

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **March 12, 2015**
Time: **7:00 P.M.**
Place: **Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

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

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

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

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes: (February 12, 2015)
5. Continued Public Hearings

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

MEETING TIME: 7:00 p.m.

- *Case 796-V-14** Petitioner: **Steve Vincent and George Stanhope**
Request: **Authorize the following in the AG-1 District:
A variance from Paragraph 4.2.1.H of the Zoning Ordinance, which requires that
no structure shall be constructed nor use established upon or moved to a lot that
does not abut and have access to a public street of no less than 20 feet at a point at
which the lot has the right of access to the street on the following property.**
Location: **A 6.94 acre tract in Newcomb Township in the Southwest quarter of the Southeast
quarter of Section 15 of Township 21N, Range 7 East of the Third Principal Meridian
and commonly known as the residence located at 360 CR 2700N, Mahomet.**
- Case 769-AT-13** Petitioner: **Zoning Administrator**
Request: **Amend the Champaign County Zoning Ordinance by amending the Champaign County
Storm Water Management Policy by changing the name to Storm Water Management
and Erosion Control Ordinance and amending the reference in Zoning Ordinance
Section 4.3.10; and amend the Storm Water Management and Erosion Control
Ordinance as described in the legal advertisement which can be summarized as follows:**
- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15015 that
authorizes the County Board to have authority to prevent pollution of any
stream or body of water. (Part A of the legal advertisement)**
 - II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be
new Section 2 and add purpose statements related to preventing soil erosion
and preventing water pollution and fulfilling the applicable requirements of
the National Pollutant Discharge System (NPDES) Phase II Storm Water
Permit. (Part B of the legal advertisement)**
 - III. Add new Section 3 titled Definitions to include definitions related to fulfilling
the applicable requirements of the National Pollutant Discharge Elimination**

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
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Case 769-AT-13 cont.:

- System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)
- IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)
 - V. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion and water quality requirements that are required for all construction or land disturbance.
 - VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)
 - VII. Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)

Case 773-AT-14 Petitioner: **Zoning Administrator**

Request: **Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject Zoning Case 769-AT-13, by adding the following:**

- A. Add a requirement for a Grading and Demolition Permit for any grading or demolition that disturbs one acre or more of land or for any grading or demolition that is part of a larger common plan of development in which one acre or more of land disturbance will occur, and that is not related to any proposed construction.
- B. Add fees for Grading and Demolition Permits.
- C. Add required information to be provided in the application for a Grading and Demolition Permit.
- D. Add a requirement that any grading or demolition pursuant to a Grading or Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General Storm Water Permit for Construction.
- E. Add a requirement that any demolition pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- F. Add prohibitions against changing the flow of water and blocking the flow of water.
- G. Add other requirements related to Grading and Demolition Permits

6. New Public Hearings

7. Staff Report

8. Other Business

A. Review of Docket

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

10. Adjournment

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

2 **MINUTES OF REGULAR MEETING**

3 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

4 1776 E. Washington Street

5 Urbana, IL 61802

7 **DATE:** February 12, 2015

PLACE: Lyle Shield's Meeting Room
1776 East Washington Street

10 **TIME:** 6:30 p.m.

Urbana, IL 61802

11 **MEMBERS PRESENT:** Catherine Capel, Marilyn Lee, Brad Passalacqua, Jim Randol, Eric Thorsland

13 **MEMBERS ABSENT:** Debra Griest

15 **STAFF PRESENT:** Connie Berry, Susan Chavarria, John Hall
16 John Hall,

17 **OTHERS PRESENT :** Lloyd Allen, Keith Padgett, Jeff Breen, David Kieffer II, Karl Newman, Seth
18 Rients, William Simms, Steve Koester, Robert Frazier, Julia Duweese, Jeff
19 Turner, Andrew Tunstall, L. Reggie Johnson, Laura Schwenker, William
20 Goldshlag, Fuad Handal

23 **1. Call to Order**

24
25 The meeting was called to order at 6:30 p.m.

DRAFT

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

28
29 The roll was called and a quorum declared present with one member absent and one vacant seat.

30
31 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
32 the witness register for that public hearing. He reminded the audience that when they sign the witness
33 register they are signing an oath.

35 **3. Correspondence**

36
37 None

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39 **4. Approval of Minutes (January 15, 2015)**

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Mr. Thorsland entertained a motion to approve the January 15, 2015, minutes.

Mr. Passalacqua moved, seconded by Mr. Randol to approve the January 15, 2015, minutes.

Mr. Thorsland asked the Board if there were any corrections or additions to the minutes and there were none.

The motion carried by voice vote.

5. Continued Public Hearing

Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to 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 Historic Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy

1 of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the
2 Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of
3 the agency response.

4
5 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of the request.

6
7 Mr. John Hall, Zoning Administrator, requested that Case 685-AT-11 be continued to the April 30, 2015,
8 meeting.

9
10 Mr. Thorsland entertained a motion to continue Case 685-AT-11 to the April 30, 2015, meeting.

11
12 **Ms. Lee moved, seconded by Mr. Randol to continue Case 685-AT-11 to the April 30, 2015, meeting.**
13 **The motion carried by voice vote.**

14
15 **6. New Public Hearings**

16
17 **Case 792-V-14 Petitioner: Robert Frazier Request to authorize the following Variance from the**
18 **Champaign County Zoning Ordinance in the I-1 Light Industry Zoning District. Part A. Variance for**
19 **48 parking spaces as required by Section 7.4 of the Zoning Ordinance. Part B. Variance for a setback**
20 **of 50 feet and a front yard of 20 feet between the principal building and Tiffany Court in lieu of the**
21 **minimum required setback of 55 feet and the minimum required front yard of 25 feet as required by**
22 **Section 5.3 of the Zoning Ordinance. Location: Lot 4 of the Stahly Subdivision in the Southeast**
23 **Quarter of Section 8 of Champaign Township and commonly known as the former LEX building**
24 **located at 310 Tiffany Court, Champaign.**

25
26 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
27 the witness register for that public hearing. He reminded the audience that when they sign the witness
28 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this

1 time.

2

3 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his request.

4

5 Mr. Hall informed the Board that the petitioner had not arrived to the meeting yet therefore the Board may
6 want to rearrange the agenda and hear Case 793-S-14 as the first case of the meeting.

7

8 **Ms. Lee moved, seconded by Mr. Passalacqua to rearrange the agenda and hear Case 793-S-14 as the**
9 **first case of the meeting. The motion carried by voice vote.**

10

11 Mr. Thorsland informed the Board that Mr. Frazier had just arrived therefore he would entertain a motion to
12 return to the original order of the agenda and hear Case 792-V-14 at this time.

13

14 **Ms. Lee moved, seconded by Mr. Passalacqua to return to the original order of the agenda and hear**
15 **Case 792-V-14 at this time. The motion carried by voice vote.**

16

17 Mr. Robert Frazier, owner of 310 Tiffany Court, Champaign, stated that he purchased the property over 15
18 years ago and at that time he constructed a building which only had a standard two foot overhang. He said
19 that the entrances had no protection from snow, rain or wind therefore he built a roof over the sidewalk in
20 front of the building for protection from the weather but evidently the roof is in violation with the setbacks
21 and requires a variance. He said that it has come to his attention that parking is also an issue on the property.

22

23 Mr. Frazier stated that for over twelve years he operated a business called LEX at the property and he had
24 many more employees, traffic and buses than what he has now. He said that he is requesting a variance for
25 parking because the County's ordinance is requiring 50 some spaces and he only has 40 some spaces. He
26 said that he has been at this location for 20+ years and he has never seen more than 20 cars at one time at the
27 property and currently he only sees 10 cars per day.

28

1 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
2 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
3 of hands for those who would like to cross examine and each person will be called upon. He requested that
4 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
5 those who desire to cross examine are not required to sign the witness register but are requested to clearly
6 state their name before asking any questions. He noted that no new testimony is to be given during the cross
7 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
8 from cross examination.

9
10 Mr. Thorsland asked the Board if there were any questions for Mr. Frazier.

11
12 Ms. Lee asked Mr. Frazier why he constructed the bus garage without obtaining a Zoning Use Permit.

13
14 Mr. Frazier stated that during that period of time his mind was elsewhere.

15
16 Ms. Lee asked Mr. Frazier why, after being notified by staff, he did not obtain a Zoning Use Permit for the
17 construction that took place in 2014.

18
19 Mr. Frazier stated that Mr. Hall did contact him about the construction.

20
21 Mr. John Hall, Zoning Administrator, stated that Mr. Frazier's employee did submit a Zoning Use Permit
22 Application for the conversion of the use and it entailed extensive coordination with the Illinois EPA and
23 other agencies and it was never completed before the business, LEX, ended. He said that the Zoning Use
24 Permit was submitted late.

25
26 Ms. Lee asked Mr. Hall if the Zoning Use Permit Application was for the prior year's construction or the
27 construction completed in 2014.

1 Mr. Hall stated that he is discussing the construction of the bus garage that was completed in prior years. He
2 said that the application was submitted after the fact and after staff had contacted them and it was an
3 extensive application. He said that staff never got the extensive application reviewed completely before the
4 business went out of business.

5

6 Ms. Lee asked Mr. Hall if he had any information regarding a 2014 permit application.

7

8 Mr. Hall stated yes. He said that after staff contacted Mr. Frazier, staff received a Zoning Use Permit
9 Application with a site plan in a timely fashion and at that time staff informed Mr. Frazier that a variance
10 was required for the roof addition. He said that in both instances the Zoning Use Permit Application did
11 come after the fact but did come in very short order and review of those applications is the reason why we
12 are here tonight.

13

14 Mr. Passalacqua asked Mr. Hall to indicate the stage of construction when Mr. Frazier was notified that any
15 further construction should proceed at his own risk because a variance was required.

16

17 Mr. Hall stated that the roof/covered porch was almost completed.

18

19 Mr. Passalacqua stated that the roof/covered porch is complete at this time.

20

21 Mr. Hall stated yes. He said that the case is arriving at the Board late because staff was operating with a
22 part-time planner for the last year and due to the background information regarding the LEX property he did
23 not give this case to staff's new senior planner until after she was actually designated as the senior planner.
24 He said that it is staff's fault why this case is before the Board so late and not due to anything on Mr.
25 Frazier's part.

26

27 Mr. Passalacqua stated that the construction was started before receiving approval.

28

1 Mr. Hall stated yes, construction was started and essentially 90% completed prior to obtaining approval from
2 the County.

3
4 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Frazier and there
5 were none.

6
7 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Frazier and there was no one.

8
9 Mr. Thorsland called Lloyd Allen to testify.

