.
 - (2) An existing shed located in the southeast corner of the existing cemetery.
 - (3) Existing driveways located in the northeast corner of the cemetery off of CR 2400E and off of CR 2400N on the south side of the property.
 - C. 180 platted burial sites divided into 10 blocks with proposed setbacks as follows:

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- (1) The proposed gravesites are indicated to be a minimum of 30 feet from the south property line.
- (2) The proposed gravesites are indicated to be 15 feet from the west property line and 25 feet from the rear property line.
- (3) The petitioner has requested waivers (variances) of the standard conditions for a cemetery regarding the following conditions:
 - (a) A total lot area of 4.45 acres in lieu of 10 acres;
 - (b) A setback of 38 feet from the centerline of CR 2400N in lieu of 100 feet;
 - (c) A setback of 33 feet from the centerline of CR 2400E in lieu of 100 feet;
 - (d) A side yard of 15 feet in lieu of 50 feet;
 - (e) A rear yard of 25 feet in lieu of 50 feet.
- (4) The petitioner has requested the following variances:
 - (a) Variance of setbacks for existing headstones along CR 2400E with a setback of 33 feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;
 - (b) Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet;
 - (c) Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization of a Cemetery as a Special Use in the AG-1 Agriculture Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes Cemetery or Crematory as a Special Use only in the AG-1 and AG-2 Zoning Districts.
 - B. Subsection 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:

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- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - (a) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - (b) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - (c) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - (d) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - (e) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- (2) Subsection 6.1.3 includes standard conditions for a CEMETERY and they include:
 - (a) Minimum LOT Size of 10 acres
 - (b) Front setback from the street centerline of 100 feet
 - (c) Side yard of 50 feet
 - (d) Rear setback of 50 feet
- C. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
 - (1) "ACCESS" is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
 - (2) "FRONT YARD" as an 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 LINE each abut a STREET RIGHT OF WAY both such YARDS shall be classified as front yards (capitalized words are defined in the Ordinance).

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- (3) "REAR YARD" as a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT (capitalized words are defined in the Ordinance).
 - (4) "STRUCTURE" as 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 (capitalized words are defined in the Ordinance).
 - (5) "SETBACK LINE" as 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 (capitalized words are defined in the Ordinance).
 - (6) "SIDE YARD" as a YARD situated between the 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 (capitalized words are defined in the Ordinance).
 - (7) "SPECIAL CONDITION" is a condition for the establishment of a SPECIAL USE.
 - (8) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (9) "YARD" as an OPEN SPACE, other than a COURT, of uniform width or 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 (capitalized words are defined in the Ordinance).
- D. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.

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- (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- E. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.
- F. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - (a) that the waiver is in accordance with the general purpose and intent of the ordinance; and
 - (b) that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - (a) Special conditions and circumstances 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.
 - (b) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - (c) The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
 - (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still

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provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.

- G. 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 9.1.9 C. 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. The requested variances are as follows:
 - (a) Variance of setbacks for existing headstones along CR 2400E with a setback of 33 feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;
 - (b) Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet;
 - (c) Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland;

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(d) Waiver (variance) of standard conditions for a lot area of 4.45 acres in lieu of the required 10 acres for a cemetery; and a front yard setback of 33 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required 100 feet; side yard setback of 15 feet in lieu of the required 50 feet; and rear yard setback of 25 feet in lieu of the required 50 feet on the subject property described below.

H. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“Kopmann Cemetery has served the rural community since the 1800’s. It has reached near capacity. In order to continue serving the community, it must expand. There are fewer than 10 – 12 spaces left.”**

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

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has testified on the application, **“The cemetery offends no one.”**
- B. Regarding surface drainage, the subject property is located in the Spoon River Drainage District. Drainage should not be an issue on the subject property.
- C. The subject property is accessed from CR 2400E in the northeast corner of the property and CR 2400N on the southern property line. Regarding the general traffic conditions on CR 2400E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation (IDOT) measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT).
- (a) 75 vehicles per day.
- (2) The Township Highway Commissioner has been notified of this case, no comments have been received at this time.

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- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Gifford Fire Protection District. The Fire Protection District Chief has been notified of this request, no comments have been received at this time.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, none appears to be indicated on the site plan received on July 5, 2011.
- G. Regarding wastewater treatment and disposal on the subject property, there is not an onsite septic system.
- J. Regarding parking for the proposed Cemetery, see Item 9.B.(2).
- K. Regarding life safety considerations related to the proposed Special Use:
 - (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
 - (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.

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- (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required. There is no information regarding the cost of the pole barn that is used to house the farm dinners in inclement weather, so it is unclear if that will trigger the requirements of the IEBA.
 - (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- L. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.
- M. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will not be injurious to the district:
- (1) There is no evidence to suggest that the requested waivers (variances) of the standard conditions will be injurious to the district for the following reasons:
 - (a) The proposed special use will be used infrequently and traffic will be minimal;

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- (b) The soils are suitable so that groundwater infiltration should not be an issue;
- (c) There are no drainage issues that would result from this.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application, **“No. The applicant seeks a waiver of minimum lot size from 10 acres to 4.45 acres. To the extent there is a setback issue, applicant seeks a waiver of that as well.”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) Cemetery or Crematory is authorized only by Special Use Permit in the AG-1 or AG-2 Zoning District.
 - (2) Regarding parking on the subject property:
 - (a) Paragraph 7.4.1 C.3.b.ii. requires for outdoor areas, including non-permanent STRUCTURES, used for exhibit, educational, entertainment recreational, or other purpose involving public assemblage of patrons, one PARKING SPACE per three patrons based on the estimated number of patrons during peak attendance on a given day during the period said USE is in operation.
 - (b) The site plan received on July 5, 2011, does not indicate the number of parking spaces, but does show the existing driveway of the cemetery. It is estimated that 48 parking spaces are available along the existing driveway.
 - (3) Regarding loading berths on the subject property:
 - (a) The total building area on the property is approximately 320 square feet. Paragraph 7.4.2 requires buildings with an area of 1-9,999 square feet to provide one 12'×40' loading berth.
 - (b) No loading berths are indicated on the submitted site plan, but there is sufficient area to accommodate a loading berth.
 - C. Regarding compliance with the *Stormwater Management Policy*:
 - (1) Regarding the requirement of stormwater detention:
 - (a) The subject property is less than 6% impervious areas in total and appears to have less than one acre of connected impervious area, therefore it is exempt from the Stormwater Management Policy.

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- (2) Regarding the requirement to protect agricultural field tile, there does not appear to be any field tile on the subject property.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
 - (1) The subject property is not located in the Special Flood Hazard Area.
 - (2) The subject property is located in the Champaign County subdivision jurisdiction.
- E. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District, the proposed use is a cemetery serves the needs of the rural community.
- F. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- G. The petitioner has requested waivers (variances) of the standard conditions for a cemetery regarding the following conditions:
 - (1) A total lot area of 4.45 acres in lieu of 10 acres;
 - (2) A setback of 38 feet from the centerline of CR 2400N in lieu of 100 feet;
 - (3) A setback of 33 feet from the centerline of CR 2400E in lieu of 100 feet;
 - (4) A side yard of 15 feet in lieu of 50 feet;
 - (5) A rear yard of 25 feet in lieu of 50 feet.
- H. The petitioner has requested the following variances:
 - (1) Variance of setbacks for existing headstones along CR 2400E with a setback of 33 feet in lieu of the required setback of 55 feet and setbacks for existing and proposed headstones along CR 2400N with a setback of 37 feet in lieu of the required setback of 55 feet;
 - (2) Variance of setback for an existing shed with setbacks of 41 feet from CR 2400E and 37 feet from CR 2400N in lieu of the required setback of 55 feet;
 - (3) Variance of maximum lot size on best prime farmland for a total lot area of 4.45 acres in lieu of the maximum of 3 acres allowed on best prime farmland.

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

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
 - A. CEMETERY may be authorized by the ZBA in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived.
 - B. Regarding the *Zoning Ordinance* requirement that the waivers (variances) of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:
 - (1) There is no evidence to suggest that the requested waivers (variances) of the standard conditions will not be in harmony with the general purpose and intent of the ordinance for the following reasons:
 - (a) The proposed special use will be used infrequently and traffic will be minimal;
 - (b) This is a rural cemetery that serves the surrounding area.
 - C. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1, Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
 - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
 - (3) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
 - (a) This purpose is directly related to the minimum yard requirements in the Ordinance and the proposed site plan appears to not be in compliance with those requirements. However waivers are required if standard conditions are not met.

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- (4) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
 - (a) In regards to the value of nearby properties, it is unclear what impact the proposed SUP will have on the value of nearby properties.
 - (b) With regard to the value of the subject property, the subject property is already an existing cemetery. Therefore, there should be no effect on the subject properties value.
- (5) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.
 - (a) Traffic resulting from the proposed use will be minimal and infrequent.
- (6) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

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

- (7) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
 - (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (8) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the

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Ordinance and the proposed site plan appears to not be in compliance with those limits.

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

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

Evidence to be added later.

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

This purpose is relevant to the proposed Special Use Permit because it relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance. The proposed expansion of the cemetery will be an expansion of a nonconforming use.

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

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.

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

The subject property does not contain any natural features and there are no natural features in the vicinity of the subject property.

PRELIMINARY

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

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.

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

The subject property is located in the AG-1 Agriculture District and is, by definition, a rural use.

- (15) Paragraph 2.0 (r) of the Ordinance states that one purpose of the Ordinance is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed use in this case is not related to this purpose.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding whether the proposed Special Use Permit is an existing nonconforming use.
- A. The proposed Special Use IS an existing NONCONFORMING USE because it is an existing business that does not meet ordinance requirements. The Petitioner has testified on the application, **“The cemetery is an integral part of the rural Flatville/St. Joseph/Royal/Gifford communities. It does not affect the rural/farming.**
- B. If the requested Special Use is approved, a Change of Use permit is required in order to authorize the expansion of Kopmann Cemetery.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES FOR A VARIANCE

12. Regarding specific *Zoning Ordinance* requirements relevant to this case:
- A. Minimum setbacks from the centerline of a street, minimum front yards, and maximum lot size in the AG-1 District are established in Section 5.3 and Subsection 4.3.2 of the *Zoning Ordinance* as follows:
- (1) The minimum setback from a minor street is listed in Section 5.3 and Subsection 4.3.2 as 55 feet.
- (2) The minimum front yard in regards to a minor street is listed in Footnote 3 of Section 5.3 and Subsection 4.3.2 as 25 feet.

PRELIMINARY

- (3) The maximum lot area on best prime farmland is three acres as listed in Footnote 13 of Section 5.3.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

13. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner has testified on the application that, **“Detached accessory buildings are permitted within 10 feet of side – rear lines – grave lot are far less invasive.”**
 - B. Regarding the variance for setbacks of headstones and the existing shed:
 - (1) This cemetery has existed for over 100 years and predates zoning.
 - C. Regarding the variance of maximum lot size:
 - (1) The soils on the subject property Brenton silt loam (149A) and Kishwaukee silt loam (623A) are considered best prime farmland soils by the Champaign County Zoning Ordinance and increasing the area of the existing lot would require a variance for the maximum lot size of the acres on best prime farmland.
 - C. Regarding the waivers (variances) of standard conditions for a total lot area of 4.45 acres in lieu of 10 acres, and setbacks of 33 feet and 38 feet from CR 2400E and CR 2400N in lieu of 100 feet, and side yard of 15 feet in lieu of 50 feet, and rear yard of 25 feet in lieu of 50 feet:
 - (1) The cemetery has existed for over 100 years and predates zoning.
 - (2) The nearest dwelling is approximately 400 feet away.
 - (3) The soils are suitable so groundwater infiltration should not be a concern.

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

14. 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 Petitioner has testified on the application that, **“The Cemetery Association is comprised of rural communities. They wish to maximize use of any property taken from production.”**
 - B. Regarding the variance for setbacks of headstones and the existing shed:
 - (1) This cemetery has existed for over 100 years and predates zoning.

PRELIMINARY

- C. Regarding the variance of maximum lot size:
 - (1) The soils on the subject property Brenton silt loam (149A) and Kishwaukee silt loam (623A) are considered best prime farmland soils by the Champaign County Zoning Ordinance and increasing the area of the existing lot would require a variance for the maximum lot size of the acres on best prime farmland.

- D. Regarding the waivers (variances) of standard conditions for a total lot area of 4.45 acres in lieu of 10 acres, and setbacks of 33 feet and 38 feet from CR 2400E and CR 2400N in lieu of 100 feet, and side yard of 15 feet in lieu of 50 feet, and rear yard of 25 feet in lieu of 50 feet:
 - (1) The nearest dwelling is approximately 400 feet away.
 - (2) The soils are suitable so groundwater infiltration should not be a concern.
 - (3) A strict application of the Zoning Ordinance if applied would require additional property to be used to meet the minimum lot requirements. This would mean taking additional best prime farmland out of production.

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

- 15. 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 Petitioner has testified on the application that, “No.”
 - B. Regarding the variance for setbacks of headstones and the existing shed:
 - (1) This cemetery has existed for over 100 years and predates zoning.
 - C. Regarding the variance of maximum lot size:
 - (1) The soils on the subject property Brenton silt loam (149A) and Kishwaukee silt loam (623A) are considered best prime farmland soils by the Champaign County Zoning Ordinance and increasing the area of the existing lot would require a variance for the maximum lot size of the acres on best prime farmland.
 - D. Regarding the waivers (variances) of standard conditions for a total lot area of 4.45 acres in lieu of 10 acres, and setbacks of 33 feet and 38 feet from CR 2400E and CR 2400N in lieu of 100 feet, and side yard of 15 feet in lieu of 50 feet, and rear yard of 25 feet in lieu of 50 feet:
 - (1) The cemetery is nearing capacity and the petitioner needs to accommodate for the future. This is a rural cemetery that has existed for over 100 years and predates zoning.

PRELIMINARY

- (2) The standard conditions for a cemetery have been in the Zoning Ordinance since its inception and the justification for the conditions are not known.
- (3) There are no adjacent uses that have or need large yards.

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

- 16. 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 Petitioner has testified on the application that, **“As accessory buildings are permitted by right within areas for which grave sites must seek variance and use of areas in question is slight. No detrimental impact on intent of ordinance occurs.”**
 - B. The subject property conforms to all other Zoning requirements.
 - C. It is impossible to calculate the percent variance mathematically but for practical purposes the requested variance is a 100% variance.
 - D. 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

- 17. 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 Petitioner has testified on the application that, **“This is a rural area, lightly traveled. Allowing gravesites and stones closer to than is specified in ordinance will not affect use of surrounding areas not safety or welfare of community.”**
 - B. The Township Road Commissioner has received notice of this variance but no comments have been received.
 - C. The Fire Protection District has been notified of this variance but no comments have been received.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 18. Regarding proposed special conditions of approval:
 - A. No special conditions appear to be necessary.

DOCUMENTS OF RECORD

1. Special Use Permit Application received January 10, 2011 with attachments:
 - A Legal description
 - B Site Plan (Proposed Development 1/10/11)
 - C Photos of Cemetery
 - D Warranty Deed

2. Variance Application received February 3, 2011 with attachments:
 - A Legal description
 - B Site Plan (Proposed Development)

3. Revised Legal Description

4. Plat of Survey received July 5, 2011

5. Preliminary Memorandum dated December 8, 2011 with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Annotated Site Plan (Proposed Development) dated, November 18, 2011
 - C Site Plan (Proposed Development) received July 5, 2011
 - D Draft Summary of Evidence, Finding of Fact, and Final Determination

FINDINGS OF FACT: CASE 681-S-11

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 681-S-11 held on **December 15, 2011**, the Zoning Board of Appeals of Champaign County finds that:

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

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

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

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

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

 - h. The provisions for parking will be *{ADEQUATE / INADEQUATE} {because*}*:

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

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

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
- The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
- The Special Use is authorized in the District.
 - The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience at this location.
 - The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *IS* an existing nonconforming use and the requested Special Use Permit *WILL* make the existing use more compatible with its surroundings
6. Regarding necessary waivers of standard conditions:
- Regarding the requested waiver of the standard condition in Section 6.1.3 for a cemetery for a lot area of 4.45 acres instead of the Standard Condition lot area of 10 acres:
 - The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
 - 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*}*:
 - 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*}*:

PRELIMINARY

- (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:
 - (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because*}*:
- B. Regarding the requested waiver of the standard condition in Section 6.1.3 for a cemetery for a **setback from the centerline of CR 2400N of 37 feet instead of the Standard Condition setback from street centerline of 100 feet**:
- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
 - (2) 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*}*:
 - (3) 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*}*:
 - (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:
 - (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because*}*:
- C. Regarding the requested waiver of the standard condition in Section 6.1.3 for a cemetery for a **setback from the centerline of CR 2400E of 33 feet instead of the Standard Condition setback from street centerline of 100 feet**:
- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
 - (2) 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*}*:

- (3) 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*}*:
 - (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:
 - (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because*}*:
- D. Regarding the requested waiver of the standard condition in Section 6.1.3 for a cemetery for a **side yard of 15 feet instead of the Standard Condition side yard of 50 feet**:
- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
 - (2) 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*}*:
 - (3) 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*}*:
 - (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:
 - (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure. *{Because*}*:
- E. Regarding the requested waiver of the standard condition in Section 6.1.3 for a cemetery for a **rear yard of 25 feet instead of the Standard Condition side yard of 50 feet**:
- (1) The waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION IS / IS NOT}* in accordance with the general purpose and intent of the Zoning Ordinance and *{WILL / WILL NOT}* be injurious to the neighborhood or to the public health, safety, and welfare. *{Because*}*:
 - (2) 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*}*:

PRELIMINARY

- (3) 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*}*:
 - (4) The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant. *{Because*}*:
 - (5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL 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}***

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

FINDINGS OF FACT: CASE 682-V-11

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **682-V-11** held on **December 15, 2011** 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 SPECIAL CONDITION IMPOSED}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because: _____

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

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6. The requested variance *{SUBJECT TO THE SPECIAL CONDITION IMPOSED}* *{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: CASE 681-S-11

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

The Special Use requested in Case 681-S-11 is hereby *{ GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED }*to the petitioner **Kopmann Cemetery** to authorize an expansion of **Kopmann Cemetery** as a Special Use Permit in the AG-1 Zoning District *{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }*

FINAL DETERMINATION: CASE 682-V-11

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in 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 682-V-11 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Kopmann Cemetery** to authorize a variance of setbacks, maximum lot size, as well as waivers (variance) of standard conditions for front yard setbacks, minimum lot size, rear yard setback, and side yard setback to allow for an expansion of **Kopmann Cemetery** *{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:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:Secretary to the Zoning Board of Appeals

Date

PRELIMINARY

FINAL DETERMINATION: CASE 682-V-11

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in 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 682-V-11 is hereby *{GRANTED / GRANTED WITH CONDITIONS/ DENIED}* to the petitioner **Kopmann Cemetery** to authorize a **variance of setbacks, maximum lot size, as well as waivers (variance) of standard conditions for front yard setbacks, minimum lot size, rear yard setback, and side yard setback to allow for an expansion of Kopmann Cemetery** *{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:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

ATTEST:Secretary to the Zoning Board of Appeals

Date

1 **MINUTES OF REGULAR MEETING**
2 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**
3 **1776 E. Washington Street**
4 **Urbana, IL 61801**

7 **DATE:** July 14, 2011 **PLACE:** Lyle Shields Meeting Room
8 **TIME:** 7:00 p.m. **1776 East Washington Street**
9 **Urbana, IL 61802**

11 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Melvin Schroeder, Eric
12 Thorsland, Paul Palmgren

14 **MEMBERS ABSENT :** Brad Passalacqua, Roger Miller

16 **STAFF PRESENT :** Connie Berry, John Hall

18 **OTHERS PRESENT :** Herb Schildt, Sherry Schildt, Barbara Thompson

21 **1. Call to Order**

23 The meeting was called to order at 7:00 p.m.

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

27 The roll was called and a quorum declared present with two members absent.

29 **3. Correspondence**

31 None

DRAFT

33 **4. Approval of Minutes (June 16, 2011)**

35 Mr. Hall stated that the June 16, 2011, minutes were not available for the Board's approval tonight.

37 **Ms. Capel moved, seconded by Mr. Courson to re-arrange the agenda and hear Case 693-S-11**
38 **prior to Cases 683-AT-11, 684-AT-11, and 695-AT-11. The motion carried by voice vote.**

40 **5. Continued Public Hearing**

42 **Case 683-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County**
43 **Zoning Ordinance as follows: 1. Add definitions for 'by-right,' discretionary,' 'discretionary**
44 **development,' 'parcel,' 'best prime farmland,' 'suited overall and well-suited overall.'; and 2.**
45 **Revise paragraph 5.4.3C.2. as follows: (a) In subparagraph a., add 'and infrastructure to**
46 **support the development' and give examples of relevant infrastructure; and (b) In**
47 **subparagraph h. add 'to support the proposed development' and give examples of relevant**
48 **services; and (c) In subparagraph j., delete 'effects on' and replace with 'the amount of**

1 disturbance to.’ 3. Revise paragraph 9.1.11.B. by adding criteria that apply to special use
2 permits in the AG-1, AG-2, and CR zoning districts in addition to the existing criteria for any
3 special use permit as follows: (a) the property is either best prime farmland and the property
4 with proposed improvements is well suited overall or the property is not best prime farmland
5 and the property with proposed improvement is suited overall; and (b) the existing public
6 services are adequate to support the proposed special use effectively and safely without undue
7 public expense; and (c) the existing public infrastructure together with proposed
8 improvements is adequate to support the proposed development effectively and safely without
9 undue public expense.

10
11 Mr. Hall apologized to the Board for the condition of the Draft Finding of Fact for Case 683-AT-11
12 because it was mailed with several incomplete recommendations. He said that the Draft Finding of
13 Fact for Case 683-AT-11 is intended to be identical to the Summary of Evidence for Case 684-AT-
14 11 because both of the amendments are implementing policies that were adopted in the LRMP. He
15 said that both cases are necessary to achieve the LRMP. He said that as he has been doing with
16 previous text amendments he reviewed whether or not the two cases furthered the purpose of the
17 Zoning Ordinance and he believes that both cases do further the purpose of the Zoning Ordinance.
18 He said that the Draft Finding of Fact for Case 683-AT-11 and Case 684-AT-11 are identical
19 therefore the items which did not make sense in Case 683-AT-11 can be replaced with the
20 corresponding items in Case 684-AT-11. He said that Susan Monte has always been present for
21 these cases because she is acting as the consultant on these cases but given that Cases 683-AT-11
22 and 684-AT-11 are ready for action and there are no changes she is not present.

23
24 Mr. Hall stated that the items which need to be changed begin on page 4 of the Draft Finding of Fact
25 for Case 693-AT-11. He said that item #9 indicates that the proposed amendment IS NECESSARY
26 TO ACHIEVE Goal 4 for the following reasons, and the three lettered non-statements should be
27 deleted and replaced with item #9.A. from the Draft Finding of Fact for Case 684-AT-11 as follows:
28 A. Objective 4.4 states that Champaign County will update County regulations that pertain to rural
29 residential discretionary developments to best provide for site specific conditions by 2010 and the
30 proposed amendment IS NECESSARY TO ACHIEVE Object 4.4 because the special use permit is
31 the best way to provide for site specific conditions.

32
33 Mr. Hall stated that the sentence beginning with the asterisk in item #16.A on page 6 of the Draft
34 Finding of Fact for Case 683-AT-11 should be stricken and revised to indicate the following: The
35 proposed amendment should result in a more thorough overall consideration of public safety in some
36 land resource management decisions related to rural discretionary development. He said that this
37 statement is because one of the changes relates to public safety. He said that the sentence beginning
38 with the asterisk in item #16.C, also on page 6, should be stricken and replaced with the following:
39 The proposed amendment should result in a more thorough overall consideration of traffic
40 considerations in some land resource management decisions related to rural discretionary
41 development. He said that this statement is because one of the changes relates to the consideration

1 of traffic. He said that the sentence beginning with the asterisk in item #16.D, also on page 6, should
2 be stricken and replaced with the following: The proposed amendment should result in a more
3 thorough overall consideration of drainage issues in some land resource management decisions
4 related to rural discretionary development. He said that this statement is because one of the changes
5 relates to infrastructure such as drainage systems. He said that the sentence beginning with the
6 asterisk in item #16.E, also on page 6, should be stricken and replaced with the following: The
7 proposed amendment should result in a more thorough overall consideration of public safety issues
8 in some land resource management decisions related to rural discretionary development. He said
9 that the recommendation for item #16 is that the proposed amendment appears to HELP ACHIEVE
10 the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance.

11
12 Mr. Hall stated that staff did not make a recommendation for item #17 in Case 683-AT-11 and item
13 #17 is identical in Case 684-AT-11. He said that the Board may not agree with how item #17 is
14 worded but he felt that by providing more detail on the criteria for these discretionary decisions is
15 that the petitioner is aware of ahead of time and it is inevitable that the petitioner will have a better
16 understanding of the actual basis for the decision. He said that it is up to Board to determine the
17 recommendation for item #17 or the Board could eliminate item #17 although he believes that item
18 #17 is useful.

19
20 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
21 testimony regarding Case 683-AT-11 and there was no one.

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

24
25 Mr. Hall stated that the Summary Finding of Fact is indicated on page 10 which reviews that the
26 recommendation is that the proposed Zoning Ordinance text amendment IS NECESSARY TO
27 ACHIEVE Goal 4 and it will HELP ACHIEVE Goals 1, 2 and 3 and WILL NOT IMPEDE the other
28 LRMP Goals. He said that if the Board decides to strike item #17 then item #2.B. of the Summary
29 Finding of Fact should also be stricken.

30
31 Mr. Thorsland briefly reviewed the recommended findings with the Board. He said that item #6
32 indicates that the proposed amendment is not directly related to Goal 1 but should HELP ACHIEVE
33 Objective 1.1. He said that item #7 indicates that the proposed amendment is not directly related to
34 Goal 2 but should HELP ACHIEVE Goal 2 because it should HELP ACHIEVE Objective 2.1 that
35 stated that Champaign County will coordinate land resource management planning with all County
36 jurisdictions and, to the extent possible, in the larger region. He said that item #7.A. indicates that
37 the proposed amendment should HELP ACHIEVE policy 2.1.3. He said that item #8 indicates that
38 the proposed amendment is not directly related to Goal 3 but should HELP ACHIEVE Goal 3. He
39 said that item #9 indicates that Goal 4 has 9 objectives and 22 policies. The proposed amendment is
40 directly related to Goal 4 and IS NECESSARY TO ACHIEVE Goal 4. He said that item #9.A.
41 indicates that Objective 4.4 states that Champaign County will update County regulations that pertain

1 to rural residential discretionary developments to best provide for site specific conditions by 2010
2 and the proposed amendment IS NECESSARY TO ACHIEVE Objective 4.4. He said that item #10
3 indicates that the proposed amendment should NOT BE RELEVANT to Goal 5. He said that item
4 #11 indicates that the proposed amendment should NOT BE RELEVANT to Goal 6. He said that
5 item #12 indicates that the proposed amendment should NOT BE RELEVANT to Goal 7.

6
7 Mr. Hall stated that even though the recommendation for items #11 through #15 is NOT BE
8 RELEVANT the text does explain that it should help therefore it is entirely consistent with the
9 recommendation under purpose but even though it is not directly relevant to the goal it is directly
10 relevant to the purpose. He said that the purpose is somewhat broader than the goal.

11
12 Mr. Thorsland continued to review the recommendations. He said that item #13 indicates that the
13 proposed amendment should NOT BE RELEVANT to Goal 8. He said that item #14 indicates that
14 the proposed amendment should NOT BE RELEVANT to Goal 9. He said that item #15 indicates
15 that Goal 10 is NOT RELEVANT to the proposed amendment. He said that item #16, with its
16 various revisions and additions, indicates that the proposed amendment appears to HELP ACHIEVE
17 the purpose of the Zoning Ordinance as established in Section 2. He said that the Board needs to
18 make a recommendation for item #17. He read item #17 as follows: The proposed text amendment
19 WILL/WILL NOT improve the text of the Zoning Ordinance because it WILL/WILL NOT provide a
20 better understanding of the actual basis for some land resource management decisions related to rural
21 discretionary development decisions.

22
23 **Ms. Capel moved, seconded by Mr. Palmgren, that the proposed text amendment WILL**
24 **improve the text of the Zoning Ordinance because it WILL provide a better understanding of**
25 **the actual basis for some land resource management decisions related to rural discretionary**
26 **development decisions. The motion carried by voice vote.**

27
28 **Summary Finding of Fact for Case 683-AT-11:**

29
30 From the documents of record and the testimony and exhibits received at the public hearing
31 conducted on March 24, 2011; May 26, 2011; and July 14, 2011, the Zoning Board of Appeals of
32 Champaign County finds that:

- 33 1. The proposed Zoning Ordinance text amendment IS NECESSARY TO ACHIEVE
34 the Land Resource Management Plan because:
- 35 A. The proposed Zoning Ordinance text amendment IS NECESSARY TO
36 ACHIEVE the following LRMP goal(s):
- 37 • Goal 4 Agriculture
- 38
- 39 B. The proposed Zoning Ordinance text amendment will also HELP ACHIEVE
40 the following LRMP goal(s):
- 41 • Goal 1 Planning and Public Involvement

- 1 • Goal 2 Governmental Coordination
- 2 • Goal 3 Prosperity
- 3
- 4 C. The proposed Zoning Ordinance text amendment WILL NOT IMPEDE the
- 5 achievement of the other LRMP goals.
- 6
- 7 2. The proposed text amendment WILL improve the Zoning Ordinance because it will:
- 8 A. HELP ACHIEVE the purpose of Zoning Ordinance.
- 9 B. WILL improve the text of the Zoning Ordinance because it WILL provide a
- 10 better understanding of the actual basis some land resource management
- 11 decisions related to rural discretionary development decisions.
- 12

13 **Ms. Capel moved, seconded by Mr. Palmgren that the proposed text amendment WILL**
14 **improve the Zoning Ordinance because it will HELP ACHIEVE the purpose of the Zoning**
15 **Ordinance and it WILL improve the text of the Zoning Ordinance because it WILL provide a**
16 **Better understanding of the actual basis some land resource management decisions related to**
17 **rural discretionary development decisions. The motion carried by voice vote.**

18

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

21

22 Mr. Hall stated that this case was re-advertised with the added definitions. He said that he does not
23 believe that re-advertisement was absolutely necessary yet since there was a change staff went ahead
24 and re-advertised.

25

26 Mr. Thorsland informed Mr. Hall that a full Board is not present at tonight's meeting therefore it is
27 at Mr. Hall's discretion whether to proceed to the final determination or request a continuance until
28 a full Board is present.

29

30 Mr. Hall stated that the Board should proceed if they are comfortable with doing so or continue the
31 Case until such time that they can hear and approve Case 685-AT-11. He said that he does hope
32 that Case 685-AT-11 is continued to July 28, 2011. He said that Cases 683-AT-11 and 684-AT-11
33 should move forward together.

34

35 Mr. Thorsland asked Mr. Hall if it would be better to send all three cases to the County Board at one
36 time.

37

38 Mr. Hall stated that he believes it would be better to get something to the County Board that was
39 directly required by the LRMP.

40

41 **Final Determination for Case 683-AT-11:**

1
2 **Ms. Capel moved, seconded by Mr. Schroeder that pursuant to the authority granted by**
3 **Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
4 **Champaign County determines that the Zoning Ordinance Amendment requested in Case**
5 **683-AT-11 should BE ENACTED by the County Board in the form attached hereto.**
6

7 The roll was called:

8
9 **Palmgren-yes Schroeder-yes Passalacqua-absent**
10 **Capel-yes Courson-yes Miller-absent**
11 **Thorland-yes**
12

13
14 **Case 684-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County**
15 **Zoning Ordinance as follows: 1. Revise Section 5.2 by indicating that a subdivision in the CR,**
16 **AG-1, or AG-2 zoning districts that totals more than three lots or with new streets or private**
17 **access ways requires a County Board approved special use permit for Rural Residential**
18 **Development in addition to the Rural Residential Overlay District; and 2. Revise Section 5.4.3**
19 **as follows: (a) Add a requirement for a County Board approved special use permit for Rural**
20 **Residential Development in accordance with Section 9.1.11.; and (b) Add a requirement that**
21 **the public hearing for a map amendment for a Rural Residential Overlay and the public**
22 **hearing for the related special use permit for Rural Residential Development must be**
23 **concurrent.**
24

25 Mr. Hall stated that something that has been bothering him since the beginning of this case is that it
26 had been formatted assuming that other amendments would be progressing with it and staff left it
27 that way even though those other amendments did not progress with it. He said that during the
28 period since the last meeting he and Ms. Monte reviewed this case and simplified the text so that it is
29 actually changing the text less than what had been indicated and the subsequent effect is the same.
30 He said that the legal advertisement merely described the changes and did not actually indicate the
31 specific changes. He informed the Board that the text is different than what the Board has seen
32 previously and it is consistent with the legal and it is an improvement because it actually changes less
33 in the Ordinance. He said that the recommendation on the Finding of Fact is identical to what the
34 recommendation was for Case 683-AT-11. He said that the recommendation is that it is necessary to
35 ACHIEVE Goal 4 and it WILL HELP ACHIEVE Goals 1, 2 and 3 for the same reasons and it WILL
36 NOT IMPEDE the achievement of the other goals. He said that the recommendation is that it will
37 HELP ACHIEVE the purpose of the Zoning Ordinance for the same reasons and again there is the
38 item #17 regarding the text of the Ordinance and the Board must make a recommendation for that
39 item. He said that this is a critical amendment because the RRO should have required a special use
40 permit from the beginning. He said that this amendment will put the Zoning Ordinance and the RRO
41 approach on much sounder footing with the special use permit.

1
2 Mr. Thorsland briefly reviewed the recommended findings with the Board. He said that item #6
3 indicates the proposed amendment is not directly related to Goal 1 but should HELP ACHIEVE
4 Objective 1.1. He said that item #7 is in regards to LRMP Goal 2 which states the following:
5 Champaign County will collaboratively formulate land resource and development policy with other
6 units of government in areas of overlapping land use planning jurisdiction. He said the proposed
7 amendment is not directly related Goal 2 but it should HELP ACHIEVE Goal 2 because it should
8 HELP ACHIEVE Objective 2.1 and it should HELP ACHIEVE Policy 2.1.3. He said that item #8 is
9 in regards to LRMP Goal 3 which states the following: Champaign County will encourage economic
10 growth and development to ensure prosperity for its residents and the region. He said that Goal 3 has
11 three objectives and no policies and the proposed amendment is not directly related to Goal 3 but
12 should HELP ACHIEVE Goal 3. He said that item #9 is in regards to Goal 4 which states the
13 following: Champaign County will protect the long term viability of agriculture in Champaign
14 County and its land resource base. He said that Goal 4 has 9 objectives and 22 policies and the
15 proposed amendment is directly related to Goal 4 and IS NECESSARY TO ACHIEVE Goal 4 and
16 IS NECESSARY TO ACHIEVE Objective 4.4. He said that item #10 is in regards to LRMP Goal 5
17 which states the following: Champaign County will encourage urban development that is compact
18 and contiguous to existing cities, villages, and existing unincorporated settlements. He said that the
19 proposed amendment should NOT BE RELEVANT to Goal 5 in general, because Goal 5 relates
20 primarily to urban land use.

21
22 Mr. Thorsland stated that item#11 is in regards to LRMP Goal 6 which states that Champaign
23 County will ensure protection of the public health and public safety in land resource management
24 decisions. He said that the proposed amendment should NOT BE RELEVANT to Goal 6. He said
25 that item #12 is in regards to LRMP Goal 7 which states the following: Champaign County will
26 coordinate land use decisions in the unincorporated area with the existing and planned transportation
27 infrastructure and services. He said that the proposed amendment should NOT BE RELEVANT to
28 Goal 7. He said that item #13 is in regards to LRMP Goal 8 which states the following: Champaign
29 County will strive to conserve and enhance the County's landscape and natural resources and ensure
30 their sustainable use. He said that the proposed amendment should NOT BE RELEVANT to Goal 8.
31 He said that item #14 is in regards to LRMP Goal 9 which states the following: Champaign County
32 will encourage energy conservation, efficiency, and the use of renewable energy sources. He said
33 that the proposed amendment should NOT BE RELEVANT to Goal 9. He said that item #15 is in
34 regards to LRMP Goal 10 which states the following: Champaign County will promote the
35 development and preservation of cultural amenities that contribute to a high quality of life for its
36 citizens. He said that Goal 10 is NOT RELEVANT to the proposed amendment. He said that item
37 #16 indicates that the proposed amendment appears to HELP ACHIEVE the purpose of the Zoning
38 Ordinance as established in Section 2.

39
40 Mr. Thorsland stated that the Board needs to make a recommendation for item #17. He read item
41 #17 as follows: The proposed text amendment WILL/WILL NOT improve the text of the Zoning

1 Ordinance because it WILL/WILL NOT provide a better understanding of the actual basis for some
2 land resource management decisions related to rural discretionary development decisions.

3
4 **Ms. Capel moved, seconded by Mr. Palmgren, that the proposed text amendment WILL**
5 **improve the text of the Zoning Ordinance because it WILL provide a better understanding of**
6 **the actual basis for some land resource management decisions to rural discretionary**
7 **development decisions. The motion carried by voice vote.**

8
9 **Summary Finding of Fact for Case 684-AT-11:**

10
11 From the documents of record and the testimony and exhibits received at the public hearing
12 conducted on March 24, 2011; May 26, 2011; and July 14, 2011, the Zoning Board of Appeals of
13 Champaign County finds that:

- 14 1. The proposed Zoning Ordinance text amendment IS NECESSARY TO ACHIEVE
15 the Land Resource Management Plan because:
- 16 A. The proposed Zoning Ordinance text amendment IS NECESSARY TO
17 ACHIEVE the following LRMP goal(s):
- 18 • Goal 4 Agriculture
- 19
- 20 B. The proposed Zoning Ordinance text amendment will also HELP ACHIEVE
21 the following LRMP goal(s):
- 22 • Goal 1 Planning and Public Involvement
23 • Goal 2 Governmental Coordination
24 • Goal 3 Prosperity
- 25
- 26 C. The proposed Zoning Ordinance text amendment WILL NOT IMPEDE the
27 achievement of the other LRMP goals.
- 28
- 29 2. The proposed text amendment WILL improve the Zoning Ordinance because it will:
- 30 A. HELP ACHIEVE the purpose of Zoning Ordinance.
31 B. WILL improve the text of the Zoning Ordinance because it WILL provide a
32 better understanding of the actual basis some land resource management
33 decisions related to rural discretionary development decisions.
- 34

35 **Ms. Capel moved, seconded by Mr. Schroeder that proposed text amendment WILL improve**
36 **the Zoning Ordinance because it will HELP ACHIEVE the purpose of the Zoning Ordinance**
37 **and it WILL improve the text of the Zoning Ordinance because it WILL provide a better**
38 **understanding of the actual basis some land resource management decisions related to rural**
39 **discretionary development decisions. The motion carried by voice vote.**

40
41 Mr. Thorsland informed Mr. Hall that a full Board is not present at tonight's meeting therefore it is

1 at Mr. Hall's discretion whether to proceed to the final determination or request a continuance until
2 a full Board is present.

3
4 Mr. Hall requested that the present Board proceed to the final determination.

5
6 **Final Determination for Case 684-AT-11:**

7
8 Ms. Capel moved, seconded by Mr. Schroeder that pursuant to the authority granted by
9 Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of
10 Champaign County determines that the Zoning Ordinance Amendment requested in Case
11 684-AT-11 should BE ENACTED by the County Board in the form attached hereto.

12
13 The roll was called:

14			
15	Palmgren-yes	Schroeder-yes	Passalacqua-absent
16	Capel-yes	Courson-no	Miller-absent
17	Thorsland-yes		

18
19 **Case 685-AT-11 Petitioner: Zoning Administrator Request to amend the Champaign County**
20 **Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any**
21 **County Board approved special use permit for a Rural Residential Development in the Rural**
22 **Residential Overlay district as follows: (1) Require that each proposed residential lot shall**
23 **have an area equal to the minimum required lot area in the zoning district that is not in the**
24 **Special Flood Hazard Area; and (2) Require a new public street to serve the proposed lots in**
25 **any proposed RRO with more than two proposed lots that are each less than five acres in area**
26 **or any RRO that does not comply with the standard condition for minimum driveway**
27 **separation; and (3) Require a minimum driveway separation between driveways in the same**
28 **development; and (4) Require minimum driveway standards for any residential lot on which a**
29 **dwelling may be more than 140 feet from a public street; and (5) Require for any proposed**
30 **residential lot not served by a public water supply system and that is located in an area other**
31 **than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and**
32 **contract the services of the Illinois State Water Survey (ISWS) to conduct or provide a review**
33 **of the results; and (6) Require for any proposed RRO in a high probability area as defined in**
34 **the Illinois State Agency Historic Preservation Agency (ISHPA) about the proposed RRO**
35 **development undertaking and provide a copy of the ISHPA response; and (7) Require that for**
36 **any proposed RRO that the petitioner shall contact the Endangered Species Program of the**
37 **Illinois Department of Natural Resources and provide a copy of the agency response.**

38
39 Mr. Thorsland stated that only one signature, the petitioner's, is on the witness register and asked the
40 audience if anyone desired to sign the witness register at this time to present testimony regarding
41 Case 685-AT-11 and there was no one.

1
2 Mr. Hall stated that he was unsuccessful in getting new evidence for Case 685-AT-11 and was also
3 unsuccessful in getting the evidence from the May 26, 2011, memorandum included in the Finding
4 of Fact. He said that at the May 26, 2011, meeting the Board reviewed all of the approved RRO's to
5 date and discussed how these conditions would or would not affect those RRO's and it is imperative
6 to have that evidence included in the Finding of Fact. He encouraged the Board to not take action on
7 this case at tonight's meeting and continue the case to at least the July 28th meeting. He said that
8 todate staff's workload is somewhat overwhelming but he will attempt to have all of the pertinent
9 evidence included in the Finding of Fact on July 28th.

10
11 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
12 evidence for Case 685-AT-11 and there was no one.

13
14 Mr. Thorsland closed the witness register.

15
16 **Mr. Schroeder moved, seconded by Mr. Courson to continue Case 685-AT-11 to July 28, 2011.**
17 **The motion carried by voice vote.**

18
19 **6. New Public Hearings**

20 **Case 693-S-11 Petitioner: Fisher Community School District Number One Request: Authorize**
21 **a School Transportation Facility as a Special Use Permit in the AG-1 Zoning District.**
22 **Location: A 33 acre tract in the Northwest Quarter of the Southwest Quarter of Section 36 of**
23 **Brown Township and commonly known as the barn and farmland at 3032 CR 500E, Fisher.**
24

25 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County
26 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will
27 ask for a show of hands for those who would like to cross examine and each person will be called
28 upon. He requested that anyone called to cross examine go to the cross examination microphone to
29 ask any questions. He said that those who desire to cross examine are not required to sign the
30 witness register but are requested to clearly state their name before asking any questions. He noted
31 that no new testimony is to be given during the cross examination. He said that attorneys who have
32 complied with Article 6.5 of the ZBA By-Laws are exempt from cross examination.
33

34 Mr. Hall distributed a new Supplemental Memorandum dated July 14, 2011, and two separate
35 attachments to the Board for review. He said that the new memorandum reviews a story which was
36 in the *News Gazette* on July 9, 2011, and the article is included as one of the attachments. He said
37 that the article discusses the drainage detention basin which is included in the memorandum. He said
38 that the other attachment is a drainage map which is basically the land use map with the topographic
39 contours overlay from the zoning map. He said that this map indicates information about how where
40 the drainage flows. He said that the new memorandum includes two conditions, one regarding the
41 compliance with the Stormwater Management Policy. He said that the petitioner has a revised site

1 plan to present to the Board tonight. He said that the new site plan indicates less impervious area
2 and that is not due to response to any drainage issues per say but it does help with drainage issues.
3 He said that the condition provides for compliance with the Stormwater Management Policy either
4 by documentation from the municipality that the basin has adequate capacity or by means of a
5 variance or by means of reducing the impervious area and if need be by means of a Stormwater
6 Management Plan. He said that there are no outstanding drainage issues and the Board could take
7 action tonight on the information that is front of the Board and the Board can feel comfortable that
8 everything is being addressed.

9
10 Mr. Hall stated that the other condition is in regards to the fueling station pad that was on the site
11 plan and that condition requires documentation that the fuel station pad with fuel tanks meets any
12 applicable State Fire Marshall requirements. He said that such documentation would be required to
13 issue a Zoning Compliance Certificate.

14
15 Mr. Hall stated that the petitioner's representative did not receive a copy of the Preliminary
16 Memorandum therefore the petitioner could request a continuance. He said that there are no
17 outstanding issues and as previously mentioned the petitioner will submit a new site plan tonight for
18 the Board's review.

19
20 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

21
22 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
23 witness register. He reminded the audience that when they sign the witness register they are
24 signing an oath.

25
26 Mr. Thorsland called Ms. Barbara Thompson to testify.

27
28 Ms. Barbara Thompson, who resides at 519 W. Sangamon Street, Fisher stated that she had a
29 conversation with Mr. Hall earlier today and after the conversation it occurred to her that she was
30 missing documentation. She said that the history of the proposed transportation building is what
31 brings her before the Board tonight. She said that six years ago she was hired as the
32 Superintendent of Fisher Schools and her first priority was to get the bus barn replaced. She said
33 that six years later the school district purchased the subject property because they felt that the
34 property would serve the school's needs for a transportation facility and also give the school
35 flexibility for school related programs, such as the new agricultural program. She said that there
36 are approximately 22 tillable acres on the subject property which would be ideal for the new
37 agriculture program. She said that the major use of the subject property is for the transportation
38 department.

39
40 Mr. Thorsland asked the Board if there were any questions for Ms. Thompson and there were
41 none.

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Mr. Thorsland asked if staff had any questions for Ms. Thompson.

Mr. Hall asked Ms. Thompson if she desired to submit the revised site plan at this time for the Board's review.

Ms. Thompson stated yes. She said that the new transportation facility is part of a project that is a renovation of the school's junior and senior high school to make it energy efficient. She said that with the use of the 1% sales tax funds they are hoping to be able to address a needed space issue and update a very dated boiler. She said that a few weeks ago the school rejected all bids because everything came back too high for the school to deal with so they had to go back to the drawing board. She said that the school has a great need for the transportation shed because they have to provide transportation but the more that the school could cut out of the transportation project would maintain the junior and senior high project. She said that the revised drawing of the subject property containing the transportation shed indicates a reduced impervious area. Ms. Thompson submitted the revised site plan to the Board for review.

Ms. Thompson stated that the revised plan indicates that the entry drive from the west was previously able to accommodate three buses at a time allowing one bus to be fueled and two buses to pass through the drive. She said that the drive was cut down to a two bus width and as much as possible will be taken off of the curve of the circle drive as possible to still allow a bus to make the turn. She said that the parking spaces on the northwest side, currently five spaces are indicated, will be removed and along the south side there is a significant area that will be eliminated. She said that the previous plan indicated this significant area along the south side would be utilized for the parking of six buses through the day. She said that such an area would have been nice but it is not necessary and the school is down to only requesting what is necessary at this point.

Mr. Hall stated that it appears that the new impervious area is below the 10,000 square feet threshold.

Mr. Thorsland asked Ms. Thompson if she had an opportunity to review the draft conditions.

Ms. Thompson stated yes.

Mr. Thorsland asked Ms. Thompson if she agreed to the conditions.

Ms. Thompson stated yes.

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

1
2 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present
3 testimony regarding Case 693-S-11 and there was no one.
4

5 Mr. Thorsland closed the witness register.
6

7 Mr. Hall recommended a new item #5.B(7) indicating the fueling station pads on the south side of
8 the parking area. He said that new item #5.C. should be added indicating the revised site plan
9 submitted at the July 13, 2011, public hearing. The revised site plan is similar to the site plan
10 received on June 15, 2011, except that there is less proposed paving.
11

12 Mr. Thorsland asked Ms. Thompson if the site plan indicates any lighting.
13

14 Ms. Thompson stated that there are two lights on the existing building which will remain. She
15 said that there is a light over the fueling station and a pole light. She said that a pole light also
16 exists at the entrance of the property.
17

18 Mr. Thorsland stated that item 6.B of the Preliminary Draft Summary of Evidence is in regards to
19 the standard conditions for lighting.
20

21 Ms. Thompson stated that the school's architect is aware of the lighting requirements and this is
22 an issue that he is very alert to although she will check with the architect to make sure that all
23 lighting requirements are met.
24

25 Mr. Hall stated that the Preliminary Memorandum proposes a new item #9.C(1)(e) to Page 8 of the
26 Summary of Evidence which should actually be item #9.C(1)(d) indicating the following: A
27 revised site plan with less proposed impervious area was submitted at the July 14, 2011, public
28 hearing. If the revised site plan indicates 10,000 square feet or more of new impervious area a
29 special condition will ensure compliance with the Stormwater Management Policy. Mr. Hall stated
30 that the revised site plan indicates less than 10,000 square feet of new impervious area but his
31 recommendation would be to keep the condition and get the documentation from the Village of
32 Fisher, and when the school has the funds to expand the pavement there will be no issues. He said
33 that new item #9.C(1)(d) only talks about if 10,000 square feet or more impervious area is added
34 so the Board can either revise the new item or leave it stand.
35

36 Mr. Hall stated that item #9.C(1)(e) should be revised as follows: The subject property is tributary
37 to a stormwater detention facility in the Heritage Estates Subdivision in the Village of Fisher. He
38 said that the text, "and the design of the detention facility provided for the drainage of the
39 agricultural area," should be stricken. He said that a new Item #9.B.(2)(d) should be added as
40 follows: The proposed parking area also complies with the requirements for screening in
41 paragraph 7.4.1.C.4. He said that if the Board accepts the two new conditions the conditions need

1 to be added to the Summary of Evidence.
2

3 Mr. Hall stated that a new item #3 should be added to the Documents of Record indicating the
4 following: 3. Supplemental Memorandum for Case 693-S-11 with attachments: A. Drainage Map;
5 and B. *News Gazette* article published July 9, 2011. He said that a new item #4 should be added
6 to the Documents of Record indicating the following: 4. Revised site plan received on July 14,
7 2011.
8

9 Mr. Thorsland noted that item #2 of the Documents of Record should be revised to indicate the
10 following: Preliminary Memorandum for Case 693-S-11 with attachments.
11

12 Mr. Schroeder stated that when there are buses involved there are people who will require parking
13 spaces for their personal vehicles therefore where will these parking spaces be located on the
14 property.
15

16 Ms. Thompson stated that the personal parking spaces will be located in front of the building.
17

18 Mr. Thorsland requested a motion to approve the special conditions.
19

20 **Mr. Palmgren moved, seconded by Mr. Courson to approve the special conditions for Case**
21 **693-S-11. The motion carried by voice vote.**
22

23 Mr. Hall stated that items #8.K.1(k) and (l) should be stricken.
24

25 Mr. Courson asked if a loading berth should be indicated on the site plan.
26

27 Mr. Hall stated that the loading berth will be required on the site plan although there is plenty of
28 room for the loading berth. He said that the way that the Ordinance is written a loading berth can
29 actually be in an aisle way and it usually is. He said that due to the tremendous size of the existing
30 building there would probably be three or four loading berths required but there is enough space to
31 accommodate those.
32

33 Mr. Thorsland asked the Board if there were any further questions before moving to the Finding of
34 Fact.
35

36 **Finding of Fact for Case 693-S-11:**
37

38 From the documents of record and the testimony and exhibits received at the public hearing for
39 zoning case 693-S-11 held on July 14, 2011, the Zoning Board of Appeals of Champaign County
40 finds that:
41

- 1 **1. The requested Special Use Permit, subject to the special conditions imposed**
2 **herein, 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
5 herein, IS necessary for the public convenience at this location because the old location may not be
6 available any longer for the school's use. He said that the proposed lot is convenient to the rural
7 route roads and the vehicles will be kept indoors preventing less vandalism and downgrading of the
8 vehicles from winter weather.
9

10 Ms. Capel stated that the subject property presents an affordable option for the school district.
11

- 12 **2. 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

- 17 **a. The street has ADEQUATE traffic capacity and the entrance location**
18 **has ADEQUATE visibility.**
19

20 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has
21 ADEQUATE visibility.
22

- 23 **b. Emergency services availability is ADEQUATE.**
24

25 Mr. Capel stated that emergency services availability is ADEQUATE.
26

- 27 **c. The special use will be designed to CONFORM to all relevant County**
28 **Ordinances and codes.**
29

30 Mr. Courson stated that the special use will be designed to CONFORM to all relevant County
31 Ordinances and codes.
32

- 33 **d. The special use WILL be compatible with adjacent uses.**
34

35 Ms. Capel stated that the special use WILL be compatible with adjacent uses.
36

- 37 **e. Surface and subsurface drainage will be ADEQUATE.**
38

39 Mr. Courson stated that surface and subsurface drainage will be ADEQUATE.
40

- 41 **f. Public safety will be ADEQUATE.**

1
2 Mr. Courson stated that public safety will be ADEQUATE.

3
4 **g. The provisions for parking will be ADEQUATE.**

5
6 Ms. Capel stated that the provisions for parking will be ADEQUATE.

7
8 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions
9 imposed herein, is so designed, located and proposed to be operated so that it WILL NOT be
10 injurious to the district in which it shall be located or otherwise detrimental to the public
11 health, safety and welfare.

12
13 **3a. The requested Special Use Permit, subject to the special conditions imposed**
14 **herein, DOES conform to the applicable regulations and standards of the**
15 **DISTRICT in which it is located.**

16
17 Mr. Courson stated that the requested Special Use Permit, subject to the special conditions imposed
18 herein, DOES conform to the applicable regulations and standards of the DISTRICT in which it is
19 located.

20
21 **3b. The requested Special Use Permit, subject to the special conditions imposed**
22 **herein, DOES preserve the essential character of the DISTRICT in which it is**
23 **located.**

24
25 **(a) The Special Use will be designed to CONFORM to all relevant County**
26 **ordinances and codes.**

27
28 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County
29 ordinances and codes.

30
31 **(b) The Special Use WILL be compatible with adjacent uses.**

32
33 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

34
35 **(c) Public safety will be ADEQUATE.**

36
37 Ms. Capel stated that public safety will be ADEQUATE.

38
39 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed
40 herein, DOES preserve the essential character of the DISTRICT in which it is located.

1 4. **The requested Special Use Permit, subject to the special conditions imposed**
2 **herein, IS in harmony with the general purpose and intent of the Ordinance.**

3
4 a. **The Special Use is authorized in the District.**

5 b. **The requested Special Use Permit IS necessary for the public**
6 **convenience at this location.**

7
8 Mr. Courson stated that the requested Special Use Permit IS necessary for the public convenience at
9 this location.

10
11 c. **The requested Special Use Permit, subject to the special conditions**
12 **imposed herein, is so designed, located, and proposed to be operated so**
13 **that it WILL NOT be injurious to the district in which it shall be located**
14 **or otherwise detrimental to the public health, safety and welfare.**

15
16 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed
17 Herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the
18 district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

19
20 d. **The requested Special Use Permit, subject to the special conditions**
21 **imposed herein, DOES preserve the essential character of the**
22 **DISTRICT in which it is located.**

23
24 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed
25 herein, DOES preserve the essential character of the DISTRICT in which it is located.

26
27 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed
28 herein, IS in harmony with the general purpose and intent of the Ordinance.

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

31
32 Ms. Capel stated that the requested Special Use IS NOT an existing nonconforming use.

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

37
38 A. **A complete Stormwater Drainage Plan that conforms to the**
39 **requirements of the Stormwater Management Policy shall be submitted**
40 **and approved as part of the Zoning Use Permit application including all**
41 **required as-built certifications that shall be submitted prior to issuance**

1 of the Zoning Compliance Certificate, unless one of the following occurs:
2 (1) documentation is provided that the downstream municipal
3 detention basin has adequate capacity; or
4 (2) a variance for a stormwater drainage plan is approved; or
5 (3) the amount of new impervious area is reduced such that a
6 stormwater drainage plan is not required.
7

8 The special condition is necessary to ensure the following: **The subject**
9 **property is in compliance with the requirements of the Champaign**
10 **County Stormwater Management Policy.**

- 11
12 **B. Documentation that the proposed fueling station with fuel tanks meet**
13 **any applicable Illinois State Fire Marshal requirements, as constructed,**
14 **shall be submitted prior to the issuance of the Zoning Compliance**
15 **Certificate.**
16

17 The special condition is necessary to ensure the following: **The subject**
18 **property is in compliance with any applicable requirements of the**
19 **Illinois State Fire Marshal and does not impose any undue risk to the**
20 **public safety.**
21

22 **Ms. Capel moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents**
23 **of Record and Finding of Fact as amended. The motion carried by voice vote.**
24

25 Mr. Thorsland informed the petitioner that two Board members are absent from tonight's meeting.
26 He said that it is at the petitioner's discretion to request a continuance until a full Board is present
27 or request that the present Board move to the Final Determination.
28

29 Ms. Thompson requested that the present Board move to the Final Determination tonight.
30

31 **Final Determination for Case 693-S-11:**
32

33 **Mr. Courson moved, seconded by Ms. Capel that the Champaign County Zoning Board of**
34 **Appeals finds that, based upon the application, testimony, and other evidence received in this**
35 **case, that the requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to**
36 **the authority granted by Section 9.1.6B. of the Champaign County Zoning Ordinance,**
37 **determines that the Special Use requested in Case 693-S-11 is hereby GRANTED WITH**
38 **SPECIAL CONDITIONS to the petitioner Fisher Community Unit School District Number**
39 **One to authorize a School Transportation Facility as a Special Use Permit in the AG-1 Zoning**
40 **District, subject to the following special conditions:**
41

1 A. A complete Stormwater Drainage Plan that conforms to the requirements of the
2 Stormwater Management Policy shall be submitted and approved as part of the
3 Zoning Use Permit application including all required as-built certifications that
4 shall be submitted prior to issuance of the Zoning Compliance Certificate,
5 unless one of the following occurs:

- 6 (1) documentation is provided that the downstream municipal
7 detention basin has adequate capacity; or
- 8 (2) a variance for a stormwater drainage plan is approved; or
- 9 (3) the amount of new impervious area is reduced such that a
10 stormwater drainage plan is not required.

11
12 The special condition is necessary to ensure the following: **The subject**
13 **property is in compliance with the requirements of the Champaign**
14 **County Stormwater Management Policy.**

15
16 B. Documentation that the proposed fueling station with fuel tanks meet
17 any applicable Illinois State Fire Marshal requirements, as constructed,
18 shall be submitted prior to the issuance of the Zoning Compliance
19 Certificate.

20
21 The special condition is necessary to ensure the following: **The subject**
22 **property is in compliance with any applicable requirements of the**
23 **Illinois State Fire Marshal and does not impose any undue risk to the**
24 **public safety.**

25
26 The roll was called:

27
28 Palmgren-yes Schroeder-yes Capel-yes
29 Courson-yes Thorsland-yes Miller-absent
30 Passalacqua-absent

31
32 Mr. Hall informed the petitioner that they have received an approval of their request. He said that
33 staff will mail the appropriate documentation as soon as possible.

34
35 Mr. Thorsland stated that the Board will not return the original format of the agenda and hear Case
36 683-AT-11.

37
38 7. Staff Report
39 A. June, 2011 Monthly Report

40 Mr. Hall stated that there is no monthly report. He said that staff has received three new zoning
41 cases in June and one in July already which brings us up to a total of 15 new cases in fiscal year 2011

1 which is the same as we had in fiscal year 2010. He said that the one new case that was received in
2 July is the California Ridge Wind Farm and the case is docketed for August 25th. He said that
3 recommends that special meetings be scheduled for the California Ridge Wind Farm case as follows:
4 September 1st and September 8th. He said that he hopes that the wind farm case can be wrapped up
5 on September 29th but if the Board finds that even more special meetings are necessary to complete
6 that case in September then staff will investigate meeting room options. He said that he would have
7 reserved the Lyle Shields Meeting Room for additional meetings but the meeting room was not
8 available for any other Thursdays and is only available for a few other nights in September. He said
9 that there is a good chance that all of the cases between now and August 25th can be given their due
10 and he would hope that they could even be completed by August 25th.

11
12 Mr. Hall stated that he is not sure how the permit intake for this fiscal year compares to fiscal year
13 2010 but he does believe that fiscal year 2011 was just as busy as fiscal year 2010.

14
15 Mr. Hall stated that staff has advertised for an Associate Planner but unfortunately staff will not have
16 an Associate Planner before October 13th. He said that staff is receiving a good response to the
17 position advertisement.

18
19 Mr. Schroeder asked if there has been any input received regarding the pros and cons of the wind
20 farm. He asked if there was any direction for the Board from staff.

21
22 Mr. Thorsland stated that the Board should assure their attendance at each meeting. He requested
23 that each Board member attend the meetings so that everyone who comes to testify has the benefit of
24 the full board and if the case can be completed in four meetings then that would be wonderful but if
25 it cannot be completed then the Board must make sure that it gave the case its best shot.

26
27 Mr. Schroeder stated that he has heard discussions from other communities indicating that some of
28 the meetings went smoothly and others encountered huge arguments. He said that the Board may
29 have its hands full.

30
31 Mr. Thorsland stated that the Board will be dealing with one particular case therefore it will be a
32 more direct case and less complicated.

33
34 **8. Other Business**
35 **A. Proposed ZBA Bylaws Amendments**
36

37 Mr. Hall stated that the Bylaws will be sent to the State's Attorney within the next few days. He said
38 that the Board has not made any further recommendations or changes therefore it has not changed
39 from what the Board reviewed on May 18th. He said that he will impress upon the State's Attorney
40 that the Board would like to have the Bylaws before August 25th which will mean that the Bylaws
41 will have to meet the State's Attorney's review and be available for one meeting before the Board

1 votes upon them. He said that if the Board is to vote on the Bylaws at the August 11th meeting the
2 Bylaws will be before the Board on July 28th with no more changes and the State's Attorney's
3 blessing. He said that even if the Bylaws do not have the State's Attorney's blessing on July 28th the
4 Board can make it clear that they intend to take final action on the Bylaws at the August 11th
5 meeting. He said that when the Board reviews the Bylaws on July 28th the Bylaws will have the
6 corrected table and the Administrative Statement as an appendix.
7

8 Mr. Thorsland stated that he will be absent at the August 11th meeting therefore it would be
9 beneficial to have the rest of the Board present.

10
11 Mr. Thorsland reminded the Board that if they anticipate an absence at a meeting to please contact
12 staff as soon as possible.
13

14 Mr. Hall stated that the case that was originally scheduled for July 28th has been rescheduled to
15 August 11th. He said that the petitioner's attorney called to indicate that he is not available for the
16 July 28th meeting and Mr. Hall called Mr. Thorsland to verify that staff could reschedule the case to
17 the August 11th meeting and Mr. Thorsland agreed. Mr. Hall stated that notices have been mailed to
18 everyone who attended the previous meeting indicating the rescheduled date.
19

20 Mr. Thorsland reminded the Board that the meeting information is posted to the website therefore if
21 the Board does not receive their packet in the mail they should check the County's website for packet
22 information or call staff immediately.
23

24 **9. Audience Participation with respect to matters other than cases pending before the**
25 **Board**
26

27 None
28

29 **10. Adjournment**
30

31 **Ms. Capel moved, seconded by Mr. Schroeder to adjourn the meeting at 8:24 p.m. The motion**
32 **carried by voice vote.**
33

34
35 Respectfully submitted
36
37
38
39

40 Secretary of Zoning Board of Appeals
41

2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61801

7 **DATE:** August 11, 2011

PLACE: Lyle Shields Meeting Room
1776 East Washington Street
Urbana, IL 61802

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

11 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Roger Miller, Melvin Schroeder,
12 Paul Palmgren, Brad Passalacqua

14 **MEMBERS ABSENT :** Eric Thorsland

16 **STAFF PRESENT :** Lori Busboom, John Hall

18 **OTHERS PRESENT :** Neal Toler, Stephen Gast, Letha Gast, Jody Eversole, Rachel
19 Schroeder, Julia Hall, Sara Jones, Ben Shadwick, Alan Singleton,
20 Larry Hall, Carl Brown, Phillip Jones, Jean Fisher, Mark Fisher,
21 Damon Reifsteck, Myron W. Salzman, Damon Hood, Ed Gire, Kim
22 Young, William J. Jones, Charles Sollers, Linda Shadwick, Lois
23 Jones

26 **1. Call to Order**

28 The meeting was called to order at 7:00 p.m.

30 Mr. Hall informed the Board that due to the absence of Eric Thorsland, Chairman, the Board must
31 appoint an Interim Chair for tonight's meeting.

33 **Mr. Miller moved, seconded by Mr. Schroeder to appoint Ms. Cathe Capel as Interim Chair**
34 **for tonight's meeting. The motion carried by voice vote.**

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

38 The roll was called and a quorum declared present with one member absent.

40 **3. Correspondence**

42 None

DRAFT

44 **4. Approval of Minutes (June 16, 2011)**

46 **Mr. Courson moved, seconded by Mr. Palmgren to approve the June 16, 2011, minutes as**
47 **submitted. The motion carried by voice vote.**

48

1 Ms. Capel requested a motion to re-arrange the agenda and hear Case 694-V-11, Damon Reifsteck,
2 prior to the continued cases.
3

4 **Mr. Passalacqua moved, seconded by Mr. Courson to re-arrange the docket and hear Case**
5 **694-V-11, Damon Reifsteck, prior to the continued cases. The motion carried by voice vote.**
6

7 **5. Continued Public Hearing**
8

9 **Case 687-AM-11 Petitioner: Dr. Phillip Jones and Sara Beth Jones Request to amend the**
10 **Zoning Map to change the zoning designation from CR Conservation-Recreation to AG-1**
11 **Agriculture. Location: An approximately 12.69 acre tract of land that is located in the North**
12 **Half of the South Half of the Northeast Quarter of Section 27 of Crittenden Township and**
13 **located on the west side of Illinois Route 130 (CR 1600E) and 1,328 feet south of the**
14 **intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly known**
15 **as the property at 175N CR 1600E, Villa Grove.**
16

17 **Case 688-S-11 Petitioner: Dr. Phillip Jones and Sara Beth Jones Request to authorize the**
18 **construction and use of a "Heliport-Restricted Landing Area" as a Special Use on land that is**
19 **proposed to be rezoned to the AG-1 Agriculture from the current CR Conservation-Recreation**
20 **Zoning District in related zoning case 687-AM-11; and with a waiver of Special Use standard**
21 **condition required by Section 6.1 that requires a runway safety area to be located entirely on**
22 **the lot. Location: An approximately 12.69 acre tract of land that is located in the North Half of**
23 **the South Half of the Northeast Quarter of Section 27 of Crittenden Township and located on**
24 **the west side of Illinois Route 130 (CR 1600E) and 1,328 feet south of the intersection of Illinois**
25 **Route 130 and CR 200N and County Highway 16 and commonly known as the property at**
26 **175N CR 1600E, Villa Grove.**
27

28 Ms. Capel called Case 687-AM-11 and Case 688-S-11 concurrently.
29

30 Ms. Capel informed the audience that Case 688-S-11 is an Administrative Case and as such the
31 County allows anyone the opportunity to cross examine any witness. She said that at the proper time
32 she will ask for a show of hands for those who would like to cross examine and each person will be
33 called upon. She requested that anyone called to cross examine go to the cross examination
34 microphone to ask any questions. She said that those who desire to cross examine are not required to
35 sign the witness register but are requested to clearly state their name before asking any questions.
36 She noted that no new testimony is to be given during the cross examination. She said that attorneys
37 who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

1
2 Mr. Hall distributed a new Supplemental Memorandum dated August 11, 2011, to the Board for
3 review. He said that Mr. Singleton distributed two items to the Board for review and it is Mr. Hall's
4 understanding that the neighbors also have new evidence to present at tonight's meeting. He said that
5 in situations such as this, in the past, the will Board take in all of the new written evidence and if
6 there is sufficient evidence the Board will continue the case to a later date so that the Board can
7 properly review the new evidence. He said that in this instance, since there is not a full Board
8 present tonight, he would advise the petitioner to request a continuance until such time when a full
9 Board is present. He said that in a controversial case like this he would always recommend to not get
10 a final determination until a full Board is present. He said that he can review the items of the new
11 memorandum with the Board and he noted that a new revised site plan was received for review. He
12 said that the revised site plan does correct all of the dimensional issues with the old site plan. He
13 said that the safety areas are as they should be as are the side transition areas. He said that the
14 petitioner also revised the length of the strip of land for the hanger which is an improvement over the
15 last site plan. He said that it is now known how close the RLA landing area, the 100 foot wide
16 landing strip, is to the north property line and that dimension is 111 feet. He said that the Board
17 could look at this in two ways how it was intended on the original site plan or that the previous site
18 plan indicated that it would be 20 feet further away. He said that the dimensional issues have been
19 cleared up and it is now clear how far the RLA is proposed to be to the property line.

20
21 Mr. Hall stated that the attachments to the Supplemental Memorandum dated August 11, 2011, did
22 not all come from the petitioner. He said that the first two attachments came from Jean Fisher and
23 all of the other attachments did come from the petitioner. He said that each Board member received
24 a copy of the handout from Allen Singleton with today's date regarding *Section 16.160 of the Illinois*
25 *Administrative Code* and the letter from the Hillard Agency, Inc. He said that any neighbors who did
26 not receive copies of these materials tonight can call the office to request that they be mailed to them
27 before the next hearing.

28

1 Mr. Hall stated that the Board also received a copy of the letter submitted by Steve Gast, dated
2 August 9, 2011. He said that any neighbor who did not receive a copy of Mr. Gast's letter can also
3 request to have it mailed to them before the next hearing.

4
5 Ms. Capel stated that the Board has received a lot of new evidence regarding this case at tonight's
6 hearing. She asked the Board if since this is such a controversial case would the Board desire to wait
7 before receiving testimony to see if there is any other written evidence to be received.

8
9 Ms. Capel asked the audience if anyone in the audience had any additional evidence in writing to
10 present to the Board tonight.

11
12 Mr. Capel informed the audience that anyone who desires to present testimony must sign the
13 witness register. She reminded the audience that when they sign the witness register they are
14 signing an oath.

15
16 Ms. Capel called Mr. Allen Singleton to testify.

17
18 Mr. Allen Singleton, legal counsel for Dr. and Mrs. Jones, stated that the written materials
19 addressed the issue of noise and safety issues. He said that every death is significant but
20 there is a risk anytime someone drives down the road or walks across the street and as citizens
21 everyone needs to keep in mind that just because something may not be familiar doesn't mean that
22 it is more risky than something that is more familiar such as getting into a car on a daily basis.

23
24 Mr. Singleton stated that they provided information with respect to lead because some of the
25 issues raised previously dealt with lead in the airplane gas. He said that in regards to Dr. Jones'
26 airplane and helicopter neither one uses leaded gasoline. He said that one uses kerosene, which
27 does not contain any lead, and the other uses 87-Octane which is the same gas that someone would
28 buy at a gas station for their car.

1

2 Mr. Singleton stated that he did raise the issue regarding the Fisher's dog training activities, but
3 not because he believes that dog training activities are not good. He said that at one time he was a
4 member of a dog training club for years and helped them obtain a special use permit to build a
5 new facility north of Urbana. He said that the dog training club obtained a special use permit due
6 to the nature of the training activities because there is a lot of noise associated with dogs and the
7 training process. He said that the reason why he brings this subject up is because of the nature of
8 the neighborhood. He said that some people train dogs, others fly helicopters and airplanes for
9 recreation and to assist law enforcement. He said that he appreciates the Board's indulgence with
10 this case. He said that the one picture which may not be apparent is a picture of the Fisher's yard
11 which shows the dog training equipment. He said that one individual mentioned in their letter
12 about the dog training which takes place on the Fisher property which is not a bad thing but it
13 does indicate that there are other noisy things that take place in the neighborhood.

14

15 Ms. Capel asked if staff had any questions for Mr. Singleton.

16

17 Mr. Hall stated that he appreciates the accident data because he went to the website and could not
18 find any information regarding the locations of the accidents relative to the runway. He said that
19 if the location information is available then he would appreciate obtaining a link to the website.
20 He said that staff did a mapping of the accident data during the Willard Airport Special Area Plan
21 and areas closer to the runway have a higher density of accidents and he believes that this
22 information goes directly to the heart of some of the issues of this case and if he could have
23 access to that data he would be happy to see what he could do with it before the next hearing.

24

25 Mr. Singleton stated that he would be happy to share all of the resources that he used to gather the
26 data.

27

28 Ms. Capel asked the Board if there were any questions for Mr. Singleton.

1

2 Mr. Passalacqua stated that the most recent accident was two weeks ago at the end of a runway in
3 Rantoul.

4

5 Ms. Capel called Mr. Jody Eversole to testify.

6

7 Mr. Jody Eversole, who resides at 16 Hancock Drive, Villa Grove, stated that he has been a
8 member of the St. Mary's community for over 35 years. He said that this has also been a tough
9 case for him because he has known the Fisher family for a long time and Dr. and Mrs. Jones are
10 also friends of his. He said that Mr. Joshua Fisher's testimony tore at his heart therefore he
11 decided to dig into this issue so that he can clear up a few of the misunderstandings.

12

13 Mr. Eversole stated that he has heard several things about Mr. Jones which concerns him. He
14 said that the Boy Scouts have a jamboree every year at the Rantoul Air Force Base, which is the
15 second highest attended Boy Scout event in the United States and is a real gem for Rantoul and the
16 surrounding community. He said that and at the last minute the hired photographer backed out on
17 the event so he called Dr. Jones requesting that his helicopter services be utilized to come to the
18 event to take photographs. Mr. Eversole stated that Dr. Jones dropped what he was doing with his
19 own family and flew up to Rantoul to take care of the event.

20

21 Mr. Eversole stated that Dr. Jones does a lot of things for the Villa Grove community. He said
22 that the Building and Trades program at the Villa Grove High School was about to be cut and Dr.
23 Jones came forward and funded the entire program.

24

25 Mr. Eversole stated that at one time he was with Dr. Jones and his wife called to let him know that
26 a young man had broken a tooth off and had to go to school the next day. Mr. Eversole said that
27 even though Dr. Jones was getting ready to go to a family event he met the young man at his
28 dentist's office to repair the tooth. Mr. Eversole stated that the entire event took about one-and

1 one half hours and when he picked up Dr. Jones he asked him what it would cost to have a dentist
2 show up on a Sunday night to fix a broken tooth. Mr. Eversole stated that Dr. Jones told him that
3 the young man was not a patient of his therefore he had no records for him therefore he fixed the
4 tooth for free. Mr. Eversole stated that at the last few meetings he heard a lot of testimony
5 regarding Dr. Jones' character therefore he wanted to testify on behalf of his character. Mr.
6 Eversole stated that he does not know a finer man than Dr. Jones and he does know a lot of the
7 people that are sitting in this room. Mr. Eversole stated that he works for Oprah Magazine and he
8 knows a lot of people and there is no one finer in this room than Dr. Jones.

9
10 Mr. Eversole stated that someone indicated at one of the meetings about how Dr. Jones repeatedly
11 rolls his airstrip. Mr. Eversole stated that Dr. Jones did a favor for him for the Boy Scout event
12 therefore he returned the favor by obtaining a large roller from the township road commissioner so
13 that Mrs. Jones does not have to mow over the many bumps along the airstrip. Mr. Eversole
14 stated that Dr. Jones does not have time to roll his yard because he works from 7 AM to 7PM.
15 Mr. Eversole stated Dr. Jones reluctantly allowed him to roll the yard and the first time that he did
16 it the yard was very dry so the rolling process did not do a very good job. He said that he waited
17 for a rain and rolled the entire property for a second time and it smoothed out very well.

18
19 Mr. Eversole stated that testimony was given at a previous hearing about airplanes buzzing their
20 home. He said that he found this ironic because on the way back from Rantoul he tried to get Dr.
21 Jones to buzz his brother's home and Dr. Jones gave him ten reasons why he would not do it but
22 the reason that stuck out was that he had two young boys and a wife at home and he wants to make
23 sure that he is there for them.

24
25 Mr. Eversole stated that yesterday Villa Grove had a huge fire and someone informed Mr.
26 Eversole that Dr. Jones was flying his aircraft through the smoke of the fire which seemed odd.
27 Mr. Eversole stated that he called Dr. Jones' office at the time of the fire and Dr. Jones was at his
28 office performing his dental services. He said that any more it appears that any time something

1 happens with a helicopter or an airplane in the Villa Grove community Dr. Jones either gets the
2 blame or credit for it.

3
4 Mr. Eversole stated that he agrees with Mr. Joshua Fisher regarding the fact that it is the American
5 dream to own your own home and no one wants a neighbor to come in and do anything to devalue
6 your property. He said that on July 23, 2011, he drove out to the Jones' and sat in the driveway so
7 that he could get an idea of what the Fisher's were concerned about. He said that he can remember
8 when the Fisher family set up their dog training equipment because the neighbors in the
9 community were at arms because of the possibility of the barking dogs. He said that the dogs are
10 there and there have been no issues therefore it was just a situation where the neighbors got caught
11 up in the use and it became escalated way beyond what was really happening. He said that the
12 same thing happened when the Fisher family built their pond because the neighbors were
13 concerned about the flood plain and how the pond would affect the neighboring properties. He
14 said that everything ended up just fine and the pond issue was just another incident where the
15 neighbors got excited about the unknown.

16
17 Mr. Eversole stated that he can remember building Mr. Larry Hall's house with Mr. Richard
18 Lively because he took a week off of work to help Mr. Lively get the house framed and closed up
19 during the winter. He said that the one thing that he was always concerned about with the Hall
20 property was the road noise from Route 130. He said that on July 23, 2011, while he was sitting
21 in the driveway at the Jones' property he noticed a lot of farming equipment in the area making
22 noise along with the traffic from Route 130 and St. Mary's Road (County Highway 16). He said that
23 there was also a crop duster within the area which continued to go above the neighborhood which
24 created a lot of noise and he could not imagine that Dr. Jones' helicopter would be any louder
25 than the crop duster. He said that the more that he thought about Mr. Joshua Fisher's comments the
26 more he thought about where Dr. Jones' helicopter had been housed which is in Hugo. Mr. Eversole
27 stated that he went down to Hugo to speak to the neighbors to see what he could find out. He said
28 that where the helicopter is stored is in a very remote location where there is no noise or traffic

1 and there is only one neighbor, Tom Voight. He said that Tom Voight owns Miller & Voight
2 Insurance in Villa Grove and Mr. Eversole served with Mr. Voight on the Villa Grove Park and
3 Recreation Board for many years therefore he was delighted to see that the bordering property was
4 owned by Mr. Voight. Mr. Eversole stated that if anyone would have a gripe about the helicopter it
5 would be Mr. Voight because he has horses and other livestock. Mr. Eversole spoke with Mr.
6 Voight and he indicated that at first he was very concerned about the helicopter because his property
7 is so isolated that he is lucky to see two cars a day go past his house. Mr. Eversole stated that Dr.
8 Jones has been his neighbor for six or seven years and he has been the best neighbor that he could
9 ever ask for because if Mr. Voight needs to borrow a piece of equipment Dr. Jones has no problem.
10 Mr. Eversole stated that Mr. Voight indicated that his horses jumped around a little bit when the
11 helicopter had come and gone but now he and his wife enjoy watching the helicopter come and go.
12 Mr. Eversole stated that Mr. Voight indicated that the helicopter's coming and going does not
13 happen very often because Dr. Jones is busy and he may only fly once every six weeks.

14
15 Mr. Eversole stated that he spoke to the Douglas County Sheriff's office and they indicated that there
16 were four police and sheriff's offices that wrote letters on behalf of Dr. Jones' request. He said that
17 normally they do not get involved in these types of issues because they are elected officials and it is a
18 no-win situation for them to get involved. He said that the Douglas County Sheriff stated that to
19 have a resource like a helicopter is unbelievable because they have found marijuana farms and a
20 meth lab due to Dr. Jones' assistance. Mr. Eversole stated that the Sheriff's information surprised
21 him because Dr. Jones has never told him about these discoveries. Mr. Eversole stated that the
22 Sheriff's office told him that an area nursing home had an Alzheimer's patient leave the nursing
23 home and it was critical, because they do not have money in their budget, to have the air support in
24 locating the lost patient. Mr. Eversole stated that Dr. Jones does not charge for these emergency
25 services and if he gets the call he will drop what he is doing and go but the current location of where
26 he has to keep the helicopter is too far away.

27
28 Mr. Eversole stated that Mr. Larry Hall indicated that the proposed use would devalue his house.

1 Mr. Eversole stated that he never liked the location of Mr. Hall's house when Mr. Lively built it
2 because it was so noisy out there but if he would ever want to sell it he would be interested in
3 purchasing it and having the Jones family as neighbors. He said that Mr. Larry Hall indicated that
4 at times he is awakened in the middle of night by the helicopter but Mr. Eversole stated that he
5 knows Dr. Jones only flies at night if it is in the case of an emergency and he is not out joy riding at
6 2AM. He noted to Dr. Jones that he appreciates the fact that Dr. Jones makes himself available if
7 there is an emergency rather than taking the luxury of rolling over and going back to sleep.

8
9 Mr. Eversole stated that Dr. Jones and his wife are environmentalists and Mrs. Jones, a teacher at
10 Villa Grove Schools, takes her class to the property to research. Mr. Eversole stated that someone
11 was harvesting a tremendous amount of deer out of the woods and Dr. Jones was instrumental in
12 putting a stop to that practice. He said that no matter how the Board decides to vote it is going to be
13 a win for Dr. and Mrs. Jones because it is all about time for Dr. Jones, which he does not have. Mr.
14 Eversole stated that Dr. Jones is not going to be opening up an O'Hare Airport South because he has
15 a young family. Mr. Eversole stated that the Sheriff indicated that the response time is critical and
16 Dr. Jones' response time to an emergency means everything. Mr. Eversole stated that if the Board
17 votes for a denial then it means that Dr. Jones can no longer assist the community with their
18 emergency needs. Mr. Eversole stated that he would not want to be the one to put a stop to a needed
19 service such as this.

20
21 Mr. Eversole stated that after the last public meeting the News Gazette had a story on the front page
22 of the Sunday paper indicating that it took the police 90 minutes to respond and 96 people died and it
23 continued to indicate that without a helicopter the S.W.A.T. team had to drive to the incident.

24
25 Mr. Eversole stated that change is hard and it doesn't matter if you are digging a pond, building a
26 house or installing a heliport. He said that Dr. Jones is a good person and everyone involved are very
27 smart people and generally everyone in the community gets along well therefore issues like this can
28 be worked out.

1
2 Ms. Capel asked if staff had any questions for Mr. Eversole.
3
4 Mr. Hall pointed out to the Board, and he discussed this issue with Mr. Eversole prior to the meeting,
5 that most of his testimony was second hand. He said that the Board could have stopped Mr. Eversole
6 but the Board does not have to pay attention to the testimony because it was second hand.
7
8 Mr. Eversole stated that he is glad that Mr. Hall pointed out that his testimony is second hand
9 because he did miss one point. He said that Mr. Voight indicated that he would be glad to address
10 any concerns or questions that the Board may have regarding the current location of the helicopter.
11 He said that Mr. Voight can be reached at Miller and Voight Insurance and Real Estate in Villa
12 Grove.
13
14 Ms. Capel asked the Board if there were any questions for Mr. Eversole and there were none.
15
16 Ms. Capel asked the audience if they desired to cross examine Mr. Eversole and there was no one.
17
18 Ms. Capel called Ms. Jean Fisher to testify.
19
20 Ms. Fisher requested that she would like to testify at a later time during tonight's meeting.
21
22 Ms. Capel called Julia Hall to testify.
23
24 Ms. Julia Hall, who resides at 177N CR 1600E, Villa Grove, stated that her property is immediately
25 adjacent to the airstrip which is being proposed by Phillip and Sara Beth Jones. She thanked the
26 Board for hearing their appeal to the request and she thanked the audience for taking the time in
27 attending this meeting.
28

1 Ms. Hall stated that Mr. Eversole stated that he helped build her home therefore he probably helped
2 put in the windows and currently the view out the windows is only weeds. She said that she is not
3 indicating that Dr. and Mrs. Jones are bad people at all and they have enjoyed many over-the-fence
4 conversations with the Jones. She said that the issue at hand is not the Jones' themselves but the
5 airstrip that they are proposing next to her home. She said that she respectfully requests that the
6 Jones' property is not rezoned from CR to AG-1 and that the Board deny the request for a Heliport-
7 Restricted Landing Area.

8
9 Ms. Hall stated that during her previous testimony on June 16, 2011, before this Board she indicated
10 that she had no quarrel with Dr. Jones in landing his helicopter on his property. She said that during
11 her research she has found clear evidence of the dangers associated with the landing, take-off, flying
12 and storing of helicopters and/or small planes. She said that some of the dangers are lead
13 contamination, crashes due to operator error, aircraft malfunction and bird or animal strikes therefore
14 she strongly opposes the landing of any helicopter or plane on any of the property commonly known
15 as 175N CR 1600E, Villa Grove. She said that she will not repeat the letter that she submitted to the
16 Board on July 30, 2011, because she is sure that the Board has had sufficient time to read it and
17 anyone else who desires to read it can do so on the Champaign County website. She said that she
18 would like to highlight and expand on some facts that were contained in her letter.

19
20 Ms. Hall stated that at the previous hearing of the ZBA held on June 16, 2011, Dr. Jones indicated
21 that he would like to land his helicopter and his father would like to land his plane. She said that Dr.
22 Jones indicated that according to FAA regulations his landing area can allow up to six aircraft at one
23 time which means that six airplanes and any number of helicopters can land on the property.

24
25 Ms. Hall stated that even the best of pilots under the best conditions have been known to crash. She
26 said that pilots such as 62-year old Joe Pike, a certified flight instructor and long time helicopter
27 pilot, died when his vintage helicopter crashed in a California desert. She said that the exact cause of
28 the crash was unknown but Pike did transmit a "mayday" call to the air traffic control tower before

1 the helicopter hit the power line. She said that his obituary stated that Mr. Pike owned and operated
2 Golden State Helicopters and had guided countless students to their helicopter certificates. She said
3 that even the best of pilots under the best conditions have been known to crash. She said that pilots
4 such as Mr. Burkett of Champaign who along with his wife and daughter were tragically killed in a
5 fiery crash in Rantoul on July 24, 2011. She said that Mr. Burkett had been a pilot for almost 20
6 years and held an instrument rating. She said that friends stated that he was a meticulous and
7 cautious pilot not known to take any risks when it came to flying in inclement weather. She said that
8 the Burkett's plane burst into flames when it hit the ground. She said that pilots such as Daniel Fulk
9 whose single engine plane hit a house just north of Frasca Field in Urbana in February, 2011. She
10 said that the owner of the home said that it sounded like a bomb went off. She said that apparently
11 the pilot was flying west to east to land practicing crosswind landings and when he started banking to
12 go back around to the north he lost altitude, the left wing hit the ground and the aircraft
13 somersaulted. She said that fortunately no one was hurt but the owners of the house were left with a
14 severely damaged home.