10
11 Mr. Lloyd Allen, who resides at 3222 Stoneybrook Drive, Champaign, stated that he owns the property at
12 4400 W. Springfield Ave, Champaign, which is located beside Mr. Frazier's property. He said that for
13 various reasons he is totally opposed to allowing the variances to be approved. He said that the County's
14 system has worked for numerous years and even by allowing the variances Mr. Frazier still does not have
15 enough space in the front for the vehicles to park. He said that currently the tenants park on the sidewalk
16 that is present for people to walk upon therefore with the porch addition the sidewalk is hindered. He said
17 that the sidewalk was put there for the public to use and existed when the subdivision was developed. He
18 said that the bus garage/warehouse was built and still exists without a permit from the County. He said that
19 Mr. Frazier has repeatedly done things to the property without obtaining permits such as, cutting the
20 sidewalk and curbs out, removing "No Parking" signs, and has testified that he has done all of this for the
21 betterment and to improve property values. Mr. Allen stated that if Mr. Frazier was ever worried about
22 property values he would have never parked junk buses on the property for several years.

23
24 Mr. Allen stated that Mr. Frazier had previously made a statement that he never had problems with parking
25 before because he had leased the space up front where he had the junk parking and where all of his
26 employees parked. Mr. Allen said that there is a problem with parking in that because Mr. Frazier has one
27 tenant whose clients totally park in the street, a cul-de-sac that is designated for no parking. Mr. Allen said
28 that when Mr. Frazier had his buses there was still a parking problem because Mr. Frazier would park the

1 buses in the street and other businesses could not get large trucks through due to the buses being parked on
2 both sides.

3

4 Mr. Allen stated that the Zoning Ordinance has been in existence for numerous years and he sees no reason
5 to change the Ordinance and set precedence for future violations to occur.

6

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

8

9 Mr. Thorsland asked if staff had any questions for Mr. Allen.

10

11 Mr. Hall asked Mr. Allen if he observed any problems with people using the subject property having to park
12 on the street prior to the start of the LEX business.

13

14 Mr. Allen stated that prior to the start of the LEX business Mr. Frazier leased property from him which had a
15 very large parking area and at that time it was Bright Ideas. Mr. Allen said that Mr. Frazier went across and
16 built a building, which he received a permit for, and has completed additional construction without a permit.

17 Mr. Allen stated that the construction that Mr. Frazier has completed has created issues regarding
18 accessibility and a gas meter is located in the front which is a trip hazard to the public.

19

20 Mr. Hall stated that when LEX started and there was access from both lots, side by side, there was plenty of
21 parking area.

22

23 Mr. Allen stated no, because the buses were being parked on both sides of the street.

24

25 Mr. Hall asked Mr. Allen, if prior to that, there had been any parking problems that were noticed prior to the
26 LEX business.

27

28 Mr. Allen stated that he was not there prior to Mr. Frazier constructing the other building. Mr. Allen said

1 that when he purchased 4400 W. Springfield, Mr. Frazier was leasing space off of him and when his lease
2 was up is when Mr. Frazier built the other building at 310 Tiffany Court and is when the parking issues
3 started.

4
5 Ms. Lee asked Mr. Allen if the parking issues started when Mr. Frazier built the building that he did not
6 obtain a permit for.

7
8 Mr. Allen stated that in 2001 Mr. Frazier constructed the first building with a permit. He said that the
9 warehouse building which was constructed for the LEX business has been altered without permits. He said
10 that Mr. Frazier is installing concrete driveways with no consideration of where the water is going and is
11 forcing it onto adjacent properties requiring those owners to install storm drains to direct the water.

12
13 Mr. Passalacqua asked Mr. Allen where the curb cut is located.

14
15 Mr. Allen stated that the curb which existed since the creation of the subdivision was in front of the building
16 and now it has been taken out.

17
18 Mr. Thorsland stated that removal of the curb is what allows the cars to pull right off the street and up to the
19 building across the sidewalk.

20
21 Mr. Allen stated that Mr. Thorsland is correct. He said that currently there is a section of gravel that is in
22 between the street, gravel, sidewalk and concrete driveway. He said that they are driving through the gravel
23 which brings it onto the street which creates issues.

24
25 Mr. Passalacqua asked if the Champaign Township Road Commissioner has commented on the curb
26 removal.

27
28 Mr. Hall stated that he is sure that those comments will be received tonight.

1

2 Mr. Thorsland asked the Board if there were any additional questions for Mr. Allen and there were none.

3

4 Mr. Thorsland asked if staff had any additional questions for Mr. Allen and there were none.

5

6 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Allen.

7

8 Mr. Robert Frazier requested the opportunity to cross examine Mr. Allen.

9

10 Mr. Thorsland informed Mr. Frazier that the cross examination must be limited to only things that Mr. Allen
11 has testified about and no new evidence.

12

13 Mr. Frazier asked Mr. Allen if he is complaining about the curb being removed on Tiffany Court.

14

15 Mr. Allen stated yes.

16

17 Mr. Frazier asked Mr. Allen if gravel is being taken from his property onto the street.

18

19 Mr. Allen stated yes.

20

21 Mr. Frazier asked Mr. Allen if he had gravel in his parking lot and does it go onto the street at times.

22

23 Mr. Allen stated that he does have gravel on his parking lot and it does go onto the street at times but he is
24 not the one who cut the curb out.

25

26 Mr. Frazier stated that we are not here due to the curb being removed.

27

28 Mr. Thorsland reminded Mr. Frazier that he can only ask Mr. Allen questions regarding his testimony and

1 nothing more. He informed Mr. Frazier that the entirety of his case has to do with the property therefore if
2 the curb is part of the property the subject of removing that curb will come up.

3
4 Mr. Frazier stated that Mr. Allen indicated that he is pouring concrete and pushing water off onto adjacent
5 properties.

6
7 Mr. Allen stated that he did indicate that concrete driveways are being constructed and the water is flowing
8 onto adjacent neighbors.

9
10 Mr. Frazier asked Mr. Allen how the water flowed before from his property.

11
12 Mr. Allen stated that Mr. Frazier should know since he is pouring the concrete.

13
14 Mr. Thorsland informed Mr. Frazier that he is very strict in regards to cross examination because it will
15 never generate into an argument. He said that the Board will request that Mr. Frazier come back to the
16 testimony microphone to discuss the installation of concrete driveways and how it may have changed the
17 water flow and about the removal of the curb. He said that Mr. Allen testified that water appears to be
18 moving towards the neighbor's properties therefore the Board will question Mr. Frazier about this concern.
19 He informed Mr. Frazier that the public hearing is recorded by two different systems and copies of the
20 minutes will be available for review. He said that cross examination is a very limited process and it is not an
21 argument but an opportunity to ask a question to the witness regarding what they testified about and that is it.

22
23 Mr. Frazier asked Mr. Allen how often he sees cars being parked on the street.

24
25 Mr. Allen stated that there are a couple of evenings where the entire street and the cul-de-sac have cars
26 parked on them, including Mr. Frazier's. He said that Mr. Frazier parks on the street and the sidewalk and
27 he cannot park on his own property because there are not enough spaces available. Mr. Allen submitted
28 photographs of his parking concerns for the Board's review.

1

2 Mr. Frazier asked Mr. Allen to indicate what time of day and what days he is discussing.

3

4 Mr. Passalacqua stated that the photographs that were submitted as evidence indicate the date and time and
5 Mr. Frazier will have an opportunity to review those photographs shortly.

6

7 Mr. Thorsland stated that Mr. Allen testified that there were cars in the street and he has submitted
8 photographs to substantiate his testimony. He said that unless Mr. Frazier has a relevant question regarding
9 Mr. Allen's testimony the cross examination period is over. He said that he is very particular about cross
10 examination and he will not allow arguments to occur. He guaranteed Mr. Frazier that the Board will not
11 finalize this case tonight and that everyone will have another opportunity to present testimony.

12

13 Mr. Allen stated that Mr. Frazier has indicated that he has 48 parking spaces. He said that some of the
14 spaces that were listed have no access.

15

16 Mr. Thorsland stated that these will be questions that he is sure the Board will ask Mr. Frazier about this
17 concern.

18

19 Mr. Thorsland called Steve Koester to testify.

20

21 Mr. Steve Koester, owner of 305 Tiffany Court, Champaign, stated that his property is located on the north
22 side of Mr. Frazier's property and he also owns half of the property, along with Mr. Caleb Burton, that is
23 along the south side of Mr. Frazier's property. He said that the problem that occurred in the past, especially
24 when the buses were running, was that many, many times Mr. Koester's employees would have to call the
25 Champaign County Sheriff to have them come and relocate buses out of the middle of the road. He said that
26 he thought that the issue with the buses in the road would go away when LEX went away and he turned his
27 head when curbs were being cut and "No Parking" signs were removed so that the buses could park in the
28 street. He said that he has current photographs of buses on the property and it appears that Mr. Frazier is

1 going back into the bus business. He said that if this continues he will have a Sheriff's office representative
2 attend a meeting to discuss the multiple situations that Mr. Koester has had due to the street being blocked.
3 He said that an emergency vehicle would not be able to get to Mr. Koester's property, delivery trucks are
4 delayed, and employees are unable to access his property to report to work because his property is on the
5 north side of the subdivision. He said that the street, curbs, and sidewalks and all of the other infrastructure
6 was in place when he moved there over 20 years ago and to his knowledge no one ever gave permission for
7 anyone to remove any of the improvements that were inherent in the original subdivision. He said that he
8 has been very cautious on his property to make sure that all of the drainage has stayed intact and he was
9 shocked to see some of the things that have gone on. He said that with the buses going away he thought that
10 things would go back to normal and he want to get along with all of his neighbors but this has not been very
11 possible. He said that with the situation that Mr. Frazier has going on with this building, a full-size vehicle
12 cannot park in one of the parking spaces on the west side of his building, which is the entrance, without the
13 back end being on the sidewalk. He said that Mr. Frazier is very negligent to assure that his car is not clear
14 of the sidewalk, therefore how would we expect any of his patrons or tenants to be also. Mr. Koester
15 submitted photographs regarding his concerns.

16

17 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Koester.

18

19 Mr. Hall asked Mr. Koester if he could review what concerns he has today in regards to Mr. Frazier's
20 customers parking or not parking in the street. He said it appears that when customers park on the west side
21 of the building they are parking over the sidewalk. He asked Mr. Koester if there are parking situations still
22 in the street.

23

24 Mr. Koester stated yes. He said that one of the pictures shows a customer's vehicle parked in the cul-de-sac.
25 He said that he personally saw the customer walk into one of the businesses that Mr. Frazier is currently
26 leasing to. He said that he has seen as many as five or six vehicles parked in the cul-de-sac portion of the
27 street which makes it virtually impossible for a semi-truck or Fed-Ex delivery to occur to his property. Mr.
28 Koester stated that he has no objection to Mr. Frazier running his businesses and he believes that Mr. Frazier

1 should be free to do so but Mr. Frazier does not have enough land to support what he has going on there.
2 Mr. Koester stated that he believes that there are at least ten businesses operating on that little lot and Mr.
3 Frazier has built all of the buildings for mini-warehouses but he doesn't have enough room to support them.
4 Mr. Koester stated that he operates one business on his eleven acre property and it is amazing how many
5 parking spaces that his employees fill up and how many spaces his equipment fills up.