15
16 Ms. Hall stated that according to the National Transportation Safety Board records in Illinois there
17 have been 34 recorded single engine plane crashes in an 18 month period between January 5, 2010,
18 to July 7, 2011, which is one crash every other week in Illinois alone. She said that according to the
19 Helicopter Association International Report there were 161 helicopter accidents in the United States
20 in 2009 which is over three accidents per week. She said that the statistics for 2010 had not been
21 published at the time of her research.

22
23 Ms. Hall stated that the Jones family constructed a large pond in the immediate vicinity of their
24 landing strip and the pond has attracted a large amount of water fowl and she has personally
25 observed a blue crane landing on the pond. She said that she has witnessed geese swimming in the
26 cornfield across from her property and when geese find water they land in it and take off from it.
27 She said that tonight a handout indicated that there are no large water fowl on the pond but she
28 begs to differ because she has seen them with her own eyes. She said that water fowl poses a

1 distinct hazard to the landing or take off of any aircraft. She said that according to FAA
2 statistics, in 2010 there were 486 bird strikes by planes in Illinois which is more than one per day.
3 She said that that over 219 people have been killed world wide as a result of bird strikes since
4 1988. She said that water fowl, gulls, raptors, pigeons and doves represent 81% of the reported
5 bird strikes causing damage to U.S. Civil aircraft between the years of 1990 and 2010. She said
6 that over 990 aircraft collisions with deer and 340 collisions with coyotes were reported in the
7 U.S. between the years of 1990 and 2010. She said that if you have ever driven the rural roads of
8 Champaign County you will witness deer and coyotes.

9
10 Ms. Hall stated that the North American non-migratory Canadian Goose population increased
11 about four fold from 1 million birds in 1990 to over 3.5 million in 2010. She said that about
12 1,300 Canadian Geese strikes with civil aircraft have been reported in the U.S. between 1990 and
13 2010 and 42% of these strike events involved more than one bird. She said that this information
14 was taken from the Bird Strike Committee USA.

15
16 Ms. Hall stated that most small planes use a fuel called AvGAS and this fuel contains lead. She
17 said that the lead that is found in AvGAS is a combustion product and it contains potent neural
18 toxins that have been shown in scientific research to interfere with the brain development in
19 children. She said that the United States EPA has noted that exposure to even very low levels of
20 lead contamination has been conclusively linked to low IQ in children thus providing a high
21 degree in motivation to eliminate lead and its compounds in the environment.

22
23 Mr. Miller stated that he does not feel that the type of gas that is used in any airplane or aircraft
24 or automobile, tractor or combine has anything to do with zoning.

25
26 Ms. Hall stated that she is addressing the safety issue of the fuel on the property.

27
28 Mr. Miller stated that this particular type of fuel has nothing to do with this case.

1

2 Ms. Hall stated that she respectfully disagrees with Mr. Miller. She said that according to her
3 research the fuel is not only a hazard because of fuel spills but also because of the of omissions
4 of the fuel.

5

6 Ms. Capel asked Ms. Hall if the information was included in article that she submitted.

7

8 Ms. Hall stated yes.

9

10 Ms. Capel stated that if the information is included in the written information then Ms. Hall does
11 not need to cover it in testimony. She said that the petitioner established what type of fuel he
12 uses.

13

14 Ms. Hall reminded the Board that in 2004 Dr. and Mrs. Jones purchased their property, built their
15 home and now propose to construct a runway just south and west of a previously established
16 subdivision containing three large lots with residential homes and one farmstead. She said that
17 there are other residential homes that will be impacted and many of their neighbors have voiced
18 their concerns about the potential threat to their property and for some reason or another they did
19 not feel that they could voice their opposition. She said that since she and her husband are the
20 most affected by this construction due to the close proximity they implore the Board to not
21 approve the construction of a heliport –restricted landing area or rezone the property.

22

23 Ms. Hall noted that in regards to the noise issue she and her husband can not only hear the
24 helicopter but they can feel it when it is in the area. She said that they are aware of the Fisher's
25 dog training facility and they don't hear the dogs barking. She said that they do hear the planes
26 and the helicopters as they fly extremely low over their house and they feel the vibrations in the
27 house when they fly over.

28

1 Ms. Capel asked if staff had any questions or comments for Ms. Hall and there were none.

2

3 Ms. Capel asked the Board if there were any questions for Ms. Hall.

4

5 Mr. Courson asked Ms. Hall if she would feel more comfortable if a condition was proposed that
6 would restrict the use of the landing area to only Dr. and Mrs. Jones.

7

8 Ms. Hall stated yes.

9

10 Ms. Capel called Larry Hall to testify.

11

12 Mr. Larry Hall, who resides at 177N CR 1600E, Villa Grove, stated that his home is immediately
13 adjacent to the proposed use. He said that Mr. Eversole made one of the best presentations that
14 he has heard in a long time and he is not going to take a lot of exception to a lot of the things that
15 he said because it is not personal. Mr. Hall stated that when he made a reference of rolling the
16 lawn it was a question of why and where and it was identified as smoothing the lawn and quite
17 frankly he didn't think of that part of it and it was answered. He said that this hearing is about
18 addressing concerns therefore he posed the question.

19

20 Mr. Larry Hall submitted petitions to support opposition of the proposed rezoning of the property
21 owned by Phillip and Sara Beth Jones for CR to AG-1 for the sole purpose of constructing a
22 heliport-restricted land area. He said that the petition reads as follows: We, the undersigned
23 oppose the rezoning in order to protect the existing neighborhoods in the area, preserve the
24 property values of the homes in the existing residential neighborhoods, protect the wildlife, farm
25 and domestic animals in the area, preserve the scenic value as stated in the Zoning Code as one
26 of the purposes of the Conservation-Recreation classification, protect the safety and welfare of
27 those traveling along Route 130 and protect the safety and welfare of the home owners in the
28 existing neighborhoods.

1

2 Mr. Larry Hall stated that there are 38 signatures on the petition with 32 identified as property
3 owners and the locations of their properties indicated on the attached map to the petition. He
4 said that four of the signatures were persons who have vested interest but are not residing within
5 the boundaries of the request and a couple of concerned friends. He submitted the petition as a
6 Document of Record.

7

8 Mr. Larry Hall stated that he believes the primary difference between the helicopters and the
9 landing strip needs to be identified. He said that his wife has expressed her concerns regarding
10 the helicopter landing on the subject property and he believes that her concerns are valid. He
11 said that he is concerned with the landing strip and he does not believe that if the request was
12 denied that the community would be without his services. He said that he commends Dr. Jones
13 for providing these services for the community and he would trust that Dr. Jones will not stop
14 providing these services if his request is denied

15

16 Mr. Larry Hall stated that it was mentioned that perhaps all of the parties could meet to discuss
17 the proposal so that any concerns could be addressed. He said that as he looks back at this
18 process it seems logical that the one who wanted to do all of this would have been the one who
19 would have come to the neighbors to discuss his proposal ahead of time and this was not done.
20 He said that sometimes when things are not done in the right order it breeds a less than favorable
21 relationship as you get into these situations, which is unfortunate, and the only contact that was
22 made to him was in the eleventh hour and by that time it was hard to weigh anything.

23

24 Mr. Larry Hall stated that he requested that an independent real estate broker visit the property to
25 provide their professional opinion regarding his concern about the future value of his property.
26 He read an excerpt from the brokers letter as follows: I visited Larry and Julia's home and
27 looked over the proposed landing area site and based on their observation and twelve years of
28 experience in real estate it is their opinion that the heliport-restricted landing area being

1 constructed on the proposed property would have a significant negative impact on the Hall's
2 property value and significantly diminish their ability to sell their home in the future.

3
4 Mr. Larry Hall stated that he and his wife are getting ready to look at retirement and they are very
5 concerned about the opinion posed in this letter.

6
7 Mr. Larry Hall stated that the letter continues to read: Even though no comparables are
8 immediately available for a similar situation in Champaign County the negative impact, in their
9 opinion, would be considerable. In addition, they believe that the Halls' have already
10 experienced some reduction in value by the berm that has been constructed to the west and south
11 of their property. The Hall's view of the conservation land to the west has been taken from them
12 for no apparent reason and their other concern after visiting with residents in the Villa Grove area
13 is that the site is being used or will be used for commercial insecticide planes to reload chemicals
14 and fuel. With all of the concern that Champaign county residents have shown in the past several
15 years to preserve conservation land, I would think it would be mandatory for the present owner to
16 present a long term Environmental Impact Study to the county and its residents.

17
18 Mr. Larry Hall asked Mr. John Hall if the recommended restrictions were included in the
19 memorandum.

20
21 Mr. John Hall stated yes. He said that the restrictions were included in the August 5, 2011,
22 Supplemental Memorandum.

23
24 Mr. Larry Hall stated that there is a lot of confusion as to how much usage is proposed. He said
25 that he and his wife have submitted their opposition in writing to the Board although if their
26 opposition is ignored they requested that restrictions be placed on the use of the proposed
27 heliport. He said that requested in their July 31, 2011, letter, which is attached to the August 5,
28 2011, Supplemental Memorandum, that the use of the heliport be limited to only two helicopters

1 or other like aircraft at any one time. He requested a clarification from the petitioner or his
2 representative as to the number of aircraft that is anticipated. He said that at first he understood
3 that Dr. Jones would only have a helicopter and a family plane and one other plane.
4

5 Ms. Capel stated that Mr. Larry Hall can ask Dr. Jones this question during cross examination.
6

7 Mr. Larry Hall stated that he will defer his question at this time but he would like the opportunity
8 to request clarification from Dr. Jones during cross examination.
9

10 Ms. Capel stated that the question has been posed and he can ask Dr. Jones during cross
11 examination.
12

13 Mr. Larry Hall stated that the total package does include the berms that were constructed and the
14 lack of maintenance on the berms. He said that he and his wife are concerned about the weeds
15 that are seven to eight feet in height which includes thistles. He submitted a drawing which
16 indicates the grade of the berm which is behind his property and alludes to the use of other
17 properties surrounding the berm and how the berms will be maintained. He said that the
18 Champaign County Stormwater Management Plan has a slope requirement for berms that are
19 constructed for watershed purposes and the reason for the slope requirement is to allow
20 maintenance of the berm. He said that the slope grade that is required is a 3 to 1 grade ratio,
21 which is similar to the pitch of a roof. He said that the drawing indicates the 3 to 1 slope grade
22 that is required and the 1.2 to 1 grade slope which is the ratio for the berm which is located on
23 the west side of the neighbor's residences. He said that the 1.2 to 1 grade slope cannot be
24 maintained and is not intended to be maintained therefore if it is not maintained and the berm to
25 the south of his residence is not maintained then why would the Board believe that anything else
26 will be maintained. He said that it is only courteous to the neighbors to maintain these berms.
27

28 Mr. Larry Hall stated that he previously testified that the one helicopter did not bother him but

1 when he looked up the definition of a "heliport" he realized that such a use opens up the door for
2 a lot of things. He said that in trying to obtain more knowledge he found an ad for a heliport and
3 the services for that small heliport included helicopter charter, maintenance, ferry service,
4 pollination, air patrol, site seeing tours, aerial photography, electronic news gathering, financial
5 security, etc. He said that it appears that there could be an increased amount of frequency of use
6 and he would add there is already a heliport pad within one and one-half miles of the subject
7 property. He said that with both heliports in the neighborhood within close proximity of each
8 other there will be a lot of buzzing potential.

9
10 Mr. Larry Hall stated that he has not had a chance to review all of the new material but it appears
11 that the edge of the runway will be 110 feet from his property line plus 34 feet to the edge of his
12 home therefore creating a distance of 134 feet between the proposed airstrip and their home. He
13 said that with this distance he is concerned with the safety and noise standpoints. He said that
14 they understood the noise from the highway when they purchased the property and the previous
15 builder did a very good job insulating the house on the east side. He said that the other night one
16 of their neighbors called to let them know that fire engines were going by their home but they did
17 not hear them because they were watching a television show and working on the computer. He
18 said that they have a patio and a backyard therefore they have experienced the noise from the
19 helicopter and it didn't bother him one bit, but that is where he thought we were six months ago.

20 He said that the potential for excessive services with multiple helicopters, which he is told there
21 is no limit regarding the numbers of helicopters, is a concern and he believes that he and his wife
22 has every right to request clarification of the number of helicopters and aircraft proposed at the
23 site. He said that he reserves the right to ask Dr. Jones these questions for clarification and
24 respectfully requests the Board's consideration and support for their obvious position in
25 opposition to the proposed land strip next to their home.

26
27 Ms. Capel asked if staff had any questions for Mr. Larry Hall and there were none.

28

1 Ms. Capel asked the Board if there were any questions for Mr. Larry Hall and there were none.
2 Ms. Capel asked the audience if anyone desired to cross examine Mr. Larry Hall and there was
3 no one.

4
5 Ms. Capel called Ms. Jean Fisher to testify.

6
7 Ms. Jean Fisher, who resides at 195 CR 1600E, Villa Grove, stated that she has lived at her
8 current residence for almost 24 years and is probably one of the longest landowners who has
9 resided in the neighborhood. She said that it is interesting that when you walk around Villa
10 Grove and you talk to its residents should the topic of Dr. Jones' helicopters and aircraft it is
11 indicated that he has been saying for years that one day he will have this airport set up. She said
12 that she finds it very interesting that Dr. Jones purchased the property with the idea that he could
13 do this without approval of the varying agencies, one being the Champaign County Zoning
14 Board, and blatantly disregarded the proper governing bodies and landed his helicopters and
15 planes. She said that it is the buyers responsibility to investigate all aspects and information
16 about the property details and restrictions regardless if it is in regards to a home or a piece of
17 undeveloped land, let the buyer beware.

18
19 Ms. Fisher stated that many of the neighbors believe that there is no clear and convincing
20 evidence to support the petitioner's request for rezoning and special use permit. She said that the
21 last hearing addressed problems and gave evidence such as factual issues with respect to home
22 ownership and distances from the three-mile curve. She said that Champaign County Ordinances
23 which have been infracted by the petitioner were also addressed such as helicopters and planes
24 landing on the CR District property. She said that as Dr. Jones stated in the minutes, Line 8,
25 page 18, the proposed RLA has not been used since the Illinois Department of Transportation
26 landed on the runway last May and IDOT informed him that once the zoning issues were
27 corrected he would have no problem in obtaining a permit from their office. She said that the
28 submitted photographs and DVD demonstrate that this in fact was not correct. She said that Dr.

1 Jones testified that the RLA is a private airstrip and he believes that it is not technically legal for
2 people to land and take off without permission. She said that Dr. Jones also indicated that he
3 cannot have more than six planes come on to the strip without a written letter to the FAA
4 therefore there are many regulations set up by the State and Federal government.

5
6 Ms. Fisher stated that she has conducted some research and there is a requirement for a permit
7 and obtaining necessary approval from the State for a fly-in event, which is limited to 6 planes.
8 She said that with more planes that are at the home base and more planes allowed to fly-in it is
9 unknown as to how many planes could potentially be flying around at one time.

10
11 Ms. Fisher stated that the hearing has addressed home ownership values, safety and dangerous
12 effects on or in the floodplain and conservation areas. She said that statistics on aircraft
13 accidents in Champaign County, recent fatalities in Rantoul, and also incidents of planes crashing
14 may or may not have been totally presented. She said that chemical and fuel spills were
15 addressed and there are more problems which need to be addressed with the petitioner's
16 information.

17
18 Ms. Fisher stated that item 8.M of the Preliminary Draft Summary of Evidence dated June 16,
19 2011, indicates the following: Other than reviewed elsewhere in this Summary of Evidence,
20 there is no evidence to suggest that the proposed Special Use will generate either nuisance
21 conditions such as noise, vibration, glare, heat, dust, electromagnetic fields or public safety
22 hazards such as fire, explosion, or toxic materials release, that in excess of those lawfully
23 permitted and customarily associated with other uses permitted in the zoning district.

24
25
26 Ms. Fisher requested that the Board allow her to address the petitioner's statements with support
27 of the evidence provided. She said that in regards to noise, noise pollution generated from jet
28 propelled helicopters and airplanes have harmful effects of noise and sonic booms have been

1 studied by the U.S. Fish and Wildlife Service. She said that in the literature titled, *Effects of*
2 *Aircraft Noise and Sonic Booms on Domestic Animals and Wildlife: A Literature Synthesis*,
3 discusses the *National Environmental Policy Act* of 1969 or *NEPA* which requires all federal
4 government agencies to analyze the impacts of proposed federal actions significantly affected the
5 quality of the human environment and is referenced as (42 U.S.C.4341). She said that this was a
6 joint study done by the U.S. Air Force and the U.S. Fish and Wildlife Service. She said that the
7 graph on Table 1: Comparison of Sound Pressure and Sound Levels from Typical Sources,
8 indicates the sound pressure a 0.00002 micro-Newtons per square meter and 0 decibels for the
9 threshold of human hearing . She said that a very noisy factor is listed at 2 micro-Newtons per
10 square meter and 100 decibels. She said that the human pain threshold is 20 micro-Newtons per
11 square meter and 120 decibels. She said that by comparison a jet aircraft taking off at 25 meters
12 produces 200 micro-Newtons per square meter and 140 decibels. She said that the study goes on
13 to discuss the frequency levels of high and low exposure and states that humans as well as some
14 animals are more sensitive to higher frequency levels. She said that the study discusses in
15 Paragraph 2.2.1: Subsonic Noise, Turbo fan and turbojet engines are major sources of intense
16 aircraft noise. Jet engines are generally more powerful and produce noise of higher magnitude
17 than turboprop or piston aircraft engines. Also, jet engines produce a greater amount of noise in
18 the high-frequency range, thus increasing their relative annoyance factor. Ms. Fisher stated that
19 she could continue to read more references in the study although she would rather summarize this
20 particular portion by saying that the effects could be attributed to physical blood pressure
21 increases, hormonal and blood count increases and decreases, decreased milk production,
22 decrease in appetite, hearing loss, inner-ear bleeding, decreased fertility and miscarriage, thyroid
23 deficiencies, and psychological and behavioral issues such as anxiety, loss of fright reaction,
24 panic, flapping, soaring or trample reactions. She said that in all 57 species of mammals, birds,
25 fish, amphibians, reptiles and invertebrates were specifically mentioned as having effects
26 attributed to aircraft noise and or sonic booms. She said that the paper also points out the
27 particular studies on sheep and the effects upon them which is particularly important to her
28 situation because she has sheep at her farm.

1

2 Ms. Fisher stated that Mr. Eversole testified that Mr. Voight indicated that his horses jumped in
3 response the helicopter therefore why shouldn't other animals respond to the helicopter as well.
4 She said that she provided an article titled, *Effects of Noise on Hearing Thresholds*.

5

6 Mr. Miller stated that the Board is not discussing the landing of jet airplanes therefore testimony
7 regarding such is not relevant to this case.

8

9 Ms. Fisher stated that Dr. Jones testified that he has a former military helicopter that is jet
10 propelled.

11

12 Dr. Jones noted that the helicopter is jet fueled and not jet propelled.

13

14 Ms. Fisher stated that Dr. Jones testified that he is located in the Broadlands-Longview Fire
15 Protection District although she discovered that the subject property is located in the Villa Grove
16 Fire Protection District. She said that she was told that the Villa Grove Fire Department is a
17 volunteer fire department who would provide initial response to the subject property but for any
18 issues such as chemical or fuel spills a hazardous materials certified fire department would need
19 to be called in to respond because the Villa Grove Fire Department is not certified with such an
20 emergency. She said that the nearest certified fire department would be located in Tuscola or
21 Urbana and any residents or animals located within one-quarter of a mile could be called to
22 evacuate which would cause a hardship to the neighbors. She noted that Dr. Jones stores his
23 helicopter and airplane in Douglas County with little impact to the neighborhood and he is closer
24 to Tuscola which has a hazardous materials certified fire department.

25

26 Ms. Fisher stated that both helicopter and aircraft storage sites, hangar, and chemical
27 containment areas require special permits and are inspected annually to assure that certain
28 conditions and requirements are met. She said that operator error can occur at any time with even

1 the most experienced pilot. She said that petroleum fuel, agriculture pesticides, fungicides can
2 cause contamination to wells and water sources to people, livestock, fish, deer and other wildlife.

3 She said that page 25, of *The Guide to Illinois Drainage Practices and Law*, indicates that over
4 half of the drinking water in Illinois comes from our rivers and streams. She said that Larry and
5 Julia Hall have addressed the hazardous dangers of chemicals at tonight's meeting and Ms.
6 Fisher furnished a copy of the Illinois Department of Agriculture Agrichemicals Facilities
7 Containment Program. She said that she was told that an application for site approval would be
8 required.

9
10 Ms. Fisher stated that the issue of spot zoning was minimally addressed. She said that spot
11 zoning is when a select piece of property is granted a special use or non-conforming use with an
12 inconsistent type of zoned area. She said that there are many factors a planning committee
13 should look at prior to allowing a change in the requested site. She said that concerns for public
14 safety and the impact on the environment and the benefits for the good of the community should
15 show clear and convincing evidence in granting the change. She said that the petitioner has
16 previously stated that he keeps his helicopter in Douglas County and the minutes indicate that Dr.
17 Jones stated that his farmland in Douglas County is over 100 acres but there is a road in the
18 center of the farmland as well as a river. Ms. Fisher stated that Dr. Jones' previous statement
19 was the reason why he does believe that his acreage in Douglas County is not suitable for the
20 proposed use in Champaign County. She said that Dr. Jones also stated that there is no zoning in
21 Douglas County. Ms. Fisher stated that if there is no zoning in Douglas County then Dr. Jones
22 will not need a special use permit for his aircraft or helicopter yet he is asking for a special use
23 permit for an airstrip on 12 acres near many homes, a major highway, a forest line of large trees
24 and a river. She said that the Dr. Jones indicated that the landing of helicopter and aircraft is in
25 reference to a hobby and she said that she can appreciate that but he also indicated that the
26 helicopter was to be used for agricultural purposes. She said that using the helicopter for
27 agricultural purposes would be a commercial business and in the initial proceedings there was a
28 clear statement that there was such a need for this use. She said that whether the use is for

1 agriculture or a hobby, noise nuisance effects on humans or animals, crash, fire or chemical
2 spills, the health and safety of the public dictates the primary importance and not the desires of
3 one individual. She said that spot zoning uses potential buffers such as landscaping or bushes,
4 trees and dirt as a means to decrease the effect on adjacent landowners however the data that Ms.
5 Fisher reviewed doesn't show a support of inclinatory factors. She said that the American
6 Society of Planning factors or zoning buffers discusses issues of sound and air travel and the lack
7 of the fine control and effectiveness.

8
9 Ms. Fisher stated that recently Eric Rund, a farmer from Pesotum, met with President Obama in
10 Washington to request federal funds to promote conservation land use for bio-mass crops. She
11 said that the Prairie State Bio-Mass Group made the proposal to the Farm Service Agency as they
12 would enroll the land into the Conservation Reserve Program. She said that this promotes the
13 need for the conservation land in Champaign County.

14
15 Ms. Capel informed Ms. Fisher that there is a relevance issue regarding her last statement.

16
17 Ms. Fisher stated that there has been a collaboration of efforts between the long term landowners
18 in presenting facts, statistics, photographic and video-graphic evidence to the ZBA. She said that
19 it is a duty and responsibility to preserve the conservation areas but the primary importance
20 should be in protection of the public health and safety of the private landowners nearby. She said
21 that revisions or updates should be made to the County's Zoning Ordinance regarding the
22 protection of conservation areas. She said that possibly a need for more regulations and
23 notification of property owners in a larger capacity than what is customarily utilized. She said
24 that the petition that Larry Hall submitted included over 30 names of local landowners and they
25 had no idea that Dr. Jones had requested this use.

26
27 Ms. Fisher stated that it should stand to come to reason by the clear evidence to refuse the
28 petitioner's request to rezone and deny the special use permit due to the possible dangerous

1 affects to the public. She said that their needs and rights as peaceable, long-term landowners and
2 homeowners should not be infringed upon when they are the good of the community. She said
3 that the immediate long-term impact of dangers to the sensitive eco-system depends on its
4 protection now. She said that she respectfully requests the denial of the rezoning and special use
5 requests submitted by the petitioner.

6

7 Ms. Capel asked if staff had any questions for Ms. Fisher and there were none.

8

9 Ms. Capel asked the Board if there were any questions for Ms. Fisher and there were none.

10

11 Ms. Capel asked the audience if anyone desired to cross examine Ms. Fisher and there was no
12 one.

13

14 Ms. Capel called Mr. Mark Fisher to testify.

15

16 Mr. Mark Fisher declined to testify.

17

18 Ms. Capel called Dr. Phillip Jones to testify.

19

20 Dr. Phillip Jones, who resides at 175N CR 1600E, Villa Grove, stated that he would like to make
21 a few comments on the previous testimony by the audience. He said that the pond which he
22 spends approximately one hour per day upon does not have any regular attendance by wild birds
23 such as geese or ducks. He said that all of the statistics that were presented were relative to a jet
24 propelled engine that could suck in a bird and cause damage and it is impossible for such an
25 aircraft to be on a small air strip such as the one he is proposing. He said that a regular airplane
26 with a bird strike is a minor incident on the most part with a propeller driven airplane. He said
27 that the leaded fuel issue has been addressed because most airplanes are eligible for a fuel called
28 auto fuel STC which means that the aircraft can burn car gas which is nice because there is no

1 lead and it is cheaper to purchase. He said that the helicopter burns kerosene or Jet-A fuel which
2 contains no lead as well. He said that one of the photographs that was submitted includes the
3 visit from the Illinois Department of Transportation when they came to inspect the runway. He
4 said that regarding possible collisions with other aircraft utilizing the helipad, which is located
5 over one-mile from the subject property, they will use radio frequencies to collaborate with each
6 other. He said that his airplane is equipped with traffic avoidance equipment that sets off an
7 alarm if there is an aircraft within a five mile radius.

8
9 Dr. Jones stated that common sense would tell everyone in the room that a sonic boom will never
10 be an issue with a jet propelled aircraft. Dr. Jones stated that Ms. Fisher did a great job in her
11 presentation regarding the fact that the jet propelled aircraft causes damage to a human's ears but
12 not a piston driven aircraft. Dr. Jones stated that this will be a restricted landing area and will be
13 private not public therefore having twelve people fly in and out will not be an issue. Dr. Jones
14 stated that the reason why he desires to establish the use in its proposed location is because it is a
15 45 minute ordeal for him to get to the other property, prepare the helicopter and take off and it
16 creates a huge difference in response time versus ten minutes. He said that he would like to have
17 the RLA near his home because it is his hobby and the close proximity would be great.

18
19 Dr. Jones stated that this is his hobby just like Ms. Fisher's dog training and his family
20 continuously hears dogs barking on a daily basis but they do not make any comments because his
21 neighbors have their own hobbies just like he has his. He said that he spoke with the fire
22 protection district chief and the chief indicated that one of the neighbors had called him to
23 inquire about protection. Dr. Jones invited the fire protection district to come out to do a training
24 day and the chief was thrilled to have the invitation so that his fire crew could figure out how to
25 help if there is a problem, which he does not anticipate.

26
27 Dr. Jones stated that he called a local realtor who has 19 years invested in the real estate business
28 to analyze the situation and the realtor indicated that the proposed use is not an issue with real

1 estate value and could actually increase the value. Dr. Jones stated that the realtor indicated that
2 the improvements that he has made to his property only increases the value of the neighbor's
3 properties. He said that he does not believe that the neighbors are going to incur any loss in
4 value to their property due to this proposed use and tonight Mr. and Mrs. Hall received an offer
5 to purchase their property.

6
7 Dr. Jones stated that Ms. Fisher mentioned Eric Rund in her testimony. Dr. Jones stated that he
8 is partnering with Mr. Rund in the miscanthus project so he has used some of his equipment and
9 there is miscanthus planted right beside the runway and they are hoping to create a very green
10 and environmentally friendly fuel source.

11
12 Dr. Jones stated that the subject of weeds was mentioned. He said that he plants native prairie
13 grasses and at anytime the Board can come to his property to view the native grasses and flowers
14 in its natural habitat. He said that what the neighbors consider as weeds, in one man's eye, is a
15 valuable asset to the eco-system in another man's eye. He said that the thistles were mentioned
16 although the goldfinches thrive on thistle which is a native plant.

17
18 Dr. Jones stated that he has created a nice habitat and the runway will not interfere with it and it
19 makes a for a very nice grass land for grazing animals if they choose but very seldom are there
20 any animals out there due to the woods.

21
22 Ms. Capel asked if staff had any questions for Dr. Jones.

23
24 Mr. Hall asked Dr. Jones if he had a maintenance plan for the backside of the berms.

25
26 Dr. Jones stated that the berms have been planted with native grasses.

27
28 Mr. Hall stated that the native grasses can be planted but doesn't he have to worry about what

1 weeds sprout before the grasses.

2

3 Dr. Jones stated that he would assume that what he planted is growing along the berm.

4

5 Mr. Hall asked Dr. Jones if he had any plan for maintaining the vegetation on the backside of the
6 berms.

7

8 Dr. Jones stated that he has some maintenance plans in mind but he is not sure what he is going
9 to do yet. He said that he would like nature to take its course and he may do a controlled burn
10 with the help from Pheasants Forever therefore there are a lot of things that are possible to keep
11 the berms in the native grasses.

12

13 Ms. Capel asked the Board if there were any questions for Dr. Jones.

14

15 Mr. Courson stated that it appears that there is a lot of concern from the neighbors regarding the
16 frequency of flying. He asked Dr. Jones if he only proposes to fly a couple of times per month.

17

18 Dr. Jones stated that a couple of times per month are only an estimate and it is definitely not
19 going to be a couple of times per day. He said that frequency is going to be relative to the
20 weather and time of year because he will probably fly more during the month of June than he will
21 in January.

22

23 Mr. Courson asked Dr. Jones if he has any concerns about the Board placing restrictions on the
24 landing strip regarding usage exclusively by he and his family and no outside plans could use the
25 land strip.

26

27 Dr. Jones stated that surely he and the Board could surely work through something because there
28 may be an emergency situation.

1
2 Mr. Courson stated that he understands an emergency situation but what he is speaking about is a
3 restriction from friends using the land strip.

4
5 Dr. Jones stated that he is sure that some compromise could be met in regards to frequency.

6
7 Mr. Courson stated that there has been a lot of discussion about conservation and prairie grasses
8 and wildlife yet Dr. Jones is proposing to change the zoning on the piece of property from CR to
9 AG-1. He said that it appears that Dr. Jones is giving two different stories so that he can be
10 allowed to create the landing strip.

11
12 Dr. Jones stated that it is his understanding that the only way that he can create a landing strip is
13 to request a rezoning. He said that if the zoning could stay at CR and he could create the landing
14 strip then he would be as happy as a lark. He said that he does not care if the property is zoned
15 AG-1 or CR and he only wants the proper zoning approval so that he can obtain his permit from
16 IDOT. He said that AG-1 zoning doesn't mean anything him.

17
18 Mr. Passalacqua stated that there is a lot of support for and against the landing strip. He said that
19 geographically the neighbors are opposed and the support is from Dr. Jones' attorney and people
20 who believe that this is a great idea. He said that those who are in support do not necessarily live
21 in the neighborhood. He asked Dr. Jones if there are any neighbors who support the proposed
22 landing strip.

23
24 Dr. Jones stated that there are three neighbors, which are adjoining properties, who have
25 submitted letters of support for the landing strip.

26
27 Mr. Eversole requested the opportunity to ask questions.

28

1 Ms. Capel informed Mr. Eversole that he will need to wait until the Board is finished with their
2 questions for Dr. Jones or he could call Mr. Hall during regular office hours.

3

4 Ms. Capel asked the audience if anyone desired to cross examine Dr. Jones.

5

6 Ms. Capel called Larry Hall to the cross examination microphone. She reminded Mr. Larry Hall
7 that he cannot present new testimony and his cross examination should only be in regards to Dr.
8 Jones' testimony.

9

10 Mr. Larry Hall stated that a controlled burn would not be in the neighbor's interest because the
11 last time that there was a controlled burn it almost took out their largest pine tree.

12

13 Dr. Jones stated that the trees were on his property.

14

15 Mr. Larry Hall stated that the tree on his property was substantially damaged by the controlled
16 burn and for the balance of that year it remained damaged and in the next spring it did green out.
17 He said that the damage was not reported and none of the neighbors complained about the
18 controlled burn nor was there an apology from Dr. and Mrs. Jones. He said that his attention was
19 brought to the controlled burn when he came home and his garden hose was laying across the
20 front yard because someone had the foresight to go get the water hose which was fine. He said
21 that they also feed the goldfinches and they will miss them as they are drawn out into the fields.
22 He said that one of the Board members mentioned placing restrictions on the use of Dr. Jones'
23 personal planes and Dr. Jones indicated that some compromise could be worked out. He asked
24 Dr. Jones to indicate what type of compromise he would propose to the Board.

25

26 Dr. Jones stated that such a compromise would require discussion.

27

28 Mr. Larry Hall stated that he is believes that everyone is discussing the use of his and his father's

1 aircraft. Mr. Hall stated that he wants to make sure that he has seen Dr. Jones' helicopter
2 therefore he asked Dr. Jones to indicate the identification number on his helicopter.

3

4 Dr. Jones stated that he cannot remember the identification number on his helicopter.

5

6 Mr. Larry Hall stated that he believes that it is N32049.

7

8 Dr. Jones stated that he does not believe that Mr. Larry Hall is correct.

9

10 Mr. Larry Hall stated that perhaps it is 728LA.

11

12 Dr. Jones stated that he may be correct but he cannot confirm it.

13

14 Mr. Larry Hall stated that the helicopter with the identification number 728LA is registered to
15 Jones' Flying Association.

16

17 Dr. Jones stated that Mr. Larry Hall was correct.

18

19 Mr. Larry Hall stated that the Jones' Flying Association is registered in Wilmington, Delaware.

20

21 Dr. Jones stated that Jones' Flying Association is registered in Delaware and licensed in Illinois.

22

23 Mr. Larry Hall asked Dr. Jones if the Jones' Flying Association is basically just Dr. Jones.

24

25 Ms. Capel informed Mr. Larry Hall that is presenting testimony.

26

27 Mr. Larry Hall stated that he earlier asked permission to request information regarding the
28 airplanes' identification and number of planes owned by Dr. Jones.

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Ms. Capel stated that they did not discuss identification but they did discuss the number of planes.

Mr. Larry Hall asked Dr. Jones if he has other planes registered under Jones' Flying Association that are owned by Dr. Jones.

Dr. Jones stated yes.

Mr. Larry Hall asked whether there is a WACO registered under the association. He asked Dr. Jones to indicate where the plane is located.

Dr. Jones stated that the WACO plane is located at Tuscola.

Mr. Larry Hall asked Dr. Jones if there would ever be a reason why he would not want to bring his own plane to his property.

Dr. Jones stated that it is possible due to storage.

Mr. Larry Hall stated that if he were building a hangar then he would not want to pay storage to store his plane in. He asked Dr. Jones if the plane that he references in his testimony is the Cessna plane.

Dr. Jones stated that he does have a Cessna plane.

Mr. Larry Hall asked Dr. Jones if the Cessna plane was also registered in Wilmington, Delaware.

Dr. Jones stated yes.

1

2 Mr. Larry Hall asked Dr. Jones where he stores the Cessna plane.

3

4 Dr. Jones stated that the Cessna plane is also stored in Tuscola.

5

6 Mr. Larry Hall asked Dr. Jones if he owned an Airtractor.

7

8 Dr. Jones stated that he does but he believes that it is sold.

9

10 Mr. Larry Hall asked Dr. Jones to indicate how long he had the Airtractor.

11

12 Dr. Jones stated that he has had the Airtractor for approximately six months.

13

14 Mr. Larry Hall asked Dr. Jones if the Airtractor was listed for sale since the first meeting in June.

15

16 Dr. Jones stated that the Airtractor has only been for sale for approximately three weeks.

17

18 Mr. Larry Hall stated that the Airtractor was listed for sale after the first meeting.

19

20 Dr. Jones stated yes.

21

22 Mr. Larry Jones stated that everyone was lead to believe that there was only a plane and a
23 helicopter but there were actually three planes and one helicopter. He said that one Board
24 member indicated that there are concerns about the frequency of the use of the planes and that is
25 the reason why he is posing the questions to Dr. Jones. He said that if there are more planes than
26 what everyone originally believed then he cannot imagine having three or four planes plus one
27 other family plane coming in and out of the property a couple of times per month.

28

1

2 Dr. Jones stated that he does not fly the planes all of the time because they are investments.

3

4 Ms. Capel stated that Dr. Jones does not have to respond to Mr. Larry Hall's comments because
5 Mr. Larry Hall is presenting testimony and not cross examining Dr. Jones.

6

7 Mr. Larry Hall stated that he is trying to address the concerns voiced by the Board member. He
8 said that there are reasons for their concerns and the number of planes that Dr. Jones owns only
9 validates those concerns.

10

11 Ms. Capel asked the audience if there was anyone else who desired to cross examine Dr. Jones
12 and there was no one.

13

14 Ms. Capel called Sara Beth Jones to testify.

15

16 Ms. Sara Beth Jones, who resides at 175N CR 1600E, Villa Grove stated that regardless of the
17 number of airplanes that she and her husband owns she only has one husband and one pilot in her
18 family. She said that in terms of frequency of flying he is not going to have any more time to fly
19 if he had 15 planes or one plane because he can only fly one plane at a time. She said that they
20 do not fly very often and she cannot imagine that he will stop working because he works 10 to 12
21 hours per day and it is not something that is going to change because like everyone else he has to
22 work. She said that she can understand the neighbor's concerns about accidents because every
23 time her husband goes up the possibility of an accident is in her head. She said that she did not
24 grow up flying around in an airplane and the first time that she flew in one was when she was 15-
25 years old and she is old enough to know what can happen when you go up in an airplane. She
26 said that when she gets in an airplane she is not the cool, calm person because she thinks about
27 everything. She said that when she goes up in an airplane with her husband she is amazed at how
28 great of a pilot he really is because he has been flying for almost twenty years and she has been in

1 the airplane since she was able and she has never thought twice about not going up with him.
2 She said that her husband does not fly when the weather is bad or when the airplanes are not in
3 full functioning order. She said that she understands that accidents can occur and it doesn't
4 matter whether you are in a car and what kind it is or how good of a driver you are there is
5 always something that can happen. She said that frankly in regards to the neighbors concerns if
6 something happens on the airport it is going to mean a lot more to her than it is going to matter to
7 them because it is her family.

8
9 Ms. Jones stated that the air strip is going to be a safe and wonderful place. She said that she and
10 her husband do enjoy their conservation practices. She said that she is a teacher and she takes
11 her students to the property for Earth Day. She said that she and her husband are passionate
12 conservation people and in her opinion the grass conserves the ground even more because they
13 are not eroding the ground and the water is not washing it away and they are not tilling it up
14 every year. She said that she and her husband do not place chemicals, pesticides or herbicides on
15 the ground and it is just what it is and currently it isn't growing at all because we haven't had any
16 rain.

17
18 Ms. Jones stated that she has horses because that is her hobby. She said that it was previously
19 mentioned that Mr. Voight's horses jumped when the helicopter takes off but her horses jump
20 when she starts her four-wheeler next to the pasture. She said that the horses are her passion and
21 she would not want anything that might harm her animals.

22
23 Mrs. Jones stated that testimony was given that airplanes have been buzzing their houses. She
24 said that testimony was given that an airplane was flying over Villa Grove due to the fire and
25 people automatically accused her husband. She said that people in the airplane world know them
26 and they know where they live and they also know that they have two little boys who believe that
27 there is nothing cooler than to watch an airplane over their house. She said that many times she
28 does not know who the people are but the boys get excited when a plane flies over the house.

1 She said that they know a lot of people with planes and they have asked them not to fly so close
2 to the house because it bothers their neighbors and other than crop dusters she hasn't seen any
3 low flying planes since the last hearing. She said that it is just like honking your horn when you
4 go past a friend's house pilots fly a little bit lower to say hello.

5

6 Ms. Jones stated that their lives are going to continue whether the Board approves the requests or
7 not and their boys are going to have the opportunity to fly with their dad. She said that approval
8 would make it a whole lot easier for the community if her husband was able to access his aircraft
9 without worrying about two train tracks to get across. She said that she was recently late for a
10 SAM appointment because she had to wait for over one-half hour at the railroad tracks in Villa
11 Grove. She said that if someone's life is on the line and he has to wait for at least one-half hour
12 to get across the railroad tracks in Villa Grove and then drive twenty minutes to the farm in Hugo
13 the delay could be tragic.

14

15 Ms. Capel asked if staff had any questions for Ms. Jones and there were none.

16

17 Ms. Capel asked if the Board had any questions for Ms. Jones and there were none.

18

19 Ms. Capel asked the audience if anyone desired to cross examine Ms. Jones.

20

21 Ms. Capel called Ms. Jean Fisher to the cross examination microphone. She informed Ms. Fisher
22 that no new testimony can be given during cross examination.

23

24 Ms. Jean Fisher stated that she appreciates Ms. Jones' comments and her respect and support for
25 her husband is obvious. She stated that Ms. Jones indicated that she was delayed for an
26 appointment because she had to wait over one-half hour at the railroad tracks in Villa Grove and
27 the same difficulty could exist for Dr. Jones to get to his aircraft to help someone. She asked
28 Ms. Jones to explain what type of service he would provide someone in an emergency.

1

2 Ms. Jones stated that Dr. Jones assists with locating lost people such as children and the elderly.

3

4 Ms. Fisher asked if Dr. Jones flies over the area to look out of the helicopter window for
5 someone.

6

7 Ms. Jones stated that a very different prospective is obtained from the air than from the ground
8 just like a different prospective is obtained from riding a horse than from walking.

9

10 Ms. Fisher stated that Dr. Jones does not have any special equipment to assist him in the search.

11

12 Ms. Jones stated that the helicopter is definitely something that she does not have available to
13 herself and neither does Ms. Fisher therefore the helicopter is a very useful tool.

14

15 Ms. Capel asked the audience if anyone else desired to cross examine Ms. Jones and there was no
16 one.

17

18 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony
19 regarding these cases.

20

21 Ms. Capel called Mr. Ed Gire to testify.

22

23 Mr. Ed Gire, who resides at 887 CR 1000E, Tolono, stated that he has known Dr. Jones and the
24 neighbors for a very long time. He said that some cows got loose and they were on Route 130
25 and he and Dr. Jones went up in the helicopter to get the cows away from the highway to prevent
26 a collision. He said that it was a quick response occurrence and he was lucky enough to be able
27 to go with Dr. Jones. He said that he also accompanied Dr. Jones with the search for a missing
28 elderly person.

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Ms. Capel asked if staff had any questions for Mr. Gire and there were none.

Ms. Capel asked the Board if there were any questions for Mr. Gire and there were none.

Ms. Capel asked the audience if anyone desired to cross examine Mr. Gire and there was no one.

Ms. Capel asked the Board if there were any comments, questions for concerns that they would like to discuss with Mr. Hall.

Mr. Passalacqua stated that he requires time to review all of the information

Mr. Courson stated that with all of the new information the Board should continue the case to a later date. He said that he would like to review any proposed special conditions and restrictions regarding the number of aircraft allowed on the air strip.

Mr. Hall stated that the first available regularly scheduled meeting for a continuance is within the 100-day limit and the date is November 17, 2011.

Mr. Courson asked if the Board should ask the petitioner if the continuance date is acceptable.

Mr. Singleton stated that a continuance to November 17th is fine.

Mr. Palmgren moved, seconded by Mr. Courson to continue Cases 687-AM-11 and 688-S-11 to the November 17, 2011, meeting. The motion carried by voice vote.

Ms. Capel stated that the Board will take a five minute break.

1 **The Board recessed at 9:31 p.m.**

2 **The resumed at 9:37 p.m.**

3

4 **Case 689-AM-11 Petitioner: Charles T. and Shelly Sollers Request to amend the Zoning Map**
5 **to allow for the establishment and use of 1 single family residential lot in the CR Conservation-**
6 **Recreation District by adding the Rural Residential Overlay (RRO) Zoning District. Location:**
7 **An approximately 6 acre tract of land that is located in the West Half of the North Half of the**
8 **Northeast Quarter of Section 27 of Crittenden township and that is located approximately one-**
9 **half mile west of the intersection of County Highway 16 and Illinois Route 130 and located on**
10 **the South side of County Highway 16 (CR 200N)**

11
12 **Case 690-AM-11 Petitioner: Benjamin Shadwick and Jennifer Shadwick Request to amend**
13 **the zoning Map to allow for the establishment and use of 1 single family residential lot in the**
14 **CR Conservation-Recreation Zoning District by adding the Rural Residential Overlay (RRO)**
15 **Zoning District. Location: An approximately 5.3 acre tract of land that is located in the West**
16 **Half of the North Half of the Northeast Quarter of Section 27 of Crittenden Township and that**
17 **is located approximately 2,000 feet west of the intersection of County Highway 16 and Illinois**
18 **Route 130 and located on the south side of County Highway 16 (CR200N).**

19
20 Ms. Capel asked the petitioners if they would be willing to allow the Board to hear the two cases
21 simultaneously.

22
23 **Mr. Courson moved, seconded by Mr. Passalacqua to hear Cases 689-AM-11 and 690-AM-11**
24 **simultaneously. The motion carried by voice vote.**

25
26 Mr. Sollers and Mr. Shadwick agreed.

27
28 Mr. Hall stated that information for Case 690-AM-11 was distributed at the last meeting although it
29 was very late and the Board ultimately did not discuss the new information. He said that there is a
30 revised Preliminary Memorandum dated August 4, 2011, and the attachments which were part of the
31 previous memorandum are still valid. He said that the Preliminary Memorandum dated August 5,
32 2011, is the first memorandum for Case 689-AM-11. He said that the RRO is an overlay rezoning
33 and it does not change the CR but merely amends it. He said that there are 12 factors that the Board

1 must consider and 10 factors relate to suitability.

2
3 Mr. Hall stated that for Case 689-AM-11, one of the attachments to the memorandum are the RRO,
4 Table 2, which summarizes the comparison against typical Champaign County conditions and this
5 summary is even made more simple in Table 3. He said that the same table was attached to the
6 Supplemental Memorandum dated August 4, 2011. He said that the sites are similar. He said that in
7 terms of roads there is an almost ideal road situation because the lots front on a County Highway
8 which does carry a lot of traffic but it is the best pavement which is located in the rural area. He said
9 that standard assumption is that every home counts for at least ten vehicle trips per day therefore
10 each of the lots counts for 10 vehicle trips. He said that both of the lots came from the same parent
11 tract and ideally they would have been rezoned originally but they were not therefore it is fair to refer
12 to them as related cases because they came from the same parent tract and it is fair to consider their
13 cumulative impact rather than individual. He said that even the cumulative impact of twenty more
14 vehicle trips on County Highway 16 is largely irrelevant and hardly noticeable. He said that the lots
15 are a few thousand feet from Illinois Route 130 so in terms of the standard concern regarding traffic
16 on rural roads and the impact on agriculture he would imagine that there is no impact on agriculture
17 in this instance. He said that there are no other man-made hazards near the properties. He said that
18 being close to a State Highway means that if there is a bad snow storm these properties are the ones
19 that are most likely to get out therefore it is ideal in that sense.

20
21 Mr. Hall stated that in regards to septic suitability the Board needs to go back to Table 2 for review.
22 He said that for both of the sites more than 50% of the soils are better than typical therefore they
23 have a much better than typical condition for septic suitability. He said that it doesn't mean that the
24 soils are perfect but they are very good for Champaign County and it should be very easy to have a
25 long lasting septic system on both of these properties and no septic system lasts forever. He said that
26 the effects on drainage are much better than typical because they drain directly to the East Branch of
27 the Embarrass River although some part of the property in Case 689-AM-11 probably drains over the
28 property in Case 690-AM-11 because there is a drainage swale on the east side of the Shadwick

1 property. He said again that in terms of drainage it is much better than typical. He said that
2 emergency services access is much better than typical because it is between two and two and one-
3 half miles from the fire protection district that serves the properties and that road distance is
4 completely over state and county highways therefore good quick access is available if ever needed.
5

6 Mr. Hall stated that there are farms across County Highway 16 and that is the only farmland that is
7 very close to the property for Case 690-AM-11. He said that in regards to Case 689-AM-11 the
8 southern half of the property is bordered by farmland to the west and most of that area is closer to the
9 river and deeper into the floodplain therefore in both instances the effects of nearby farms is much
10 better than typical. He said that typically the lot would be surrounded on three sides directly and still
11 have farm land across the road.
12

13 Mr. Hall stated that the LESA score is 208 for Case 689-AM-11 and 206 for Case 690-AM-11 and
14 there is a reason for the two point difference. He said that this is still a high rating in the LESA
15 system but if the Board reviews the Table of Common Conditions the typical condition in
16 Champaign County is anywhere from 254 to 238 and the lots are at 208 and 206 which puts them
17 much better than typical. He said that a LESA score doesn't trigger any specific requirement in the
18 Zoning Ordinance although it is something that a lot of people pay attention to and these are low
19 scores.
20

21 Mr. Hall stated that regarding the availability of water this is in the part of the County where water
22 availability is not as good as the rest of the County but in each instance the Board has a letter from
23 the Illinois State Water Survey supported by well records indicating that for these two homes water
24 should be available. He said that he does not believe that the hydrologist commented on likely
25 impacts on neighbors because that is very difficult to evaluate. He said that if neighbors are
26 concerned about impacts on their wells then they will be here testifying.
27

28 Mr. Hall stated that in regards to environmental concerns the condition is more or less typical. He

1 said that he believes that the properties are more or less typical which means that the historic
2 preservation officer recommended a Phase I archaeological survey but that is up to the Board to
3 decide whether or not it is made a specific requirement.

4
5 Mr. Hall stated that in this instance the lots do not require any IDOT approvals and there is no state
6 agency that he knows of that has to approve anything once the RRO is approved therefore to that
7 extent it is not clear to him that the historic agencies recommendation for a Phase I survey needs to
8 be required. He said that if the survey was completed the results would presumably be to identify if
9 there was any part of the property likely to have archaeological resources. He said that in past RRO
10 cases when there were Phase I surveys completed those parts of the property were left unimproved.
11 He said that those areas were larger areas and it wasn't dealing with an individual lot basis. He said
12 that he does not know what may show up with a Phase I survey and he does not know that legally
13 that it should be required. He said that the petitioners have met the condition because they consulted
14 with the state agency and they provided the results.

15
16 Mr. Hall stated that in regards to flood hazard status it would be fair to say that this is the worst or
17 nearly worst condition. He said that the flood depth is not great and there has been a mounded pad
18 of earth built upon each lot. He said that that the Flood Hazard Ordinance allows someone to build
19 regardless of flood depth as long as the structure is built to minimize flood damage and people build
20 under these conditions all of the time. He said that the Board understands that there is a text
21 amendment that they are currently working on that would establish standard conditions related to
22 RROs being proposed where the land is under the base flood elevation. He said that these cases were
23 applied for before those rules have been changed therefore these cases fall under the old rules
24 therefore there is no standard condition about that but none the less it is one of the factors. He said
25 that he believes that all previous RROs even though they did not have the minimum lot area outside
26 of the floodplain they had buildable areas outside of the floodplain before there was any earth work
27 completed. He said that the mounds or pads that exist on these lots were man-made and he believes
28 that this will be the first RRO to come before the Board where the entire building area is below the

1 base flood elevation. He said that the County authorizes building in conditions like this almost every
2 week when it is by-right but not when people have to seek RRO rezoning.

3
4 He said that Table 4 summarizes the factors relevant to compatibility with agriculture and at the most
5 it is two homes that are accessing a County Highway and it is located a few thousand feet from a
6 State Highway. He said that in terms of road impacts compared to not having the RRO, twenty more
7 road trips in total would probably not affect agricultural traffic. He said that there is more land
8 conversion but it is not best prime farmland. He said that it is fair to say that there will not be any
9 change to drainage particularly as it relates to surrounding farmland. He said that in terms of the
10 affects on agriculture and the compatibility with agriculture frankly he believes that this is one of the
11 less problematic RROs to come before the Board.

12
13 Mr. Hall stated that anytime the Board has a rezoning or special use permit on land that accesses a
14 County Highway he normally recommends special condition #13.A regarding obtaining permits from
15 the County Engineer. He said that a driveway on a County Highway always has to obtain a permit
16 but a condition for such should be required rather than trusting that everything will work out on its
17 own. He said that special condition 13.A does not establish any standard that does not already exist
18 because a permit is required to have a driveway the Board is only indicating that they want proof of
19 such when the owner applies for a zoning use permit. He said that the County Engineer does not
20 want mud tracked onto the roadway at all and that is included in the special condition. He said that
21 the Board wants to know that the County Engineer approves the actual as-built driveway before a
22 compliance certificate is issued.

23
24 Mr. Hall stated that special condition #13.B is simply related to one of the new policies of the LRMP
25 and we want to formally document that the owners hereby provide for the right of agricultural
26 activities to continue on adjacent land consistent with the right to farm resolution. He said that this
27 special condition does not set any new standard and the right to farm resolution exists even if the
28 special condition is not included. He said that the special conditions are formalities and are not new

1 standards.

2
3 Mr. Hall stated that the property for Case 689-AM-11 has other issues which need to be addressed
4 even if the RRO is approved but the RRO is the first step. He said that Dr. Jones was somehow able
5 to get these two RRO cases here at the Board and it is appreciated because staff has been dealing
6 with these two properties for a few years now. Mr. Hall stated that regarding the property for Case
7 690-AM-11, once the RRO is approved staff would be able to write a permit for a dwelling on the
8 property. He said that there are a few more issues for the property on Case 689-AM-11 but he has
9 hopes that those issues can be resolved.

10
11 Ms. Capel asked the Board if there were any questions for Mr. Hall and there were none.

12
13 Ms. Capel requested a motion to extend the meeting to 10:15 p.m.

14
15 **Mr. Courson moved, seconded by Mr. Miller to extend the meeting to 10:15 p.m. The motion**
16 **carried by voice vote.**

17
18 Ms. Capel stated that she only has one signature on the witness register for the two cases. She asked
19 the audience if anyone desired to sign the witness register to present testimony regarding Case 689-
20 AM-11 or 690-AM-11.

21
22 Ms. Capel called Mr. Alan Singleton to testify.

23
24 Mr. Alan Singleton, legal counsel for Dr. Jones, stated that when he got started working with Dr.
25 Jones staff indicated that the issues with the two subject properties needed to be cleared up. He said
26 that the two properties are to the north of Dr. Jones' property and the two lots are surrounded by
27 other properties which have been subdivided and there are homes on those lots. He said that the area
28 had been built up so that the building pad was out of the floodplain and the lots appear to be

1 desirable lots for a residence in a rural area. He said that the two property owners have sat through a
2 lot of stuff therefore if the present Board is considering approval he is sure that the property owners
3 would appreciate a vote tonight. He said that if there are any concerns then the property owners may
4 desire to wait until a full Board is present for a final vote.

5
6 Ms. Capel asked if staff had any questions for Mr. Singleton.

7
8 Mr. Hall asked Mr. Singleton if it would be a problem if the Board spent a few minutes reviewing
9 the information and then continue the cases. He asked Mr. Singleton if there was a particular
10 deadline that the Board needs to be aware of.

11
12 Mr. Singleton stated that he is not aware of any deadline therefore the Board should take all of the
13 time it needs to consider the cases. He said that if the Board requires additional information then he
14 would be glad to provide it.

15
16 Mr. Hall stated that it isn't that he believes that the Board may need more information but the finding
17 for an RRO case is the most complicated finding that the Board makes. He said that an RRO is an
18 unusual rezoning and page 22 of the Summary of Evidence indicates the two required specific
19 findings and given the factors that the Board must consider they must be diligent about addressing
20 the bad affects and mentioning the positive effects. He said that an RRO finding is one of the most
21 laborious finding that the Board has to make and there are several new Board members who have
22 never done one of these findings therefore trying to complete these cases in an overtime situation
23 might be pretty painful but it is up to the Board.

24
25 Mr. Singleton stated that whatever the Board decides if fine with the petitioners.

26
27 Ms. Capel asked the Board if there were any questions for Mr. Singleton and there were none.

28

1 Ms. Capel asked the audience if anyone else desired to sign the witness register to present testimony
2 regarding this case and there was no one.

3
4 Mr. Miller stated that it would be in the better interest of everyone to continue these cases to a later
5 date.

6
7 Ms. Capel agreed with Mr. Miller.

8
9 Mr. Hall asked the Board if they agree with staff's recommendation regarding the comparisons. He
10 asked if the properties appear to be this good of a location.

11
12 Mr. Courson stated that he has noticed a recent trend by the EPA in stepping up enforcement with
13 the *Clean Water Act*. He said that the *Clean Water Act* was passed in 2004 and it covers building
14 houses, erosion, water run-off, and a lot of regulations that general property owners are not aware of.
15 He said that just placing a note in the finding about the *Clean Water Act* would make the property
16 owner aware of it.

17
18 Mr. Hall stated that such a note in the finding is a good idea. He said that he is painfully aware of
19 that because it is something that we are not actually fulfilling our requirements for but it is very
20 seldom that there is a development that disturbs more than one acre at any one time. He said that a
21 subdivision of connected lots with a new street is fair game for that program but these lots, if they are
22 not disturbing more than one acre, wouldn't have any problem therefore he could add a new item of
23 evidence that would at least make the property owners aware of that.

24
25 Mr. Courson stated that another big issue is the tracking of dirt on the road.

26
27 Mr. Hall stated the tracking of dirt on the road has always been a problem for the County Engineer.

28

1 Mr. Courson stated that concrete wash-out is another thing that the EPA is stepping up on and are
2 really watching.

3
4 Mr. Hall stated that he hopes that the County Board will allow us to get our program in order next
5 year.

6
7 Mr. Courson stated that he does not believe that an archaeological survey is needed because it has
8 been established that other homes are located in the area and it hasn't been reported that any findings
9 have been discovered around the subject properties.

10
11 Mr. Hall stated that he will add an item to the Summary of Evidence indicating that an
12 archaeological survey is not required and he will not work on a condition in the mean time.

13
14 Ms. Capel requested a continuance date.

15
16 Mr. Hall stated that the next possible date that these two cases could be heard is November 17, 2011,
17 although the Board may be able to slip these two cases in on the October 13, 2011, meeting. He said
18 that the October 13th meeting could be a full meeting but if all the Board intends to do is construct
19 the findings then October 13th may be a possible a date. He said that if the Board does continue the
20 cases to October 13th Mr. Singleton will have to come to that meeting and then the November 17th
21 meeting.

22
23 Mr. Singleton stated that he spoke with the petitioners and they indicated that they do not have any
24 immediate plans to build therefore the continuing the cases to November 17th is not an issue.

25
26 Ms. Capel requested a motion to continue Cases 689-AM-11 and 690-AM-11 to the November 17,
27 2011, meeting.

28

1 Mr. Courson moved, seconded by Mr. Schroeder to continue Cases 689-AM-11 and 690-AM-
2 11 to the November 17, 2011, meeting. The motion carried by voice vote.

3
4 **6. New Public Hearings**

5
6 **Case 694-V-11 Petitioner: Damon Reifsteck Request to authorize the construction and use**
7 **of an addition to an existing dwelling and authorize the reconstruction of the existing**
8 **dwelling with a setback of 44 feet and 7 inches from CR900E, a minor street, in lieu of the**
9 **minimum required setback of 55 feet and a front yard of 14 feet and 7 inches from the**
10 **front property line in lieu of the minimum required front yard of 25 feet in the AG-1**
11 **District. Location: An approximately one acre lot in the Southwest Quarter of the**
12 **Southwest Quarter of the Southwest Quarter of Section 27 of Tolono Township and**
13 **commonly known as the house at 702 CR 900E, Tolono.**

14
15 Ms. Capel informed the audience that this is an Administrative Case and as such the County
16 allows anyone the opportunity to cross examine any witness. She said that at the proper time she
17 will ask for a show of hands for those who would like to cross examine and each person will be
18 called upon. She requested that anyone called to cross examine go to the cross examination
19 microphone to ask any questions. She said that those who desire to cross examine are not
20 required to sign the witness register but are requested to clearly state their name before asking
21 any questions. She noted that no new testimony is to be given during the cross examination. She
22 said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from
23 cross examination.

24
25 Mr. Hall distributed a new Supplemental Memorandum dated August 11, 2011, to the Board for
26 review. He said that the last page of the new memorandum is a black and white photograph of
27 the subject property looking south along CR 900E. Mr. Hall distributed a color copy of the
28 photograph which was included in the Supplemental Memorandum to the Board. He said that

1 the Board was recently faced with a similar variance in which the Board included some
2 conditions. He said that the new Supplemental Memorandum includes similar conditions from
3 that previous variance case. He said that the petitioner did not have the chance to review the
4 conditions prior to tonight's meeting but a few moments ago staff did review the proposed
5 conditions with Mr. Reifsteck and he had no concerns. He said that presenting the petitioner with
6 proposed conditions on the same night as the public hearing is not ideal and is certainly grounds
7 for a continuance if the petitioner is so inclined.

8
9 Mr. Hall stated that the Draft Summary of Evidence indicated in several locations where
10 evidence was to be added and that evidence is included in the Supplemental Memorandum dated
11 August 11, 2011. He said that the following new evidence should be added to item #7 which is
12 regarding the criteria having to do with special circumstances: B. Regarding the existing home:
13 (1) according to the Champaign County Supervisor of Assessments Property Information Card
14 the home dates from 1896; and (2) the lot was created by a deed on June 16, 1972, which was
15 before the adoption of the Zoning Ordinance on October 10, 1973. The lot is nonconforming
16 with respect to area; and (3) the home appears in the 1972 Champaign County Supervisor of
17 Assessments aerial photograph but does not appear to have the current footprint. The existing
18 garage does appear in the 1988 Champaign County Supervisor of Assessments aerial photograph.

19 Mr. Hall said that there had been an addition towards the road although staff could not find a
20 permit for the addition. He said that if the lot was created in 1972 there is a very good chance
21 that at the time or shortly after the lot was created there could have been an addition to the home.

22 He said that it is an old situation and he does not consider it as a violation because sometimes
23 staff cannot find old permits and when there were changes to property around the time that
24 zoning was adopted it is very difficult to document what exactly existed. He read new item
25 #7.B(4) the petitioner acquired the property in 2003 as evidenced by a deed with Champaign
26 County Recorder's Document Number 2003R02985.

27
28 Mr. Hall stated that the following new evidence should be added to item #8.B, which is the

1 criteria regarding practical difficulties and hardships, as follows: the site plan received on June
2 15, 2011, indicates a septic field east of the existing garage. He said that new evidence proposed
3 to be added to item #9.B is as follows: the petitioner acquired the property in 2003 as evidenced
4 by a deed with the Champaign County Recorder's Document Number 2003R02985. Mr. Hall
5 stated that long before 2003 the home was already situated too close to the road therefore during
6 this variance the Board would not just be authorizing the new construction which is proposed but
7 also providing for the reconstruction of the home as it currently sits because currently there is
8 some question about whether the home is truly nonconforming and even if it is it could not be
9 rebuilt without a variance.

10
11 Mr. Hall stated that new evidence item #10.B(2) is in regards to the criteria whether the granting
12 of variance is in harmony with the general purpose and intent of the Ordinance. He said that new
13 item #10.B(2) is as follows: Off-street parking: the subject property provides the required
14 amount of off-street parking outside of the setback but the proposed front yard of 14 feet 7 inches
15 is less than the minimum 20 feet length for a required parking space. There is no reason to
16 believe that automobiles or light trucks parked in front of the proposed garage would pose any
17 safety problem with traffic on CR 900E but a special condition has been proposed to ensure that
18 no safety problem does occur. He said that the special condition is proposed as new item #13.
19 He said that the condition sets up three limits on how much a vehicle in front of the garage can
20 encroach into the right of the way. He said that the item #13.A. reads as follows:

21 **The proposed front yard will result in encroachment into the right of way for CR**
22 **900E when vehicles are parked in front of the garage but minor encroachment does**
23 **not appear to necessarily create any problems for traffic safety provided that**
24 **encroachment is minimized. Encroachment of parked vehicles into the right of way**
25 **shall be limited as follows:**

- 26 **(1) At no time shall a parked or standing vehicle (ie, parked while attended)**
27 **located on the subject property extend onto the street pavement and past the**
28 **line of the gravel base of the pavement on either side of the driveway.**

1 **(2) Unless otherwise authorized by the Tolono Township Highway**
2 **Commissioner, no parked or standing vehicle (ie, parked while attended)**
3 **located on the subject property shall extend past the line of the right of way**
4 **during times of anticipated street maintenance (and it shall be the**
5 **petitioner's responsibility to anticipate street maintenance) or at other times**
6 **as requested by the Township Highway Commissioner.**

7 **(3) Unless otherwise authorized by the Township Highway Commissioner, at no**
8 **time from dusk to dawn shall a parked vehicle located on the subject**
9 **property extend past the centerline of the roadside ditch in front of the**
10 **subject property.**

11 Mr. Hall stated that the photograph indicates a pickup that roughly aligns with the power line
12 poles and appears to be five or six feet from the centerline of the ditch and so at night time this
13 vehicle could be parked just as it is in the photograph if the variance is approved. He said that he
14 assumes that the vehicle is normally parked at this location and he is not aware of any problems
15 being created. He said that the Board could decide to not include a condition but his
16 recommendation to the Board is that any time the Board is approving a front yard that does not
17 accommodate parking the Board should deal with that parking in some way and these conditions
18 are only one way to deal with it. He continued to read the condition as follows:

19 **(4) Three documented violations of the special conditions of approval regarding**
20 **encroachment of parked vehicles into the street right of way between the**
21 **garage and the street that support three complaints from the Tolono**
22 **Township Highway Commissioner shall void this approval and a new**
23 **variance shall be required.**

24 Mr. Hall stated that "documented" means that staff receives a photograph indicating the date and
25 time of the violation and related complaints from the highway commissioner. He said that there
26 could be complaints received but if no complaint is received from the highway commissioner
27 then this condition is not triggered. He said that when staff does receive three documented
28 complaints from the highway commissioner then the variance will be voided and at that point the

1 garage would be in violation until a new variance is granted. He informed the Board again that
2 the petitioner did not see the proposed conditions until tonight therefore the Board could continue
3 this case to a later date or ask the petitioner if he is comfortable with the continuing to final
4 action.

5
6 Ms. Capel asked the Board if there were any questions for Mr. Hall and there were none.

7
8 Ms. Capel informed the audience that anyone who desires to present testimony must sign the
9 witness register. She reminded the audience that when they sign the witness register they are
10 signing an oath.

11
12 Ms. Capel stated that there are only two signatures on the witness register and asked the audience
13 if anyone desired to sign the witness register to present testimony regarding this case.

14
15 Ms. Capel called Damon Reifsteck to testify.

16
17 Mr. Damon Reifsteck, who resides at 702 CR 900E, Tolono, stated that after reviewing the
18 information he agrees to the special condition.

19
20 Mr. Passalacqua asked Mr. Reifsteck to indicate the location of the driveway and if the new
21 garage will be at the same distance from the centerline of the road as the existing garage.

22
23 Mr. Reifsteck stated that the driveway is in front of the existing garage. He said that the new
24 garage will be the 44 feet 7-inches from the centerline of the road which is the same distance as
25 the existing garage.

26
27 Mr. Passalacqua asked Mr. Reifsteck if he had a measurement from the new garage to the septic
28 system. He asked Mr. Reifsteck if the foundation had already been constructed.

1

2 Mr. Reifsteck stated that he did not have an exact measurement but he would estimate that the
3 septic system is 24 feet from the west wall of the garage. He said that the foundation of the new
4 garage has been constructed and is right up to the septic.

5

6 Mr. Hall asked Mr. Reifsteck if he had a chance to speak with the township highway
7 commissioner.

8

9 Mr. Reifsteck stated yes. Mr. Reifsteck said that he indicated to the township highway
10 commissioner what he had done already and they discussed the new culvert placement and the
11 township highway commissioner indicated that he was comfortable with the project.

12

13 Ms. Capel asked the Board if there were any questions for Mr. Reifsteck and there were none.

14

15 Ms. Capel asked the audience if there were any questions for Mr. Reifsteck and there were none.

16

17 Ms. Capel called Rachel Schroeder to testify.

18

19 Ms. Rachel Schroeder, who resides at 252B Windward Blvd, Champaign, stated that she and her
20 brother, Roger Woodworth, Tolono Township Highway Commissioner, own the property
21 adjacent to the subject property. She said that her brother is unable to be at the meeting tonight
22 but he has indicated that he has no issue with the variance request. She said that she and her
23 brother grew up in the subject property's area and the house that is the subject of this variance
24 was an old schoolhouse. She said that she actually drove down to the site to see what was being
25 proposed and found that the property has been kept up very well.

26

27 Ms. Capel asked the Board if there were any questions for Ms. Schroeder and there were none.

28

1 Ms. Capel asked if staff had any questions for Ms. Schroeder and there were none.

2

3 Ms. Capel asked the audience if anyone desired to cross examine Ms. Schroeder and there was no
4 one.

5

6 Ms. Capel asked the audience if anyone else desired to sign the witness register at this time to
7 present testimony regarding this case and there was no one.

8

9 Ms. Capel closed the witness register.

10

11 Ms. Capel asked the Board if there were any questions or comments for staff and there were
12 none.

13

14 Mr. Hall stated that there is a pending Zoning Use Permit on this property. He said that the
15 foundation has been constructed and is consistent with all of the rules therefore it is not a
16 problem. He said that the petitioner did discuss the construction of the foundation with staff
17 when he submitted his permit application and fees. He said that once the variance is approved
18 Mr. Reifsteck can continue with the construction of his garage.

19

20 Mr. Courson stated that he would support the proposed special condition.

21

22 Ms. Capel requested a motion to approve the following proposed special condition:

23

24 **The proposed front yard will result in encroachment into the right of way for CR**
25 **900E when vehicles are parked in front of the garage but minor encroachment does**
26 **not appear to necessarily create any problems for traffic safety provided that**
27 **encroachment is minimized. Encroachment of parked vehicles into the right of way**
28 **shall be limited as follows:**

- 1 **(1) At no time shall a parked or standing vehicle (ie, parked while attended)**
2 **located on the subject property extend onto the street pavement and past the**
3 **line of the gravel base of the pavement on either side of the driveway.**
- 4 **(2) Unless otherwise authorized by the Tolono Township Highway**
5 **Commissioner, no parked or standing vehicle (ie, parked while attended)**
6 **located on the subject property shall extend past the line of the right of way**
7 **during times of anticipated street maintenance (and it shall be the**
8 **petitioner's responsibility to anticipate street maintenance) or at other times**
9 **as requested by the Township Highway Commissioner.**
- 10 **(3) Unless otherwise authorized by the Township Highway Commissioner, at no**
11 **time from dusk to dawn shall a parked vehicle located on the subject**
12 **property extend past the centerline of the roadside ditch in front of the**
13 **subject property.**
- 14 **(4) Three documented violations of the special conditions of approval regarding**
15 **encroachment of parked vehicles into the street right of way between the**
16 **garage and the street that support three complaints from the Tolono**
17 **Township Highway Commissioner shall void this approval and a new**
18 **variance shall be required.**

19
20 **Mr. Courson moved, seconded by Mr. Schroeder to approve the proposed special**
21 **condition. The motion carried by voice vote.**

22
23 Ms. Capel asked if there was any additional information required to be added to the Summary of
24 Evidence and there was none.

25
26 Ms. Capel stated that the Board will move to the Finding of Fact.

27
28 **Finding of Fact for Case 694-V-11:**

1
2 From the documents of record and the testimony and exhibits received at the public hearing for
3 zoning case 694-V-11 held on August 11, 2011, the Zoning Board of Appeals of Champaign
4 County finds that:

5
6 **1. Special conditions and circumstances DO exist which are peculiar to the land**
7 **or structure involved, which are not applicable to other similarly land and**
8 **structures elsewhere in the same district.**

9
10 Mr. Passalacqua stated that special conditions and circumstances DO exist which are peculiar to
11 the land or structure involved, which are not applicable to other similarly land and structures
12 elsewhere in the same district because of the location of the existing house.

13
14 **2. Practical difficulties or hardships created by carrying out the strict letter of**
15 **the regulations sought to be varied WILL prevent reasonable or otherwise**
16 **permitted use of the land or structure or construction.**

17
18 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of
19 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the
20 land or structure or construction because the septic system prevents the placement of the garage
21 in conformance with the Zoning Ordinance and the existing house already has the established
22 setback and there are considerations in terms of the roof line and aesthetics.

23
24 **3. The special conditions, circumstances, hardships or practical difficulties DO**
25 **NOT result from actions of the applicant.**

26
27 Mr. Courson stated that the special conditions, circumstances, hardships or practical difficulties
28 DO NOT result from actions of the applicant because the house was in its current location when

1 the petitioner purchased the property in 2003.

2

3 **4. The requested variance, subject to the proposed condition, IS in harmony**
4 **with the general purpose and intent of the Ordinance.**

5

6 Mr. Miller stated that the requested variance, subject to the proposed condition, IS in harmony
7 with the general intent of the Ordinance because the encroachment is no greater than what
8 currently exists.

9

10 **5. The requested variance, subject to the proposed condition, WILL NOT be**
11 **injurious to the neighborhood or otherwise detrimental to the public health,**
12 **safety or welfare.**

13

14 Mr. Courson stated that the requested variance, subject to the proposed condition, WILL NOT be
15 injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare
16 because the township road commissioner has met with the petitioner and has indicated that he
17 has no concerns with the proposed addition.

18

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

21

22 Mr. Passalacqua stated that the requested variance, subject to the proposed condition, IS the
23 minimum variation that will make possible the reasonable use of the land/structure because the
24 petitioner is limited by the existing septic tank and the front line of the existing house.

25

26 **7. The special conditions imposed herein are required to ensure compliance**
27 **with the criteria for special use permits and for the particular purposes**
28 **described below:**

1 The proposed front yard will result in encroachment into the right of way for
2 en vehicles are parked in front of the garage but minor encroachment does
3 not appear to necessarily create any problems for traffic safety provided that
4 encroachment is minimized. Encroachment of parked vehicles into the right
5 of way shall be limited as follows:

- 6 (1) At no time shall a parked or standing vehicle (ie, parked while
7 attended) located on the subject property extend onto the street
8 pavement and past the line of the gravel base of the pavement on
9 either side of the driveway.
- 10 (2) Unless otherwise authorized by the Tolono Township Highway
11 Commissioner, no parked or standing vehicle (ie, parked while
12 attended) located on the subject property shall extend past the line of
13 the right of way during times of anticipated street maintenance (and it
14 shall be the petitioner's responsibility to anticipate street
15 maintenance) or at other times as requested by the Township
16 Highway Commissioner.
- 17 (3) Unless otherwise authorized by the Township Highway
18 Commissioner, at no time from dusk to dawn shall a parked vehicle
19 located on the subject property extend past the centerline of the
20 roadside ditch in front of the subject property.
- 21 (4) Three documented violations of the special conditions of approval
22 regarding encroachment of parked vehicles into the street right of
23 way between the garage and the street that support three complaints
24 from the Tolono Township Highway Commissioner shall void this
25 approval and a new variance shall be required.

26 The special conditions are required to ensure the following: To help ensure public
27 safety by minimizing highway safety concerns associated with the reduced
28 parking space in front of the proposed garage and any resulting encroachment of

1 parked vehicles into the right of way.

2
3 Ms. Capel stated that the following items should be added to the Documents of Record: 1.

4 Photograph of the subject property to the north; and Supplemental Memorandum dated August
5 11, 2011.

6
7 Ms. Capel requested a motion to adopt the Summary of Evidence, Documents of Record and
8 Finding of Fact as amended.

9
10 **Mr. Schroeder moved, seconded by Mr. Miller to adopt the Summary of Evidence,**
11 **Documents of Record and Finding of Fact as amended. The motion carried by voice vote.**

12
13 Ms. Capel requested a motion to close the public hearing for Case 694-V-11.

14
15 **Mr. Miller moved, seconded by Mr. Courson to close the public hearing for Case 694-V-11.**
16 **The motion carried by voice vote.**

17
18 Ms. Capel informed the petitioner that one Board member was absent from tonight's meeting
19 therefore it is at his discretion to either continue Case 694-V-11 until a full Board is present or
20 request that the present Board move forward to the Final Determination. She informed the
21 petitioner that four affirmative votes are required for approval.

22
23 Mr. Reifsteck requested that the present Board move to the final determination.

24
25 **Final Determination for Case 694-V-11:**

26
27 **Mr. Courson moved, seconded by Mr. Miller that the Champaign County Zoning Board of**
28 **Appeals finds that, based upon the application, testimony, and other evidence received in**

1 **this case, that the requirements for approval of Section 9.1.9.C HAVE been met, and**
2 **pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning**
3 **Ordinance, the Zoning Board of Appeals of Champaign County determines that the**
4 **variance requested in Case 694-V-11 is hereby GRANTED WITH CONDITIONS to the**
5 **petitioner, Damon Reifsteck, to authorize the construction and use of an addition to an**
6 **existing dwelling and authorize the reconstruction of the existing dwelling with a setback of**
7 **44 feet and 7 inches from CR900E, a minor street, in lieu of the minimum required setback**
8 **of 55 feet, and a front yard of 14 feet and 7 inches from the front property line in lieu of the**
9 **minimum required front yard of 25 feet, in the AG-1 District, subject to the following**
10 **conditions:**

11
12 **The special conditions imposed herein are required to ensure compliance**
13 **with the criteria for special use permits and for the particular purposes**
14 **described below:**

15 **The proposed front yard will result in encroachment into the right of way for**
16 **en vehicles are parked in front of the garage but minor encroachment does**
17 **not appear to necessarily create any problems for traffic safety provided that**
18 **encroachment is minimized. Encroachment of parked vehicles into the right**
19 **of way shall be limited as follows:**

20 **(1) At no time shall a parked or standing vehicle (ie, parked while**
21 **attended) located on the subject property extend onto the street**
22 **pavement and past the line of the gravel base of the pavement on**
23 **either side of the driveway.**

24 **(2) Unless otherwise authorized by the Tolono Township Highway**
25 **Commissioner, no parked or standing vehicle (ie, parked while**
26 **attended) located on the subject property shall extend past the line of**
27 **the right of way during times of anticipated street maintenance (and it**
28 **shall be the petitioner's responsibility to anticipate street**

1 maintenance) or at other times as requested by the Township
2 Highway Commissioner.

3 (3) Unless otherwise authorized by the Township Highway
4 Commissioner, at no time from dusk to dawn shall a parked vehicle
5 located on the subject property extend past the centerline of the
6 roadside ditch in front of the subject property.

7 (4) Three documented violations of the special conditions of approval
8 regarding encroachment of parked vehicles into the street right of
9 way between the garage and the street that support three complaints
10 from the Tolono Township Highway Commissioner shall void this
11 approval and a new variance shall be required.

12
13 The special conditions are required to ensure the following: To help ensure public
14 safety by minimizing highway safety concerns associated with the reduced
15 parking space in front of the proposed garage and any resulting encroachment of
16 parked vehicles into the right of way.

17
18 The roll was called:

19			
20	Courson-yes	Miller-yes	Palmgren-yes
21	Schroeder-yes	Thorsland-absent	Passalacqua-yes
22	Capel-yes		

23
24 Mr. Hall informed Mr. Reifsteck that the variance request has been granted and staff will send
25 out the final paper work within a few days.

26
27 7. **Staff Report**

28

1 Mr. Hall reminded the Board that staff has a special packet of information for them before they
2 leave tonight.

3

4 **8. Other Business**

5 **A. June and July, 2011 Monthly Report**

6

7 Mr. Hall stated that this year is the department's third lowest year in history which is
8 not something that he is not complaining about but he does wish that the economy was a little
9 better.

10

11 Mr. Courson asked Mr. Hall if staff felt like they were busy.

12

13 Mr. Hall stated that staff has been very busy.

14

15 **B. Adoption of ZBA Bylaws Amendment**

16

17 Mr. Hall stated that the ZBA Bylaws Amendment is ready for adoption by the Board.

18

19 **Mr. Courson moved, seconded by Mr. Passalacqua to adopt the ZBA Bylaws Amendment.**

20 **The motion carried by voice vote.**

21

22 **C. Review of ZBA Docket**

23

24 Mr. Hall stated that beginning on August 25, 2011, the Board will begin reviewing the Wind
25 Farm Special Use Permit. He said that special meetings have been reserved for September 1st,
26 September 8th and September 29th. He said that it is hoped that the Board can take final action at
27 the September 29th meeting and at this point the meetings will be held in the Lyle Shields
28 Meeting Room. He said that if too many people show up for the August 25th meeting we may

1 have to make other arrangements. He said that the meeting room accommodated the amendment
2 therefore he would hope that it will also accommodate the wind farm meeting itself.

3

4 Mr. Passalacqua asked if the parking lot would be policed.

5

6 Mr. Hall stated that one Sheriff's deputy can be requested to be present.

7

8 Mr. Miller stated that he is an employee of the Gifford State Bank who is serving as an agent to
9 two or three landowners that will have wind turbine on their properties. He asked if his
10 relationship with the Gifford State Bank would create a conflict of interest.

11

12 Mr. Hall stated that he will pass this information on to the State's Attorney and if they require
13 additional information he will have them get in touch with Mr. Miller.

14

15 Mr. Miller stated that the landowners are his customers therefore he may be in a difficult
16 position. He said that due to a conflict of interest Mr. Doug Bluhm, previous ZBA Chair, sat
17 through the hearings but abstained from the vote for the wind farm amendments.

18

19 Mr. Hall stated that Mr. Bluhm did abstain although it was a much different situation. He said
20 that he will attempt to get an answer for Mr. Miller as soon as possible.

21

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

24

25 None

26

27 **10. Adjournment**

28

1 The meeting adjourned at 10:16 p.m.

2

3 Respectfully submitted

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8 Secretary of Zoning Board of Appeals

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2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61801

7 **DATE:** November 3, 2011

PLACE: Lyle Shields Meeting Room

1776 East Washington Street

Urbana, IL 61802

8 **TIME:** 6:00 p.m.

9 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Roger Miller, Melvin Schroeder,
10 Eric Thorsland, Paul Palmgren, Brad Passalacqua

11 **MEMBERS ABSENT :** None

12 **STAFF PRESENT :** Connie Berry, Lori Busboom, John Hall, Jamie Hitt, Andrew Kass,
13 Joel Fletcher (Assistant State's Attorney)

14 **OTHERS PRESENT :** Emily Cotton, Kay Fiscus, John Fiscus, Joan Grubb, Timothy Herd,
15 Matthew Savage, Cameron Gordon, Steven Bigel, Thomas Mann,
16 Randall Brown, Herb Schildt, Kevin Parzyck, Michael Blazer, John
17 Hummel, Judith Hummel, David Rogers, Joann Keller, Rollae Keller,
18 Marlin Conry, Sherry Schildt., Mark Hummel, Doug Turner, Leslie
19 Cotton, Bryan Bradshaw, Brenda Rogers, Paul Kograuz, Carl
20 Webber, Kevan Parrett, Randall Brown, Thomas Martin, Don
21 Wauthier, Deanne Sims, R.J. Eaton, Steve Johnson, Harold Hovelh,
22 Debra Griest, Jonathan Schroeder, Michael Richards, Patsie Petrie,
23 Gary Maxwell, Al Nudo, Marvin Johnson, Greg Frerichs, Roy Knight

24 **1. Call to Order**

25 The meeting was called to order at 6:02 p.m.

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

27 The roll was called and a quorum declared present.

28 **3. Correspondence**

29 None

DRAFT

1 **4. Approval of Minutes (July 28, 2011; October 6, 2011; October 13, 2011, Regular**
2 **Meeting; October 13, 2011, Special Meeting; October 20, 2011)**

3
4 Mr. Thorsland noted that the July 28, 2011, minutes are not available for approval at tonight's
5 meeting.

6
7 Ms. Capel stated that she had a few corrections to the October 20, 2011, minutes.

8
9 Mr. Thorsland requested a motion to approve the minutes as amended and after the motion he
10 will allow Ms. Capel to indicate her corrections.

11
12 **Ms. Capel moved, seconded by Mr. Schroeder to approve the October 6, 2011; October 13,**
13 **2011, Regular Meeting; October 13, 2011, Special Meeting; and October 20, 2011, minutes as**
14 **amended.**

15
16 Ms. Capel stated that Line 40 on Page 24 of the October 20, 2011, minutes should be revised to
17 indicate the following: required signatures including a guaranteed minimum amount of \$25,000 per
18 turbine. She said that Line 39 on Page 29 of the October 20, 2011, minutes should be revised to
19 indicate the following: Invenergy representative Greg Leuchtman testified at the September 29,
20 2011, public hearing that. She said that Line 24 on Page 32 of the October 20, 2011, minutes should
21 be revised to indicate the following: Ms. Capel stated that noise impacts will be INJURIOUS to the
22 district because of the difference of. She said that Line 8 on Page 33 of the October 20, 2011,
23 minutes should be revised to indicate the following: Ms. Capel stated that noise impacts will be
24 INJURIOUS to the district because of the difference of.

25
26 Mr. Thorsland asked the Board if there were any additional corrections and there were none.

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

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5. Continued Public Hearing

Case 691-S-11 Petitioner: Pastor David L. Rogers and Apostolic Life UPC Church, LLC Request to authorize (1) The Apostolic Life UPC Church as a special use and (2) the establishment and use of a “Residential Recovery Center” as a second special use on the same land, in the AG-2 Agriculture Zoning District. Location: Lot 3 of the Almar First Subdivision in the Northeast Quarter of Section 3 of Urbana Township and commonly known as the Apostolic Life UPC Church located at 2107 High Cross Road, Urbana.

Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

Mr. Thorsland asked if the Petitioner desired to make a statement outlining the nature of their request.

Pastor David Rogers, who resides at 1802 North Concord Lane, Urbana, stated that he is speaking on behalf of Lifeline-connect Ministry which is supported by the Apostolic Life Church located at 2107 High Cross Road. He said that to their knowledge and the best of their ability they have submitted to Director Hall all of the required information and research concerning the application for a Special Use Permit for a Residential Recovery Center.

1 Pastor Rogers stated that at the September 15, 2011, ZBA meeting he was instructed to do some
2 homework and provide to Director Hall and the Board a detail of a proposed septic system for a
3 proposed expansion and assessment of existing septic systems and provide to Director Hall and the
4 Board a revised site plan that would include the proposed septic system. He said that these tasks
5 have been completed and some of the information will be provided tonight and referred to by the
6 speakers.