6
7 Mr. Hall asked Mr. Koester when he sees people parking on the street has he checked to see if there is
8 parking available on the Frazier property or are they parking in the street as a matter of personal
9 convenience.

10
11 Mr. Koester stated that he has not interviewed any of the people parking in the street but there used to be
12 "No Parking" signs on both sides of the street all the way back to the cul-de-sac and to Springfield Avenue.
13 He said that many of the "No Parking" signs have been removed.

14
15 Mr. Hall asked Mr. Koester if he has noticed a lot of vehicles on the Frazier property.

16
17 Mr. Koester stated yes. He said that the photographs indicate a bus, backhoe, and other pieces of equipment
18 which occupy the spaces that Mr. Frazier has indicated for parking although Mr. Koester stated that he does
19 not believe they are parking spaces but storage spaces. Mr. Koester stated that he has had many cases of
20 people parking on his south lot, south of Mr. Frazier's property, to go to the mini-warehouses and Mr.
21 Frazier's garbage service parks on Mr. Koester's property to dump Mr. Frazier's dumpster.

22
23 Mr. Hall asked Mr. Koester if the space on the west side, 20 feet of clearance, is adequate area to have a row
24 of parallel parking and a traffic aisle.

25
26 Mr. Koester stated that if reconfigured it is potentially adequate but one of the photographs indicates at least
27 six vehicles that were parked in front of Mr. Frazier's building and three of those vehicles were parked on
28 the sidewalk and one entirely blocked the sidewalk and that vehicle belonged to Mr. Frazier.

1

2 Mr. Passalacqua asked Mr. Hall to indicate how many Zoning Use Permits for businesses have been
3 approved for Mr. Frazier's property. He said that Mr. Koester testified that there may be ten businesses
4 operated on the property.

5

6 Mr. Hall stated that there could be but the key thing is that there is only one building and it is divided into
7 different uses and he doesn't expect that his office knows everything that is going on there. He said that the
8 only uses that staff is aware of are the self-storage warehouses and the offices on the west side. He said that
9 when someone adds a new use, whether it is construction or not, they are supposed to check with the office
10 to make sure that they meet all of the County's requirements. He said that he has no belief or expectation
11 that businesses will check with us that often but sooner or later it eventually catches up with the property
12 owner.

13

14 Mr. Passalacqua asked Mr. Hall if the parking space requirements are based on square footage of the
15 building and not each use that is going on inside of the building.

16

17 Mr. Hall stated that the parking requirements are sometimes based on the amount of building area for that
18 use but as the memorandum reviewed when it comes to parking areas for warehouses it reverts to the
19 industrial standard which is based on the number of employees. He said that one aspect of this case is if this
20 Board believes that Zoning Administrators have been using an improper standard for self-storage parking it
21 would be relevant to this case.

22

23 Mr. Passalacqua stated that his question is more along the lines of whether we have a tally sheet as to how
24 many parking spaces are required for each use going on inside of the building. He said that such a tally sheet
25 could exceed the number of parking spaces indicated by staff which was one spot for every three units.

26

27 Mr. Hall stated that one space for every three units was for the self-storage. He said that the office area is
28 one space per every 200 square feet and it is his understanding that there is no office space for Mr. Frazier

1 and the ten businesses that he may or may not be running. He said that if in fact there is some amount of
2 office area for Mr. Frazier then that is information that staff does not have and that information could add
3 additional parking requirements. He said that sometimes it is a challenge for staff to obtain all of the
4 information that they are supposed to receive.

5
6 Mr. Passalacqua stated that there is a number of spaces that staff would like to see and obviously there are
7 not enough for that therefore is there a shortfall for the number of required spaces and perhaps more are
8 required than what was previously suggested.

9
10 Mr. Hall stated that since this is a variance case the Zoning Board of Appeals has the power than what staff
11 has on a daily zoning administration basis. He said that our parking requirements are simply parking
12 requirements and there is also an overall average of 300 square feet per space and he believes that the 48
13 spaces are adequate. He said that this is not to say that the parking is accessible parking, convenient parking
14 or that it follows best practice in the way it is laid out but when there is a variance the Board can set a
15 standard. He said that when the Board reviews the parking that Mr. Frazier has indicated on his submitted
16 plan, if the Board agrees with Mr. Koester and Mr. Allen that some of those parking spaces should not be
17 counted, then the Board should indicate such at the public hearing.

18
19 Mr. Passalacqua stated that the reflection on the drawing indicates the parking spaces as parallel and the
20 photographs that were submitted do not indicate vehicles parked in a parallel fashion.

21
22 Mr. Hall stated that he believes that the orientation of the parked vehicles is due to the removal of the curb.
23 He said that if there were a barrier curb present there would be no parking like that shown in the
24 photographs.

25
26 Ms. Lee stated that Mr. Koester indicated that there were ten businesses being operated on Mr. Frazier's
27 property. She asked Mr. Koester if he could indicate what types of businesses are included in those ten.

28

1 Mr. Koester stated that he does not know all of the businesses but along the front of the building there is a
2 gym and three or four other small businesses which occupy space in the building. He said that Mr. Frazier
3 operates a bio-fuel plant, a rental business where Mr. Frazier rents properties and a lot of tenants come and
4 go from that location, and the bus service. Mr. Koester stated that he lost count of how many business he
5 just indicated but he knows that Mr. Frazier has a multitude of uses going on at the property. Mr. Koester
6 stated that he just acquired the property to the south of Mr. Frazier's building and the property was really
7 cheap. Mr. Koester stated that the reason why he was able to purchase the property at such a low price was
8 due to the history of Mr. Frazier's property but the property was also available for Mr. Frazier's purchase so
9 that he could expand. Mr. Koester stated that the closing price for the property was \$125,000 and Mr.
10 Frazier's best move would have been to have purchased the property to the south so that he could run the
11 kind of operation that Mr. Frazier proposes because it would have given him adequate area to meet the
12 County's parking requirements and would not need the requested variances. Mr. Koester stated that
13 sometimes a business owner has to invest in a business to operate the business properly and Mr. Frazier has
14 too small of a lot to operate everything that he is operating currently.

15
16 Mr. Thorsland asked Mr. Koester if Mr. Frazier approached him and indicated interest in leasing part of all
17 of the newly acquired property would Mr. Koester be willing to honor his request.

18
19 Mr. Koester stated that he will not lease the property to Mr. Frazier.

20
21 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Koester and there
22 were none.

23
24 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Koester.

25
26 Mr. Thorsland called Robert Frazier to the cross examination microphone and reminded him that he can only
27 ask Mr. Koester questions regarding his testimony and no new testimony can be presented.

28

1 Mr. Robert Frazier stated that the submitted photographs do not indicate any vehicles parked on the street
2 but only on the sidewalk. He asked Mr. Koester to explain what the semi-trucks and forklifts are doing on
3 the cul-de-sac every morning.

4

5 Mr. Thorsland reminded Mr. Frazier that he cannot present new testimony at this time.

6

7 Mr. Frazier stated that Mr. Koester indicated in his testimony that Mr. Frazier does all of the parking on the
8 street and he is just asking Mr. Koester to indicate whose semi-trucks and forklifts are parked on the street
9 every morning.

10

11 Mr. Thorsland informed Mr. Frazier that when he comes back up to the witness microphone he can discuss
12 other instances of street parking by other businesses but he cannot discuss this issue now.

13

14 Mr. Frazier asked Mr. Koester to show him the photograph indicating vehicles on the street.

15

16 Mr. Thorsland informed Mr. Frazier that he has the pictures that the Board reviewed and the photographs do
17 indicate one vehicle on the sidewalk.

18

19 Mr. Frazier stated that the vehicle is on the sidewalk but is not in the street. He said that no buses are
20 indicated in the street but on his own personal property.

21

22 Mr. Thorsland stated that the photographs were not submitted to show cars and buses parked on the street
23 but were submitted to indicate the parking in general on Mr. Frazier's property.

24

25 Mr. Frazier informed Mr. Koester that LEX is no longer in business and the only buses that he still owns are
26 the three buses parked on his personal property and those buses are also for sale.

27

28 Mr. Thorsland informed Mr. Frazier that he can discuss the LEX operation when he is called back to the

1 witness microphone.

2

3 Mr. Thorsland called Caleb Burton to testify.

4

5 Mr. Caleb Burton, whose business is located at 314 Tiffany Court, Champaign, stated that the biggest issue
6 he has with Mr. Frazier's property is that there is a 20 foot front yard that Mr. Frazier is requesting from the
7 south side of Mr. Frazier's building to Mr. Burton's property line and the building has a ten foot porch
8 leaving only a ten foot drive. Mr. Burton stated that typically, and he and Mr. Frazier have discussed this
9 issue, there is a vehicle, bus, parked within the front yard which makes the back portion of Mr. Frazier's
10 facility inaccessible. He said that since Mr. Frazier's property is inaccessible Mr. Frazier and his clients use
11 Mr. Burton's service entrance daily. Mr. Burton stated that he and Mr. Frazier had a conversation recently
12 regarding Mr. Frazier's attempt to remove a bunch of dirt in between the mini-warehouses and he
13 encroached and made a mess of Mr. Burton's property. Mr. Burton stated that he requested that Mr. Frazier
14 re-grade the property to rectify the mess that was made. Mr. Burton stated that the concrete that Mr. Frazier
15 poured drains south and nothing was done to taper the drainage or direct it to the street therefore it drains
16 onto Mr. Burton's property.

17

18 Mr. Thorsland asked Mr. Burton if the concrete is centered on the south lot line.

19

20 Mr. Burton stated that Mr. Frazier's concrete goes north and south.

21

22 Mr. Passalacqua asked Mr. Burton to indicate the nature of his business.

23

24 Mr. Burton stated that he operates S&K Home Improvements and Exteriors and the business is operated
25 where the LEX bus storage used to be located.

26

27 Mr. Thorsland asked Mr. Burton if when he reviews the aerial and sees a building on the south lot it is the
28 building where S&K Home Improvements and Exteriors is located.

1
2 Mr. Burton stated yes.
3
4 Mr. Thorsland asked Mr. Burton if the aerial photograph that indicates two vehicles on the south side of the
5 property line are two buses which appear to be located on Mr. Burton's property.
6
7 Mr. Burton stated yes, the two buses are located on S&K's property. He said that the photograph doesn't
8 indicate the newly constructed roof areas which will indicate how much more inaccessible the lot is.
9
10 Mr. Thorsland asked Mr. Burton if the location of the buses is where his property access is located.
11
12 Mr. Burton stated yes. He said that where the buses are on the aerial is where the access for their trucks and
13 trailers is located.
14
15 Mr. Thorsland asked if staff had any questions for Mr. Burton.
16
17 Mr. Hall asked Mr. Burton if during the past week traffic cannot drive along the south portion of the Frazier
18 property to access the parking that is on the east side.
19
20 Mr. Burton stated that typically they cannot because there is a car, construction truck or bus parked there. He
21 said that where he built the roof structure over the south end a bus cannot make the corner when turning
22 towards the bus garage. Mr. Burton stated that Mr. Frazier has a ten foot lane to turn a 50 foot bus therefore
23 every time Mr. Frazier is on S&K's property.
24
25 Mr. Hall stated that sometimes people are blocking the access and sometimes it is the buses themselves that
26 are the problem.
27
28 Mr. Burton stated yes.