7
8 Pastor Rogers stated that as mentioned before in the previous hearing; they have every intention to
9 meet all of the standard conditions of the Zoning Ordinance concerning Residential Recovery
10 Centers. The ministry of Lifeline-connect Residential Recovery Center, under such a special use
11 permit would not significantly increase the intensity of the use. He said that the special use would
12 allow the ministry to continue providing the benefits to their community and would allow their
13 organization to assist more people in their struggles against substance abuse and addictions.

14
15 Pastor Rogers stated that at every public meeting including County Board, the ZBA, the Urbana City
16 Council, the City of Urbana Planning Commission, the Champaign City Council and the City of
17 Champaign Planning Commission every vote was unanimously "yes" in favor of adding the text
18 amendment. He said that this indicates, I believe, a desire of all the members to those governing
19 boards and councils that voted to see this RRC continue to provide a vital service to those in need.

20
21 Pastor Rogers stated that he would like to briefly address some statements contained in
22 correspondence received by Director Hall and distributed to the Board and the public. He said that
23 the paragraph 3 of the letter dated October 27, 2011 submitted by John Hummel indicates the
24 following: "during the meeting Pastor Rogers and/or his counsel Carl Webber) stated that the work
25 was done prior to the Apostolic Life UPC Church's establishment on the property in 1999." Pastor
26 Rogers stated that during that meeting he spoke about some fill used to level an area for a
27 recreational field and he stated the following: "We have not altered any of the natural flow of storm
28 water since our occupancy on February, 1999. While we did add some fill dirt to level and area for a

1 small recreational field, in doing so, we did not redirect any storm water flow."

2
3 Pastor Rogers stated that paragraph 4 of Mr. Hummel's same letter states, "Since 1999, the southeast
4 parking lot has been enlarged and the area south of the utility shed has been filled. The fill added to
5 the south and west of the utility shed has redirected surface flow to the southern edge of the church
6 property and prevented north-eastward flow from the field to the south from entering the church
7 property."

8
9 Pastor Rogers stated that Mr. Hummel's statements are incorrect because they did not enlarge the
10 southeast parking lot and the gravel parking lot was already there. He said that the southern one-
11 quarter of the parking lot was covered in vegetation, grass and weeds, due to the lack of traffic and/or
12 weed control. He said that they raked and dressed the lot and established the corners with some
13 additional rock. He said that the area south of the utility shed has had no fill added since our
14 ownership and they have not done any work that redirects or prohibits surface flow onto the church
15 property.

16
17 Pastor Rogers stated that also in paragraph 4 of Mr. Hummel's letter there is mention of an
18 embankment being removed although Pastor Rogers does not know of any embankment existing and
19 certainly has no knowledge of any embankment being removed. Pastor Rogers stated that paragraph
20 4 also indicates that added curbing along the southern edge of the parking lot has changed the point
21 of entry of surface flow into the backyard of 2103 N. High Cross Road. He said that this is incorrect
22 because there is no curbing along the southern edge of the parking lot and only spaced bumper
23 blocks exist. He said that they have not changed the point of entry of surface flow into the 2103 N.
24 High Cross Road property and the water has always had a point of entry onto that property.

25
26 Pastor Rogers stated that the last paragraph on page 2 of the same letter from Mr. Hummel states that
27 the establishment of a Residential Recovery Center at 2107 High Cross Road will intensify or make
28 worse the surface water management. Pastor Rogers stated that this is incorrect because the

1 engineering firm, BKB Engineering, has designed a storm water management plan for the site that
2 will have no negative impact in the neighborhood and, in fact, will improve the storm water
3 management. He said that Brian Bradshaw of BKB Engineering, who supplied the site plan, is
4 present tonight and is prepared to address and questions.

5
6 Pastor Rogers stated that Steve Johnson of J & S Wastewater Inc., is here to speak and address any
7 questions concerning the proposed septic system and the existing septic systems. Pastor Rogers said
8 that he has provided Director Hall and the Board with a letter from Steve Johnson and some
9 documentation concerning any maintenance that has been done to the existing septic systems. Pastor
10 Rogers stated that the documentation from Gulliford's Sewer Service indicates service rendered,
11 maintenance provided, and findings by service personnel. He said that they have only has one of the
12 septic systems serviced as a preventative maintenance and not due to malfunction. He said that also
13 indicated in the documentation is the size of the septic tank that is pumped, which is 1,000 gallons.
14 He said that the Board should keep in mind that there are two existing septic systems in use.

15
16 Pastor Rogers noted that their attorney, Carl Webber, is also present tonight to address any legal
17 concerns that the Board may have regarding the requesting use.

18
19 Pastor Rogers requested the opportunity to speak again regarding any concerns that may be brought
20 into discussion. He said that there are several members of their staff, former and current residents
21 and other supporters present tonight and they are ready to give brief presentations on behalf of the
22 approval of the request which is before the Board.

23
24 Pastor Rogers stated that in conclusion they sincerely request approval of the request for the special
25 use so that they may continue the operation of the Residential Recovery Center as part of the
26 church's ministry and so that they can move forward. He thanked the Board for their time and
27 consideration.

28

1 Mr. Thorsland asked the Board if there were any questions for Pastor Rogers and there were none.

2

3 Mr. Thorsland asked if staff had any questions for Pastor Rogers and there were none.

4

5 Mr. Thorsland asked the audience if anyone desired to cross examine Pastor Rogers and there was no
6 one.

7

8 Mr. Thorsland requested that Mr. John Hall address the Board.

9

10 Mr. John Hall, Zoning Administrator distributed a new Supplemental Memorandum dated November
11 3, 2011, to the Board for review. He said that the new supplemental memorandum includes the
12 following attachments: 1. Letter from John Hummel, received October 31, 2011; and 2. Letter from
13 John Hummel, received November 1, 2011; and 3. Letter from John Hummel, received November 1,
14 2011; and 4. Letter from Mark Hummel, received November 1, 2011; and 5. Septic system plan,
15 received November 2, 2011. Mr. Hall stated that the septic system is a much different septic system
16 than had been described previously and is designed by Steve Johnson.

17

18 Mr. Hall continued to list the attachments: 6. Letter from Carl Webber, received November 3, 2011;
19 and 7. Comprehensive site plan, received November 3, 2011. Mr. Hall stated that the new
20 comprehensive site plan was prepared by BKB Engineering indicating the proposed detention basin
21 as well as the revised septic system. He said that Attachment 8. Shapland Construction survey of
22 subject property, received November 3, 2011, was approximately prepared in 1975 and documents
23 elevations at the time of completion. He said that Attachment 9. Impervious surface illustration,
24 dated November 3, 2011, was prepared by staff. He said that in the mailing for this meeting staff
25 included a letter from Tom Berns in 1984. He said that the illustration documents the amount of
26 impervious area that either existed or was anticipated in 1984 and is indicated in orange and there are
27 two blue areas. He said that the blue areas are the new impervious areas since 1984 and the large
28 impervious area was approved by the County and has a catch basin in the middle which carries some

1 portion of the drainage to the west. He said that the only other expansion is to the south parking lot
2 and the illustration indicates staff's estimate of the expansion based on the 1988 aerial photograph.
3 He said that the expansion is approximately 15,000 square feet and it is unknown as to when it
4 occurred but it occurred prior to the time when the Apostolic Church first occupied the property. He
5 said that prior to 2002 when churches were required to obtain special use permits, it is known that
6 the parking lot had been expanded but did not require any detention because it is 15,000 square feet
7 and was constructed when churches were by-right. He said that staff is not aware of any unauthorized
8 expansion of the impervious area on the property. He continued to attachment 10. Drainage plan
9 from Case 502-S-84 (2 different scales); and 11. Finding of Fact and Final Determination for Case
10 668-AT-10. He said that previously the Board had approved all of the Documents of Record for
11 Case 668-AT-10, the amendment which authorized this use, into Case 691-S-11. He said that under
12 Item #14 on pages 32 thru 37 of the Finding of Fact for Case 668-AT-10, staff intends to add all of
13 the testimony regarding this kind of use and how important it is and by doing this the Board has not
14 had to take as much testimony during this hearing. He said that he would recommend that the Board
15 keep this information in the finding for Case 692-S-11, but it is ultimately up to the Board whether to
16 do so or not. He said that even working as much overtime that staff has been doing in the
17 Department of Planning and Zoning staff has not been able to get the Finding of Fact for this case
18 ready for a determination. He said that he stopped working on this case at 3p.m. today so that he
19 could ready for the wind farm and if he had kept working this case would still not be ready for final
20 action tonight.

21
22 Mr. Hall stated that at the last public hearing the Board requested a determination from the State's
23 Attorney regarding claims made by Mr. Randall Brown about the risks that the County would incur if
24 the Board approved the requested special use permit. Mr. Hall said that the State's Attorney's staff
25 has also been working a lot of overtime lately they did not get a formal opinion written up for the
26 Board's request although they did send him an e-mail that he can read to the Board. He said that if
27 the e-mail is sufficient then we can let it go at that but if the Board requires a formal determination
28 from the State's Attorney then that will have to come at a later date. He said that recently the State's

1 Attorney determined that in this case there is some risk of being sued from either side of the
2 question. He said that two sets of claimants would have potential claims of unlawful discrimination.
3 He said that the petitioner could potentially sue if the petition is denied due to unlawful
4 discrimination based on handicap status under the *Fair Housing Act*, but on the other hand a
5 potential female plaintiff could sue claiming unlawful discrimination based on gender. He said that
6 the State's Attorney was not able to find enough case law on this issue to be able to make a firm
7 recommendation but there is risk either way and the Board should make their determination as they
8 see fit. Mr. Hall stated that if the Board requires additional information regarding this issue then he
9 can attempt to obtain that information but the previously mentioned information is all that staff and
10 the State's Attorney could provide the Board with tonight.

11

12 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

13

14 Ms. Capel asked Mr. Hall if the case was continued would it be ready for final determination at that
15 point.

16

17 Mr. Hall stated that if the case was continued for at least one week it should be ready for final action.

18

19 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were
20 none.

21

22 Mr. Thorsland called Mr. Bryan Bradshaw to testify.

23

24 Mr. Bryan Bradshaw, who resides at 725 CR 2200N, Champaign, stated that he has been hired by the
25 Apostolic Life Church as the site engineer for the project. He said that he has over 15-years
26 experience in land development design from complex projects such as the new Meijer's store in the
27 Chicago suburbs to the 20-acre Boulder Ridge Subdivision in Champaign to more straight forward
28 project such as the new indoor soccer facility located on Willow Road in Urbana.

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Mr. Bradshaw stated that from a drainage standpoint this property is about as simple and straight forward as it gets. He said that since the last meeting he has submitted preliminary drainage plan and since then the church as instructed him to exceed the minimum requirements to further mitigate any possible drainage issues. He said that the plan that was submitted tonight indicates a detention basin with a designed capacity of a 100-year storm in lieu of a 50-year storm as indicated on the previous plan. He said that the capacity has been increased by over 40% and the basin has been extended to the south to intercept as much overflow as possible. He said that the new basin will capture 100% of the new impervious area and additional .6 acres of water. He said that the new basin will improve the drainage conditions for the downstream properties. He said that at the last meeting the fill area which is located west of the utility shed was discussed. He said that in an effort to compare the current grades with the historic drainage patterns that he obtained a 1975 topographic map prepared by Bill Sheridan, a licensed land surveyor, and the survey is part of the site plan that was submitted for the Pyramid Paper Company. He said that the historic swale location is indicated on the plan and is shown to be justified and 20 feet south and a total length of 100 feet. He said that the adjustment of the swale occurs completely within the church's property. He said that the fill area is located 100 feet north of the Hummel property and the on-site fill does not impede any surface drainage from the upstream farm field to the south and the on-site fill does not modify the water surface point of entry for any downstream property.

Mr. Bradshaw stated that a letter written to Mr. John Hall from Mr. John Hummel dated October 27, 2011, discusses the fill area in addition to others. Mr. Bradshaw said that there are several points of disagreement with the letter and Pastor Rogers has mentioned several of those disagreements. Mr. Bradshaw stated that no fill was added to the south of the utility shed and the grades have not been revised along the east edge of the property. He said that the revised grades shown on the Champaign GIS are the result of different datum and levels of accuracy. He said that the existing contours of the entire site vary greatly between the 2005 and 2008 contours therefore no real comparison can be made between the two. Mr. Bradshaw stated that no curbing is present along the east side of the

1 property and the fill area does not violate the *Illinois Drainage Law*.

2

3 Mr. Bradshaw stated that at the last meeting he made an open invitation to speak with the Hummel
4 family at any time in his office to discuss drainage issues of the site. He said that since the Hummel
5 family has not accepted his offer to date he would like to extend that same invitation again tonight
6 outside of this public hearing.

7

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

9

10 Mr. Thorsland asked if staff had any questions for Mr. Bradshaw.

11

12 Mr. Hall stated that he and Mr. Bradshaw discussed the fact that the 12-inch storm sewer that is
13 being proposed to connect to the detention basin apparently discharges to the surface of the ground to
14 the west. Mr. Hall stated that his concern is that if special concern is not taken with the outlet the
15 addition of the detention basin could actually exacerbate the erosion. He asked Mr. Bradshaw if he
16 believes that adequate control of the erosion at the outlet could be successful.

17

18 Mr. Bradshaw stated yes. He said that he spoke to the owner of the property which the outlet
19 discharges to and Pastor Rogers and the church has agreed to add rip rap to the location as part of the
20 special use requirement. He said that the church received verbal approval from the property owner to
21 have access to the site to install those improvements.

22

23 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Bradshaw.

24

25 Mr. Don Wauthier approached the cross examination microphone.

26

27 Mr. Carl Webber indicated his objection to Mr. Wauthier representing the opposition. Mr. Webber
28 stated that he works for the firm that provided an opinion as to drainage for the manifest in title and

1 the opinion has been distributed to the Board for review. He said that it is a complete conflict of
2 interest for Mr. Wauthier and his company, who provided the church with an opinion regarding
3 drainage, to represent someone who is complaining about the drainage.

4

5 Mr. Thorsland explained that this period is only for cross examination and Mr. Wauthier is only
6 allowed to ask questions about Mr. Bradshaw's testimony. Mr. Thorsland said that at this time he
7 will allow Mr. Wauthier the opportunity to cross examine Mr. Bradshaw although if it appears that
8 Mr. Wauthier is presenting testimony or is leading Mr. Bradshaw he will stop Mr. Wauthier just as
9 he has stopped others.

10

11 Mr. Wauthier stated that he has a couple of questions regarding the plan that he reviewed tonight.
12 He said that the plan indicates that the stormwater detention basin outlet is to be connected to an 8-
13 inch diameter storm sewer. He asked Mr. Bradshaw if the capacity of the 8-inch storm sewer was
14 adequate.

15

16 Mr. Bradshaw stated yes.

17

18 Mr. Wauthier asked Mr. Bradshaw if the existing 12-inch storm sewer has adequate capacity to
19 provide stormwater drainage for the entire site for and the lands that are connected to it.

20

21 Mr. Bradshaw stated that he did not complete a study regarding such.

22

23 Mr. Wauthier stated that Mr. Bradshaw's testimony was that the proposed stormwater detention
24 basin will resolve any drainage issues.

25

26 Mr. Bradshaw stated that he did not testify to such.

27

28 Mr. Wauthier asked Mr. Bradshaw if his testimony is that he is providing a stormwater detention

1 basin to resolve stormwater runoff from the watershed that is directed to it.

2

3 Mr. Bradshaw stated yes, for new development.

4

5 Mr. Wauthier asked Mr. Bradshaw if he completed an evaluation of the downstream stormwater
6 drainage system to determine whether or not it is adequate for the proposed basin that is going to be
7 connected to it.

8

9 Mr. Webber objected to Mr. Wauthier's question to Mr. Bradshaw. He said that this is not a
10 question about the current drainage and any questions regarding the current drainage is in direct
11 conflict with his firm's prior determination. He said that this is not question about the current status
12 of the building and the only thing that is in question is whether the small proposed addition will be
13 addressed. He said that if Mr. Wauthier would like to address how the petitioner suggested how they
14 will handle the drainage off of the small addition then he will withdraw his objection.

15

16 Mr. Thorsland requested that Mr. Wauthier only address the testimony that Mr. Bradshaw has
17 presented. He said that he does not believe that Mr. Bradshaw provided testimony regarding the
18 existing drainage but did provide testimony regarding the new development.

19

20 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Bradshaw at this time and
21 there was no one.

22

23 Mr. Thorsland called Mr. Carl Webber to testify.

24

25 Mr. Carl Webber, legal counsel for the petitioner, stated that he appreciates the Board's
26 consideration. He said that the Board received a copy of his letter to Mr. Hall and the State's
27 Attorney regarding the *Fair Housing Act*. He said that he appreciates the fact that the State's
28 Attorney has suggested that the raised concern regarding the *Fair Housing Act* is not a reason to not

1 move forward. He said that the petitioner has presented a number of examples of where single
2 gender facilities are more successful although some believe that there may not be a direct difference
3 but most believe that single gender facilities are better and none believe that a combined facility is
4 better. Mr. Webber submitted, as a Document of Record, a letter from Michael Dye, CADC, NCAC
5 II, with the Genesis Process Organization, regarding gender separated facilities.
6

7 Mr. Webber read Mr. Dye's letter as follows: I have worked in the addiction recover field for 32
8 years and have directed and designed recovery programs in the U.S. and abroad. Most all addiction
9 recovery programs are gender specific and coed programs have a high attrition and relapse rate. It is
10 in the best interest of the clients to be gender separated.
11

12 Mr. Webber stated that his letter to Mr. Hall and the State's Attorney addressed the question
13 regarding the 14th Amendment which had already been addressed at the last meeting. He said that
14 the 14th Amendment addresses action by a state or subsidiary thereof and the Board is not making the
15 suggestion that this facility should be coed but is allowing a facility that allows 25 residents. He said
16 that if the facility had the room he believes that the petitioner would like to provide a separate facility
17 for women and men. He said that the problem is that one facility for twelve men and twelve women
18 is not possible because it doesn't work. He said that the Board has heard testimony regarding this
19 issue time after time and it has been stated that there is a tremendous advantage for the people in the
20 program to connect to other people in the program and with a group of 25 people of their own gender
21 there is a chance that can indeed connect. He said that the suggestion that they divide the facility
22 between twelve men and twelve women would unfortunately not work for that needed connection.
23

24 Mr. Webber stated that even if the procedure of having one facility for twelve men and twelve
25 women the cost of doing it would require additional funding of over \$37,000 but the main cost
26 would be over \$160,000 in additional annual staffing fees which would create more people and more
27 parking. He said that if there is a concern about the amount of activity that currently exists then such
28 a change to the facility would only exacerbate the increase in activity. He said that as the Board may

1 have seen in the numerous quotes that he had in his letter to Mr. Hall and the State's Attorney he
2 believes that there are a lot of reasons why these facilities are gender specific. He said that there is
3 a very substantial reason why the petitioner cannot, on this site, have two facilities because the
4 Ordinance limits the locations therefore if the petitioner cannot have this use at this site then he is not
5 sure that it can be done anywhere in the County. He said that the petitioner believes that it is
6 appropriate to have the facility designed as it is and the issue of safety goes beyond whether a bullet
7 goes by your head or you can count on the possibility of being rehabilitated. He said that in order to
8 have good and effective programs they are almost all gender specific and that is just the way it is. He
9 submitted a cost estimate as a Document of Record indicating a list of expenses that would incur if
10 the proposed dorm would be men and women and if women were enrolled in the residential program.

11

12 Mr. Webber stated that he understands that when they started this question there were issues which
13 must be addressed such as drainage and septic and he believes that they have addressed those issues.

14 He said that in regards to septic the petitioner agreed with Mr. Hall that prior to obtaining a Zoning
15 Use Permit rather than waiting until the end of the construction they will show that the new septic
16 system will work. Mr. Webber stated that the petitioner has been in the chicken and the egg situation
17 where they cannot obtain the Champaign County Public Health Department opinion until they
18 provide the application and the application is not submitted to the Champaign County Public Health
19 Department until the approval from the County is obtained. He said that the petitioner is going to
20 short-cut that situation by agreeing that before they obtain their building permit they will assure the
21 County that the new septic system will work. He said that the petitioner has done everything that
22 they can do to indicate that the new septic system will work and a continuing increase of some
23 modest amount of effluent each day will be better for the septic system than having a lot of use on
24 Sunday and none for six days. He said that septic systems work better if they have continuous flow.

25

26 Mr. Webber stated that the way that the addition has been designed the Stormwater Policy does not
27 require that the petitioner does anything. He said that they will be a conforming building and use so
28 that at the time that they build the new property they have the 10,000 square foot exception and as

1 long as they keep it under 10,000 square feet they are a reasonable exception to the Stormwater
2 Policy. He said that even though they are an exception the petitioner has agreed that they will
3 address the runoff from all 10,000 square feet of the addition therefore they will have a 100%
4 addressing not at the level of the 50-year runoff that is required in the County Ordinance but at a
5 100-year runoff. He said that if the petitioner designs it the way that has been presented to the Board
6 tonight they will detain more than the 10,000 square foot addition runoff and only improve the
7 system and if someone is complaining about that then they have another agenda because the agenda
8 cannot be drainage. He said that the issue is not how we are today. He said that if today the
9 petitioner has caused problems then perhaps someone has a civil action against the petitioner that has
10 never been brought to the petitioner's attention. He said that the farmer, which is next door to the
11 subject property, has never complained and there are no other complaints filed against the petitioner
12 but now it is handy, as an excuse, to be complaining about the proposed project.

13
14 Mr. Webber stated that based upon what he has learned by speaking to other people and hearing
15 discussion the only evidence that the Board has is testimony that the drainage area was not adversely
16 effected and if they had added some fill upstream from the neighbor that would tend to slow down
17 the rate of flow and not increase the rate of flow. He said that if the Board reviews the 2005 aerial
18 photograph it does appear that there is a little bump on the west side of the complainant's property.
19 He said that the only testimony that has been given is that the bump was not there in the 2002,
20 although the bump is not apparent in the 2008 aerial photograph. He said that the systems used in
21 designing the aerial photographs between 2005 and 2008 are different systems. He said that there is
22 a suggestion that there is a two foot rise and if the Board reviews the 2005 aerial there is a distance
23 between the topographic lines indicated as 716 and 718. He said that he is not sure how much
24 distance is between the two lines but the aerial photograph would suggest that in an area used as a
25 parking lot in 10 or 20 feet the elevation went up 2 feet which is highly unlikely.

26
27 Mr. Webber stated that there was some concern regarding where the tile empties into the field to the
28 south. He said that when the subdivision was developed there was an easement given to put a tile

1 across and emptied into the middle of the property to the south and that is not uncommon. He said
2 that over the years it has become somewhat eroded and at the request of John Hall it would be
3 appropriate for the petitioner to add concrete and rip rap at that site to protect any further erosion.
4 He said that he would argue that if they are going to slow the water down there will be less erosion
5 but he understands that one can argue either way therefore they agreed to Mr. Hall's request. He said
6 that the petitioner is a non-for-profit organization which is trying to build this facility and they do not
7 have money to throw around but if Mr. Hall believes that the placement of rip rap is an appropriate
8 thing to do then they will do it. He said that the petitioner is paying for detention, the acreage where
9 the detention will be placed, the detention basin and the requested rip rap.

10
11 Mr. Webber stated that this is no longer a drainage issue but an issue about whether a Residential
12 Recovery Center should be located on this site and he pleads with the Board to allow this to happen.
13 He said that the Board has the opinion from Tom Berns to Al Miller indicating, at that time, there
14 were, in their opinion, no troubles. He said that the petitioner has not heard anything from anyone
15 that there are difficulties caused since then therefore he again would suggest that drainage is not the
16 issue and the issue is whether on this 4+ acre property the petitioner can add 10,000 square feet of
17 impervious surface in order to provide for this Residential Recovery Center. He said that hopes that
18 the Board will agree that the request is a reasonable thing to do.

19
20 Mr. Thorsland asked the Board if there were any questions for Mr. Webber and there were none.

21
22 Mr. Thorsland asked if staff had any questions for Mr. Webber and there were none.

23
24 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Webber and there was no
25 one.

26
27 Mr. Thorsland called Mr. Don Wauthier to testify.

28

1 Mr. Don Wauthier, Engineer with Berns, Clancy and Associates.

2

3 Mr. Webber stated that if the Board is going to allow Mr. Wauthier to present testimony in a manner
4 that he and the petitioner believes is improper would it be possible for the entire room to see what he
5 is doing.

6

7 Mr. Thorsland stated that the nature of the hearing is that the Board allows public participation or
8 public testimony and Mr. Webber may object to what is presented and he can cross examine Mr.
9 Wauthier but the cross examination must only be based on Mr. Wauthier's testimony. Mr. Thorsland
10 stated that this is a public hearing therefore the Board will allow the public to speak. He said that if
11 Mr. Wauthier desires to speak as a member of the public then is allowed that courtesy. Mr.
12 Thorsland stated that the Board understands Mr. Webber's concern. He informed Mr. Webber that
13 he and the petitioner may position themselves so that may clearly observe Mr. Wauthier's
14 presentation.

15

16 Mr. Thorsland asked Mr. Wauthier to position himself so that everyone in the room could view his
17 presentation.

18

19 Mr. Wauthier thanked the Board for allowing him the opportunity to provide information regarding
20 the subject property. He said that hopefully he can clarify some of the issues that are involved in this
21 case. He said that as Mr. Webber has previously mentioned, Mr. Wauthier's firm, Berns, Clancy and
22 Associates, was involved in the review of stormwater drainage issues at this site in 1984. He said
23 that at that time Mr. Berns issued an opinion letter, which is now more than 25 years old, that the
24 stormwater drainage system proposed for the development at that time could provide an adequate
25 level of service and drainage for that site. Mr. Wauthier stated that this letter was provided in
26 support of a hearing before construction occurred but unfortunately what was being proposed and
27 discussed in front of the ZBA never got built which changes things. He said that obviously if the
28 opinion is that what is being proposed will be adequate when it is built and it doesn't actually get

1 built the opinion changes to not adequate.

2

3 Mr. Wauthier stated that his firm has copies of the 1976 site plan and the design analysis for the
4 storm sewer. He said that he plans to walk the Board through what the conditions are for this site.

5 Mr. Wauthier said that the original site that the stormwater drainage was related to is indicated in the
6 green area on the aerial photo exhibit prepared by Berns, Clancy and Associates which was
7 submitted as a Document of Record. He said that the area outlined in green is what was more or less
8 originally constructed in the first couple of phases with the storm sewer outlet that goes with it. He
9 said that the storm sewer was designed for something between a 2-year and 5-year storm event for
10 that area. He said that subsequently as other additions occurred including in 1984 was construction
11 of the building that was approved by the ZBA, indicated in pink on the aerial photograph. He said
12 that after the case, what was to be done with drainage was that the parking lot area would be drained
13 into the 12-inch diameter storm sewer. He said that the gravel area parking lot was to be re-graded to
14 drain north and west but that never occurred and so as a result the testimony and opinion in 1984
15 was that there would be minimal impact to the downstream landowners. He said that since the 12-
16 inch line was not being modified there was not going to be any change to the outlet conditions the
17 stormwater was going to be directed to the 12-inch line and whatever needed to stay and wait and
18 provide by way of onsite retention/detention was going to stay on site therefore there would be no
19 adverse impacts to the east or to the west. He said that this would provide adequate drainage with
20 some informal onsite stormwater retention/detention in whatever fashion that happened would
21 provide adequate drainage for the site. He said that subsequently the large parking lot has also been
22 connected to the 12-inch line and the gravel parking lot has been added. He said that when it is
23 reviewed as to what is connected to the 12-inch storm sewer today, which does not include a big
24 section that has an 8-inch inlet and outlet line, handles the flow when there is a minor amount of
25 flow. He said that when the calculations and analysis are completed, which he has done, it is
26 discovered that the storm sewer now has the capacity to handle less than the one-year storm for the
27 watershed area that is connected to it. He said that once you get above the one-year storm the system
28 becomes overloaded and over and flow must be addressed because some of the flow will go into the

1 storm sewer but other parts will go over land. He said that the contours are clear indicating that the
2 over land flow will continue down the driveway and out and then down the road side ditch to the
3 cross-road culvert at High Cross Road. He said that the gravel parking lot area was not graded to
4 drain north and west because it never occurred or if it did occur it has since been re-graded to take
5 that back out and it also drains to the east and is not connected to the storm sewer system.
6

7 Mr. Wauthier stated that when the elevations are reviewed the elevation for the inlet is approximately
8 four feet higher than the elevation of the other inlet, invert wise. He said that if the storm sewer
9 system gets surcharged it is actually possible for the storm water to bubble up the other way. He said
10 that the elevation differences are even more severe when you get to the inlet at an elevation of 719
11 and an inlet at 724, as indicated by Mr. Bradshaw. He said that if the 12-inch storm sewer is
12 surcharged water can actually backflow and flow east towards the Hummel property which is what
13 he believes is actually occurring. He said that there is a drainage problem occurring and it is not a
14 problem that can be resolved because it can be fixed.
15

16 He said that the other element of this issue has to do with the overall watershed. He said that there is
17 a 15-inch diameter, correlated metal pipe culvert under High Cross Road in front of the Hummel
18 property. He said that if you include the storm sewer area there is about 13 acres draining to the 15-
19 inch pipe and diverts out of the water shed. He said that if you delete the flow that the 12-inch storm
20 sewer is going to handle then it is discovered that the remainder of the flow handles about a 9 month
21 storm. He said that any storm bigger than a 9-month storm will involve ponding in the Hummel's
22 yard and overflow of the township road which is a significant concern. He said that this is an issue
23 that the Hummel family has discussed with this Board previously and without having a full
24 understanding of the analysis regarding the addition of fill he is not sure that the Hummel family
25 understood what was actually happening. He said that this situation is not a situation that cannot be
26 resolved but it is a significant issue because if there is a culvert only can provide a 9-month storm
27 flow capacity there will be flooding next door. He said that unfortunately when you add up the
28 impervious and hard-surfaced/rock area that is indicated inside the pink area on the map plus along

1 the south edge there is over an acre of hard-surface ground that for the most part was never intended
2 to flow towards the Hummel property. He said that this is what the 1984 designed plan was which
3 was to have it go north and west and not towards the Hummel property.

4
5 Mr. Wauthier stated that he just saw the storm water detention basin system design tonight and it
6 certainly appears to be able to handle the kind of issues or could be suitable for the site for the
7 proposed improvement, for just those existing conditions. He said that the new design does not
8 resolve the fact that the 1984 plan was not implemented and that is where the drainage problem
9 comes from. He said that there was no stormwater management plan in 1984 and there was no
10 Stormwater Management Ordinance. He said that the stormwater management plan was never
11 implemented and he is not sure why. He said that in regards to the overall 13 acre shed new
12 development has occurred since 1984. He said that there has been hard surface added to the roadway
13 and the residential area therefore it is up to over 40% hard surface for this watershed and yet the
14 township road culvert has never been changed. He said that it doesn't take a rocket scientist to know
15 that at 13 acre watershed that is 45% hard surfaced is not good because something is going to
16 happen. He said that if further development is to occur it must occur in a matter that will not
17 aggravate the existing drainage problem and that the existing drainage problem be resolved. He said
18 that it appears that the high water surface of the proposed stormwater detention basin is going to be
19 two or three feet higher than the rim of the inlet that is proposed. He said that the basin is at an
20 elevation of 721 or 722 and 719 is the rim of the inlet for the 8-inch line. He said that if the 12-inch
21 is full, which means that the 8-inch cannot flow, the water come out of the basin flow to the inlet and
22 squirt up out of the top of the rim. He said that it is 722 on one end and 719 on the other and the
23 water will flow straight to the Hummel's property. He said that without doing a full analysis to
24 understand the system he does not know that it can be said that it will not add to the flow that is
25 traveling towards the Hummel property.

26
27 Mr. Thorsland asked the Board if there were any questions for Mr. Wauthier.

28

1 Mr. Courson stated that these problems occur now and if the request was denied the problems would
2 continue to exist and drainage issues would not be resolved.

3

4 Mr. Wauthier stated yes.

5

6 Mr. Courson asked Mr. Wauthier if the additional work that is proposed would help alleviate some
7 of the drainage issues.

8

9 Mr. Wauthier stated that the proposed design would not resolve the existing drainage issues.

10

11 Mr. Courson stated that he did not ask if the proposed design would resolve the existing drainage
12 issues but would it make the drainage better.

13

14 Mr. Wauthier stated that if the proposed work was properly designed and constructed then it could
15 make the drainage issues better but he does not know if that will be the case. He said that if the
16 water surface elevation at the basin is higher than the rim of the inlet that it is connecting to and the
17 downstream storm sewer system is already overloaded the water will add to the flow.

18

19 Mr. Courson stated that it will not add anymore than what is already existing.

20

21 Mr. Wauthier stated maybe and maybe not.

22

23 Mr. Courson asked Mr. Wauthier to locate the Hummel property.

24

25 Mr. Wauthier indicated on the location of the Hummel property on the aerial photograph.

26

27 Mr. Courson asked Mr. Wauthier if he would agree that the Hummel residence was built at the
28 bottom of a swale.

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Mr. Wauthier stated that he would agree that the residence is at the edge of a swale.

Mr. Courson stated that before all of the development the natural flow of the water would have flowed right through the Hummel property. He said that the house was built at the bottom of a natural drainage swale.

Mr. Wauthier stated that it wasn't built at the bottom of a natural drainage swale but was built at the side of a natural drainage swale.

Mr. Courson stated that anyone who builds a structure in a swale should expect water to flow across the front.

Mr. Wauthier stated that none of the construction was built in what would have been the natural swale.

Mr. Courson stated that if the yard gets water in it you would expect water to flow through the swale.

Mr. Wauthier stated yes.

Mr. Passalacqua stated that it appears that the Hummel's property was divided knowing that it had a wet corner because it appears to be twice the size as the neighboring lots. He asked Mr. Wauthier if the culvert pre-dates the home on the Hummel's property. He said that based upon the lay of the land it appears that the culvert existed before the house was built.

Mr. Wauthier stated that he cannot say with any certainty that the culvert pre-dates the house but he can indicate that the culvert existed in 1976 because his firm has field survey data for the culvert in 1976.

1

2 Mr. Passalacqua asked Mr. Wauthier if he was hired, in his professional capacity, to help design the
3 existing house would he have suggested that the house be located on the southern portion of the lot.

4

5 Mr. Wauthier stated yes.

6

7 Mr. Thorsland asked the Board if there were any additional questions for Mr. Wauthier and there
8 were none.

9

10 Mr. Thorsland asked if staff had any questions for Mr. Wauthier and there were none.

11

12 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Wauthier.

13

14 Mr. Thorsland called Mr. Carl Webber. He informed Mr. Webber that his cross examination can
15 only be in regards to Mr. Wauthier's testimony and no new testimony will be allowed.

16

17 Mr. Carl Webber, legal counsel for the petitioner, stated that Mr. Wauthier suggested that the opinion
18 by Tom Berns', was in Case 582-S-04.

19

20 Mr. Wauthier stated that he does know what the case number was but he does know that it was a case
21 in 1984.

22

23 Mr. Webber asked Mr. Webber if he reviewed the handout that was available to everyone which
24 related to Case 502-S-84 indicated the proposed new building.

25

26 Mr. Wauthier stated that he has not reviewed the handout.

27

28 Mr. Webber asked Mr. Wauthier if he knew if Mr. Berns' opinion was based upon a request in Case

1 502-S-84 to build the proposed building.

2

3 Mr. Wauthier stated that the opinion was provided in response to a zoning case to construct an
4 additional structure.

5

6 Mr. Webber asked Mr. Wauthier if the building was constructed.

7

8 Mr. Wauthier stated that he does believe that the building was constructed and is indicated in the
9 pink area on the submitted map.

10

11 Mr. Webber stated that the proposed new building is 90 feet by 48 feet to the north of the existing
12 warehouse. He asked Mr. Wauthier if his opinion is based upon the fact that the new warehouse was
13 built.

14

15 Mr. Wauthier stated that his opinion is based upon what exists currently.

16

17 Mr. Webber asked Mr. Wauthier if the opinion in 1984, suggesting that certain things were required,
18 was based upon the assumption that this building would be built.

19

20 Mr. Wauthier stated that he does not know.

21

22 Mr. Webber stated that Mr. Wauthier does not know the basis for this document that his firm drafted.

23

24 Mr. Thursland suggested that the parties involved get together outside of the public hearing to work
25 out the issues at hand rather than during cross examination. He said that this is quasi-legal but not a
26 trial. He said that there have been efforts by the Apostolic Church to meet with Mr. Hummel and it
27 would be nice for the efforts to be satisfied. He said that the case will be continued because staff has
28 been overwhelmed with other work and the Board does not have a final determination at this time.

1 He said that there are other names on the witness register awaiting the opportunity to address the
2 Board. He strongly encouraged that both parties meet to resolve the drainage issues. He said that he
3 does not believe that the petitioner is responsible for the inadequacy of the township road culvert and
4 the testimony has wandered off the path of the zoning case before the Board.

5
6 Mr. Hall stated that the information that is being received tonight is very important. He said that we
7 do not have an engineer on staff and he would not pretend to be an engineer. He said that staff's
8 intention was to have Bryan Bradshaw's engineering design reviewed by a licensed professional
9 engineer at such time as it is submitted. He said that it is at the discretion of this Board to require an
10 approved engineering design before approving the special use permit. He said that based on what
11 Mr. Wauthier presented tonight this is literally what the Ordinance calls a drainage system of unusual
12 conditions. He said that if what the Board has heard tonight is true there is no limit to what the
13 petitioner will have to pay for engineering review of this design because we have no idea how
14 complicated this is going to be to resolve until there is a resolution. He said that this is a serious
15 problem because this is the tile that the petitioner is proposing to outlet the new basin to and he does
16 not see how the Board can really consider the basin that has been proposed until they have a
17 response. He said that the response is not going to happen tonight and the Board could sit here until
18 midnight and there is not going to be any answer on this issue.

19
20 Mr. Hall stated that he does not mean to interrupt Mr. Webber and he has every right to ask his
21 questions but this has put the Board in a very difficult position.

22
23 Mr. Webber stated that the fancy document that has been put forth was not created this afternoon.
24 He said that he and the petitioner could have been consulted and why they were not is unknown.

25
26 Mr. Hall informed Mr. Webber that his comment is not relevant.

27
28 Mr. Thorsland informed Mr. Webber that at this time is at the cross examination table and is not

1 allowed to present new testimony.

2

3 Mr. Webber asked if and when he and the petitioner are able to meet with Mr. Wauthier and Mr.
4 Hummel is the petitioner responsible to address the current status or are they responsible to show
5 that their requested addition will actually result in an approved situation rather than a worse
6 situation.

7

8 Mr. Thorsland stated that this will be up to staff and the Board. He said that he would like to see an
9 answer to the drainage issues but that answer is not going to come tonight.

10

11 Mr. Thorsland asked Mr. Webber if he had any further questions for Mr. Wauthier based on his
12 testimony.

13

14 Mr. Webber stated no.

15

16 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Wauthier and there was no
17 one.

18

19 Mr. Thorsland called Mr. John Hummel to testify. He said that Mr. Hummel has previously
20 presented testimony regarding this case therefore he encouraged Mr. Hummel to only add new
21 testimony.

22

23 Mr. John Hummel, who resides at 504 East Mumford, Urbana, stated that he is a registered
24 professional engineer and he is the father of Mark Hummel who resides at 2103 North High Cross
25 Road, Urbana. He said that Pastor Rogers read most of his letter dated October 27, 2011, therefore he
26 will not read it again. He said that Mr. Wauthier's comments essentially underline what he and his
27 son have been trying to tell the Board during the last couple of hearings that there is a drainage
28 problem at the subject property. He said that it is their opinion that additional development of a 24/7

1 dormitory in a low use AG-2 district is an increase in density and is something that belongs in the
2 AG-2 district. He said that he applauds Mr. Hall's suggestion that the case be continued to a later
3 date. He said that he and his son are willing to meet with the petitioner and his representatives to
4 seek a solution to the drainage issues.

5
6 Mr. Thorsland asked the Board if there were any questions for Mr. Hummel and there were none.

7
8 Mr. Thorsland asked if staff had any questions for Mr. Hummel and there were none.

9
10 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Hummel and there was no
11 one.

12
13 Mr. Thorsland called Mr. Mark Hummel to testify.

14
15 Mr. Mark Hummel, who resides at 2103 North High Cross Road, Urbana, stated that he and his
16 family are the only residents downstream and they are willing to come to some kind of resolution.
17 He said that the Zoning Ordinance has clear steps that deal with drainage therefore he believes that
18 the Board should take a moment to review those steps. He said that the Ordinance, in regards to
19 stormwater management, also indicates that the drainage needs to be fixed before more happens.

20
21 Mr. Thorsland asked the Board if there were any questions for Mr. Hummel and there were none.

22
23 Mr. Thorsland asked if staff had any questions for Mr. Hummel and there were none.

24
25 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Hummel.

26
27 Mr. Thorsland called Carl Webber to the cross examination microphone.

28

1 Mr. Webber asked Mr. Hummel if he built the home.
2
3 Mr. Hummel stated no.
4
5 Mr. Webber asked Mr. Hummel if he knew when the home was built.
6
7 Mr. Hummel stated that he did not know when his home was built.
8
9 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Hummel and there
10 was no one.
11
12 Mr. Thorsland called R.J. Eaton to testify.
13
14 Mr. R.J.Eaton declined to testify.
15
16 Mr. Thorsland called Mr. Thomas Martin.
17
18 Mr. Thomas Martin declined to testify.
19
20 Mr. Thorsland called Les Cotton to testify.
21
22 Mr. Les Cotton declined to testify.
23
24 Mr. Thorsland called John Grubb.
25
26 Mr. John Grubb declined to testify.
27
28 Mr. Thorsland called Steve Johnson.

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Mr. Steve Johnson stated that he had no new information to add but would answer any questions that the Board or staff may have.

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

Mr. Thorsland called Randall Brown to testify.

Mr. Randall Brown, who resides at 2408 North High Cross Road, Urbana, thanked Mr. Courson for pointing out his error regarding the 14th Amendment. He said that there has been a lot of discussion about the drainage plan, etc, but the main focus is still about the use of the property. He said that in his last testimony he mentioned fair treatment under the Ordinance for a private business versus a church business. He said that this is a very important thing because the Zoning Administrator has glossed over this without considering the rights of individuals versus the rights of the church. He said that by omitting the third special use associated with the property, if enacted, the amendment violates the Zoning Ordinance relative to Rural Home Occupation. He said that we, the general public, deserve a complete analysis and appropriate authorization of each special use on this property. He said that there is a third special use and it is not listed on the amendment therefore we must wake up and get it resolved because he is tired about having to come before the Board to complain about use. He asked why he has to continually attend these meetings because someone cannot identify what is truly going on at the subject property.

Mr. Brown stated that he feels that the special use permit is flawed because the third use is not discussed. He said that the church is running a business and it needs to be stopped. He said that the case should be thrown out and a new case filed.

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

1

2 Mr. Thorsland asked if staff had any questions for Mr. Brown and there were none.

3

4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Brown.

5

6 Mr. Thorsland called Pastor Rogers to the cross examination microphone.

7

8 Pastor Rogers asked Mr. Brown to indicate the third use that he refers to as a business.

9

10 Mr. Brown stated that he has referred to the business at every meeting. He said that Lifeline-
11 connect's website offers services for yard clean-up, construction, and roofing. He said that even
12 though it is a 501-C-3 it is still a business and there is nothing on the application that describes this
13 third special use and it has to stop. He said that tonight the case should be thrown out due to the
14 drainage issues and the omitted third special use.

15

16 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Brown and there was
17 no one.