1

2 Mr. Hall asked Mr. Burton if when the trash is picked up on the Frazier property if the trucks have to get off
3 of the property to get to the dumpsters.

4

5 Mr. Burton stated that typically the trash trucks have to pull onto S&K's service drive and back onto Mr.
6 Frazier's property.

7

8 Mr. Thorsland asked Mr. Burton if the dumpster for Mr. Frazier is on the back of his property.

9

10 Mr. Burton stated yes. He said that S&K has a dumpster on the back of their lot that is at least 10 feet off of
11 the property line and Mr. Frazier has a dumpster that is adjacent to their dumpster. He said that typically
12 there is a vehicle there and Mr. Frazier's dumpster is inaccessible to not only to the trash truck but also to
13 people leasing the mini-warehouses therefore those people park on S&K's lot and walk to their unit or they
14 park on the street.

15

16 Mr. Hall asked Mr. Burton if people parking in the street or on S&K's lot to access their warehouse unit has
17 occurred recently.

18

19 Mr. Burton stated yes.

20

21 Mr. Hall asked Mr. Burton if this has occurred in 2015.

22

23 Mr. Burton stated yes. He said that the lady who has the photography business has complained that there is
24 no parking available on Mr. Frazier's lot therefore she and her clients have to either park in the street or on
25 S&K's property and walk to her business.

26

27 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Burton.

28

1 Mr. Robert Frazier asked Mr. Burton if his property is higher than S&K's property.

2

3 Mr. Thorsland informed Mr. Frazier that Mr. Burton did not testify about elevations therefore such a
4 question is not allowed.

5

6 Mr. Frazier stated that Mr. Burton testified that water drains onto his property from Mr. Frazier's property.

7

8 Mr. Thorsland informed Mr. Frazier that he can ask Mr. Burton if water runs onto his property from Mr.
9 Frazier's property.

10

11 Mr. Frazier asked Mr. Burton if water runs onto his property because Mr. Frazier's property is higher than
12 Mr. Burton's property.

13

14 Mr. Burton stated yes.

15

16 Mr. Frazier asked Mr. Burton to indicate the last time that he saw a bus moved on Mr. Frazier's property.

17

18 Mr. Burton stated that the last time a bus was moved was within the last four or five weeks.

19

20 Mr. Frazier asked Mr. Burton if he would believe him if he told him that the last time a bus was started and
21 moved was December 31, 2014.

22

23 Mr. Burton stated yes.

24

25 Mr. Frazier stated that he will say that Mr. Burton was telling the truth in that sometimes buses are moved
26 around and were parked on the street. He said that the buses are going to be gone because they are to be sold
27 and they are parked on his property therefore the buses will no longer be an issue.

28

1 Mr. Frazier asked Mr. Burton if he was driving up to his property and Mr. Burton's property a person would
2 notice that Mr. Burton's property is gravel and Mr. Frazier's property has concrete. He asked Mr. Burton if
3 he was a layman could he distinguish whose property is what and where he should park. He asked Mr.
4 Burton if he has "No Parking" signs on his property.

5
6 Mr. Burton stated that he would be able to tell because he has purchased a 2' x 3' sign that indicates the
7 business' name and states that the entrance is for trucks and trailers only and underneath that sign is a "No
8 Parking" sign which was supplied by Reynolds Towing. He said that the sign sits on the corner of their
9 property line to clearly indicate their location. He said that there is another sign on the property which
10 indicates that the dumpster is only for S&K and a "No Parking" sign is located in that area as well.

11
12 Mr. Frazier stated that if there was an unauthorized car on the S&K property it could be towed.

13
14 Mr. Burton stated yes, but typically the people leasing the mini-warehouses are there for a very short time so
15 he has never had anyone towed yet.

16
17 Mr. Frazier stated that he understands that Mr. Burton has the right to have people's vehicles towed if they
18 are parking in a "No Parking" area but typically he does not do it.

19
20 Mr. Burton stated yes.

21
22 Mr. Thorsland asked Mr. Keith Padgett, Champaign Township Highway Commissioner, if he would like to
23 sign the witness register to present testimony regarding this case.

24
25 Mr. Padgett stated that he signed the attendance sheet and did not realize that he needed to sign the witness
26 register as well. He said that he would like to sign the witness register so that he could address the Board
27 with his concerns.

28

1 Mr. Thorsland called Keith Padgett to testify.

2

3 Mr. Keith Padgett, Champaign Township Highway Commissioner, stated that from sidewalk to sidewalk is
4 the jurisdiction of Champaign Township. He said that the subdivision was developed 20 years ago and at
5 that time he was not the Champaign Township Highway Commissioner therefore he does not know the depth
6 of the sidewalk but he does know the code currently and the aprons and sidewalks are requested to be six
7 inches thick. He said that he has had issues in other subdivisions where people park moving vans on
8 sidewalks and it breaks due to the weight load and residents request that the sidewalk be repaired for the
9 safety of pedestrians. He said that the thickness of the sidewalk on Mr. Frazier's property is unknown but
10 now vehicles cross the sidewalk because of the removal of the barrier curb. He said that there has been 100
11 feet of the barrier curb removed without permission, notice of removal, or granting of permit therefore
12 Champaign Township has lost 100 feet of barrier curb. He said that unless Mr. Frazier lives forever and
13 owns the property forever, when the new owner owns the property the new owner is going to request
14 Champaign Township to replace a curb that Champaign Township did not remove.

15

16 Mr. Padgett stated that the street is of regulation size and it had no parking on the street because it is an
17 industrial area and the street must be snow plowed. He said that the snow plows are 11 feet on a truck that is
18 30 feet long and weighs 80,000 pounds and the township does not need parking along the road so that they
19 can get in and out in a timely manner to do the rest of the township. He said that he would like to know what
20 is going to happen with the vehicles parking on the sidewalk and breaking the sidewalk and if the case is not
21 approved the curb needs to be replaced.

22

23 Mr. Thorsland asked Mr. Padgett if the street had "No Parking" signs and if so were they removed.

24

25 Mr. Padgett stated that he does not have a visual recollection of the "No Parking" signs but he suspects that
26 there are still signs on the other side of the street that have not been removed. He said that he could check
27 with the County because they have an inventory of signs and posts that are placed in the County. He said
28 that if the other owners of properties in the subdivision remember signs then he would suspect that the signs

1 had existed.

2

3 Mr. Thorsland asked Mr. Padgett if the “No Parking” signs are the responsibility of the township.

4

5 Mr. Padgett stated that the signs are the responsibility of the township because the township has jurisdiction
6 from sidewalk to sidewalk.

7

8 Mr. Thorsland stated that Mr. Padgett indicated that he could check with the County.

9

10 Mr. Padgett stated that the County does the engineering for the township.

11

12 Mr. Passalacqua asked Mr. Padgett if could estimate the replacement cost of 100 feet of curb.

13

14 Mr. Padgett stated that he does not have a replacement cost for the curb but he would imagine that it is not
15 cheap because you would have to dig out into the street because the curb could be connected to tie bars
16 below the street.

17

18 Mr. Passalacqua asked Mr. Padgett if the portion that was removed included the curb and drain or was it just
19 the curb.

20

21 Mr. Padgett stated that there was a gutter along the side and it is typically called a barrier curb which has a
22 90 degree angle top and the flag which is what carries the water to the catch basins.

23

24 Mr. Passalacqua asked if the curb was the only portion removed.

25

26 Mr. Padgett stated that it was the curb that was taken and he would suspect that a professional outfit
27 removed it. He said that the curbs are poured and when the houses are constructed and they decide where
28 the garage will be located they cut the curb.

1

2 Mr. Passalacqua asked Mr. Padgett if the wall of the curb has been milled.

3

4 Mr. Padgett stated yes. He said that regarding the water that goes down the curb, when you build on a
5 property the roof, sidewalk and driveway is impervious area and that water runs off into the street and the
6 rest of the yard is supposed to be able to pull in the water for a certain percentage of your property so that it
7 feeds the aquifer, etc. but it has a place to soak in. He said that when someone builds curb to curb and then
8 places more parking on top, the water is sent to the street because the space for the water to soak back in the
9 earth has been limited.

10

11 Mr. Thorsland asked Mr. Padgett if there was grass between the curb and the sidewalk before the curb was
12 removed.

13

14 Mr. Padgett stated that more than likely there was but with this being an industrial area it could have been
15 some sort of gravel or sand. He said that when he tries to plow this area he has to be able to get up and down
16 the street and when there are vehicles in the road there is not much room for an 11 foot plow to maneuver.

17

18 Mr. Thorsland asked the Board if there were any additional questions for Mr. Padgett.

19

20 Mr. Lee asked Mr. Padgett if he could give the Board a range of the cost for replacement of the curb.

21

22 Mr. Padgett stated that it would probably be between \$5,000 and \$10,000 but he honestly does not know
23 because it depends on which contractor you use to install it.

24

25 Mr. Thorsland asked staff to contact Jeff Blue, Champaign County Highway Engineer, to obtain an idea of
26 the cost of replacement.

27

28 Mr. Padgett stated that the back of the curb was probably 12 inches thick therefore it was built to last a very

1 long time and now that it is gone it won't break off easily.

2

3 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Padgett.

4

5 Mr. Robert Frasier asked Mr. Padgett if he recalls 30 feet of curb being taken out at the S&K property.

6

7 Mr. Thorsland informed Mr. Frazier that Mr. Padgett did not testify about any curbs being removed from the
8 S&K property.

9

10 Mr. Padgett stated that he became the Champaign Township Highway Commissioner in 2008 therefore he
11 has no prior knowledge of what happened prior to 2008.

12

13 Mr. Frazier asked Mr. Padgett if he recalls the curb being cut five years ago.

14

15 Mr. Padgett stated that he does believe that the curb was cut five years ago and believes it has been more
16 recent. He asked Mr. Frazier if he cut the curb and if he did when did he do it.

17

18 Mr. Thorsland stated that asking Mr. Frazier if he cut the curb and if so, when did he cut it is a question that
19 the Board will ask Mr. Frazier.

20

21 Mr. Frazier stated that curbs are built and curbs are cut which is why curbs are installed in a development
22 and then as develop comes the curbs are cut to allow access back into the street.

23

24 Mr. Padgett stated that Mr. Frazier may be correct but wouldn't permission need to be granted to cut the
25 curb.

26

27 Mr. Thorsland stated that Mr. Padgett's question to Mr. Frazier is a valid point and the Board will add that
28 question to their list.

1

2 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Padgett and there
3 were none.

4

5 Mr. Thorsland called Mr. Frazier to the witness microphone.

6

7 Mr. Thorsland asked Mr. Frazier if he cut the curb in front of the building to create the head-in parking and if
8 so when did he cut it.

9

10 Mr. Frazier stated that he did cut the curb on Tiffany Court several times. He said that he cut the curb 15
11 years ago when he built the building and 10 years ago when he added a south entrance to the building and 5
12 years ago on the south property that is now owned by Steve Koester and Caleb Burton.

13

14 Mr. Thorsland asked Mr. Frazier if he contacted the Champaign Township Highway Commissioner
15 requesting permission to cut the curb.

16

17 Mr. Frazier stated that he does not remember ever contacting Champaign Township about cutting the curb.

18

19 Mr. Thorsland asked Mr. Frazier if he just cut the curb and paid for it.

20

21 Mr. Frazier stated yes.

22

23 Mr. Thorsland asked Mr. Frazier if he had receipts to confirm the dates that he cut the curb.

24

25 Mr. Frazier stated yes.

26

27 Mr. Thorsland asked Mr. Frazier if there were "No Parking" signs along parts of the curb that were removed.

28

1 Mr. Frazier stated that there are "No Parking" signs and testimony has indicated that he removed the signs
2 but he does not recall taking the signs down and had no reason to take them down because he does not want
3 people parking the street either blocking access to his property. He said that the testimony was a one sided
4 point of view.

5

6 Mr. Thorsland asked Mr. Frazier if he installed the gravel that is between the cut curb and the building.

7

8 Mr. Frazier stated that since day one there has always been gravel between the curb and the sidewalk.

9

10 Mr. Thorsland asked Mr. Frazier if he is installing or has installed concrete.

11

12 Mr. Frazier stated that gravel turns to mud and to remedy that he is replacing the gravel with concrete and he
13 is not changing the direction of the flow of water or how the gravel was placed.

14

15 Mr. Thorsland stated that he would agree, unless Mr. Frazier is doing something drastic, that a non-
16 permeable surface is being installed where a permeable surface existed. He said that the County has a
17 percentage of non-permeable area versus permeable on a lot.

18

19 Mr. Hall stated that the County has no regulations regarding the incremental site improvements made in a
20 subdivision that does have storm water detention.

21

22 Mr. Frazier stated that the answer is simply that if there is a problem with the water flowing the way it
23 always flowed he can install a curb but the water flows to the street naturally.

24

25 Mr. Thorsland asked Mr. Frazier if he were to install a curb along the south property line it would stop Mr.
26 Frazier from parking anything there because people could not get to the back if a vehicle was there.

27

28 Mr. Frazier stated that an eight foot high fence could be installed and he would not be opposed to blocking

1 the access from one piece of property and another. He said that someone else’s property is not his property
2 and no one, include Mr. Frasier, should be allowed to trespass. He said that he is not here to defend crossing
3 over onto another property.

4

5 Mr. Thorsland asked Mr. Frazier if he has an office in the building that is his business.

6

7 Mr. Frazier stated yes.

8

9 Mr. Thorsland asked Mr. Frazier how many businesses he has operating on the property currently.

10

11 Mr. Frazier stated that he has four other businesses and mini-warehouses therefore five in total.

12

13 Mr. Thorsland stated that the gymnastics business is probably the one that produces the most traffic.

14

15 Mr. Frazier stated that he has not seen that many vehicles for the gymnastics business but if Mr. Thorsland is
16 indicating that the total number of cars is more than any of the other businesses then yes, that would be true.
17 He said that there are additional parking spaces for those additional cars if they show up.

18

19 Mr. Thorsland stated that the Board will need to ask that particular business to indicate their hours of
20 operation and when they hold their sessions.

21

22 Mr. Thorsland asked the Board if there were any additional questions for Mr. Frazier.

23

24 Mr. Passalacqua asked Mr. Frazier when he decides that he is going to apply for a Zoning Use Permit and
25 when he is not because Mr. Frazier knows about permits and has applied and received them in the past. He
26 asked Mr. Frazier what drove him to not obtain a permit for the improvement to the front of the building.

27

28 Mr. Frazier stated that he looked at the setback of a building to be a solid wall and not a canopy or overhang.

1 He said that he did not build a wall but extended the existing overhang therefore the only question in his
2 mind is what is considered the overhang. He asked if an overhang width is two feet or five feet and the
3 answer that he obtained from staff was that the posts were considered where the line for setback would be
4 considered. He said that he could cut down the supporting posts and make the canopy self-supporting from
5 the building itself. He said that he did not believe that extending the overhang was a problem and that the
6 posts in the ground to support were a problem therefore he did not apply for a permit.

7
8 Mr. Passalacqua stated that Mr. Frazier didn't check for the need for a permit but just went ahead and did it.
9 He said that even after staff contacted Mr. Frazier informing him that the extension of the overhang was in
10 violation he continued to complete the project.

11
12 Mr. Frazier stated that when he was informed that the overhang extension could not be approved the project
13 was pretty much complete at that point. He said that the inside of the canopy was not finished and it is still
14 not finished but the outside is done and it looks nice.

15
16 Mr. Passalacqua stated that he is not attacking the aesthetics of the canopy because it does look good but it
17 does not meet the requirements of the Ordinance and there are a lot of other issues on the property which do
18 not meet the Ordinance. He asked Mr. Frazier if the pictures indicate trucks parked over the sidewalk or on
19 the sidewalk and is it not his truck that is parked on the sidewalk. He asked Mr. Frazier if the garbage truck
20 has to park onto the neighboring property to access the dumpster on Mr. Frazier's property because his lane
21 is full.

22
23 Mr. Frazier stated that the picture indicating the truck is his truck which is located on his property. He said
24 that the truck is parked on the driveway that was approved years ago as a driveway.

25
26 Mr. Passalacqua stated that the picture indicates that the truck is on the driveway but is across the sidewalk.

27
28 Mr. Frazier stated that he was unloading material when the photograph was taken.

1

2 Mr. Passalacqua stated that the Board has received testimony that the vehicles park on the sidewalk very
3 often and not just when material is being unloaded. He said that one photograph indicates a white car parked
4 on the sidewalk.

5

6 Mr. Frazier stated that the photograph does indicate that there is a white car parked on the sidewalk but he
7 has parked in the same spot for over 20 years. He said that he has leased that parking spot out to someone
8 else and they are parked on the sidewalk but he hasn't said anything about them parking there because he
9 parked in that same space when he had the LEX business. He said that he has never seen the garbage truck
10 parked on S&K's property to access his dumpster but if Mr. Koester and Mr. Burton are indicating that the
11 truck does, then he will call the company and request that the driver uses the nice concrete road. He said that
12 he would like to see some sort of barrier and additional signage so that people understand that there are
13 different businesses in the subdivision now. He said that for over 20 years he rented the property where
14 S&K Home Improvement is located and it has only been within the last few months that the ownership
15 changed and the business use changed. He said that he is all for indicating the separation of the businesses
16 and since the new owner operates a fencing company it would be a simple task for the owner to install a
17 fence any time that he desires or a new curb could be installed to solve the problem. He said that it was his
18 understanding that the issue for this hearing was the parking and the overhang and not the property lines.

19

20 Mr. Passalacqua stated that he is just trying to give Mr. Frazier the opportunity to answer the questions that
21 he was trying to answer at the cross examination microphone.

22

23 Mr. Frazier stated that Mr. Koester parks semi-trucks in the cul-de-sac every morning at 7:00 a.m. He said
24 that if the Board is present at that time they will observe semi-trucks and forklifts taking up the entire cul-de-
25 sac and it has occurred for many years and he has never complained because Mr. Koester has the right to run
26 his business off of Tiffany Court for a short period of time. He said that Mr. Koester's operations on his
27 property or on Tiffany Court do not bother him but obviously Mr. Frazier's operations bother Mr. Koester.

28

1 Mr. Frazier stated that he does not tell Mr. Tunstall, owner of the gym business, to park his vehicle or his
2 clients' vehicles on Tiffany Court because he provides parking for anyone who visits his property. He said
3 that he only has four other small businesses which consist of one person each. He said that none of the
4 businesses have a large clientele. He said that Mr. Tunstall's business is not a gym because Mr. Tunstall is a
5 chiropractor and he deals with people that have bad backs, etc. He said that Mr. Tunstall has a special
6 clientele that requires special weight lifting, therefore he does not appeal to the masses that would attend a
7 gym. He said that at any one time he may only have six vehicles present for the gym and before Mr. Tunstall
8 leased the space he was informed that there is ample parking on the property and no parking is allowed on
9 Tiffany Court. He said that if additional parking is required there is additional parking area behind the
10 warehouses. Mr. Frazier stated that to his knowledge no one is parking on the street for the gym. He said
11 that he believes that he is being wrongly accused about the parking issue and he is not accusing anyone else
12 either. He said that for the record, if gravel is carried out into the street he cleans it up with his broom and
13 shovel.

14

15 Ms. Lee asked Mr. Frazier to indicate the other businesses that are not his.

16

17 Mr. Frazier stated the one business consists of a painter who uses the space as an office for paperwork. He
18 said that one photographer leases space to print photographs and the other photographer photographs babies.
19 He said that the photographers will have their vehicles and perhaps one other for a client with a baby. He
20 said that he has a car for his business and he has one employee that works at the office.

21

22 Ms. Lee stated that one witness indicated that Mr. Frazier has a rental business at the property and that
23 clients come to the property to submit their rent.

24

25 Mr. Frazier stated that Frazier Properties is a rental business and occasionally people do come to the office to
26 submit their rent payments.

27

28 Ms. Lee asked Mr. Frazier if he was operating a bio-fuel business at the property.

1

2 Mr. Frazier stated that he is not operating a bio-fuel business on the property. He said that he does store
3 collected oil from restaurants and a truck will come to the property to take out the oil.

4

5 Ms. Lee asked Mr. Frazier if the three buses are the only buses that he owns currently and if those three
6 buses are for sale.

7

8 Mr. Frazier stated yes. He said that at one time he had 50 buses on the property but he downsized the bus
9 company to a five bus business called Illini Tours. He said that as of December 31, 2014, he decided that he
10 was going to concentrate on real estate and end the bus company therefore selling the buses but to date it is
11 true that he has three left.

12

13 Ms. Lee asked Mr. Frazier if he operates any other type of business on his property other than the rental and
14 oil collection.

15

16 Mr. Frazier stated no. He said that the buses will be sold and he could move them if need be but since they
17 are stationed and on his own property he did not believe that there was a problem. He said that the buses are
18 stored inside the building.

19

20 Mr. Passalacqua stated that the print dated December 16, 2002, indicates that the parking spots are parallel at
21 the location of the covered porch although the photographs indicate that the vehicles are parked
22 perpendicular.

23

24 Mr. Frazier stated that ever since the building was built the parking was as indicated in the photographs and
25 not as it is indicated on the site plan. He asked Mr. Frazier if he enforces parallel parking and not
26 perpendicular on the property.