18

19 Pastor Rogers asked Mr. Thorsland if Mr. Webber could address Mr. Brown's comments.

20

21 Mr. Thorsland called Mr. Webber.

22

23 Mr. Webber stated that not only is it the church's strong opinion that the services that are offered is
24 to help support the facility, consisting of a simple accessory use to the church, County staff has also
25 offered this opinion. He said that after reviewing several similar cases he finds the opinion to be
26 supported.

27

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

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2 Mr. Thorsland asked if staff had any questions for Mr. Webber and there were none.

3

4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Webber and there was no
5 one.

6

7 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
8 testimony regarding Case 691-S-11.

9

10 Mr. Thorsland called Brenda Rogers to testify.

11

12 Ms. Rogers, Administrative Director for Lifeline-connect, stated that they have fundraisers and there
13 is no charge for the services that are offered although they do accept donations. She said that the
14 fundraiser teaches the residents in the program a trade or offers them work. She said that someone
15 may call requesting to have their yard raked or whatever type of service that they need completed.
16 She said that it is no different than a youth group would do a car wash and is just a fundraiser of 501-
17 C-3, not-for-profit. She said that the fundraiser incorporates very few hours and she would like to
18 see more in the future but it is not a business. She said that there is tremendous support from the
19 public and they are glad to offer a donation for the program.

20

21 Mr. Thorsland asked the Board if there were any questions for Ms. Rogers.

22

23 Mr. Passalacqua asked Ms. Rogers if the website indicates that the services offered are by-donation
24 only.

25

26 Ms. Rogers stated yes.

27

28 Mr. Thorsland asked if staff had any questions for Ms. Rogers and there were none.

1

2 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Rogers.

3

4 Mr. Thorsland called Mr. Randall Brown to the cross examination microphone.

5

6 Mr. Brown asked Ms. Rogers if the activity involves more than one person parking on the property.

7

8 Ms. Rogers stated that if the residents travel to a location they are with R.J.Eaton in the church van.

9

10 Mr. Thorsland asked the audience if anyone else desired to cross examine Ms. Rogers and there was
11 no one.

12

13 Mr. R. J. Eaton requested the opportunity to address the Board.

14

15 Mr. Thorsland called R. J. Eaton to testify.

16

17 Mr. R.J. Eaton, who resides at 2107 North High Cross Road, Urbana, stated that the program has
18 never done a fundraiser on the property and no one comes to the property for services.

19

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

21

22 Mr. Thorsland asked if staff had any questions for Mr. Eaton and there were none.

23

24 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Eaton and there was no
25 one.

26

27 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
28 regarding Case 691-S-11 and there was no one.

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Mr. Thorsland closed the witness register.

Mr. Thorsland stated that this case will not be completed at tonight's hearing therefore the Board should consider a continuance date. He said that the Board would like information regarding whether or not the 12-inch drainage tile is adequate or whether the outlet basin could be relocated. He again encouraged all parties to make an attempt to work out their private issues outside of the public hearing so that the Board may utilize their time in completing this case. He asked the Board if there was any additional information required from staff or the petitioner.

Mr. Hall asked if the Board is indicating that when the case comes back before them the Board wants to know that there is an adequate drainage outlet for the detention basin that is part of the proposal meaning that there has been engineering analysis done to verify that it is an adequate outlet. He asked if this is the information that the Board will require prior to taking final action.

Mr. Passalacqua stated that it was mentioned that this is a unique drainage situation. He asked who the responsible party is for the existing under-road culvert that pre-dates 1976.

Mr. Hall stated that township highway commissioner is responsible for that culvert and the under-road culvert is not the problem. He said that the problem, as he understands it, is that it is assumed that the existing tile will accept the flow from the basin.

Mr. Passalacqua stated that Bryan Bradshaw testified that this issue has not been addressed.

Mr. Hall stated no, because the Board has not requested for such extensive engineering.

Mr. Passalacqua stated that he would like a third party engineer to determine whether or not what is being added to the existing condition will work.

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Mr. Hall stated that the only way to do that is to require a design that a third party consultant can review. He said that this will be a lot more investment than the petitioner wanted to do but obviously it will need to be done at some point. He said that an alternative would be to determine if there is a different outlet which may work.

Mr. Passalacqua asked how much of the responsibility can be assigned to the petitioner and how much of the responsibility is placed on the person who lives on the property that has the existing conditions.

Mr. Hall stated that the Board has been informed by a practicing engineer that the outlet that is proposed for the basin, Don Wauthier has indicated that he has completed the calculations and Mr. Bradshaw indicated that he has not done any calculations, will not work as it proposed. He said that the Board needs to know that the outlet will work or that there is an alternative outlet that is not so problematic. He said that this is not related to the other property except to the extent that if the outlet doesn't work there will be more flow going to the other property. He said what is being described as a detention basin would not actually function as a detention basin. He said that Carl Webber is accurate in stating that the petitioner is not proposing to add more than 10,000 square feet but he believes that there is enough evidence of inadequate drainage conditions on this property that the Board should not approve even 1,000 square feet without knowing that it won't do more damage.

Mr. Carl Webber stated that perhaps the best approach would be to install a new 6-inch tile along the existing drainage easement to drain the new basin to assure that there is adequate flow from the basin that will not only address this question but improve the entire situation.

Mr. Courson stated that calculation would be required to indicate that a 6-inch tile would be adequate. He said that he does not believe that a 6-inch tile would be adequate for a basin of this size or would address all of the existing drainage issues.

1

2 Mr. Webber stated that they would install a new drainage tile that would drain the new basin and
3 assure the Board that the new basin drains properly so that, at minimum, not hurting things but
4 helping.

5

6 Mr. Courson recommended that the petitioner does everything possible to alleviate existing drainage
7 problems on the property.

8

9 Mr. Hall stated that the situation that he just described would ultimately end up draining through a
10 farm field swale and the Board would need confirmation that draining through the farm field swale
11 would not be exacerbating existing problems. He said that either way when the petitioner returns
12 before this Board there are serious issues which must be made clear.

13

14 Mr. Webber stated that they will certainly address all of these issues and they would appreciate
15 appearing before the Board again as soon as possible.

16

17 Mr. Thorsland asked the Board if there were any further suggestions for the petitioner.

18

19 Ms. Capel asked if the Board will require that the drainage plan be reviewed by a third party
20 consultant.

21

22 Mr. Hall stated that it is up to the Board and it has to be done eventually.

23

24 Ms. Capel stated that it would make more sense to have the review completed now.

25

26 The Board agreed that the drainage plan should be reviewed by a third party consultant.

27

28 Mr. Thorsland requested a continuance date.

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Mr. Hall stated that he cannot believe that the answers that are required will be available until the second week of January, 2012. He said that staff is not aware of a specific date for that meeting but the Board can continue the case to the second meeting in January and as soon as the date is identified notice is sent to everyone that attended tonight's meeting related to this case.

Ms. Capel moved, seconded by Mr. Courson to continue Case 691-S-11, to the second meeting in January, 2012. The motion carried by voice vote.

Mr. Thorsland stated that the Board will take a five minute recess.

The Board recessed at 7:45 p.m.

The Board resumed at 7:50 p.m.

Case 692-V-11 Petitioner: Rollae Keller Request to authorize the division of a lot that is 4.03 acres in area into two lots in total in lieu of the requirement that a lot to be divided must be more than five acres in area, in the AG-1, Agriculture Zoning District. Location: A 4.03 acre tract in the North Half of the Northeast Quarter of Section 32, of Newcomb Township and commonly known as the house at 169 CR 2500N, Mahomet.

Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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Mr. Thorsland asked if the Petitioner desired to make a statement outlining the nature of their request.

Ms. Joanne Keller, who resides at 378 County Road 2425N, Mahomet, stated that they provided additional information for the Board regarding the curtain drain. She said that they have addressed the concerns regarding the mailbox and she did contact the United States Post Master and the post office indicated that placement of the new mailbox beside the existing mailbox was not an issue. She said that if the storage shed is allowed to become a home again they would like to install the driveway 20 feet from the west of the property line.

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

Mr. Thorsland asked if staff had any questions for Ms. Keller and there were none.

Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Keller and there was no one.

Mr. Hall distributed a new Supplemental Memorandum dated November 3, 2011, for the Board's review. He said that attached to the new Supplemental Memorandum is a revised Summary of Evidence. He said that he does not believe that the revised Summary of Evidence includes any new evidence other than what was included in the October 28, 2011, memorandum. He said that there are three conditions proposed and those conditions were included in the October 28, 2011, memorandum. He said that the three special conditions of approval are as follows:

1. **The Zoning Administrator shall include a copy of Champaign County Resolution No. 3425 with the Zoning Use Permit for the dwelling.**
2. **Any driveway on the proposed lot shall be more than 20 feet away from the west property line of said lot.**

1 Mr. Thorsland asked if staff had any questions for Mr. Parrett.

2

3 Mr. John Hall stated that Mr. Parrett was present when staff reviewed the number of five acres lots
4 which were generally located north of the subject property and generally in the area of the Manlove
5 Gas Storage Field and generally in the vicinity of gas pipelines and generally within Pipeline Impact
6 Radius. He asked Mr. Parrett if those five acre lots north of CR 2500N could not be divided does he
7 still have a problem with added traffic from divisions of lots similar to this request.

8

9 Mr. Parrett stated no, not if the lots that are along CR 200E cannot be further divided.

10

11 Mr. Hall stated that the Board cannot pre-judge any variance therefore the Board cannot say whether
12 a variance along CR 200E would be approved or not. He said that his belief that the variances for
13 the division of lots which are five acres or less that are within Pipeline Impact Radius are not likely
14 to be approved by this Board. Mr. Hall stated that he has the impression that Mr. Parrett does not
15 share his belief.

16

17 Mr. Parrett stated that Mr. Hall is correct because the variances were offered for the lots to begin
18 with on CR 200E.

19

20 Mr. Hall stated that a rezoning occurred and not variances.

21

22 Mr. Parrett stated that this is agricultural land in an agricultural area and it appears that there has
23 been a great influx of residential development in the area.

24

25 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Parrett and there was no
26 one.

27

28 Mr. Thorsland called Mr. Doug Turner to testify.

1
2 Mr. Doug Turner, who resides at 248 County Road 2500N, Mahomet, stated that his property is
3 adjacent to the subject property. He said that he too has concerns regarding the petitioner's response
4 to Finding of Fact #3 and it appears that by their answer the variance would be denied just for that
5 fact. He said that the Finding of Fact #4 is in regards to the intent of the Ordinance. He said that the
6 Ordinance indicates that five acres cannot be subdivided and that amendment went into effect in
7 2004 and the Keller's purchased the property in 2006 which is after the Ordinance was amended and
8 whether or not Mr. and Mrs. Keller were aware of the change in the Ordinance is not pertinent. Mr.
9 Turner stated that there are a lot of houses around his property and he agrees with Mr. Hall in that if
10 the other lots are within the Pipeline Impact Radius they may not be approved for division. He said
11 that if we look at Champaign County and the hundreds of five acre lots that could be divided and the
12 Board approves this request based on the current owner's ignorance then the owners of those five
13 acre lots could come before the Board requesting the same variance. He said that if the Board begins
14 granting these requests then it could be creating a monster and the Board should consider this fact
15 very seriously not just on this particular five acre lot but county wide.

16
17 Mr. Thorsland asked the Board if there were any questions for Mr. Turner and there were none.

18
19 Mr. Thorsland asked if staff had any questions for Mr. Turner.

20
21 Mr. Hall stated that the Board has, in the past, approved variances like this and it is very difficult to
22 have any two variances with the exact same condition but there have been variances authorized. He
23 said that there have been instances where the variances were denied.

24
25 Mr. Turner stated that one of these days the County has to take a stance. He said that if the County
26 has an Ordinance that indicates five acre lots then that limitation should be enforced because there
27 are a lot of properties for sale in the County which have already been divided.

28

1 Mr. Thorsland asked the Board and staff if there were any further questions for Mr. Turner and there
2 were none.

3
4 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Turner and there was no
5 one.

6
7 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
8 regarding Case 692-V-11, and there was no one.

9
10 Mr. Thorsland closed the witness register.

11
12 Mr. Hall stated that staff did insert testimony from the previous hearings into the Summary of
13 Evidence. He said that Ms. Keller's testimony regarding the special conditions or circumstances that
14 may apply. He said that the Summary of Evidence also includes Kevan Parrett's testimony and Doug
15 Turner's previous testimony regarding his concerns about the possible impacts on his livestock
16 facility.

17
18 Mr. Thorsland asked the Board if there was any testimony from tonight's public hearing which the
19 Board would like to add to the Summary of Evidence. He said that there are three special conditions
20 which have been proposed and they are as follows:

- 21
22 **1. The Zoning Administrator shall include a copy of Champaign County**
23 **Resolution No. 3425 with the Zoning Use Permit for the dwelling.**

24 To ensure that that farming should be expected on adjacent property and that it
25 is not considered a nuisance to neighboring properties.

26
27 Mr. Thorsland asked the petitioner if they agreed to Condition #1 and the petitioner stated that they
28 did agree.

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Mr. Thorsland asked the Board if they agreed to Condition #1 and the Board indicated that they did agree.

2. Any driveway on the proposed lot shall be more than 20 feet away from the west property line of said lot.

To help ensure that public safety by minimizing road safety concerns associated with the increased traffic.

Mr. Thorsland asked the petitioner if they agreed to Condition #2 and the petitioner stated that they did agree.

Mr. Thorsland asked the Board if they agreed to Condition #2 and the Board indicated that they did agree.

3. The curtain drain outlet must be at least 80 feet from a property line so as to not create a nuisance condition on adjacent property.

To prevent nuisance water problems on neighboring properties.

Mr. Thorsland asked the petitioner if they agreed to Condition #3 and the petitioner stated that they did agree.

Mr. Thorsland asked the Board if they agreed to Condition #3 and the Board indicated that they did agree.

Mr. Hall stated that a new Item #10 should be added to the Documents of Record as follows: Supplemental Memorandum dated November 3, 2011, with attachment.

1 **Findings of Fact for Case 692-V-11:**

2
3 From the documents of record and the testimony and exhibits received at the public hearing for
4 zoning case 692-V-11 held on July 28, 2011, October 13, 2011, and November 3, 2011, the Zoning
5 Board of Appeals of Champaign County finds that:

6
7 **1. Special conditions and circumstances DO exist which are peculiar to the land or**
8 **structure involved, which are not applicable to other similarly situated land and**
9 **structures elsewhere in the same district.**

10
11 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
12 structure involved, which are not applicable to other similarly situated land and structures elsewhere
13 in the same district because the petitioner had the intent of buying the lot to divide and did not realize
14 they could not divide the lot. She said that the subject property is a small parcel and is not being
15 farmed therefore the proposed use will not take any best prime farmland out of production.

16
17 **2. Practical difficulties or hardships created by carrying out the strict letter of the**
18 **regulations sought to be varied WILL prevent reasonable or otherwise**
19 **permitted use of the land or structure or construction.**

20
21 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
22 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
23 structure or construction because the structure, even though currently acting as a storage shed, was
24 purchased for their son to reside in and if the variance is not approved the son will not have
25 anywhere to live.

26
27 Mr. Thorsland stated that a second dwelling is not permitted in the Ordinance.

28

1 DO result from the actions of the applicant because they were not aware of the law.

2

3 Mr. Thorsland stated that the Ordinance was amended in 2004 and the Keller's purchased the
4 property in 2006.

5

6 Mr. Thorsland requested that Mr. Passalacqua stated his recommendation.

7

8 Mr. Passalacqua stated that the special conditions, circumstances, hardships, or practical difficulties
9 DO result from actions of the applicant because the Ordinance was in place prior to the petitioner's
10 purchase of the property.

11

12 **4. The requested variance, subject to the proposed special conditions, IS NOT in**
13 **harmony with the general purpose and intent of the Ordinance.**

14

15 Mr. Miller stated that the requested variance, subject to the proposed special conditions, IS NOT in
16 harmony with the general purpose and intent of the Ordinance because it is not the intent of the
17 Ordinance to establish residences in storage buildings.

18

19 Mr. Thorsland stated that the petitioner did not purchase the manufactured home to be a storage shed
20 in the first place. He said that the petitioner has turned the manufactured home into a storage shed
21 pending the outcome of this case.

22

23 Mr. Thorsland stated that perhaps it is not in harmony because the intent is to preserve the lot as one.

24

25 Ms. Capel stated that the intent is to preserve the agricultural characteristics of the district.

26

27 **5. The requested variance, subject to the proposed condition, WILL NOT be**
28 **injurious to the neighborhood or otherwise detrimental to the public health,**

1 **safety, or welfare.**

2
3 Mr. Thorsland stated that the requested variance, subject to the proposed special conditions, WILL
4 NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare
5 because the petitioner made efforts to address the concerns of surrounding agricultural activities.

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

10
11 Ms. Capel stated that the requested variance IS the minimum variation that will make possible the
12 reasonable use of the land/structure because it is the only way the petitioner can establish a second
13 residence on the parcel.

14
15 Mr. Passalacqua asked if reasonable use of the land/structure would be related to the existing primary
16 house. He said that the letter of the Ordinance is that there only be one residence on a five acre
17 parcel.

18
19 Mr. Hall stated that certain members of the Board may remember a zoning case east of Rantoul a few
20 years ago where the Board had the same situation. He said actually the case was inverse in that they
21 had converted a building into a second dwelling on the lot and the outcome of the variance was that
22 the County does allow accessory structures on a lot and can be used by people provided that they
23 don't constitute a second dwelling. He said that by terms of the Ordinance a dwelling has both a
24 kitchen and a bath. He said that he has not discussed this situation with Mr. and Mrs. Keller but as
25 long as the second structure does not have both a kitchen and a bath there can be someone staying in
26 the structure. He said that what he indicated previously was in error because the building which has
27 been modified into a storage shed can continue to have someone live in it and it would be called a
28 "mother-in-law cottage" and not a dwelling. He said that the structure will not be a dwelling unit

1 and it cannot be divided and it must remain as part of the property. He said that the way that the
2 Board has constructed the findings this variance cannot be approved and it has to be denied. He said
3 that so everyone understands this does not mean that what is happening on the property currently has
4 to stop. He said that he does have a problem with the existing grill that has been noted sitting
5 outside of the existing building and although the grill is not a kitchen he would encourage the owners
6 of the property to not have cooking in the vicinity of the eastern structure because it creates a
7 difficult situation. He said that the property cannot be divided once the variance is not granted but in
8 general what he understands is occurring on the property can continue to occur but there cannot be a
9 kitchen added onto the inside of the structure. He said that this is a difficult enforcement situation
10 but the Ordinance has allowed this practice for a long time and this is what staff always tells people
11 since he has been a member of the department.

12

13 Mr. Courson asked if the County Ordinance does not require an occupancy permit for someone to
14 live in a structure.

15

16 Mr. Hall stated that a compliance certificate is required. He said that the compliance certificate
17 allows staff to inspect and verify that the structure is not a dwelling but is just an accessory structure.
18 He asked Ms. Hitt, Zoning Officer, to indicate what staff normally calls these types of structures.

19

20 Ms. Hitt stated that normally staff would call these units accessory apartments.

21

22 Mr. Courson stated that this would be like having an apartment above a detached garage or next to
23 the house.

24

25 Mr. Hall stated yes, although the apartment cannot have a kitchen or a kitchenette and it is an
26 enforcement problem for staff.

27

28 Ms. Capel stated that someone could have a kitchen but not a bathroom.

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Mr. Hall stated yes.

Mr. Passalacqua asked what happens to the drainage requirements since there is no kitchen.

Mr. Hall stated that the Board cannot impose a condition if there is no variance granted.

Ms. Capel asked if finding #6 should be IS NOT.

Mr. Hall stated that this variance is the minimum for this to be a dwelling.

Mr. Thorsland read the Findings of Fact for the Board.

- 1. Special conditions and circumstances DO 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.**

Ms. Berry stated that Ms. Capel recommended that special conditions and circumstances DO 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 the petitioner had the intent of buying the lot to divide and did not realize they could not divide the lot. She said that the subject property is a small parcel and is not being farmed therefore the proposed use will not take any best prime farmland out of production.

Mr. Thorsland requested that the Board indicate a voice vote.

Five Board members agreed with Ms. Capel's recommendation for Finding #1 with two opposed.

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

Ms. Berry stated that Ms. Capel recommended that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the structure, even though currently acting as a storage shed, was purchased for their son to reside in and if the variance is not approved the son will not have anywhere to live.

Mr. Thorsland requested that the Board indicate a voice vote.

One Board member agreed with Ms. Capel's recommendation for Finding #2 with six opposed.

Mr. Thorsland stated that the Board has contradicted itself therefore perhaps the Board would like to revisit the finding.

Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL NOT prevent reasonable or otherwise permitted use of the land or structure or construction because the structure, even though currently acting as a storage shed, was purchased for their son to reside in and if the variance is not approved the son will not have anywhere to live.

Ms. Capel asked if the Board just decided that the use was not reasonable or permitted. She asked how the Board is to keep the finding consistent.

Mr. Hall stated that if the Board feels that granting the variance is reasonable then the Board should

1 stick with WILL.

2

3 Ms. Capel stated that she believes that Finding #2 should be WILL NOT because it is not a permitted
4 use of the land.

5

6 Mr. Thorsland stated that the second structure is not permitted to be used as a dwelling.

7

8 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of
9 the regulations sought to be varied WILL NOT prevent reasonable or otherwise permitted use of the
10 land or structure or construction because a second dwelling is not permitted in the Ordinance.

11

12 Mr. Thorsland requested that the Board indicate a voice vote.

13

14 **Seven Board members agreed with Mr. Thorsland's recommendation for Finding #2.**

15

16 **3. The special conditions, circumstances, hardships, or practical difficulties DO**
17 **result from actions of the applicant.**

18

19 Ms. Berry stated that Mr. Passalacqua stated that the special conditions, circumstances, hardships, or
20 practical difficulties DO result from actions of the applicant because the Ordinance was in place
21 prior to the petitioner's purchase of the property.

22

23 Mr. Thorsland requested that the Board indicate a voice vote.

24

25 **Seven Board members agreed with Mr. Passalacqua's recommendation for Finding #3.**

26

27 **4. The requested variance, subject to the proposed special conditions, IS NOT in**
28 **harmony with the general purpose and intent of the Ordinance.**

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Ms. Berry stated that Ms. Capel recommended that the requested variance, subject to the proposed special conditions, IS NOT in harmony with the general purpose and intent of the Ordinance because the intent is to preserve the agricultural characteristics of the district.

Mr. Thorsland requested that the Board indicate a voice vote.

Seven Board members agreed with Ms. Capel's recommendation regarding Finding #4.

- 5. The requested variance, subject to the proposed condition, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.**

Ms. Berry stated that Mr. Thorsland stated that the requested variance, subject to the proposed special conditions, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because the petitioner made efforts to address the concerns of surrounding agricultural activities.

Mr. Thorsland requested that the Board indicate a voice vote.

Six Board members agreed with Mr. Thorsland's recommendation regarding Finding #5 with one opposed.

- 6. The requested variance, subject to the proposed special conditions IS NOT the minimum variation that will make possible the reasonable use of the land/structure.**

1 Ms. Berry stated that Ms. Capel stated that the requested variance IS the minimum variation that will
2 make possible the reasonable use of the land/structure because it is the only way the petitioner can
3 establish a second residence on the parcel.

4

5 Ms. Berry stated that Mr. Passalacqua stated that reasonable use of the land/structure would be
6 related to the existing primary house. He said that the letter of the Ordinance is that there only be
7 one residence on the property.

8

9 Mr. Thorsland stated that the requested variance IS the minimum variation that will make possible
10 the reasonable use of the land/structure because it is the only way the petitioner could establish a
11 second residence on parcel. He said that the Board should remember that the requested variance is to
12 establish a second residence therefore the granting of this variance would allow the petitioner to do
13 that.

14

15 Mr. Hall stated that the second finding stated that practical difficulties or hardships created by
16 carrying out the strict letter of the regulations sought to be varied WILL NOT prevent reasonable or
17 otherwise permitted use of the land.

18

19 Mr. Thorsland stated that if the proposal is to go with IS NOT then the Board should use Mr.
20 Passalacqua's recommendation which is that the letter of the Ordinance is that there only be one
21 residence on the property.

22

23 Mr. Passalacqua stated that a reasonable use under today's standard would be the existing dwelling
24 with an accessory dwelling.

25

26 Mr. Thorsland stated that the requested variance IS NOT the minimum variation that will make
27 possible the reasonable use of the land/structure because the current configuration is a reasonable
28 use.

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Mr. Thorsland requested that the Board indicate a voice vote.

Seven Board members agreed with Mr. Thorsland's recommendation of Finding #6.

7. The special conditions imposed herein are required to ensure compliance with the criteria for special use permits and for the particular purposes described below:

1. The Zoning Administrator shall include a copy of Champaign County Resolution No. 3425 with the Zoning Use Permit for the dwelling.

To ensure that that farming should be expected on adjacent property and that it is not considered a nuisance to neighboring properties.

2. Any driveway on the proposed lot shall be more than 20 feet away from the west property line of said lot.

To help ensure that public safety by minimizing road safety concerns associated with the increased traffic.

3. The curtain drain outlet must be at least 80 feet from a property line so as to not create a nuisance condition on adjacent property.

To prevent nuisance water problems on neighboring properties.

Mr. Courson moved, seconded by Mr. Passalacqua 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. Miller to move to the Final Determination for Case 692-V-11. The motion carried by voice vote.

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Capel-yes **Courson-yes** **Miller-yes**
Palmgren-yes **Schroeder-yes** **Passalacqua-yes**
Thorsland-yes

Mr. Hall informed Mr. and Mrs. Keller that they have received a denial of the requested variance. He said that staff will get the paperwork out to them as soon as possible. He said that he is sure that Mr. and Mrs. Keller have questions regarding the property at this point and he suggested that they call the office in the morning to resolve those questions.

Mr. Thorsland stated that the Board will take a five minute recess.

The Board recessed at 8:33 p.m.
The Board resumed at 8:39 p.m.

Case 696-S-11 Petitioner: California Ridge Wind Energy LLC and the participating landowners listed in the legal advertisement. California Ridge Wind Energy LLC is wholly owned by Invenergy Wind North America LLC, One South Wacker Drive, Suite 1900, Chicago, IL, with corporate officers as listed in the legal advertisement. Request: Authorize a Wind Farm with consists of 30 Wind Farm Towers (wind turbines) in total with a total nameplate capacity of 48 megawatts (MW) of which 28 Wind Farm Towers with a total nameplate capacity of 44.8 MW are proposed in Compromise Township (Part A) and 2 Wind Farm Towers with a total nameplate capacity of 3.2 MW are proposed in Ogden Township (Part B), and including access roads, wiring, and public road improvements, and including the waivers of standard conditions in Section 6.1.4 as listed in the legal advertisement. Location: In Compromise Township the following sections are included with exceptions as described in the legal advertisement: Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33 of T21N, R14W of the 2nd P.M.; and Section 24, 25, and 36 of T21N, R10E of the 3rd P.M.; and Fractional Sections 30 and

1 **31 of T21N, R11E of the 3rd P.M. In Ogden Township the following sections are included with**
2 **exceptions as described in the legal advertisement: Fractional Section 6, T20N, R11E of the 3rd**
3 **P.M.; and Fractional Sections 4, 5, 6 and 7 of T20N, R14W of the 2nd P.M.; and Sections 8, 9,**
4 **and 16 of T20N, R14W of the 2nd P.M.**

5
6 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County
7 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will
8 ask for a show of hands for those who would like to cross examine and each person will be called
9 upon. He requested that anyone called to cross examine go to the cross examination microphone to
10 ask any questions. He said that those who desire to cross examine are not required to sign the
11 witness register but are requested to clearly state their name before asking any questions. He noted
12 that no new testimony is to be given during the cross examination. He said that attorneys who have
13 complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

14
15 Mr. Thorsland stated that anyone wishing to testify in this case must sign the witness register by
16 which they solemnly swear that they evidence to be presented at the hearing will be the truth, the
17 whole truth, and nothing but the truth, so help me God. He asked the audience if anyone desired to
18 sign the witness register at this time and there was no one. He stated that there will be other
19 opportunities during the public hearing for this case to sign the witness register.

20
21 Mr. Thorsland asked if the Petitioner desired to make a statement outlining the nature of their request
22 prior to introducing evidence.

23
24 Mr. Michael Blazer, legal counsel for the petitioner, stated that he plans to focus on the two issues
25 which caused the denial recommendation at the ZBA. He said that there has been a significant
26 revision to the Draft Reclamation Agreement since the version that the ZBA reviewed at their last
27 meeting. He said that the revision was based on the reading of the basis for the denial
28 recommendation and the focus on the concern of the possibility that someone with a collateral

1 position or security interest could somehow affect the County's rights on the decommissioning of
2 this project. He said that they provided an updated draft to Joel Fletcher, Assistant State's Attorney,
3 last week and the version that the Board has before them tonight is exactly like the one that was
4 submitted to Mr. Fletcher except for the attachments which are the exhibits referenced in the
5 agreement.

6
7 Mr. Blazer stated that additional language was added to address the concern regarding secured
8 parties. He said that Paragraph 7(a) and (b) are located on Page 7 of the Reclamation Agreement
9 dated November 2, 2011. He said that this language is to address the concern about the possibility
10 that someone with a security interest, lender, could assert their security interest in the event that in
11 25-years from now Invenergy has disappeared and abandonment is found to have occurred. He said
12 that Paragraph 7(a) provides that the obligation to perform the reclamation work shall constitute a
13 covenant running with the land. He said that this is consistent with Paragraph 6.1.1.A.2 of the
14 Ordinance which likewise requires that the reclamation obligation be a covenant running with the
15 land. He said that this is a very significant because it means that this obligation is superior to any
16 other person or interest that comes on to that land. He said that anyone who has an interest or takes
17 an interest in the property has that interest subject to the reclamation obligation. He said that to the
18 extent possible they wanted to minimize risk therefore proposing Paragraph 7(b) because over and
19 above the fact that anyone who has a security interest would have that interest subject to the covenant
20 running with the land therefore they would come behind the County's interest. He said that they also
21 included a requirement that any financing agreement that Invenergy enters into in regards to this
22 project would have to have an expressed acknowledgment of the reclamation obligation and
23 Invenergy cannot obtain a Zoning Use Permit from the County until they provide satisfactory
24 evidence that those financial risks have been eliminated for the County that any future lienholder
25 could step ahead of the County. He said that any future lienholder will be obligated if California
26 Ridge disappears to decommission the project just as if it were California Ridge. He said that if
27 anyone in the future steps into California Ridge's shoes with respect to the obligations under this
28 agreement and that is what Paragraph 7(a) and (b) does.

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Mr. Blazer stated that the second issue for the denial recommendation was noise. He said that the denial recommendation spoke in terms that there is a possibility that there could be a violation of the Illinois Pollution Control Board noise standards. He said that they thought at length about how Invenergy had addressed that issue and how could they address that issue. He said that the petitioner and the Board spoke for weeks and weeks about where noise is modeled and not enough time discussing about what the results of the modeling were.

Mr. Blazer stated that Tim Casey, Acoustic Engineer, sent a supplemental letter to the County confirming the impact of the noise model indicating that it is not just at a pinpoint but covers the entire residential portion of all of the properties that were modeled. He said that part of the reason why there was disconnect between everyone was because of the use of the phrase "property line noise standards." He said that the assumption became from a number of people that this meant that it is measured or modeled at the receiving property line and remember we have discussed the noise source and the receptor which would be the wind turbine and someone's home on a non-participating property which is more than 1,200 feet away. He said that in using the term property line noise standard it was assumed by some that what that meant was that it is modeled or measured at the property line of the receiving property and unfortunately that is not what property line noise standards mean. He said that property line noise standard means that the Illinois regulations in the *Illinois Environmental Protection Act* only regulates noise that goes beyond the emitters property line. He said that he could make as much noise as he wants on his own property but what he cannot do is cause noise to go outside of his property line in excess of the numerical limits that have been established by the Illinois Pollution Control Board. He said that Section 24 of the *Illinois Environmental Protection Act* indicates that no person shall emit beyond the boundaries of his property. Mr. Blazer stated that this is why it is caused a property line noise standard and that is where the regulations kick in. He said that Section 25 of the *Illinois Environmental Protection Act*, which is the place where the General Assembly authorizes the Illinois Pollution Control Board to enact regulations, indicates that the Illinois Pollution Control Board pursuant to the procedures

1 prescribed in Title 7 of this Act may adopt regulations prescribing limitations on noise emissions
2 beyond the boundaries of any person. He said that the regulations address noise that is emitted
3 beyond the boundary of the property.

4
5 Mr. Blazer stated that the question of where noise is measured or modeled to determine if the noise
6 exceeds the numerical limitations once the noise goes beyond the boundary of the property. He said
7 that there was an Illinois Appellate decision, which was discussed in a previous memorandum in
8 August that was submitted as a Document of Record, which came shortly after the IPCB regulations
9 were first adopted in 1976. He said that the case tracked the history of the adoption of the IPCB
10 regulations. He said that the original proposal in 1972, the proposal for the regulations, indicates that
11 the *Illinois Environmental Protection Act* was passed in 1970 which is what created the Illinois
12 Environmental Protection Agency and the Illinois Pollution Control Board. He said that the original
13 proposal set up a system of land use classification based on the standard land use coding manual
14 devised by the U.S. Department of Transportation which classified all land into classes A, B and C
15 corresponding to residential, business, and manufacturing uses. He said that at that time emissions
16 were to be measured at the property line of the emitter which meant that the original version of the
17 regulations as proposed would have measured the noise at the common property line. He said that
18 the final draft, subsequently approved and updated in 1972, incorporated several major changes in
19 the applicability of the numerical limits to various noise situations. He said that under the final
20 proposal emissions were to be measured at the point of reception not less than 25 feet from the event.

21 He said that this is the point that has been discussed at several meetings in that noise is not measured
22 at the property line, a concept which was rejected when the regulations were adopted, but at the point
23 of reception. He said that the report that is before the Board from Tim Casey along with his follow-
24 up letter discusses that he modeled at 260 specific points but the issue that became was what was the
25 breath of the modeling in terms of going beyond the house because the initial version of the report
26 that is attached to the application discusses measurement at the residence.

27
28 Mr. Thorsland asked the Board if there were any questions for Mr. Blazer.

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2 Ms. Capel asked if the obligation to decommission runs with a covenant to the land is there any
3 situation under which the landowner would be obligated to decommission.

4

5 Mr. Blazer stated in theory yes and this is a question which came up Tuesday evening however under
6 all of the easement agreements that Invenergy has with each of the landowners there are several
7 obligations. He said that Invenergy has an obligation to provide insurance of a minimum of \$5
8 million dollars and they have an obligation to indemnify the landowner for any and everything
9 having to do with the presence of the turbine on the landowner's land and Invenergy has an
10 independent obligation to decommission. He said that Invenergy is also required to provide the
11 landowner with financial assurance to secure that obligation. He said that the obligation running
12 with the land would in theory be enforced on the landowner himself but that obligation has been
13 assumed by Invenergy. He said that the easement agreements also run with the land and they would
14 also by operation be imposed on the lenders therefore if California Ridge disappeared the obligation
15 in the easement agreement would be assumed by the lender.

16

17 Mr. Blazer stated that the Committee of the Whole requested an additional condition related to the
18 Reclamation Agreement. He said that a discussion occurred regarding the use of roads at the time of
19 decommissioning because there will not be the same type of situation that would occur during the
20 beginning construction. He said that if the turbines are decommissioned and sold for scrap they are
21 going to be cut up on site and taken off the site. He said that the condition that was requested and
22 Invenergy agreed to was an obligation that if and when decommissioning has to occur, outside of
23 abandonment, Invenergy or its successor would be required at that time to enter into a road use
24 agreement to address any potential impacts on roads. He said that the language which is being
25 suggested is as follows as special condition 13.I.5: At such time as decommissioning takes place the
26 applicant, or its successor in interest, shall enter into a roadway use and repair agreement with the
27 relevant highway authorities. He said that this is somewhat similar to the upfront obligation that is in
28 the Ordinance currently but this would be a condition at the time of that abandonment or

1 decommissioning takes place. He said that the Committee of the Whole asked Sheryl Kuzma and
2 Jeff Blue and both township highway commissioners if this would be something that could be done
3 today and Ms. Kuzma stated that she does not have a crystal ball big enough to figure out how it
4 would be done and the people who will be involved are probably not even born yet.

5
6 Mr. Thorsland asked the Board if there were any additional questions for Mr. Blazer.

7
8 Mr. Courson stated that when the Board originally reviewed the Ordinance they had a lot of
9 participation from the public regarding noise and the Board originally set setbacks at 1,500 feet and
10 the County Board reduced those setbacks to 1,200 feet. He said that this was one of the reasons that
11 this Ordinance did not obtain a unanimous vote because there are members on the ZBA that are
12 highly concerned about the noise and that concern placed a lot of weight into their decision.

13
14 Mr. Blazer stated that Invenergy recognized that concern. He said that the Board has heard a lot
15 about micro-siting and the fact that Invenergy cannot submit a specific site plan today as to the exact
16 location where the turbines are going to be installed. He said that where the Ordinance has a
17 minimum setback of 1,200 feet from the principal residence or non-participating property with
18 respect to the micro-siting there is a condition that Invenergy has agreed to that takes that back to
19 1,350 feet. He said that they understand it and they recognize it and they have done their best to
20 address it and he believes that they have.

21
22 Mr. Thorsland entertained a motion to extend the meeting to 10:00 p.m.

23
24 **Ms. Capel moved, seconded by Mr. Palmgren to extend the November 3rd meeting to 10:00**
25 **p.m. The motion carried by voice vote.**

26
27 Mr. Thorsland called Kevin Parzyck to testify.

28

1 Mr. Kevin Parzyck, Vice-President of Development for Invenergy, distributed copies of a
2 PowerPoint presentation that he presented to the Committee of the Whole. He said that Slide 11 of
3 the presentation indicates that the Ordinance requires "Noise levels from each Wind Farm Tower or
4 Wind Farm shall be in compliance with the applicable IPCB regulations." He said that the IPCB
5 regulates emission of sound from any source located on any Class A, B or C land to any receiving
6 Class A land. He said that Class A land being the critical land that we have been discussing during
7 these meetings. He said that Class A land is defined as including residential property and can exist
8 with Class C land within a larger legal parcel. He said that the residential property includes the
9 swing set in the backyard or the pool but it would not extend to a barn or some other function. He
10 said that he is not a land use specialist but it is basically the area around the house.

11
12 Mr. Parzyck stated that Slide 12 indicates that the noise level must be in compliance "at any point
13 within" the receiving Class A land, not just at the edge or at the middle of the property line. He said
14 that if you have land but the noise analysis identifies your land as a point receptor, which means that
15 the noise level was only predicted at the house. He said that the letter from Tim Casey with HDR
16 indicates that the state-of-the-art environmental acoustic analysis utilized by HDR accounts for
17 variations across Class A land within rural properties and confirms compliance with the IPCB
18 regulations. He said that the engineering analysis identified the house but the noise level away from
19 the house is minimal when you are doing the analysis. He said that HDR's analysis that indicated
20 satisfactory noise levels at that point receptor accounts for the entire Class A land. He said that it
21 comes down to the engineering analysis that is done and are we talking about a point or the area and
22 going back and confirming with the engineer that it accounts for the area.

23
24 Mr. Parzyck stated that the methodology is used throughout Illinois for most of the wind farms in
25 Illinois as well as when IDOT does analysis for roadways next to homes. He said that the bottom
26 line is that this is all a predictor and California Ridge's responsibility is that they must be in
27 compliance regardless of what the engineering analysis indicates. He said that throughout the life of
28 the project they must meet the IPCB noise levels and they may not know where that level is within

1 the property but they have to meet it. He said that based on HDR's analysis, and Invenenergy's history
2 they are very comfortable investing hundreds of millions of dollars based on the analysis that they
3 will be in compliance with the IPCB noise levels. He said that during the operation of the wind farm
4 there may be a condition such as a mechanical bearing going bad therefore the wind turbine becomes
5 very loud possibly exceeding IPCB requirements. He said that Invenenergy must bring the turbine into
6 compliance based on the mechanical change that no one could have predicted therefore such an
7 occurrence is an ongoing responsibility that Invenenergy has. He said that if there are complaints they
8 will be addressed by Invenenergy's local operations facility to take noise levels and take the necessary
9 action to be in compliance and not in violation of the State and County regulations.

10
11 Mr. Thorsland asked the Board if there were any questions for Mr. Parzyck and there were none.

12
13 Mr. Thorsland asked if staff had any questions for Mr. Parzyck and there were none.

14
15 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Parzyck and there was no
16 one.

17
18 Mr. Hall distributed a new Supplemental Memorandum dated November 3, 2011, to the Board for
19 review. He said that memorandum outlines the minimum steps necessary to complete Case 696-S-11
20 tonight. He said that he will review the memorandum with the Board beginning with the
21 Recommendations Related to the Revised Draft Reclamation Agreement. He said that revised items
22 9.B(18)(a) *vi.* and *vii.* reads as follows: and *vi.* Further revised Reclamation Agreements were
23 received on October 13, 2011; October 18, 2011; October 19, 2011; October 20, 2011; and
24 November 2, 2011; and *vii.* The current proposed Reclamation Agreement was received on
25 November 2, 2011, after the case was remanded from the Champaign County Board Committee of
26 the Whole. The compliance with the Ordinance requirements are reviewed below and an overall
27 summary is provided at the end of this part.

1 Mr. Hall stated the new items 9.B(18)(k) and (l) are as follows: (k): the only substantive change to
2 the Revised Draft Reclamation Agreement received on November 2, 2011, is the addition of
3 paragraphs (7)(a) and (b) which do the following: i: the obligation to perform the Reclamation Work
4 is made a covenant running with the land and that makes any and all financing and/or security
5 agreements entered into by the Principal subject to that covenant; and ii: an all financing and/or
6 security agreements entered into by the Principal shall expressly provide that they are subject to the
7 foregoing covenant. Evidence of the same must be submitted to the Zoning Administrator prior to
8 any Zoning Use Permit. He said that new item (l) is as follows: The State's Attorney has advised
9 that the Revised Draft Reclamation Agreement received on November 2, 2011, is a clear
10 improvement over the previous Drafts but it does not eliminate all concerns about superior collateral
11 position nor is it possible to eliminate all concerns about superior collateral position.

12
13 Mr. Hall stated that revised special condition 13.1 and 7.1 is as follows: 1. Regarding the approved
14 Reclamation Agreement: A Reclamation Agreement is required at the time of application for a
15 zoning use permit that complies with the following: 1. The Revised Draft Reclamation Agreement
16 received on 11/2/11 with all required signatures including a guaranteed minimum amount of \$25,000
17 per turbine that shall be updated annually to reflect the known rate of inflation; and 2. The expenses
18 and values, including salvage value, as listed in the Base Decommissioning Cost Estimate received
19 10/06/11 and that is Attachment A to the Draft Reclamation Agreement received on 11/2/11; and 3.
20 An irrevocable letter of credit. If required by the County Board the letter of credit shall be provided
21 as multiple letters of credit based on the regulations governing federal insurance for deposit as
22 authorized in 6.1.4 P.4 (a) of the Ordinance; and 4. And escrow account that is at a mutually
23 acceptable financial institution that is either identified in the County Board determination of this
24 special use permit or included as a special condition of that determination, as authorized in 6.1.4
25 P.4(b)(1) of the Ordinance.