27

28 Mr. Frazier stated that he is not enforcing parallel parking on the property but he could if he needs to. He

1 said that the parking spaces are granted for that area in a parallel position to the building and not
2 perpendicular position to the building.

3
4 Mr. Randol stated that he is interested in the grease recycling operation. He asked Mr. Hall if this use is
5 acceptable or approved by the County.

6
7 Mr. Frazier stated that he was granted permits by the State of Illinois and the Illinois EPA. He said that no
8 permits were required by Champaign County.

9
10 Mr. Randol asked Mr. Frazier how the recycled oil is stored on the property.

11
12 Mr. Frazier stated that the oil is stored in 1,000 gallon plastic tanks.

13
14 Mr. Hall asked Mr. Frazier to indicate the square footage of the office area utilized for Frazier Properties and
15 where it is located in the building.

16
17 Mr. Frazier stated that the office area, consisting of 3,500 square feet, for Frazier Properties is located on the
18 south side of the first building.

19
20 Mr. Hall asked Mr. Frazier if the first building was constructed in 2003 and Mr. Joe Coble was the architect.

21
22 Mr. Frazier stated yes.

23
24 Mr. Hall stated that during staff's analysis of parking, not knowing that Mr. Frazier had office space in the
25 first building, staff used the entire area of the building assuming that it was totally office space therefore staff
26 did not overlook anything. He asked Mr. Frazier to indicate the storage area for the restaurant grease.

27
28 Mr. Frazier stated that the grease which is for recycling is stored on the northeast side of the building.

1

2 Mr. Hall asked Mr. Frazier to indicate the square footage of the grease storage area.

3

4 Mr. Frazier stated that the grease storage area is approximately 500 square feet.

5

6 Mr. Hall asked Mr. Frazier how soon he could move the buses from the property.

7

8 Mr. Frazier stated tomorrow.

9

10 Mr. Hall stated that Mr. Frazier indicated that two of the buses are stored indoors therefore he assumes that
11 the third bus is stored outdoors.

12

13 Mr. Frazier stated that there are three buses on the property and two of the buses are in the building and the
14 third is half-way in the building and half-way out of the building.

15

16 Mr. Thorsland asked Mr. Frazier if the farthest east building with the white roof is the mini-storage area.

17

18 Mr. Frazier stated yes.

19

20 Mr. Thorsland asked Mr. Frazier if there was a fence or curb, could he make the turn when pulling out the
21 buses.

22

23 Mr. Frazier yes. He said that he can turn the corner but he does not want the buses to turn the corner because
24 he does not want the buses.

25

26 Mr. Thorsland stated that he understands that the buses are a temporary situation and he is sure that it will
27 resolve itself as soon as Mr. Frazier finds a buyer for the buses. He said that Mr. Hall's question regarding
28 the recycling business for the restaurant grease will have an effect on how many parking spaces are required.

1 He said that he is sure that Mr. Frazier believes that the Board is asking a lot of questions that are not
2 relevant to the porch addition and the required parking. He informed Mr. Frazier that everything is relevant
3 to the required parking because there are conflicting guidelines as to how many spots are needed. He said
4 that all of the testimony tonight has be in regards to cars, trucks, buses and parking which is why the Board
5 is asking so many questions about cars, trucks, buses and parking. He said that what would help the Board is
6 a simple sketch of all of the structures on the property and an indication of what type of business is occurring
7 in each structure. He said that with this sketch the Board would have a better idea of where all of the uses
8 are taking place.

9
10 Mr. Hall asked Mr. Frazier if there is a second level in the building.

11
12 Mr. Frazier stated that there has always been a second level in the building.

13
14 Mr. Hall stated no. He said that none of the plans that were submitted to the Department of Planning and
15 Zoning indicated a second floor. He said that the Board understands that the second floor requires even
16 more parking spaces therefore instead of a sketch, the Board should request that Mr. Frazier have an
17 architect prepare a set of plans for this building that indicates all of the floor space utilized by Frazier
18 Properties, and all of the customers. He said that the set of plans would also demonstrate whether or not the
19 property is compliant with the ADA or not, because staff has lost track of its compliance due to all of the
20 improvements with the concrete installation. He said that it is impossible for staff to give the Board an
21 accurate report on what parking is required if we don't even know that there is a second floor and its size and
22 use. He requested that the plan indicates individual self-storage spaces so that the Board knows where they
23 are located.

24
25 Mr. Passalacqua stated that on the northwest corner of the previously mentioned drawing indicates that the
26 septic system will be installed by the plumbing contractor. He said that the new plan must indicate the
27 location of the septic system.

28

1 Mr. Hall stated that the septic system is indicated on the most recent plan.

2

3 Mr. Passalacqua asked Mr. Hall if the septic system is located in a highly traveled area.

4

5 Mr. Hall stated that the septic system is not supposed to be located in a highly traveled area but who knows.

6

7 Mr. Passalacqua stated that the Board needs to be assured of the location of the septic system.

8

9 Mr. Thorsland informed Mr. Frazier that he needs to work with staff to make sure that he meets the
10 requirement by the Board to submit a very accurate site plan indicating all levels of the building and all uses
11 on the property. He said that he would advise that no new changes be made to the property until the case is
12 finalized. He said that once the accurate site plan is submitted, staff can determine the number of required
13 parking spaces for the property.

14

15 Mr. Thorsland called Andrew Tunstall to testify.

16

17 Mr. Andrew Tunstall, who resides at 412 East Tomaras, Savoy, stated that he operates a chiropractic,
18 exercise and rehabilitation facility which is strength and conditioning. He said that his business is a little bit
19 like an open gym component but not to the scale or scope of Gold's Gym or The Refinery.

20

21 Mr. Thorsland apologized for his assumption that it was a gymnasium. He said that close to the subject
22 property there is a gymnastics facility.

23

24 Mr. Tunstall stated that the gymnastics facility is directly across the street from the subject property but his
25 operation has no relation to that facility.

26

27 Mr. Thorsland asked Mr. Tunstall if the clients of the gymnastics facility are overflowing onto the subject
28 property or in the cul-de-sac.

1

2 Mr. Tunstall stated that the gymnastics facility appears to have ample parking.

3

4 Mr. Thorsland asked Mr. Tunstall how many clients he typically sees on any given day.

5

6 Mr. Tunstall stated that typically on a slow night between 3:00 and 6:30 p.m. he will see 4 to 6 people but on
7 a busy night he may see up to 16 people but only on one night has he seen 16 people.

8

9 Mr. Thorsland asked Mr. Tunstall if his clients have ever complained about the parking.

10

11 Mr. Tunstall stated yes. He said that Mr. Frazier did make it very clear that parking was not allowed in the
12 cul-de-sac but he has seen his clients park there.

13

14 Mr. Thorsland stated that he is glad to hear that Mr. Frazier made the parking requirements very clear. He
15 asked Mr. Tunstall if his clients have ever used the overflow parking in the back near the mini-storage units.

16

17 Mr. Tunstall stated that his clients cannot get to that area and that area was part of where Mr. Frazier was
18 going to expand. Mr. Tunstall stated that all of his current parking is across the front side of the building and
19 the idea was that eventually there would be additional parking although it has not come true yet but Mr.
20 Frazier has done a lot of work on this portion of the property.

21

22 Mr. Thorsland asked Mr. Tunstall why he cannot access the rear portion of the property.

23

24 Mr. Tunstall stated that there are either the workers or a bus parked there and it is hard to get around them.
25 He said that Mr. Frazier referred to the area between the warehouse banks to be overflow parking.

26

27 Ms. Lee asked Mr. Tunstall to indicate the square footage of the space that he occupies.

28

1 Mr. Tunstall stated that he occupies approximately 3,400 square feet.

2

3 Ms. Lee asked Mr. Tunstall to indicate his hours of operation.

4

5 Mr. Tunstall stated that his operation is open Monday thru Thursday 9:00 a.m. to 8:00 p.m. and Friday 9:00
6 a.m. to 5:30 p.m. and Saturday 3:00 p.m. to 6:00 p.m.

7

8 Mr. Hall stated that for Board members who are keeping track, staff previously believed that the gym only
9 occupied 2,375 square feet which would require 24 parking spaces but testimony indicated 3,400 square feet
10 therefore 7 additional spaces are required.

11

12 Mr. Tunstall stated that the area that is his actual gym site, where the strength conditioning and rehabilitation
13 takes place is 2,375 square feet, but he has two additional therapy rooms and a reception area which takes up
14 the additional 1,025 square feet.

15

16 Mr. Hall stated that nothing can take the place of an accurate site plan and hopefully one will be on the
17 horizon soon. He asked Mr. Tunstall where the future additional parking was to be located.

18

19 Mr. Tunstall stated that the additional parking was to be between the warehouse storage areas on the other
20 side of the property.

21

22 Mr. Hall stated that this area is already designated for parking therefore he does not know how additional
23 parking could be created.

24

25 Mr. Thorsland asked Mr. Tunstall if he means that the additional parking would be across Tiffany Court.

26

27 Mr. Tunstall stated no.

28

1 Mr. Thorsland asked Mr. Tunstall if he means behind the mini-warehouses to the east.

2

3 Mr. Tunstall stated that between the two sections of the building is where the additional parking was to be
4 located.

5

6 Mr. Hall asked Mr. Tunstall if the presence of 16 clients of the gym was just a special event or did it just
7 happen that everyone was there that day.

8

9 Mr. Tunstall stated that it was not during any particular event and was just a peak time. He said that the way
10 that he has the operation set up it can accommodate up to 22 to 24 people at one time. He said that he
11 limited memberships because he did not want to get too busy for the amount of space that he had available.

12

13 Mr. Hall stated that at this point staff was using the standard of 1 space per 200 square feet for the gym but
14 gyms are one of those things that have a more complicated approach to parking. He said that if Mr. Tunstall
15 has an agreement where he hopes to have as many as 24 clients, then that is a greater parking requirement
16 than what staff calculated. He said that through the course of this public hearing Mr. Tunstall will need to
17 talk to Mr. Frazier and establish the maximum amount of clientele he desires because that number will have
18 a great bearing on the amount of parking that Mr. Frazier needs. Mr. Hall stated that he is not sure that
19 everyone's needs can be accommodated but it must be known what those needs are.

20

21 Mr. Tunstall stated that he got a lot busier faster than he initially expected.

22

23 Mr. Hall stated that normally that is a good thing but parking is still an issue.

24

25 Mr. Thorsland asked if staff had any additional questions for Mr. Tunstall and there were none.

26

27 Mr. Thorsland asked the Board if there were any additional questions for Mr. Tunstall and there were none.

28

1 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Tunstall and there was no one.

2

3 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
4 regarding Case 792-V-14 and there was no one.

5

6 Ms. Lee requested that Mr. Thorsland asked the audience if anyone else is present who operates a business at
7 the subject property and there was no one.

8

9 Mr. Thorsland informed Mr. Frazier that the Board would like to have an accurate idea of all of the separate
10 businesses on the subject property. He said that the plan should include the mini-storage warehouse units,
11 the interior spaces that are leased or vacant, parking for the buses, the gym, the photography/graphics
12 operations, the second story, and the recycling operation. He said that Mr. Frazier should work with staff
13 regarding any questions. Mr. Thorsland stated that he intends to request a continuance to April 16th which is
14 not very far away but it is not next week therefore Mr. Frazier should have adequate time to obtain the
15 required information.

16

17 Mr. Hall recommended that the case be continued to the May 14th meeting.

18

19 Mr. Passalacqua asked Mr. Hall if there is an Ordinance concern regarding the vegetable oil storage.

20

21 Mr. Hall stated that the only concern is to know how to determine the parking requirements but other than
22 that he has no concern. He said that he does not know how much additional information the Board may
23 want to evaluate regarding how accessible parking areas on the subject property really are, but if Mr. Frazier
24 is going to go to the trouble of hiring a design professional or architect to draw an accurate plan, that plan
25 should give the Board all of the information that is required. He said that the plan should indicate the
26 number of parking spaces and if the parking spaces are readily accessible as they should be.

27

28 Mr. Passalacqua asked Mr. Hall if the oil recycling business requires a separate loading berth.

1

2 Mr. Hall stated that under the terms of the Ordinance if Mr. Frazier has the access that he needs as well as
3 meeting all of the other parking requirements then that is what is critical.

4

5 Mr. Passalacqua state that he is just trying to give Mr. Frazier more information for drawing the plan and he
6 would not feel comfortable in having a parking spot being the spot in front of the door where the vegetable
7 oil is stored.

8

9 Mr. Hall stated that unless there is some special arrangement that assures that this will not be a problem and
10 the Board is willing to accept that special arrangement then it won't be a problem.

11

12 Mr. Thorsland stated that staff has requested that the case be continued to the May 14th meeting which is the
13 100-day limit. He informed the audience that the full packet will be sent to anyone who signed the witness
14 register and the mailing is also available on the County website the Friday before the meeting.

15

16 Mr. Thorsland informed Mr. Frazier that he needs to present as much information as possible which includes
17 talking to his tenants to find out if they have one or five employees because the numbers are all part of the
18 parking equation. He said that the overhang is a big issue, because it affects parking and this case will boil
19 down to how many uses are being utilized on this property and whether or not enough parking is available.

20

21 Ms. Lee stated that the handicap parking spaces will take up more area than regular parking spaces would
22 take up.

23

24 Mr. Thorsland stated that there is some question whether or not this development would need to be sent to
25 the Capital Development Board for a recommendation whether handicap parking is required. He asked Mr.
26 Frazier if he has handicap parking at this time.

27

28 Mr. Frazier stated that handicap parking is included on the original plans.

1

2 Mr. Thorsland stated that it is indicated on the original plans but is it present on the property.

3

4 Mr. Frazier stated yes.

5

6 Mr. Passalacqua stated that the new plan needs to indicate the exact location of the septic system.

7

8 Mr. Frazier stated that the original plan indicates the location of the septic system.

9

10 Mr. Passalacqua stated that the area that he sees on the plan indicates that the septic system is outside of the
11 property line. He asked Mr. Frazier to clarify the location of the septic system.

12

13 Mr. Frazier stated that the septic system is located on the north side of the building and is completely on his
14 property.

15

16 Mr. Passalacqua asked Mr. Frazier if the septic system is driven on.

17

18 Mr. Frazier stated no. He said that the Board is reviewing an architecturally designed plan for when the
19 building was constructed but he can break it down to how each individual space is being used. He said that
20 the only thing that is different is that instead of the building being Bright Ideas, which was originally a retail
21 store, the building has been broken up into four different businesses. He said that instead of one business it
22 became LEX, Bright Ideas and Frazier Properties and now it is one business owned by Mr. Frazier and four
23 individual businesses. He said that the mini-warehouses have always been there and nothing has changed.

24

25 Mr. Thorsland stated that the site plan needs to include each individual business and the second level of the
26 building and its use.

27

28 Mr. Frazier stated that there has always been a second level on the middle mini-warehouse building.

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Mr. Thorsland stated again that the new professionally designed plan needs to include everything about each building and indicate the uses in those buildings and on the property. He said that if Mr. Frazier has any questions regarding any of the required information for the next meeting he should contact staff. He asked Mr. Frazier if he would be available on May 14, 2015.

Mr. Frazier stated that he would be available on May 14, 2015.

Mr. Thorsland entertained a motion to continue Case 792-V-14 to the May 14, 2015, public hearing.

Mr. Passalacqua moved, seconded by Mr. Randol to continue Case 792-V-14 to the May 14, 2015, public hearing. The motion carried by voice vote.

Mr. Thorsland stated that the Board will take a ten minute recess at this time.

The Board recessed at 8:20 p.m.

The Board resumed at 8:30 p.m.

Case 793-S-14 Petitioner: Lawrence Johnson and Fuad Handal Request: 1) Authorize a kennel as a Special Use on 1.8 acres located in the AG-1, Agriculture Zoning District; and 2) Authorize the following waivers to the standard conditions of the Kennel Special Use as per Section 6.1.3 of the Zoning Ordinance: a. Any outdoor animal exercise and/or training area shall be 200 feet from any adjacent residential structure and/or use and shall have a noise buffer of evergreen shrubs or trees a minimum of four feet in height installed separating the exercise and/or training area from any adjacent residential structure and/or use. Measurements shall be made from the lot line of an adjacent residential structure and/or use; and b. Maintain a side yard setback and a rear yard setback of 200 feet. Location: A 1.8 acre tract in the Southeast Quarter of the Southeast Quarter of Section 5, Township 19N, Range 8E. in Champaign Township with an address of 1211 North Staley Road,

1 **Champaign.**

2

3 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
4 the witness register for that public hearing. He reminded the audience that when they sign the witness
5 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
6 time.

7

8 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows
9 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show
10 of hands for those who would like to cross examine and each person will be called upon. He requested that
11 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
12 those who desire to cross examine are not required to sign the witness register but are requested to clearly
13 state their name before asking any questions. He noted that no new testimony is to be given during the cross
14 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt
15 from cross examination.

16

17 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

18

19 Mr. Lawrence Johnson, who resides at 1211 North Staley Road, Champaign, stated that he desires to operate
20 an in-home kennel for the neighborhood and the surrounding areas. He said that the kennel would be good
21 for the community.

22

23 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum dated February 12, 2015, for
24 the Board's review. He said that the memorandum summarizes Ms. Chavarria's contacts with the
25 Champaign-Urbana Public Health Department regarding their recommendations to protect the septic system
26 on the property. He said that several comments have been received from the Homeowner's Association
27 across the street. He said that a letter dated February 6, 2015, from Jeff Marino, Senior Planner for the City
28 of Champaign, indicates the City of Champaign's staff position regarding the kennel. Mr. Marino indicated

1 that it is staff's position that approval of the requested Special Use Permit is not appropriate. Mr. Hall stated
2 that the City of Champaign's position is based on what they expect surrounding land use to be if the subject
3 property is ever annexed in to the City of Champaign, but it is not clear if that it will happen anytime soon.
4 He said that there is a subdivision directly across the street from the subject property and the play kennel that
5 is directly west of the house complies for the separation distance from the nearest residential structure but it
6 is still less than 200 feet from the residential property lines across the street. He said that the small play area
7 is completely screened by the house and clearly it is a different situation than the larger area where the fence
8 was installed for the outdoor play area which is much closer to the residences and the residential property
9 lines. He said that a separate handout was distributed to the Board for review. He said that the separate
10 handout includes emails from residents of the West Ridge Subdivision.

11

12 Mr. Thorsland asked the Board if there were any questions for Mr. Johnson.

13

14 Mr. Passalacqua asked Mr. Johnson if the kennel is currently in operation.

15

16 Mr. Johnson stated yes. He said that he trains dogs at the subject property and kenneled a few dogs during
17 the holidays.

18

19 Mr. Thorsland asked Mr. Johnson if he contacted staff regarding any required permits or guidance.

20

21 Mr. Johnson stated no.

22

23 Mr. Thorsland stated that the Board will request a better site plan indicating the location of the septic system
24 and information regarding when the septic system was checked. He said that the Board received a few
25 pictures regarding the placement of the kennel operation inside the house. He said that a floor plan of the
26 house indicating the living space and the kennel operation would be appropriate for the Board's review. He
27 asked Mr. Johnson if there are any additional employees for the kennel.

28

1 Mr. Johnson stated that currently he is the only employee for the kennel.

2

3 Mr. Thorsland asked Mr. Johnson if there will be additional employees in the future.

4

5 Mr. Johnson stated that if he receives enough business then he may consider an additional employee but
6 currently it is just him operating the kennel.

7

8 Mr. Thorsland informed Mr. Johnson that during the Special Use Permit review the Board recommends that
9 the petitioner not only indicate the current plans but also to include any future plans for the proposed use so
10 that the petitioner does not have to come back before the Board to request permission later. He informed
11 Mr. Johnson that if he desires to construct a sign, an additional exercise area, etc., then that information
12 needs to be disclosed during this hearing so that the Board can include it in their recommendation. Mr.
13 Thorsland stated that he does not expect the Board to finalize this case tonight therefore he would like hear
14 public testimony and provide Mr. Johnson with as much information as possible so that Mr. Johnson can get
15 back before the Board as soon as possible.

16

17 Mr. Thorsland asked the Board if there were any questions for Mr. Johnson.

18

19 Ms. Lee asked Mr. Thorsland if there was only one additional handout tonight.

20

21 Mr. Thorsland stated yes.

22

23 Mr. Passalacqua asked Mr. Johnson if he is a veterinarian or does he have any credentials or certificates.

24

25 Mr. Johnson stated that he is a certified dog trainer.

26

27 Mr. Thorsland asked Mr. Johnson if the any of the neighbors or the West Ridge Homeowner's Association
28 have contacted him regarding the kennel or their concerns.

1

2 Mr. Johnson stated that no one has contacted him about the kennel and he actually kenneled some of the
3 neighbor's pets.

4

5 Mr. Thorsland informed Mr. Johnson that it would be beneficial if he could contact some of those clients and
6 have them either come to the meeting in support of his request or they could send staff an email regarding
7 their support or concerns regarding the kennel.

8

9 Mr. Randol asked Mr. Johnson if he resided at the subject property.

10

11 Mr. Johnson stated yes.

12

13 Mr. Randol asked Mr. Johnson if someone is always on site with the animals.

14

15 Mr. Johnson stated that his operation is not like a regular kennel where the dogs are left alone because he
16 lives on the property. He said that he is with the dogs all of the time and his own dogs reside at the property
17 as well.

18

19 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Johnson and there was no one.