26
27 Mr. Hall stated that Mr. Blazer recommended a subparagraph #5 which reads as follows: At such
28 time as decommissioning takes place the applicant, or its successor in interest, shall enter into a

1 roadway use and repair agreement with the relevant highway authorities.
2
3 Mr. Hall stated that at the appropriate time the Board can adopt a new Finding of Fact 2.h. He said
4 that the memorandum indicates a draft version and the Board can vote for or against the revision. He
5 read new finding 2.h. as follows: The Reclamation Agreement provides
6 ADEQUATE/INADEQUATE assurance for decommissioning the wind farm {EVEN THOUGH
7 THERE IS SOME SLIGHT/BECAUSE OF THE} possibility that the lien holder's collateral position
8 could result in the County having to pay out of pocket to complete the decommissioning
9 {BECAUSE THE AMOUNT OF FINANCIAL ASSURANCE BEING PROVIDED SHOULD BE
10 ADEQUATE FOR ANY LIKELY CONDITION.} Mr. Hall stated that even if the Board believes it
11 is adequate it does admit that there is some doubt likewise since there is some doubt the Board could
12 find that it is inadequate.
13
14 Mr. Hall stated that memorandum includes recommendations related to compliance with the noise
15 standard. He said that new item 9.b.(11)(d) x.(viii) and (ix.) as follows: (viii): A letter dated
16 November 3, 2011, was received from Timothy Casey, Senior Environmental Scientist with HDR
17 Engineering, Inc. which can be summarized as follows: the purpose of the letter is to explain the
18 basis of a single modeled receptor per residence in the noise model HDR prepared for the California
19 Ridge project; and the modeled receptor is representative of the residential portion of the larger
20 parcel including the residence itself and it therefore adequately and appropriately represents the
21 entire residential portion of residential lots in the study area. He read 9.B.(11)(d)(ix): At the public
22 hearing on November 3, 2011, the Zoning Board of Appeals {ELIMINATED/AFFIRMED THE
23 NEED FOR} the waiver of standard condition 6.1.4I. Mr. Hall stated that he believes that if the
24 Board was back at its first meeting on this case he would not have included that waiver in the legal
25 advertisement.
26
27 Mr. Hall stated that if the ZBA determines that the waiver of 6.1.4I. is no longer required it should
28 eliminate item 12.D from the Summary of Evidence and eliminate waiver 6.D from the Finding of

1 Fact.

2
3 Mr. Hall stated that at the appropriate time the Board may adopt a new Finding of Fact 2.g. based on
4 the following: g. Noise impacts will {NOT BE INJURIOUS/BE INJURIOUS} to the District
5 because the petitioner {HAS/HAS NOT} clarified questions of compliance with the Illinois Pollution
6 Control Board standards regarding the noise standard anywhere within the receiving Class-A
7 property and because Champaign County shall enforce the Illinois Pollution Control Board noise
8 regulations as authorized in the Champaign County Zoning Ordinance including any violation that is
9 found to be consistent with the noise study included in the petitioner's application. Mr. Hall stated
10 that this is meant to confirm that the County hasn't had their own noise specialist review the noise
11 study and if there is a violation approving Case 696-S-11 does not approve the violation and the
12 County can come back and enforce that.

13
14 Mr. Hall stated that once the Board makes those changes based on those two changed items he
15 recommended that the Board review and adopt all final waivers although it is not necessary that the
16 Board reads each one but the Board needs to confirm that it is adopting the waivers. He said that the
17 Board should review and adopt all of the special conditions and again the Board does not need to
18 read through each one and only make it clear that there were reviewed and adopted. He said that the
19 Board should update the Documents of Record as follows: item #50: Revised Draft Reclamation
20 Agreement with attachments received on November 2, 2011; and item #51: Supplemental
21 Memorandum on Remand dated November 2, 2011, with attachments; and item #52 Letter dated
22 November 3, 2011, from Tim Casey, HDR Acoustics Program Manager; and item #53 Supplemental
23 Memorandum on Remand dated November 3, 2011, with attachments; and item #54: PowerPoint
24 presentation printouts submitted by Kevin Parzyck at the public hearing held on November 3, 2011.
25 Mr. Hall stated that once the Board adopts the Documents of Record the Board needs to go through
26 and read the Findings of Fact and make sure that the Board has appropriately coordinated them with
27 whatever the Board's findings are and once the Board has adopted the Findings of Fact the Board
28 should make a final determination that is consistent with those findings.

1

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

3

4 Mr. Thorsland called Ms. Deanne Sims to testify.

5

6 Ms. Deanne Sims, who resides at 2765 County Road 2500N, Penfield, stated that with all of the
7 language she is still not sure if Class-A and Class-B land has been defined. She said that at
8 Tuesday's meeting Mr. Blazer stated that generally Class-A land is 25 feet outside of the residence
9 and Mr. Parzyck stated that if there is a playground which sits on the property that property is
10 considered Class-A although if there is a building between the house and the playground the
11 playground would no longer be considered Class-A but would considered Class-C. She said that all
12 of the language regarding property lines, Class-A and Class-C land does not mean much if there is no
13 definition of what those terms mean and it appears to be very variable at this point as to who is doing
14 the reading and who is doing the interpreting. She said that she has a detached two-car garage on her
15 property and she would like to know how it would be classified and if the garage is considered Class-
16 C would her property taxes be lowered.

17

18 Mr. Hall stated that Ms. Sims' question is a complicated question. He said that he believes that Ms.
19 Sims' garage is a residential structure therefore it is his view that it would be considered Class-A but
20 that is inherent to the Illinois Pollution Control Board Regulations and it is unavoidable.

21

22 Mr. Thorsland asked the Board if there were any questions for Ms. Sims and there were none.

23

24 Mr. Thorsland asked if staff had any questions for Ms. Sims and there were none.

25

26 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Sims and there was no
27 one.

28

1 Mr. Thorsland called Mr. Blazer to the witness microphone to address Ms. Sims' concern.
2
3 Mr. Mike Blazer stated that he wished that he could give Ms. Sims a definitive answer. He said that
4 in terms of where the properties are defined, they are defined in the regulations. He said that the he
5 has mentioned the 1976 case and the SLUCM that would replace in 2002 with something called the
6 LBCS, Land Based Classification System. He said that those systems contain lists of uses divided by
7 Class-A, Class-B and Class-C. He said that unfortunately a garage is not specifically called out and
8 one of the examples that he discussed with Mr. Hall was a septic system. He said that one would
9 think that a septic system would be part of a residence but under the classification system it is not
10 and the septic system is considered Class-C, except that the septic system is connected to the house.
11 He said that the only time that the answer is defined is if someone contends that there has been a
12 violation of the numerical standards and either brings it to the County or the Illinois Pollution
13 Control Board. He said that an assessment is made as to where the violation is taking place, what the
14 decibel level is at that location and what the classification is of that particular location. He said that
15 if there is a house, a barn and a swing set beyond the barn disconnect was created between two
16 potential residential uses because the barn isn't a residential use and considered Class-C. He said
17 that the best that he can inform Ms. Sims is that Tim Casey confirms in his letter that the modeling
18 that has been done takes into account a much broader swath because it is not pinpoint specific. Mr.
19 Blazer stated that the modeling takes into account the entire residential usage. He said that the
20 definition as to what is considered Class-A, Class-B and Class-C is in the regulations and that is
21 what everyone has to follow. He said that he has checked the entire Illinois Pollution Control data
22 base, going back to the 70's, and the entire Illinois Appellate and Supreme Court Reports and found
23 that there has not been a single wind turbine noise case that has been reported in the State of Illinois
24 and that is because the analysis is done the same way every time and the wind companies are not in
25 the business of keeping people awake at night.
26
27 Mr. Thorsland asked the Board if there were any questions for Mr. Blazer and there were none.
28

1 Mr. Thorsland asked if staff had any questions for Mr. Blazer and there were none.
2
3 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Blazer and there was no
4 one.
5
6 Mr. Thorsland asked the audience if anyone desired to sign the witness register at this time to present
7 testimony regarding Case 696-S-11.
8
9 Mr. Thorsland called Sherry Schildt to testify.
10
11 Ms. Sherry Schildt, who resides at 398 County Road 2500N, Mahomet, stated that she is somewhat
12 confused about the new language in the Reclamation Agreement. She said that there is an obligation
13 to perform reclamation work hereunder shall constitute a covenant running with the land. She said
14 that the first sentence of the Reclamation Agreement indicates California Ridge Wind Energy LLC,
15 and the Landowners are firmly bound unto Champaign County, State of Illinois, as set forth in this
16 Reclamation Agreement to satisfy requirements of the Zoning Ordinance. Ms. Schildt asked that if
17 since the Reclamation Agreement runs with the land, in a worst case scenario, if California Ridge
18 LLC goes under and the lender are no longer solvent would the reclamation requirement fall upon
19 the shoulders of the landowner. She said that she does not know if this was intended or if it was an
20 oversight in the thinking because it appears that it would eventually, in worst case, fall upon the
21 landowner. She asked if the responsibility does fall upon the landowner and the landowner has
22 agreed to the responsibility does California Ridge LLC have the authority to sign the Reclamation
23 Agreement on the landowner's behalf. She also asked if the responsibility falls upon the landowner
24 would such a covenant be acceptable to local lending institutions or could it make it more difficult to
25 sell the land thus impacting land value.
26
27 Mr. Thorsland requested that Mr. Blazer address Ms. Schildt's concerns.
28

1 Mr. Michael Blazer stated that with respect to the most horrible case scenario concern he would
2 respond by indicating that this is why there is financial assurance. He said that Invenergy is
3 providing two levels of financial assurance which is to the County and to the landowner and those
4 financial assurances are separate and distinct and have nothing to do with each other. He said that
5 before 2008 he would have dismissed a notion that a lender who is able to lend \$400 million dollars
6 could go out of business but that was before the failure of Bear Stearns and Lehman Brothers. He
7 said that in regards to the covenant running with the land there are two things that must be noted: 1.
8 it is a requirement of the Ordinance that the covenant runs with the land; and 2. anyone who
9 purchases this property also assumes the rights under the wind easement agreements which include
10 Invenergy's obligation to provide insurance, obligation to indemnify the owner and the obligation to
11 provide the landowner with financial assurance with respect to the reclamation obligation. He said
12 that there is no way to eliminate every single risk but he will say that Champaign County has
13 received the best, longest and most protective and most expensive reclamation agreement than any
14 county in Illinois has ever gotten. He said that the Champaign Reclamation Agreement is the most
15 protective agreement that any wind company in Illinois has entered in to and it is the best that anyone
16 can do.

17
18 Mr. Thorsland asked the Board if there were any questions for Mr. Blazer and there were none.

19
20 Mr. Thorsland asked if staff had any questions for Mr. Blazer and there were none.

21
22 Mr. Thorsland requested that Ms. Schildt return to the witness microphone to continue her testimony.

23
24 Ms. Schildt stated that the financial assurance of the California Ridge Wind Energy LLC, is only as
25 good as the limited liability company is because some of the irrevocable letters of credit may not be
26 renewed. She said that she is still not sure whether or not the landowners are safe. She said that
27 even though she is not in favor of the waiver regarding the Illinois Pollution Control Board standards

1 she does believe that it is a good idea to eliminate it. She said that she is confused about Mr.
2 Blazer's testimony because on September 8, 2011, he stated that Waiver #8 requests to waive the
3 standard condition 6.1.4 I.1. that requires the noise level of each wind farm tower and that the wind
4 farm is to be in compliance with the Illinois Pollution Control Board regulations at the residential
5 property line rather than to be in compliance just at the dwelling. He said that he provided a
6 memorandum dated August 26, 2011, to John Hall for distribution at the September 1, 2011, public
7 hearing for Board review regarding the point of measurement for IPCB Noise Regulations. He said
8 that the Ordinance requires compliance with the IPCB noise regulations and those regulations require
9 the measurement to be at the residence and not at the property line. Ms. Schildt stated she was never
10 for one moment confused about property line noise source but was simply arguing that Mr. Blazer
11 indicated that the requirement was that the measurement is to be measured at the residence and not
12 the property line and she was indicating that it had to be at the property line of the Class-A property
13 and not the residence. She said that she is glad that Mr. Casey was able to clear this matter up but
14 she would like to point out that Mr. Blazer appears to be contradicting himself.

15
16 Mr. Thorsland asked the Board if there were any questions for Ms. Schildt and there were none.

17
18 Mr. Thorsland asked if staff had any questions for Ms. Schildt and there were none.

19
20 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Schildt and there was no
21 one.

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Mr. Thorsland called Ms. Debra Griest to testify.

Ms. Debra Griest, who resides at 1802 Cindy Lynn, Urbana, stated that she is concerned about new item #7(b) of the Reclamation Agreement and its long term management. She said that she has no problem with it being a covenant that runs with the land and no problem with the initial security agreement being placed on file. She said that she does have some question with the second sentence in new item 7(b) which reads as follows: Evidence of the same must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval. She said that the way that the language reads it only requires that the first, and only the first, financing agreement be placed on file with our Zoning Administrator and in the interest of zoning enforcement so that we are chasing our tail further down the road she asked the petitioner to consider an additional sentence or an amendment to that sentence that would require them to willingly file any refinancing agreement or subsequent financing agreement with the Zoning Administrator to maintain compliance with the permit.

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

Mr. Thorsland asked if staff had any questions for Ms. Griest and there were none.

Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Griest and there was no one.

Mr. Blazer stated that he would like to address Ms. Griest's concern.

Mr. Blazer stated that by the use of any and all he truly intended to make the agreement indicate what Ms. Griest stated. He said that rather than revising the Reclamation Agreement again, he would suggest adding a special condition #6 as follows: Applicant shall provide evidence of any new,

1 additional, or subsequent financial or security agreement to the Zoning Administrator throughout the
2 operating lifetime of the project.

3
4 Mr. Miller asked Mr. Blazer if there should be time period stated. He said that the proposed special
5 condition indicated throughout the lifetime of the project but does that mean one day before it goes
6 out of business or within 30 days of any changes.

7
8 Mr. Hall stated that he believes that, "throughout the lifetime of the project," means throughout the
9 lifetime of the special use permit. He said that the special use permit exists until there is
10 abandonment and at that point the County takes it over.

11
12 Ms. Capel asked Mr. Miller if he is indicating that a timeframe should be set for submission of any
13 new agreement.

14
15 Mr. Hall stated that there is already a provision for such therefore there is no use in repeating those
16 things.

17
18 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
19 regarding Case 696-S-11 and there was no one.

20
21 Mr. Thorsland stated that the Board will now review the new information included in the
22 Supplemental Memorandum dated November 3, 2011. He said that the Board needs to add items

1 9.B.(18)(a)vi. and vii. as indicated on the first page of the Supplemental Memorandum. He asked the
2 Board if there were any questions, comments or additions to the items and there were none.

3
4 Mr. Thorsland stated that the Board needs to add items 9.B.(18)(k) and (l) as indicated on page 2 of
5 the Supplemental Memorandum. He asked the Board if there were any questions, comments or
6 additions to the items and there were none.

7
8 Mr. Thorsland stated that the Board just reviewed the revised special conditions with the addition of
9 two additional conditions proposed by the applicant. He said that the language in special condition
10 #1 should include the following: "\$25,000 per turbine." He requested that Ms. Berry read new
11 special conditions #5 and #6.

12
13 Ms. Berry read the special conditions as follows: 5. At such time as decommissioning takes place the
14 applicant or it's successors in interest are required to enter into a Roadway Use and Repair
15 Agreement with the relevant highway authorities; and 6. Applicant shall provide evidence of any
16 new, additional, or subsequent financial or security agreement to the Zoning Administrator
17 throughout the operating lifetime of the project.

18
19 Mr. Thorsland stated that the petitioner previously agreed to the special conditions therefore he asked
20 the Board if there were any comments, questions, or additions to the special conditions and there
21 were none.

22
23 Mr. Thorsland stated that Page 3, of the Supplemental Memorandum dated November 3, 2011,
24 includes the suggested language for new Finding of Fact 2.h. as follows:

25
26 **h. The Reclamation Agreement provides ADEQUATE/INADEQUATE assurance**
27 **for decommissioning the wind farm (EVEN THOUGH THERE IS SOME**

1 **SLIGHT/BECAUSE OF THE} possibility that the lien holder's collateral**
2 **position could result in the County having to pay out of pocket to complete the**
3 **decommissioning {BECAUSE THE AMOUNT OF FINANCIAL ASSURANCE**
4 **BEING PROVIDED SHOULD BE ADEQUATE FOR ANY LIKELY**
5 **CONDITION.}**
6

7 Ms. Capel stated that the Reclamation Agreement provides ADEQUATE assurance for
8 decommissioning the wind farm EVEN THOUGH THERE IS SOME possibility that the lien
9 holder's collateral position could result in the County having to pay out of pocket to complete the
10 decommissioning because the amount of financial assurance being provided should be adequate for
11 any likely condition.

12
13 Mr. Thorsland requested that the Board indicate their vote by a show of hands.

14
15 **Four Board members agreed with Ms. Capel's recommendation for Finding of Fact 2.h. with**
16 **three opposed.**

17
18 Mr. Thorsland read new items 9.B.(11)(d)x.(viii) and (ix) on page 28 of the Supplemental
19 Memorandum dated November 3, 2011, as follows:

20
21 (viii) A letter dated November 3, 2011, was received from Timothy Casey, Senior
22 Environmental Scientist with HDR Engineering, Inc. which can be summarized as follows:

- 23 • the purposed of the letter is to explain the basis of single modeled receptor per
24 residence in the noise model HDR prepared for the California Ridge project.
25 • the modeled receptor is representative of the residential portion of the larger parcel
26 including the residence itself and it therefore adequately and appropriately represents
27 the entire residential portion of residential lots in the study area.

28 **The consensus of the Board was to add new item 9.B.(11)(d)x.(viii).**

1
2 (ix) At the public hearing on November 3, 2011, the Zoning Board of Appeals
3 {ELIMINATED/AFFIRMED THE NEED FOR} the waiver of standard condition
4 6.1.4L.

5 Ms. Capel stated that new item 9.B.(11)(d) x. (ix) should read as follows:

6 **(ix) At the public hearing on November 3, 2011, the Zoning Board of Appeals**
7 **ELIMINATED the waiver of standard condition 6.1.4L.**

8
9 Mr. Thorsland requested that the Board indicate their vote by a show of hands.

10
11 **Five Board members agreed with Ms. Capel's recommendation for new item 9.B.(11)(d)x.(ix)**
12 **with two opposed.**

13
14 Mr. Thorsland stated that since the waiver for 6.1.4L is no longer required the Board should also
15 eliminate item 12.D from the Summary of Evidence and eliminate waiver 6.D from the Finding of
16 Fact.

17
18 Mr. Thorsland read the recommended language for new Finding of Fact 2.g. as follows:

19
20 g. **Noise impacts will {NOT BE INJURIOUS/BE INJURIOUS} to the District**
21 **because the petitioner {HAS/HAS NOT} clarified questions of compliance with**
22 **the Illinois Pollution Control Board standards regarding the noise standard**
23 **anywhere within the receiving Class-A property and because Champaign**
24 **County shall enforce the Illinois Pollution Control Board noise regulations as**
25 **authorized in the Champaign County Zoning Ordinance including any violation**
26 **that is found to be consistent with the noise study included in the petitioner's**
27 **application.**

28

1 Ms. Capel stated that Noise impacts will NOT BE INJURIOUS to the District because the petitioner
2 HAS clarified questions of compliance with the Illinois Pollution Control Board standards regarding
3 the noise standard anywhere within the receiving class-a property and because Champaign County
4 shall enforce the Illinois Pollution Control Board noise regulations as authorized in the Champaign
5 County Zoning Ordinance including any violation that is found to be consistent with the noise study
6 included in the petitioner's application.

7
8 Ms. Capel asked Mr. Hall if it would be appropriate to replace "Class A property" with "residential
9 property."

10
11 Mr. Hall suggested that "residential" could be inserted in front of "property."

12
13 Ms. Capel agreed.

14
15 Mr. Thorsland read new Finding of Fact 2.g., as recommended by Ms. Capel, as follows:

16
17 **Noise impacts will NOT BE INJURIOUS to the District because the petitioner**
18 **HAS clarified questions of compliance with the Illinois Pollution Control Board**
19 **standards regarding the noise standard anywhere within the receiving class-a**
20 **"residential" property and because Champaign County shall enforce the Illinois**
21 **Pollution Control Board noise regulations as authorized in the Champaign**
22 **County Zoning Ordinance including any violation that is found to be consistent**
23 **with the noise study included in the petitioner's application.**

24
25 Mr. Thorsland requested that the Board indicate their vote by a show of hands

26
27 **Four Board members agreed with Ms. Capel's recommendation for new item 2.g. with three**
28 **opposed.**

1
2 Mr. Thorsland stated that the Board has reviewed the all of the final waivers therefore he is not going
3 to read each one tonight. He asked the Board if there were any comments regarding the final
4 waivers.

5
6 Mr. Hall stated that the final waivers are listed on pages 74-80 of the Summary of Evidence. He said
7 that the short version of the waivers is indicated on the first page of the Summary of Evidence dated
8 October 20, 2011, and reduced now to only five waivers because the Board just voted to delete
9 Waiver #4.

10
11 Mr. Thorsland requested that the Board indicate their vote for the final waivers by a show of hands.

12
13 **Four Board members agreed to adopt the final waivers with three opposed.**

14
15 Mr. Thorsland stated that the Board reviewed the special conditions and added new language. He
16 said that he is not going to read each one tonight. He said that the special conditions are listed on
17 pages 80-95 of the Summary of Evidence. He said that new items 5 and 6 were added to special
18 condition 13.I and 7.I. He said that the petitioner has agreed to all of the modifications to the special
19 conditions.

20
21 Mr. Thorsland requested that the Board indicate their vote for the amended special conditions by a
22 show of hands.

23
24 **Five Board members agreed to adopt the amended special conditions with two opposed.**

25
26 Mr. Thorsland stated that new items 50-54, as indicated on page 4 of the Supplemental
27 Memorandum dated November 3, 2011, should be added to the Documents of Record.

28

1 Mr. Hall stated that the date November 3, 2011, should be added to the first paragraph of the
2 Summary of Evidence and the Finding of Fact.

3
4 Mr. Thorsland directed the Board to Page 73 of the Summary of Evidence dated October 20, 2011.
5 He said that he will read the amended Findings of Fact.

6 **Finding of Fact for Case 696-S-11:**

7
8 From the documents of record and the testimony and exhibits received at the public hearing for
9 zoning case 696-S-11 held on August 25, 2011; September 1, 2011; September 8, 2011, September
10 29, 2011; October 6, 2011; October 13, 2011; October 20, 2011; and November 3, 2011, the Zoning
11 Board of Appeals of Champaign County finds that:

12
13 **1. The requested Special Use Permit, subject to the special conditions imposed**
14 **herein IS necessary for the public convenience at this location because it is**
15 **advantageous to have the wind energy project at this specific location where the**
16 **wind resource has been found appropriate for the use and the wind resource**
17 **and the existing electrical grid are favorable for this wind farm project.**

18
19 Mr. Thorsland requested that the Board indicate their vote for Finding #1 by a show of hands.

20
21 **Four Board members agreed with Finding #1 with three opposed.**

22
23 **2. The requested Special Use Permit, subject to the special conditions imposed**
24 **here, is so designed located, and proposed to be operated so that it WILL NOT**
25 **be injurious to the district in which is shall be located or otherwise detrimental**
26 **to the public health, safety, and welfare because:**

27
28 **a. the street has ADEQUATE traffic capacity and the entrance location has**

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- ADEQUATE** visibility.
- h. Emergency services availability is ADEQUATE.**
- c. The Special Use will be designed to CONFORM to all relevant County ordinances and codes.**
- d. The Special Use WILL be compatible with adjacent uses.**
- e. Surface and subsurface drainage will be ADEQUATE.**
- f. Public safety will be ADEQUATE.**
- g. Noise impacts will NOT BE INJURIOUS to the District because the petitioner HAS clarified questions of compliance with the Illinois Pollution Control Board standards regarding the noise standard anywhere within the receiving Class-A “residential” property and because Champaign County shall enforce the Illinois Pollution Control Board Regulations as authorized in the Champaign County Zoning Ordinance including any violation that is found to be consistent with the noise study included in the petitioner’s application.**
- h. The Reclamation Agreement provides ADEQUATE assurance for decommissioning of the wind farm EVEN THOUGH THERE IS SOME SLIGHT possibility that the lien holder’s collateral position could result in the County having to pay out of pocket to complete the decommissioning because the amount of financial assurance being provided should be adequate for any likely condition.**

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

Mr. Thorsland requested that the Board indicate their vote for finding #2 by a show of hands.

Four Board members agreed with Ms. Capel’s recommendation for finding #2 with three

1 **opposed.**

- 2
- 3 **3a. The requested Special Use Permit, subject to the special conditions imposed**
4 **herein, DOES conform to the applicable regulations and standards of the**
5 **District in which it is located.**

6

7 Mr. Thorsland requested that the Board indicate their vote for finding #3.a. by a show of hands.

8

9 **Four Board members agreed with finding #3.a. with three opposed.**

- 10
- 11 **3b. The requested Special Use Permit, subject to the special conditions imposed**
12 **herein DOES preserve the essential character of the DISTRICT in which it is**
13 **located because:**
- 14 **a. The Special USE will be designed to CONFORM to all relevant County**
15 **ordinances and codes.**
- 16 **b. The Special Use WILL be compatible with adjacent uses.**
- 17 **c. Public Safety will be ADEQUATE.**

18

19 Mr. Thorsland requested that the Board indicate their vote for finding #3.b. by a show of hands.

20

21 **Four Board members agreed with finding #3.b. with three opposed.**

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

36

37 Mr. Thorsland requested that the Board indicate their vote for finding #4 by a show of hands.

38

39 **Four Board members agreed with finding #4 with three opposed.**

40

41 Mr. Thorsland requested a motion to continue the meeting to 10:15 p.m.

1
2 **Ms. Capel moved, seconded by Mr. Palmgren to continue the November 3, 2011, meeting to**
3 **10:15 p.m. The motion carried by voice vote.**
4

5 Mr. Thorsland continued to finding #5.

6
7 **5. The requested Special Use IS NOT an existing nonconforming use.**
8

9 Mr. Thorsland requested that the Board indicate their vote for finding #5 by a show of hands.

10
11 **Five Board members agreed with finding #5 with two opposed.**
12

13 **6. Regarding necessary waivers of standard conditions:**
14

15 Mr. Thorsland stated that the Board previously adopted the necessary waivers of standard conditions
16 therefore he will not read the adopted waivers at this time.

17
18 **7. The special conditions imposed herein are required to ensure compliance with**
19 **the criteria for Special Use Permits.**
20

21 Mr. Thorsland stated that the Board previously adopted the special conditions therefore he will not
22 read the adopted special conditions at this time.

23
24 **Mr. Miller moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**
25 **Record and Finding of Fact as amended. The motion carried by voice vote.**
26

27 Mr. Thorsland requested a confirmation of the previous vote by the Board by a show of hands.

28
29 **Four Board members agreed with the previous motion with three opposed. The motion**
30 **carried.**
31

32 **Final Determination for Case 696-S-11:**
33

34 **Ms. Capel moved, seconded by Mr. Miller that the Champaign County Zoning Board of**
35 **Appeals finds that, based on the application, testimony, and other evidence received in this**
36 **case, that the requirements for approval of Section 9.1.11B. HAVE been met, and pursuant to**
37 **the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance,**
38 **determines that the Special Use requested in 696-S-11, is hereby GRANTED to the petitioners**
39 **California Ridge Wind Energy LLC and the participating landowners listed in the attached**
40 **public notice to authorize a Wind Farm consisting of 30 Wind Farm Towers (wind turbines) in**
41 **total with a total nameplate capacity of 48 megawatts (MW) in the AG-1 Zoning District of**

1 which 28 Wind Farm Towers with a total nameplate capacity of 44.8 MW are proposed in
2 Compromise Township (Part A) and 2 Wind Farm Towers with a total nameplate capacity of
3 3.2 MW are proposed in Ogden Township (Part B), and including access roads, wiring, and
4 public road improvements, subject to waivers of standard conditions and special conditions of
5 approval as follows:
6

7 **I. Waivers of Standard Conditions**

8 A. Waiver of the standard condition 6.1.4 D. 1 (a) that requires certificates of
9 design compliance from Underwriters Laboratories ("UL") or equivalent third
10 party.

11 B. Waiver of the standard condition 6.1.4 F.1. that requires a signed Roadway
12 Upgrade and Maintenance Agreement prior to the close of the public hearing
13 before the Zoning Board of Appeals.

14 C. Waiver of the standard condition 6.1.4 F.1u. that requires street upgrades be in
15 accordance with IDOT Bureau of Local Roads manual, 2005 edition.

16 D. Waiver of the standard condition 6.1.4 J. that requires the application to
17 contain a copy of the Agency Action Report from the Illinois Department of
18 Natural Resources Endangered Species Program.

19 E. Waiver of the standard condition 6.1.4 S.1.(c)(3) that requires that locations of
20 wind turbines for the Zoning Use Permit Application cannot increase the noise
21 impact over that approved in the special use permit.

22

23 **II. Special Conditions**

24 A. This special use permit authorized a Wind Farm as follows:

25 1. The type of wind turbine authorized as the General Electric 1.6-100
26 wind turbine with a hub height of 100 meters (328 feet) and a rotor
27 diameter of 100 meters (328 feet).

28 2. The maximum overall height of each WIND FARM TOWER shall be
29 492 feet.

30 3. The maximum number of WIND TURBINE TOWERS (wind turbines)
31 is 30 with a total nameplate capacity of not more than 48 megawatts
32 (MW) of which not more than 28 WIND FARM TOWERS with a total

1 nameplate capacity of not more than 44.8 MW are proposed in
2 Compromise Township (Part A) and not more than 2 WIND FARM
3 TOWERS with a total nameplate capacity of not more than 3.2 MW are
4 proposed in Ogden Township (Part B) and including access roads,
5 wiring, and related work on specified public roads (highways).

6 **B. The approved site plan consists of the following documents:**

- 7 1. California Ridge Wind Energy Project Champaign County Special Use
8 Permit Application received July 1, 2011.
- 9 2. Status Summary Map with Setbacks California Ridge Wind Energy
10 Center, Champaign and Vermilion Counties, received July 21, 2011 (an
11 excerpt of only the Champaign County portion
- 12 3. Champaign County Non-Participating Dwelling Separation Summary
13 map received July 29, 2011, Parcel.
- 14 4. Map of Conversation Recreation Zoning District and Incorporated
15 Municipality Setback Compliance received September 29, 2011.

16 **C. The County Board shall not make a final decision in Case 696-S-11 until it has**
17 **authorized the County Board Chair to sign the Roadway Upgrade and**
18 **Maintenance Agreement recommended by the County Engineer and received**
19 **copies of all necessary signed township road agreements.**

20

21 **D. The Roadway Upgrade and Maintenance Agreements shall require road repair**
22 **work to be performed in accordance with the IDOT Bureau of Local Roads**
23 **Manual, 2006 edition, and the IDOT *Standard Specification for Road and Bridge***
24 ***Construction*, but the relevant street jurisdiction may, on a case by case basis,**
25 **exercise their discretion to waive the BLR standards so long as public safety is**
26 **not compromised.**

27

28 **E. Construction activities to build the WIND FARM shall generally only occur**
29 **during the weekday daytime hours of 7AM to 10PM but never on Sunday,**
30 **provided, however, that construction activities may occasionally commence**
31 **earlier in the day if required but not earlier than 5AM. Those construction**
32 **activities include but are not limited to the following:**

- 1 1. **Construction of access roads**
- 2 2. **Delivery and unloading of WIND FARM equipment and materials**
- 3 3. **Excavation for and construction of WIND FARM TOWER foundations**
- 4 4. **Installation of WIND FARM wiring**
- 5 5. **Assembly of WIND FARM turbines**
- 6 6. **Erection of WIND FARM TOWERS**

7

8 **F. No NON-PARTICIPATING DWELLING or other PRINCIPAL STRUCTURE**
9 **shall receive more than 45 hours of shadow flicker per year.**

10

11 **G. This special use permit shall expire on the following dates and/or for the**
12 **following reasons:**

- 13 1. **If no zoning use permit application has been received by the Department**
14 **of Planning and Zoning by 4:30 PM on March 1, 2013, which is**
15 **consistent with the expiration deadline in the Roadway Upgrade and**
16 **Maintenance Agreements and the approved Reclamation Agreement; or**
- 17 2. **Upon completion of all decommissioning and reclamation requirements**
18 **of the WIND FARM Reclamation Agreement and the subsequent**
19 **release of the financial assurance required by 6.1.4 P. following the**
20 **requirements of a written agreement with the County.**

21 **H. To ensure that the WIND FARM TOWERS are located and constructed in**
22 **conformance with the approved site plan:**

- 23 1. **The Zoning Administrator shall not approve a Zoning Use Permit for**
24 **construction of a WIND FARM TOWER if the location indicated on the**
25 **Zoning Use Permit site plan differs from that in the approved site plan**
26 **for the special use permit as follows:**
- 27 (a) **The Zoning Use Permit location shall not differ more than 500**
28 **feet from the approved site plan for the special use permit except**
29 **that a WIND FARM TOWER more than 1,500 feet from a non-**
30 **participating PRINCIPAL STRUCTURE on the approved site**

1 plan for the special use permit shall not be approved to be less
 2 than 1,350 feet from that same STRUCTURE on a Zoning Use
 3 Permit; and provided that

4 (b) A WIND FARM TOWER that is 1,500 feet or less from a non-
 5 participating PRINCIPAL STRUCTURE on the approved site
 6 plan for the special use permit shall not be located less than 90%
 7 of that distance to the same STRUCTURE on a Zoning Use
 8 Permit; and provided that

9 (c) A new noise analysis meeting the requirement of 6.1.4 I. shall be
 10 submitted with the Zoning Use Permit for any WIND FARM
 11 TOWER with a new location that is less than 1,500 feet from a
 12 non-participating PRINCIPAL STRUCTURE; and provided that

13 (d) No separation to a non-participating property or PRINCIPAL
 14 STRUCTURE shall be less than the minimum required by the
 15 Ordinance.

16 2. Prior to excavation for any WIND FARM TOWER footing:

17 (a) The Applicant shall notify the Zoning Administrator when each
 18 WIND FARM TOWER location has been identified and marked
 19 on the ground so that the Zoning Administrator or a
 20 representative can verify that the location is consistent with the
 21 approved site plan in the special use permit case.

22 (b) The Zoning Administrator shall issue a WIND FARM TOWER
 23 Foundation Permit after verifying that the WIND FARM
 24 TOWER location is consistent with the approved site plan.

25 (c) The Applicant shall not excavate any WIND FARM TOWER
 26 footing until the WIND FARM TOWER Foundation Permit has
 27 been approved.

28
 29 I. A Reclamation Agreement is required at the time of application for a zoning use
 30 permit that complies with the following:

31 1. The Revised Draft Reclamation Agreement received on 10//20/11 with all
 32 required signatures including a guaranteed minimum amount of \$25,000
 33 per turbine that shall be updated annually to reflect the known rate of

- 1 inflation.
- 2 2. **The expenses and values, including salvage value, as listed in the Base**
3 **Decommissioning Cost Estimate received 10/06/11 and that is**
4 **Attachment A to the Draft Reclamation Agreement received on 10/20/11.**
- 5 3. **An irrevocable letter of credit. If required by the County Board the**
6 **letter of credit shall be provided as multiple letters of credit based on the**
7 **regulations governing federal insurance for deposit as authorized in 6.1.4**
8 **P.4(a) of the Ordinance.**
- 9 4. **An escrow account that is at a mutually acceptable financial institution**
10 **that is either identified in the County Board determination of this special**
11 **use permit or included as a special condition of that determination, as**
12 **authorized in 6.1.4P.4.(b)(1) of the Ordinance.**
- 13 5. **At such time as decommissioning takes place the applicant or it's**
14 **successors in interest are required to enter into a Roadway Use and**
15 **Repair Agreement with the relevant highway authorities.**
- 16 6. **Applicant shall provide evidence of any new, additional, or subsequent**
17 **financial or security agreement to the Zoning Administrator throughout**
18 **the operating lifetime of the project.**
- 19 J. **The following submittal submittals are required prior to the approval of any**
20 **zoning use permit for a WIND FARM TOWER.**
- 21 1. **Certification by an Illinois Professional Engineer or Illinois Licensed**
22 **Structural Engineer that the foundation and tower design of each WIND**
23 **FARM TOWER is within accepted professional standards, given local**
24 **soil and climate conditions, as required by 6.1.4 S. 1.(b).**
- 25 2. **A Transportation Impact Analysis provided by the applicant that is**
26 **acceptable to the County Engineer and the State's Attorney; and for**
27 **highways in Compromise Township is acceptable to the Compromise**
28 **Township Highway Commissioner; and for highways in Ogden**
29 **Township is acceptable to the Ogden Township Highway Commissioner,**
30 **as required by 6.1.4F.2.**
- 31 3. **A signed Reclamation Agreement in conformance with all special**
32 **conditions and waivers included in the special use permit approval.**
- 33 4. **A copy of the Recorded Covenant pursuant to 6.1.1 A. 2.**

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- 5. The telephone number for the complaint hotline required by 6.1.4Q.
- 6. A site plan for the installation of the specific WIND FARM TOWER indicating the specific proposed location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substation(s) and layout of all structures within the geographical boundaries of any applicable setback.
- 7. A copy of the approved access permit for the access road by the relevant highway jurisdiction.
- 8. A copy of any required permits for use of public highways by overweight vehicles.
- 9. A permanent soil erosion and sedimentation plan for all WIND FARM TOWER sites and access roads that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.
- K. A Zoning Compliance Certificate shall be required for each WIND FARM TOWER prior to the WIND FARM going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:
 - 1. An as-built site plan of each specific WIND FARM TOWER indicating the specific as-built location of the WIND FARM TOWER, other PRINCIPAL STRUCTURES within 1,500 feet separation, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the WIND FARM TOWER to the Substation(s), and layout of all structures within the geographical boundaries of any applicable setback.
 - 2. As-built documentation of all permanent soil erosion and sedimentation improvements for all WIND FARM TOWER sites and access roads prepared by an Illinois Licensed Professional Engineer.
 - 3. A copy of the approved as-built road by the relevant highway jurisdiction
- L. The California Ridge WIND FARM shall not begin commercial production of

1 energy until the Zoning Administrator has approved a Zoning Compliance
2 Certificate for the entire California Ridge WIND FARM based on submission
3 and acceptance of all of the following:

4 1. A Zoning Compliance Certificate has been approved for all WIND
5 FARM TOWERS approved in the Special Use Permit.

6 2. A copy of a certificate of design compliance for the General Electric 1.6-
7 100 wind turbine has been received from Underwriters Laboratories
8 ("UL") or an equivalent third party such as TUV NORD Group, as
9 authorized in 6.1.4 D. 1(a).

10 3. Documentation of compliance with all required post-WIND FARM
11 construction requirements has been received from the relevant highway
12 jurisdictions.

13 4. The Zoning Administrator has verified that information signs have been
14 erected at each WIND FARM accessway as follows:

15 a. The purpose of the signs shall be to publicize the telephone
16 number of the WIND FARM complaint hotline required by
17 6.1.4Q.

18 b. The minimum size of each sign shall be 2 feet by 2 feet.

19
20 M. The Applicant or Owner or Operator of the WIND FARM shall comply with the
21 following:

22 1. Cooperate with local fire protection districts to develop the districts
23 emergency response plan as required by 6.1.4 G. 2.

24 2. Take all reasonable steps to resolve complaints of interference caused by
25 the WIND FARM to microwave transmission providers, local emergency
26 service providers (911 operators), and broadcast residential television as
27 required by 6.1.4H.

28 3. Cooperate fully with Champaign County and in resolving any noise
29 complaints including reimbursing Champaign County any costs for the
30 services of a qualified noise consultant pursuant to any proven violation
31 of the I.P.C.B. noise regulations as required by 6.1.4 I.6.

- 1 4. **Complete all post-WIND FARM construction mortality studies on birds**
- 2 **and bats as required by 6.1.4 L.3. and as proposed in the *California***
- 3 ***Ridge Wind Energy Project Champaign County Special Use Permit***
- 4 ***Application received July 1, 2011, particularly pages 5-22 through 5-24,***
- 5 **and submit written reports to the Environment and Land Use**
- 6 **Committee at the end of the first two years of WIND FARM operation**
- 7 **and cooperate with the Environment and Land Use Committee in**
- 8 **resolving mortality concerns that might arise as required by 6.1.4 L.3(e).**

- 9 5. **Maintain a current general liability policy as required by 6.1.4N.**

- 10 6. **Submit annual operation and maintenance reports to the Environment**
- 11 **and Land Use Committee as required by 6.1.4 O.1.**

- 12 7. **Maintain compliance with the approved Reclamation Agreement**
- 13 **including replacement irrevocable commercial letters of credit as**
- 14 **required in the Reclamation Agreement.**

- 15 8. **Submit to the Zoning Administrator copies of all complaints to the**
- 16 **telephone hotline on a monthly basis and take all necessary actions to**
- 17 **resolve all legitimate complaints as required by 6.1.4Q.**

18

19 The roll was called:

20

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

24

25 Mr. Hall informed that petitioner that they have received a recommendation for approval therefore
26 the case will be forwarded to the County Board on November 17, 2011.

27

28 6. **New Public Hearings**

29

30 None

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7. Staff Report

None

8. Other Business
A. Review of the Docket

No review of the docket occurred.

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

None

10. Adjournment

Ms. Capel moved, seconded by Mr. Schroeder to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 10:07 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:** November 10, 2011

6 **PLACE:** Lyle Shields Meeting Room

7 1776 East Washington Street

8 Urbana, IL 61802

9 **TIME:** 6:30 p.m.

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

12 **MEMBERS ABSENT :** Brad Passalacqua

13 **STAFF PRESENT :** Lori Busboom, John Hall, Andrew Kass

14 **OTHERS PRESENT :** Neal Toler, William J. Jones, Alan Singleton, Letha Gast, Stephen
15 Gast, Martha Gast, Rhys Bater, Ben Shadwick, Phillip Jones, Justine
16 Becker, Julia Hall, Jean Fisher, Mark Fisher, Larry Hall, Khadyah
17 Horton, Asia Horton

18 **1. Call to Order**

19 The meeting was called to order at 6:30 p.m.

DRAFT

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

21 The roll was called and a quorum declared present with one member absent.

22 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
23 witness register. He reminded the audience that when they sign the witness register they are
24 signing an oath.

25 **3. Correspondence**

26 None

27 **4. Approval of Minutes (July 28, 2011 and September 15, 2011)**

28 Mr. Courson moved, seconded by Mr. Miller to approve the July 28, 2011 and September 15,
29 2011, minutes as submitted. The motion carried by voice vote.

30 **5. Continued Public Hearing**

31 Case 687-AM-11 Petitioner: Philip W. and Sarabeth F. Jones Request to amend the Zoning
32 Map to change the zoning district designation from CR Conservation Recreation to AG-1

1 **Agriculture.** Location: **An approximately 12.69 acre tract of land that is located in the North**
2 **Half of the South Half of the Northeast Quarter of Section 27 of Crittenden Township and**
3 **located on the west side of Illinois Route 130 (CR1600E) and 1,328 feet south of the**
4 **intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly known**
5 **as the property at 175N CR 1600E, Villa Grove.**

6
7 **Case 688-S-11 Petitioner: Philip W. and Sarabeth F. Jones Request to authorize the**
8 **construction and use of a "Heliport-Restricted Landing Area" as a Special Use on land that is**
9 **proposed to be rezoned to the AG-1 Agriculture Zoning District from the current CR**
10 **Conservation Recreation Zoning District in related zoning case 687-AM-11; and with a waiver**
11 **of a Special Use standard condition required by Section 6.1 that requires a runway safety area**
12 **to be located entirely on the lot. Location: An approximately 12.69 acre tract of land that is**
13 **located in the North Half of the South Half of the Northeast Quarter of Section 27 of**
14 **Crittenden Township and located on the west side of Illinois Route 130 (CR1600E) and 1,328**
15 **feet south of the intersection of Illinois Route 130 and CR 200N and County Highway 16 and**
16 **commonly known as the property at 175N CR 1600E, Villa Grove.**

17
18 Mr. Thorsland called Cases 687-AM-11 and 688-S-11 concurrently.

19
20 Mr. Thorsland stated that the petitioner has requested that both of these cases be continued to a date
21 in February. He said that the Board does not have a date certain for continuance in February because
22 the County Board has not approved their 2012 calendar. He entertained a motion for continuance.

23
24 **Mr. Palmgren moved, seconded by Mr. Courson to continue Cases 687-AM-11 and 688-S-11 to**
25 **the first meeting in February, 2012. The motion carried by voice vote.**

26 27 **6. New Public Hearings**

28
29 **Case 689-AM-11 Petitioner: Charles T. and Shelly Sollers Request to amend the Zoning Map**
30 **to allow for the establishment and use of 1 single family residential lot in the CR Conservation-**
31 **Recreation District by adding the Rural Residential Overlay (RRO) Zoning District. Location:**
32 **An approximately 6 acre tract of land that is located in the West Half of the North Half of the**
33 **Northeast Quarter of Section 27 of Crittenden township and that is located approximately one-**
34 **half mile west of the intersection of County Highway 16 and Illinois Route 130 and located on**
35 **the south side of County Highway 16 (CR 200N).**

36
37 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
38 witness register. He reminded the audience that when they sign the witness register they are
39 signing an oath.

40
41 Mr. Thorsland asked the petitioner if they desired to make a statement outlining the nature of their

1 request prior to introducing evidence.

2
3 Mr. Singleton stated that he had no additional comments or evidence to present at this time although
4 he will be happy to address any comments, questions, or concerns of the Board.

5
6 Mr. John Hall distributed a Supplemental Memorandum dated November 10, 2011, to the Board for
7 review. He said that in addition to the Supplemental Memorandum the Board has been presented
8 with a new Draft Summary of Evidence and a separate handout. He said that an assessment of Policy
9 4.3.1 has been added to the Summary of Evidence. He said that the Board has not seen this policy
10 assessment previously and it is sort of a policy that incorporates several other policies and staff did
11 not make a recommendation on the one aspect of the policy. He said that there are other policies
12 included in the Summary of Evidence that he does not believe that the Board went over previously
13 although he does believe that staff made a recommendation for most of those policies.

14
15 Mr. Hall stated that at the end of the last meeting there was a discussion in regards to the comments
16 by the Historic Preservation Agency and he had forgotten about that discussion until he was able to
17 review the minutes from that last meeting. He said that he drafted a condition but even if he had
18 remembered the discussion at the last meeting he would have probably drafted the condition anyhow
19 so that the Board had a condition in front of them to verify that they do not want to require a Phase I
20 survey. He said that the petitioner has complied with all of the requirements of the Ordinance and
21 they applied to the Historic Preservation Agency and the Historic Preservation Agency replied that
22 they would like to see a Phase I survey. Mr. Hall stated that requiring a Phase I survey is not a
23 requirement of the Ordinance and if the Board desires to require the Phase I survey then the draft
24 condition is available for the Board's review but if the Board does not want to require the Phase I
25 survey then the condition will not apply.

26
27 Mr. Hall stated that at the last meeting there was also discussion that it would be worthwhile to add
28 some evidence regarding the NPDES requirements for these sites and he agrees with that
29 recommendation. He said that the Board should include such evidence any time there is a
30 discretionary approval so that the petitioners are aware of these requirements which do apply even
31 though the County has not actually adopted an Ordinance to enforce it. He said that the separate
32 handout applies to both cases before the Board tonight and could be added as a new item #13 prior to
33 the special conditions in each case. He said that the draft condition is as follows: The petitioner
34 must file a Notice of Intent with the Illinois Environmental Protection Agency and prepare and
35 maintain onsite a Stormwater Pollution Prevention Plan (SWPPP) that conforms to the National
36 Pollutant Discharge Elimination System (NPDES) requirements for construction sites, during any
37 construction or regrading that disturbs an acre or more of land. Mr. Hall stated that if someone is
38 merely building a home he cannot imagine that they would disturb an acre or more of land unless
39 they really have a grand scheme. He said that as a practical matter he does not believe that this
40 creates a problem for any single family dwelling but if an acre is disturbed there is supposed to be a
41 Stormwater Pollution Prevention Plan on site at all times with a Notice of Intent at the beginning of

1 the project and a Notice of Termination at the end. He said that this is not a condition and merely
2 evidence so that the petitioner is made aware of it. He reminded the Board and the petitioner that on
3 Case 689-AM-11, if this case is recommended for approval and if it is approved by the County
4 Board, the rezoning itself will not resolve all of the issues on the property. He said that the rezoning
5 is a necessary step and it is the first step in getting any of the other issues resolved although he would
6 not want anyone to believe that the rezoning settles those issues.
7

8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.
9

10 Mr. Thorsland asked the petitioner if there was any information that he would like to add.
11

12 Mr. Alan Singleton, attorney for the petitioner, stated that he is assisting Mr. and Mrs. Sollers and
13 Mr. and Mrs. Shadwick work through the issues with respect to the RRO. He said that both cases are
14 pretty straight forward and Mr. Hall has provided a nice overview of the cases in the memorandums.
15 He said that his inclination would be to not have a Phase I survey but if the Board believes that such
16 a survey is important then they will go with it.
17

18 Mr. Thorsland asked the Board if there were any questions for Mr. Singleton and there were none.
19

20 Mr. Thorsland asked if staff had any questions for Mr. Singleton and there were none.
21

22 Mr. Thorsland stated that the Board should review the information in the memorandum, and the
23 Draft Summary of Evidence. He said that the new Supplemental Memorandum includes evidence
24 regarding conformance with County policies.
25

26 Mr. Hall stated that Policy 4.3.1 is the third agricultural objective and the Summary of Evidence
27 reviews Objectives 4.1 and 4.2. He said that Objective 4.3 is the overview of the overall suitability
28 of the property.
29

30 Mr. Thorsland read LRMP Goal 4 Agriculture, indicated on Page 15 of the Summary of Evidence as
31 follows: LRMP Goal 4 is entitled, "Agriculture" and is relevant to the proposed zoning because the
32 proposed rezoning includes land currently zoned AG-2 and proposed to be zoned B-4. Goal 4 states,
33 "Champaign County will protect the long term viability of agriculture in Champaign County and its
34 land resource base."
35

36 Mr. Hall stated that the previous statement was taken from a previous memorandum. He said that
37 the statement should be corrected to indicate that the land is currently zoned CR and is proposed to
38 be rezoned with the RRO overlay. He said that this error probably occurs in the Summary of
39 Evidence for Case 690-AM-11 as well. Mr. Hall stated that the numbering for the Summary of
40 Evidence should be corrected beginning with item #12 on Page 15 revised as item #24 and so on.
41

1 Mr. Thorsland read corrected item #24 as follows: LRMP Goal 4 is entitled, "Agriculture" and is
2 relevant to the proposed zoning because the proposed rezoning includes land currently zoned CR and
3 proposed to be zoned with the RRO overlay. Goal 4 states, "Champaign County will protect the long
4 term viability of agriculture in Champaign County and its land resource base." Mr. Thorsland asked
5 the Board to indicate if the proposed rezoning ACHIEVES/DOES NOT ACHIEVE Goal 4.

6
7 Mr. Courson indicated that the proposed rezoning ACHIEVES Goal 4.

8
9 The Board agreed with Mr. Courson's recommendation that the proposed rezoning ACHIEVES Goal
10 4.

11
12 Mr. Thorsland asked the Board if there was any disagreement with staff's recommendation that the
13 proposed rezoning ACHIEVES Objective 4.1 and Policy 4.1.1 and that Policy 4.1.1 DOES NOT
14 APPEAR TO BE RELEVANT to any specific Rural Residential Overlay map amendment.

15
16 The Board agreed with staff's recommendation that the proposed rezoning ACHIEVES Objective 4.1
17 and that Policy 4.1.1 DOES NOT APPEAR TO BE RELEVANT to any specific Rural Residential
18 Overlay map amendment.

19
20 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.1.6
21 and Policy 4.1.8.

22
23 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
24 4.1.6 and Policy 4.1.8.

25
26 Mr. Thorsland stated that Objective 4.2 is entitled "Development Conflicts with Agricultural
27 Operations" and states, "Champaign County will require that each discretionary review development
28 will not interfere with agricultural operations. He asked the Board if the proposed rezoning
29 ACHIEVES/DOES NOT ACHIEVE Objective 4.2.

30
31 Mr. Courson stated that the proposed rezoning ACHIEVES Objective 4.2.

32
33 The Board agreed with Mr. Courson's recommendation that the proposed rezoning ACHIEVES
34 Objective 4.2.

35
36 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.2.

37
38 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
39 4.2.2.

40
41 Mr. Thorsland stated that Policy 4.2.3 states, "The County will require that proposed discretionary

1 development explicitly recognize and provide for the right of agricultural activities to continue on
2 adjacent land. He said that staff recommends that the proposed rezoning CONFORMS to Policy
3 4.2.3.

4
5 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
6 4.2.3.

7
8 Mr. Thorsland stated that Policy 4.2.4 states, "To reduce the occurrence of agricultural land use and
9 non-agricultural land use nuisance conflicts, the County will require that all discretionary review
10 consider whether a buffer between existing agricultural operations and the proposed development is
11 necessary." He said that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.4.

12
13 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
14 4.2.4.

15
16 Mr. Thorsland stated the Objective 4.3 is entitled, "Site Suitability for Discretionary Review
17 Development" and states, "Champaign County will require that each discretionary review
18 development is located on a suitable site." Mr. Thorsland asked the Board if the proposed rezoning
19 DOES/DOES NOT achieve Objective 4.3.

20
21 Mr. Courson stated that the proposed rezoning DOES achieve Objective 4.3.

22
23 Mr. Thorsland stated that Policy 4.3.1 states, "On other than best prime farmland, the County may
24 authorize a discretionary review development provided that the site with proposed improvements is
25 suited overall for the proposed land use. He asked the Board if the proposed rezoning
26 CONFORMS/DOES NOT CONFORM to Policy 4.3.1 and if the subject property is SUITED/NOT
27 SUITED for residential development. This type of development is consistent with existing
28 development in the area.

29
30 Mr. Kass noted that the following text should be stricken from 1(a): This type of development is
31 consistent with existing development in the area.

32
33 Mr. Courson stated that the subject property is SUITED for residential development and that the
34 proposed rezoning CONFORMS to Policy 4.3.1 and therefore it DOES achieve 4.3.

35
36 The Board agreed with Mr. Courson's recommendation that the subject property is SUITED for
37 residential development and that the proposed rezoning CONFORMS to Policy 4.3.1 and therefore it
38 DOES achieve Objective 4.3.

39
40 Mr. Thorsland stated that Policy 4.3.3 states, "The County may authorize a discretionary review
41 development provided that existing public services are adequate to support to the proposed

1 development effectively and safely without undue public expense." He said that staff recommends
2 that the proposed rezoning CONFORMS to Policy 4.3.3.

3
4 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
5 4.3.3.

6
7 Mr. Thorsland stated that Policy 4.3.4 states, "The County may authorize a discretionary review
8 development provided existing public infrastructure, together with proposed improvements, is
9 adequate to support the proposed development effectively and safety without undue public expense."
10 He said that staff recommends that the proposed rezoning CONFORMS to Policy 4.3.4.

11
12 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
13 4.3.4.

14
15 Mr. Thorsland read the special conditions of approval as follows:

- 16
17 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
18 **comply with the requirements of the County Engineer for any required**
19 **driveway entrance.**
20 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
21 **documentation of the County Engineer's approval of the proposed driveway**
22 **entrance.**
23 **3. Construction related traffic shall not track mud onto the County Highway at**
24 **any time.**
25 **4. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
26 **without documentation of the County Engineer's approval of the constructed**
27 **driveway entrance including any necessary as-built engineering drawings.**

28
29 To ensure that **any driveway entrance complies with the County Engineer's**
30 **requirements.**

31
32 Mr. Thorsland asked the petitioner if they agreed to the proposed special conditions.

33
34 Mr. Singleton asked if the proposed special conditions are for both cases.

35
36 Mr. Hall stated yes.

37
38 Mr. Courson stated that he does not like proposed special condition #3. He said that in the rural
39 areas farmers are allowed to track mud on the roads during planting and harvest season and there are
40 no regulations to prohibit that type of traffic. He said that he understands that it is an EPA
41 regulation.

1
2 Mr. Hall stated that proposed special condition #3 is not due to the EPA regulation but because this
3 issue is the only thing that the County Engineer complains about. He said that whether proposed
4 special condition #3 exists or not the County Engineer will still enforce this issue.

5
6 Mr. Courson stated that he still does not agree with the proposed special condition but he is
7 comfortable with leaving it in.

8
9 Mr. Miller stated that the Board can only ask that the petitioner makes their best effort to not track
10 mud onto the County Highway.

11
12 Mr. Thorsland stated that the LRMP Policy 4.3.3 requires discretionary development and urban
13 development to explicitly recognize and provide for the right of agricultural activities to continue on
14 adjacent land. He said that the following condition is intended to provide for that:

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

18
19 The above special condition is necessary to ensure the following:

20 **Conformance with policies 4.2.3 and 5.1.5.**

21
22 Mr. Singleton agreed to the special condition.

23
24 Mr. Thorsland that it is at the Board's discretion whether or not a special condition is necessary
25 regarding the Phase I Archaeological Survey. He said that the Board has heard Mr. Hall's input on
26 this issue and reviewed input from the Illinois Historic Preservation Agency.

27
28 Mr. Miller asked if the petitioner's attorney previously indicated that the area has been built up.

29
30 Mr. Thorsland stated that the elevation plans indicate that the area has been built up for placement of
31 a home.

32
33 Mr. Miller stated that it seems contradictory to require a Phase I Archaeological Survey after the
34 natural terrain has been altered.

35
36 Ms. Capel stated that the entire lot was not disturbed.

37
38 Mr. Hall stated that this is one of the differences between Case 689-AM-11 and 690-AM-11. He
39 said that there are existing structures on the property for Case 689-AM-11 and those structures
40 require permits. He said that he would never propose that those structures would have to comply
41 with this condition even if the Board adopted this condition. He said that if the Board adopts this

1 condition the existing buildings will be exempted. He said that the Board could indicate that they are
2 not worried about construction on the elevated pad and the condition would apply elsewhere
3 although he does not expect construction to be elsewhere.
4

5 Mr. Capel asked if an RRO could be split again.
6

7 Mr. Hall stated that the lot could be split again if another RRO is approved. He said that the two
8 large lots together consist of 12 acres. He said that it is difficult to imagine that all of the area of
9 each lot would have this situation apply and the Board could just determine that this condition is not
10 necessary. He said that almost every RRO that the Board has seen has had a Phase I Archaeological
11 Survey. He said that this is the only RRO to come after the fact which means that the ground had
12 already been sold and some construction had occurred. He said that it is up to the Board whether or
13 not to require the condition or if at this point and time in this location the condition is not necessary.
14

15 Mr. Thorsland stated the first sentence in C.(3) indicates that the following: Except for structures
16 and uses that have already been established on the subject property. He said that one could infer that
17 the built up area was a use that has been established and it is being exempt from the Phase I
18 Archaeological Survey.
19

20 Mr. Hall stated that if the Board wants that particular understanding then C.(3) should be revised.
21

22 Mr. Thorsland asked Mr. Miller if he would prefer that language was inserted in the first sentence of
23 C.(3) as follows: Except for structures and uses including the elevated building site that have been
24 established on the subject property.
25

26 Mr. Miller stated yes.
27

28 Mr. Courson stated that he would vote to not require condition C.
29

30 Mr. Palmgren asked Mr. Hall to explain how extensive the Phase I Archaeological Survey is.
31

32 Mr. Hall stated that they go out and walk around on the site and they disturb the surface of the
33 ground enough to see if they find anything. He said that he is not clear as to how much digging is
34 done during Phase I but it is his understanding that they do not really do a lot of digging. He said
35 that the digging is primarily done if they find a high density of artifacts on the ground surface and
36 Phase II would entail excavation at some degree.
37

38 Ms. Capel asked if they are basically looking for arrowheads.
39

40 Mr. Hall stated yes.
41

- 1 Mr. Palmgren stated that it appears that it is not much of a problem unless they find something and
2 then there may be a problem.
3
- 4 Mr. Hall stated that Mr. Palmgren is correct but these are professional archaeologists getting paid
5 whatever professional archaeologists get paid because they have to prepare a report. He said that this
6 process is an effort and it is not necessarily cheap.
7
- 8 Mr. Thorsland stated that Mr. Palmgren is concerned that if the archaeologists find something a
9 Phase II Archaeological Survey will be required.
10
- 11 Mr. Palmgren stated that he is concerned whether a Phase I survey will trickle into a Phase II survey.
12
- 13 Mr. Hall stated that people generally chose not to complete a Phase II if there is any way to just live
14 around that area and not disturb it.
15
- 16 Mr. Thorsland stated that there is an RRO near his property and a Phase I Archaeological Survey was
17 completed and there were some places identified. He said that when the RRO was granted the owner
18 was informed that they could not build at those specific locations and no additional digging was
19 completed until the homes were built.
20
- 21 Mr. Palmgren asked if a Phase I survey has been completed in the general area around these lots.
22
- 23 Mr. Hall stated that if this was a rich area the response might have been more in depth than what the
24 petitioners received for these two lots.
25
- 26 Ms. Capel stated that the Board needs to decide whether or not they desire to set precedence that if
27 the property owner has already gotten started with construction they do not have to do an
28 archaeological survey.
29
- 30 Mr. Hall stated that would not be precedent stting as long as the Board makes it clear that they are
31 not making that decision just because the property owner has gotten started with construction.
32
- 33 Ms. Capel asked if the Board is considering this option for just the property related to Case 689-AM-
34 11.
35
- 36 Mr. Thorsland stated that at this point the Board is only discussing the property related to Case 689-
37 AM-11.
38
- 39 Mr. Thorsland asked the petitioner if the Phase I Archaeological Survey was a special condition is it
40 a special condition that they would agree to.
41

1 Mr. Singleton stated that he discussed this matter with Mr. Hall previously and Mr. Singleton was
2 ready to have the Phase I Archaeological Survey completed to get everything in order. He said that
3 he recently received an e-mail from Mr. Hall including the proposed special condition and he did
4 review it. He said that at this point he would like to get this case resolved and he would prefer to get
5 this matter taken care of and out of the way so that he is aware of what type of easement they are
6 talking about requiring. He said that his preference would be to not have this special condition
7 imposed but if the Board feels strongly about the special condition then they will accept it.

8
9 Mr. Thorsland asked Mr. Singleton if he would be comfortable with the special condition if the
10 Board revised it so that the Phase I Archaeological Survey had to be completed in some amount of
11 time but would not impede construction on the exempted parts, indicated in C.(3).

12
13 Ms. Capel stated that she would be comfortable with such a revision because it would require that
14 the Phase I Archaeological Survey be completed.

15
16 Mr. Hall stated that generally the Board does not have to require the Phase I Archaeological Survey
17 because the Board is normally just presented with the results. He said that Mr. Singleton is a very
18 easy attorney to work with but somehow the communication between them has become confusing.
19 Mr. Hall stated that he cannot imagine that he said anything other than he is not recommending a
20 Phase I survey and the Board may not require the petitioner to do a Phase I survey at all. He
21 apologized if the communication between himself and Mr. Singleton was not clear because he is very
22 sensitive to the fact that the Phase I survey is not an actual requirement.

23
24 Mr. Singleton stated that he is not placing any blame on Mr. Hall but it would be nice to get this
25 matter cleared up and be done with it.

26
27 Mr. Hall stated that if the areas that are already built up or already built upon are exempted then if
28 the petitioner never goes outside of those areas there will never be a need to complete a Phase I
29 survey.

30
31 Mr. Singleton stated that a special use permit would be required for the petitioner to be able to build
32 on the elevated portions of the property.

33
34 Mr. Hall stated that this would be another alternative. He said that the Board could make it apply if
35 the owner goes outside of those areas but if the owner does not go outside of those areas then it
36 would never have to be done.

37
38 Mr. Thorsland stated that normally the Board would have the Phase I Archaeological Survey results
39 for review before any construction was started but unfortunately construction has already started. He
40 stated that the special condition includes exemptions for the existing structures from the Phase I
41 survey therefore the Phase I survey could be triggered if the property owner decides to do any further

1 construction outside the elevated area.

2
3 Ms. Capel stated that any further construction would require a zoning use permit.

4
5 Mr. Hall stated that a zoning use permit is always required. He said that if the Board is willing to
6 accept the fact that both of the lots have been built up so that it is above the BFE and if the petitioner
7 never builds outside that area why would a Phase I survey be required.

8
9 Ms. Capel stated that she is interested in treating every RRO fairly and equally regardless if
10 construction has already started on the subject property.

11
12 Mr. Hall stated that most other RRO's are managed by an engineering firm that does this on a daily
13 basis and they just automatically complete the Phase I survey. He said that if there are new streets
14 involved the survey has to be done under State law. He said that in this case there are no State funds
15 being used for anything and there was no engineer involved and perhaps he should have informed the
16 petitioner to go ahead and have the Phase I survey completed but he does not have that authority.

17
18 Mr. Thorsland requested the Board's decision regarding proposed special condition C. He said that
19 there are two Board members who do not believe that the special condition is necessary and the
20 petitioner is on the fence either way.

21
22 Mr. Hall stated that he understands why Mr. Singleton does not like having this issue come up
23 because this may not be a matter of money but a matter of whether or not the property owner can
24 build on the lot or not.

25
26 Mr. Thorsland stated that Mr. Miller indicated that the lot has already been built up therefore if there
27 was something that the Phase I survey would have discovered in the area is now underneath
28 something else.

29
30 Mr. Miller stated that there are also existing structures on the property.

31
32 Mr. Thorsland stated that Case 690-AM-11 does not have existing structures therefore will the
33 petitioner be required to have the Phase I survey completed.

34
35 Mr. Hall stated that the subject property for Case 690-AM-11 also has an elevated pad.

36
37 Mr. Thorsland asked the Board if they desired to impose special condition C for both lots, just one of
38 the lots or not at all.

39
40 Mr. Courson stated that he is not in favor of special condition C. for either of the lots.

41

1 Mr. Thorsland stated he and Ms. Capel appear to be the only two Board members in favor of special
2 condition C. He said that perhaps what the Board should do is work through some of the LRMP
3 items and RRO items and require this special condition for future RRO's. He said that at this time it
4 appears that the Board will not require special condition C. at this time and it is not because the
5 Board is happy that the lot was built up. He said that the Board is unhappy that they cannot require
6 the special condition at this time.

7
8 Mr. Thorsland stated that the separate handout included new item #25 for Case 689-AM-11 and item
9 #26 for Case 690-AM-11 and should be added to the Summary of Evidence.

10
11 **Ms. Capel moved, seconded by Mr. Courson to approve the special conditions. The motion**
12 **carried by voice vote.**

13
14 Mr. Hall stated that a new item #4 should be added to the Documents of Record for Case 689-AM-11
15 as follows: 4. Handout with a new evidentiary item #13 (#25) on November 10, 2011. He said that a
16 new Document of Record #5 should be added indicating the following: Champaign County Right to
17 Farm Resolution No. 3425.

18
19 Mr. Thorsland closed the witness register for Case 689-AM-11.

20
21 **Finding of Fact for Case 689-AM-11:**

22
23 From the Documents of Record and testimony and exhibits received at the public hearing conducted
24 on June 16, 2011, August 11, 2011 and November 10, 2011, the Zoning Board of Appeals of
25 Champaign County finds that:

- 26
27 **1. The Proposed Site IS SUITED for the development of 1 residence despite the**
28 **subject property is located in the flood area.**

29
30
31 Mr. Palmgren stated that the Proposed Site IS SUITED for the development of 1 residence because
32 five existing homes are in the same general area. He said that the roads are adequate and convenient
33 and the land is not considered best prime farmland. He said that there is adequate well capacity for
34 fresh water and the soil is suitable for a waste water system despite the subject property is located in
35 the flood area.

- 36
37 **2. Development of the Proposed Site under the proposed Rural Residential**
38 **Overlay development WILL BE COMPATIBLE with surrounding agriculture.**

39
40 Ms. Capel stated that development of the Proposed Site under the proposed Rural Residential
41 Overlay development WILL BE COMPATIBLE with surrounding agriculture because of special

1 condition imposed regarding the Right to Farm Resolution No. 3425.

- 2
- 3 **3. The proposed Zoning Ordinance map amendment will help achieve the Land**
- 4 **Resource Management Plan because:**
- 5 **A. The proposed Zoning Ordinance map amendment IS NOT**
- 6 **NECESSARY to ACHIEVE any LRMP goal.**
- 7 **B. The proposed Zoning Ordinance map amendment will NOT HELP**
- 8 **ACHIEVE any LRMP goal(s).**
- 9 **C. The proposed Zoning Ordinance map amendment WILL NOT IMPEDE**
- 10 **the achievement of the other LRMP goal(s).**
- 11

12 Mr. Thorsland asked if Finding of Fact item #3 was new.

13

14 Mr. Hall stated that this is a new thing. He said that the Board needs to summarize the conformance

15 with the LRMP and obviously the Board does not need any given RRO to achieve the LRMP

16 therefore the Board could strike 3.A. He said that 3.B. asks if the map amendment will at least help

17 achieve any LRMP goals. He said that as an RRO it does help achieve Goal 4 because the Board

18 found that it does conform to all of Goal 4 or the Board could simply indicate that the map

19 amendment will not impede any of the goals. He said that if this not refined enough the Board could

20 leave it out of this RRO and it will be something that the Board can do a better job on next time.

21

22 Mr. Thorsland proposed that 3.A. and 3.B be stricken to keep it simple.

23

24 Ms. Capel agreed.

25

26 Mr. Thorsland read finding #3 as follows:

27

28 **The proposed Zoning Ordinance map amendment will help achieve the Land**

29 **Resource Management Plan because the proposed Zoning Ordinance map**

30 **amendment WILL NOT IMPEDE the achievement of the other LRMP goal(s).**

31

32 Mr. Hall stated that Finding of Fact #4 is another new item because theoretically every map

33 amendment is supposed to be correcting an error in the zoning map and he believes that this is a

34 good way to look at RRO's. He said that one of the justifications for adopting the RRO's was that

35 staff could not go around every square mile of the County and review every possible building site

36 therefore as the Board is presented with suitable sites for an RRO one way to think about that is that

37 it is correcting an error in the Ordinance. He said that this is the first time that staff has every

38 proposed Finding #4 and the Board is not obligated to include it in their finding.

39

40 Mr. Thorsland read Finding #4 as follows:

- 1 **4. The proposed map amendment WILL/WILL NOT correct an error in the**
2 **present Ordinance due to: The proposed site will have good access to a County**
3 **Highway, there will be little to no impact on agriculture, the land is not best**
4 **prime farmland, there are good soils for septic systems on the site but the**
5 **proposed site is completely within the flood plain.**
6

7 Mr. Thorsland stated that given Mr. Hall's comments and the Board's findings thus far WILL
8 probably would be an appropriate answer.

9
10 Ms. Capel stated that Finding #4 should be stricken because the flood plain is not an error.

11
12 Mr. Courson agreed with Ms. Capel.

13
14 Mr. Thorsland stated that he also agreed with Ms. Capel. He said that if "but" was changed to
15 "despite" then perhaps it would work better.

16
17 Mr. Hall stated that the Board is free to change the wording but he hopes this is consistent with the
18 two findings.

19
20 Ms. Capel agreed with Mr. Thorsland.

21
22 Mr. Thorsland read Finding #4 as follows:

- 23
24 **4. The proposed map amendment WILL correct an error in the present Ordinance**
25 **due to: The proposed site will have good access to a County Highway, there will**
26 **be little to no impact on agriculture, the land is not best prime farmland, there**
27 **are good soils for septic systems on the site despite that the proposed site is**
28 **completely within the flood plain.**
29

30 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and
31 Finding of Fact as amended.

32
33 **Mr. Courson moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of**
34 **Record and Finding of Fact as amended. The motion carried by voice vote.**

35
36 Mr. Thorsland entertained a motion to move to the Final Determination for Case 689-AM-11.

37
38 **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination for Case 689-**
39 **AM-11. The motion carried by voice vote.**

40
41 Mr. Thorsland informed the petitioner that a full Board is not present at tonight's meeting therefore it

1 is at the petitioner's discretion whether to request that the present Board move to the Final
2 Determination or request a continuance until a full Board is present.

3
4 The petitioner requested that the present Board move to the Final Determination.

5
6 **Final Determination for Case 689-AM-11:**
7

8 **Mr. Courson moved, seconded by Ms. Capel that the pursuant to the authority granted in**
9 **Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
10 **Champaign County determines that the Map Amendment requested in Case 689-AM-11**
11 **should BE ENACTED by the County Board subject to the following special conditions:**

- 12
- 13 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
- 14 **comply with the requirements of the County Engineer for any required**
- 15 **driveway entrance.**
- 16 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
- 17 **documentation of the County Engineer's approval of the proposed driveway**
- 18 **entrance.**
- 19 **3. Construction related traffic shall not track mud onto the County Highway at**
- 20 **any time.**
- 21 **4. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
- 22 **without documentation of the County Engineer's approval of the constructed**
- 23 **driveway entrance including any necessary as-built engineering drawings.**
- 24
- 25 **B. The owners of the subject property hereby recognize and provide for the right**
- 26 **to agricultural activities to continue on adjacent land consistent with the Right**
- 27 **to Farm Resolution 3425.**
- 28
- 29

30 The roll was called:

31			
32	Capel-yes	Courson-yes	Miller-yes
33	Palmgren-yes	Schroeder-yes	Thorsland-yes
34	Passalacqua-absent		
35			

36 Mr. Hall informed the petitioner that Case 689-AM-11 will be forwarded to the December 6, 2011,
37 County Board Committee of the Whole meeting.

38
39 **Case 690-AM-11 Petitioner: Benjamin Shadwick and Jennifer Shadwick Request to amend**
40 **the Zoning Map to allow for the establishment and use of 1 single family residential lot in the**
41 **CR Conservation-Recreation Zoning District by adding the Rural Residential Overlay (RRO)**

1 **Zoning District.** Location: **An approximately 5.3 acre tract of land that is located in the West**
2 **Half of the North Half of the Northeast Quarter of Section 27 of Crittenden Township and that**
3 **is located approximately 2,000 feet west of the intersection of County Highway 16 and Illinois**
4 **Route 130 and located on the south side of County Highway 16 (CR200N).**
5

6 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
7 witness register. He reminded the audience that when they sign the witness register they are
8 signing an oath.
9

10 Mr. Thorsland asked the petitioner if they would like to make a statement outlining the nature of
11 their request prior to introducing evidence.
12

13 Mr. Alan Singleton, attorney for the petitioner, stated that the only difference between this case and
14 the previous case is that there are no buildings on the property for this case.
15

16 Mr. Hall concurred with Mr. Singleton's comments.
17

18 Mr. Thorsland stated that the Board will review the Summary of Evidence for this case. He said that
19 item #12 on Page 15 of the Revised Draft Summary of Evidence is in regard to LRMP Goal 4
20 Agriculture. He said that Goal 4 states, "Champaign County will protect the long term viability of
21 agriculture in Champaign County and its land resource base."
22

23 Mr. Thorsland asked the Board to indicate if the proposed rezoning ACHIEVES/DOES NOT
24 ACHIEVE Goal 4.
25

26 Mr. Courson stated that proposed rezoning ACHIEVES Goal 4.
27

28 The Board agreed with Mr. Courson's recommendation that the proposed rezoning ACHIEVES Goal
29 4.
30

31 Mr. Thorsland asked the Board if there was any disagreement with staff's recommendation that the
32 proposed rezoning ACHIEVES Objective 4.1 and Policy 4.1.1 and that Policy 4.1.1 DOES NOT
33 APPEAR TO BE RELEVANT to any specific Rural Residential Overlay map amendment.
34

35 The Board agreed with staff's recommendation that the proposed rezoning ACHIEVES Objective 4.1
36 and Policy 4.1.1 and that Policy 4.1.1 DOES NOT APPEAR TO BE RELEVANT to any specific
37 Rural Residential Overlay map amendment.
38

39 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.1.6
40 and Policy 4.1.8.
41

1 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
2 4.1.6 and Policy 4.1.8.
3
4 Mr. Thorsland stated that Objective 4.2 is entitled, "Development Conflicts with Agricultural
5 Operations." He asked the Board if the proposed rezoning ACHIEVES/DOES NOT ACHIEVE
6 Objective 4.2.
7
8 Mr. Courson stated that the proposed rezoning ACHIEVES Objective 4.2.
9
10 The Board agreed with Mr. Courson's recommendation that the proposed rezoning ACHIEVES
11 Objective 4.2.
12
13 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.2.
14
15 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
16 4.2.2.
17
18 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.3.
19
20 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
21 4.2.3.
22
23 Mr. Thorsland stated staff recommends that the proposed rezoning CONFORMS to Policy 4.2.4.
24
25 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
26 4.2.3.
27
28 Mr. Thorsland stated that Objective 4.3 is entitled, "Site Suitability for Discretionary Review
29 Development" and states, "Champaign County will require that each discretionary review
30 development is located on a suitable site." Mr. Thorsland asked the Board if the proposed rezoning
31 DOES/DOES NOT achieve Objective 4.3.
32
33 Mr. Courson stated that the subject property is SUITED for residential development and that the
34 proposed rezoning CONFORMS to Policy 4.3.1 and therefore it DOES achieve Objective 4.3.
35
36 Mr. Thorsland stated that staff recommends that the rezoning CONFORMS to Policy 4.3.3 because
37 the existing public services are adequate and should not create an undue public expense.
38
39 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
40 4.3.3.
41

1 Mr. Thorsland stated that staff recommends that the rezoning CONFORMS to Policy 4.3.4. because
2 the road fronting the property is adequate to serve the needs of the proposed use and the amount of
3 traffic generated from the proposed use is minimal.

4
5 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
6 4.3.4.

7
8 Mr. Thorsland read the special conditions of approval as follows:

- 9
10 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
11 **comply with the requirements of the County Engineer for any required**
12 **driveway entrance.**
13 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
14 **documentation of the County Engineer's approval of the proposed driveway**
15 **entrance.**
16 **3. Construction related traffic shall not track mud onto the County Highway at**
17 **any time.**
18 **4. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
19 **without documentation of the County Engineer's approval of the constructed**
20 **driveway entrance including any necessary as-built engineering drawings.**

21
22 To ensure that any driveway entrance complies with the County Engineer's
23 requirements.

- 24
25 **B. The owners of the subject property hereby recognize and provide for the right**
26 **to agricultural activities to continue on adjacent land consistent with the Right**
27 **to Farm Resolution 3425.**

28
29 To ensure conformance with policies 4.2.3 and 5.1.5.

30
31 Mr. Thorsland asked the petitioner if they agreed to the proposed special conditions.

32
33 Mr. Singleton stated yes.

34
35 Mr. Thorsland asked the Board if they desired to require the Phase I Archaeological Survey indicated
36 in proposed special condition C.

37
38 The Board indicated that they do not desire to require the Phase I Archaeological Survey indicated in
39 proposed special condition C.

40
41 Mr. Thorsland requested a motion to approve the special conditions.

1
2 **Mr. Courson moved, seconded by Mr. Palmgren to approve the special conditions. The motion**
3 **carried by voice vote.**
4

5 Mr. Thorsland that the new separate handout including new item #14 (#26) should be added to the
6 Summary of Evidence. He said that new item #14 (#26) reads as follows: The petitioner must file a
7 Notice of Intent with the Illinois Environmental Protection Agency and prepare and maintain onsite a
8 Stormwater Pollution Prevention Plan (SWPPP) that conforms to the National Pollutant Discharge
9 Elimination System (NPDES) requirements for construction sites, during any construction or
10 regrading that disturbs an acre or more of land.
11

12 Mr. Hall stated that a new item #6 should be added to the Documents of Record for Case 690-AM-
13 11 as follows: 6. Handout with a new evidentiary item #13 (#26) on November 10, 2011. He said
14 that a new Document of Record #7 should be added indicating the following: Champaign County
15 Right to Farm Resolution No. 3425.
16

17 **Finding of Fact for Case 690-AM-11:**
18

19 From the Documents of Record and the testimony and exhibits received at the public hearing
20 conducted on June 16, 2011, August 11, 2011, and November 10, 2011, the Zoning Board of
21 Appeals of Champaign County finds that:
22

- 23 **1. The Proposed Site IS SUITED for the development of 1 residence despite the**
24 **subject property is located in the flood area.**
25

26 Mr. Palmgren stated that the Proposed Site IS SUITED for the development of 1 residence because
27 five existing homes are in the same general area. He said that the roads are adequate and convenient
28 and the land is not considered best prime farmland. He said that there is adequate well capacity for
29 fresh water and the soil is suitable for a waste water system despite the subject property is located in
30 the flood area.
31

- 32 **2. Development of the Proposed Site under the proposed Rural Residential**
33 **Overlay development WILL BE COMPATIBLE with surrounding agriculture.**
34

35 Mr. Courson stated that development of the Proposed Site under the proposed Rural Residential
36 Overlay development WILL BE COMPATIBLE with surrounding agriculture because of special
37 condition imposed regarding the Right to Farm Resolution 3425.
38

- 39 **3. The proposed Zoning Ordinance map amendment will help achieve the Land**
40 **Resource Management Plan because the proposed Zoning Ordinance map**
41 **amendment WILL NOT IMPEDE the achievement of the other LRMP goal(s).**

1
2 Mr. Thorsland stated that the proposed Zoning Ordinance map amendment will help achieve the
3 Land Resource Management Plan because the proposed Zoning Ordinance map amendment WILL
4 NOT IMPEDE the achievement of the other LRMP goal(s).

- 5
6 **4. The proposed map amendment WILL correct an error in the present Ordinance**
7 **due to: The proposed site will have good access to a County Highway, there will**
8 **be little to no impact on agriculture, the land is not best prime farmland, there**
9 **are good soils for septic systems on the site despite that the proposed site is**
10 **completely within the flood plain.**

11
12 Mr. Thorsland stated that the proposed map amendment WILL correct an error in the present
13 Ordinance due to: The proposed site will have good access to a County Highway, there will be little
14 to no impact on agriculture, the land is not best prime farmland, there are good soils for septic
15 systems on the site despite that the proposed site is completely within the flood plain.

16
17 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and
18 Finding of Fact as amended.

19
20 **Mr. Capel moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents**
21 **of Record and Finding of Fact as amended. The motion carried by voice vote.**

22
23 Mr. Thorsland entertained a motion to move to the Final Determination for Case 689-AM-11.

24
25 **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination for Case 690-**
26 **AM-11. The motion carried by voice vote.**

27
28 Mr. Thorsland informed the petitioner that a full Board is not present at tonight's meeting therefore it
29 is at the petitioner's discretion whether to request that the present Board move to the Final
30 Determination or request a continuance until a full Board is present.

31
32 The petitioner requested that the present Board move to the Final Determination.

33
34 **Final Determination for Case 690-AM-11:**

35
36 **Mr. Capel moved, seconded by Ms. Courson that the pursuant to the authority granted in**
37 **Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
38 **Champaign County determines that the Map Amendment requested in Case 689-AM-11**
39 **should BE ENACTED by the County Board subject to the following special conditions:**

- 40
41 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**

- 1 comply with the requirements of the County Engineer for any required
2 driveway entrance.
- 3 2. The Zoning Administrator shall not approve a Zoning Use Permit without
4 documentation of the County Engineer's approval of the proposed driveway
5 entrance.
- 6 3. Construction related traffic shall not track mud onto the County Highway at
7 any time.
- 8 4. The Zoning Administrator shall not issue a Zoning Compliance Certificate
9 without documentation of the County Engineer's approval of the constructed
10 driveway entrance including any necessary as-built engineering drawings.
- 11
- 12 B. The owners of the subject property hereby recognize and provide for the right
13 to agricultural activities to continue on adjacent land consistent with the Right
14 to Farm Resolution 3425.

15

16 The roll was called:

17

18 Courson-yes	18 Miller-yes	18 Palmgren-yes
19 Schroeder-yes	19 Capel-yes	19 Thorsland-yes
20 Passalacqua-absent		

21

22 Mr. Hall informed the petitioner that Case 689-AM-11 will also be forwarded to the December 6,
23 2011, County Board Committee of the Whole meeting.

24

25 6. **New Public Hearings**

26

27 None

28

29 7. **Staff Report**

30

31 None

32

33 8. **Other Business**

34 A. **Review of Docket**

35 Mr. Thorsland briefly reviewed the docket with the Board.

36

37 B. **October, 2011 Monthly Report**

38 Mr. Hall stated that the October, 2011 Monthly Report is not available for the Board's review at this
39 time.

40

41 Mr. Thorsland stated that tonight's meeting is Mr. Melvin Schroeder's last official meeting as a

1 member of the Zoning Board of Appeals.

2
3 Mr. Courson stated that at the last meeting he made an error in his vote for the wind farm. He said
4 that he erroneously voted that the wind farm was an existing nonconforming use and he would like to
5 correct his vote by indicating that the wind farm IS NOT an existing nonconforming use.

6
7 Mr. Hall stated that Mr. Courson's correction is on record in tonight's minutes.

8
9 **9. Audience Participation with respect to matters other than cases pending before the**
10 **Board.**

11
12 None

13
14 **10. Adjournment**

15
16 **Mr. Courson moved, seconded by Mr. Schroeder to adjourn the meeting. The motion carried**
17 **by voice vote.**

18
19 The meeting adjourned at 7:45 p.m.

20
21 Respectfully submitted

22
23
24
25
26 Secretary of Zoning Board of Appeals

27
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29
30
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32
33
34
35
36

2012 CHAMPAIGN COUNTY PLANNING & ZONING CALENDAR

Brookens Administrative Center
 1776 E. Washington Street
 Urbana, IL 61802
 Phone: (217) 384-3708
 FAX: (217) 819-4021

JANUARY						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JULY						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

County Holiday
 (Office Closed)



FEBRUARY						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
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AUGUST						
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Zoning Board of Appeals
 March – October: 7:00 p.m.
 November – February: 6:30 p.m.



MARCH						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
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SEPTEMBER						
S	M	T	W	Th	F	S
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30						

Environment and Land
 Use Committee:
 (Committee of the Whole) 6:00 p.m.
 Agenda Item Deadline:
 Check with the Department of
 Planning and Zoning



APRIL						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
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29	30					

OCTOBER						
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		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Champaign County Board
 7:00 p.m.
 All meetings are held in the Lyle
 Shields Meeting Room (formerly
 Meeting Room One) at the Brookens
 Administrative Center



MAY						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
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27	28	29	30	31		

NOVEMBER						
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18	19	20	21	22	23	24
25	26	27	28	29	30	

Note: No entrance to building from
 Washington Street parking lot after
 4:30 p.m. Use Northeast parking
 lot via Lierman Av. and enter
 building through Northeast door.

MEETING DATES AND TIMES
 ARE SUBJECT TO CHANGE

JUNE						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
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DECEMBER						
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2	3	4	5	6	7	8
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16	17	18	19	20	21	22
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30	31					