20

21 Mr. Thorsland called Jeff Turner to testify.

22

23 Mr. Jeff Turner, who resides at 4102 Rayburn Court, Champaign, stated that his property backs up to
24 Boulder Ridge Drive which is one of the two entrances to the West Ridge/Boulder Ridge development. He
25 said that his property is located on the north side of the development. Mr. Turner stated that there is already
26 a dog kennel operation in the area that is located approximately 2,000 feet north of Boulder Ridge Drive on
27 Staley Road and during nice weather when he is outside working in his yard he can hear the dogs at the
28 kennel property. He said that the operation to the north is ten times farther from the subdivision than the

1 proposed kennel operation so he opposes the new kennel.

2

3 Mr. Thorsland asked Mr. Turner if he has heard any of the dogs from the kennel which is across the road
4 from the subdivision.

5

6 Mr. Turner stated that he has not been working in the yard since October but if he had heard any dogs he
7 would have probably attributed the noise to the existing kennel further north on Staley Road. He said that
8 with the houses configured as they are in the subdivision, sounds can bounce around therefore it is hard to
9 tell where noise is coming from. He may have heard Mr. Johnson's dogs and not known the source.

10

11 Mr. Thorsland asked the Board if there were any questions for Mr. Turner.

12

13 Mr. Randol asked Mr. Turner if he knows the number of dogs at the kennel to the north.

14

15 Mr. Turner stated no, but he would guess five or six or even more.

16

17 Mr. Randol asked Mr. Turner if he knows what type of business the kennel to the north is operating.

18

19 Mr. Turner stated that the only thing that he knows about the operation is that it houses dogs.

20

21 Mr. Passalacqua stated that he understood that the kennel to the north is a research facility and the dogs are
22 residents of the operation and it is only partially utilized.

23

24 Mr. Hall stated that the operation to the north is a nonconforming facility and during the early years with
25 zoning the County was in court over the use. He said that the facility has every right to be there and he has
26 no idea how large it is but it is a nonconforming facility and it can operate there as long as it remains in
27 operation.

28

1 Mr. Passalacqua asked Mr. Hall if the facility is an agricultural use.

2

3 Mr. Hall stated no, dogs are not considered agriculture.

4

5 Mr. Passalacqua stated that the facility is not a kennel but is a feed research facility.

6

7 Mr. Hall stated that it is still not considered an agricultural use.

8

9 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Turner.

10

11 Mr. William Goldshlag, who resides at 1329 West Ridge Lane, Champaign, asked Mr. Turner if he heard the
12 barking of dogs in the summer and fall when it was warm outside.

13

14 Mr. Turner stated yes. He said that he would hear the dogs anytime from April until October.

15

16 Mr. Goldshlag asked Mr. Turner if the barking from the northern facility is more pronounced in the summer
17 months than in the winter months.

18

19 Mr. Turner stated that he could indicate such but he is not outside very much during the winter other than to
20 run from the front door to the mailbox and back to the front door.

21

22 Mr. Goldshlag stated that he is trying to suggest that the amount of barking that would have come from the
23 new facility would be lower due to the cold weather.

24

25 Mr. Thorsland stated that Mr. Turner testified that he could not specifically define where any of the barking
26 was coming from when he would hear it but assumed it was from the kennel to the north.

27

28 Mr. Goldshlag stated that he was just trying to say that winter months with the cold weather outside would

1 be a factor for the barking to be much less.

2

3 Mr. Thorsland stated that most people would assume that fact.

4

5 Mr. Thorsland asked the audience if anyone else desired to cross examine Mr. Turner and there was no one.

6

7 Mr. Thorsland called Laura Schwenker to testify.

8

9 Ms. Laura Schwenker, who resides at 1308 Farley Lane, Champaign, stated that she did send an email that
10 was included in the Board packet. She said that she can address the dog facility that is located on North
11 Staley to some degree and even though she is not positive what it is she would guess that there are 10 to 15
12 of the same type of dogs there and it is her assumption that it is a breeding facility. She said that when she
13 drives past the facility in the morning the dogs are located in their multiple runs and they are barking loudly
14 at each other and traffic. She said that during the summer months when her windows are open she hears the
15 dogs barking from that facility, or at least she assumes they are from that facility, but she does not know for
16 sure. She said that she can only imagine that during the summer months with a dog kennel being across the
17 road from the West Ridge Subdivision that the dog noise would be louder. She said that she would assume
18 that traffic going past the kennel would excite some of the dogs and they would begin barking. She said that
19 some dogs, maybe not all, are more prone to excitement by pedestrians, bikers, children, etc. She said that
20 there is a walking path along Staley Road that is great for exercise and biking and that traffic could excite the
21 dogs. She said that trees could be a noise and visual barrier so that the dogs do not get excited when
22 pedestrians and bikers are going past the kennel property.

23

24 Mr. Thorsland stated that a lot of Ms. Schwenker's concerns were mentioned in her email to staff. He asked
25 Ms. Schwenker if there was any additional testimony that she would like to present.

26

27 Ms. Schwenker stated no.

28

1 Mr. Thorsland stated that the memorandum indicated that three years ago the Average Daily Trips on Staley
2 Road was over 6,000 vehicles per day and not all of the vehicles are small vehicles. He asked Ms.
3 Schwenker if she heard Mr. Johnson indicate that his personal dogs are at the facility currently.

4
5 Ms. Schwenker stated that she did hear Mr. Johnson testify that his personal dogs are at the facility currently.

6
7 Mr. Thorsland asked Ms. Schwenker if she has heard anything from Mr. Johnson's property.

8
9 Ms. Schwenker stated no.

10
11 Mr. Thorsland asked Ms. Schwenker if all of the noise that she has heard is coming from the facility located
12 to the north of the subdivision.

13
14 Ms. Schwenker stated yes.

15
16 Mr. Thorsland asked Mr. Randol if has any information regarding the facility to the north.

17
18 Mr. Randol stated that the facility on North Staley Road is a feed research operation.

19
20 Mr. Thorsland stated that the facility to the north is a nonconforming operation and can stay there until it
21 ceases to exist. Mr. Thorsland stated that some people will tend to ask why Mr. Johnson's facility is
22 necessary when there is already a facility on North Staley Road but such a statement is not true because the
23 facility to the north is not the type of facility where people can take their dogs to kennel them.

24
25 Mr. Randol stated that it was his intention to indicate that the facility to the north and Mr. Johnson's facility
26 are two different types of operations and are not related in any way.

27
28 Mr. Passalacqua stated that just because there are dogs at both locations the two uses cannot be compared at

1 all. He said that the facility to the north has been in existence for 20 or 30 years and if the people in the
2 neighborhood can hear the dogs then he feels sorry for them but the facility was there prior to the
3 subdivision. He said that he has not heard about any complaints being filed regarding the facility to the
4 north. He said that he does not like it when people come before the Board after the fact because Mr. Johnson
5 should have contacted the County regarding any required permitting.

6
7 Ms. Schwenker stated that she does not object to the kennel across the street or the boarding or dog training
8 of the dogs at the facility but she does object to no noise abatement measures being required for the facility.

9
10 Mr. Thorsland stated that the Board will take her objections in to consideration and will determine the need
11 for the noise abatement.

12
13 Mr. Hall stated that currently there is no time limit imposed regarding the amount of time that the dogs could
14 be supervised outside. He asked Ms. Schwenker to indicate the amount of time that she would find
15 acceptable for the dogs to be supervised outside.

16
17 Ms. Schwenker stated that it would be depend on the amount of dogs. She asked if Mr. Hall is talking about
18 the supervision of one dog or fifty dogs.

19
20 Mr. Hall stated that the number of dogs would be a critical factor.

21
22 Ms. Schwenker stated that she cannot answer Mr. Hall's question until she knows the number of dogs that
23 Mr. Johnson intends to board.

24
25 Mr. Hall stated that at this time we know that the number is 15 dogs but we need to know if that includes all
26 of the dogs on the property at one time, both the client's dogs and Mr. Johnson's dogs. He said that if there
27 were dogs in two different areas it is given that the dogs in the separate areas will bark at each other
28 therefore there is a lot of detail involved in this case.

1

2 Ms. Schwenker stated that she is a dog and animal lover and dogs need to be outside to exercise much like
3 children - the more fresh air the better - but are we discussing one dog outside or twenty dogs outside for five
4 hours. She said that twenty dogs outside at one time without any noise abatement is not acceptable. She
5 said that it is her understanding that the petitioners do not desire any type of noise abatement and that is the
6 portion of the request that she is objecting to.

7

8 Mr. Thorsland asked Ms. Schwenker if dogs are allowed within the subdivision.

9

10 Ms. Schwenker stated yes.

11

12 Mr. Thorsland asked Ms. Schwenker if the dogs bark within the subdivision.

13

14 Ms. Schwenker stated yes and she does not object to it.

15

16 Mr. Thorsland stated that he understands because it is the nature of a dog to bark.

17

18 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Schwenker and there were none.

19

20 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Schwenker and there was no one.

21

22 Mr. Thorsland called William Goldshlag to testify.

23

24 Mr. William Goldshlag, who resides at 1329 West Ridge Court, Champaign, stated that his home is very
25 close to the proposed kennel and just around the corner. He said that his primary concern is with the noise
26 and the request to not erecting noise barriers for the kennel. He said that the subdivision is at the very edge
27 of Champaign therefore the winds that come from the fields are much stronger than the winds that people in
28 town receive and those winds carry a lot of noise. He said that the kennel to the north of the subdivision

1 illustrates how far the winds carry the noise. Mr. Goldshlag stated that he is familiar with the kennel to the
2 north because he jogs past it and when he passes the dogs become agitated. He said that if one dog sees him
3 and begins barking the other dogs bark as well. He said that there is a pedestrian path across from the
4 proposed kennel and he expects the same thing to occur when someone passes it. He expects more foot
5 traffic on the pedestrian path across from the proposed kennel because it is not only used by joggers but also
6 by families with small children in carriages. He said that there is a newly constructed playground to the
7 north of the subdivision and the walk path is the only way to access the playground from the adjacent
8 Sawgrass Subdivision. He said that he has a direct visual from his home and he sees people walking with
9 their children taking them to the playground and back and he expects that the dogs will spot the pedestrians
10 and begin barking.

11

12 Mr. Goldshlag stated that the nature of the kennel business would be to bring strange dogs into the same
13 facility therefore getting the animals more excited with pedestrians, cars, etc. therefore producing more noise
14 in general. He said that there are a lot of dogs in his subdivision and probably more than half of the
15 homeowners have dogs and those dogs do bark sometimes and no one complains. He said that placing
16 fifteen dogs which have been taken away from their owners and putting them in a small fenced area when
17 they are scared will entice them to bark at pedestrians and traffic therefore increasing the noise issue. He
18 said that the subject property is located on agricultural land but the subdivisions across the road are densely
19 populated with families. He said that when the Board considers if the subject property is appropriate for the
20 requested business the Board must realize that even though it is occupied for agriculture it is still located 100
21 feet from a densely populated neighborhood.

22

23 Mr. Thorsland asked Mr. Goldshlag if it would alleviate some of his concerns if some sort of very defined
24 times were applied to the business regarding when the dogs could be outside.

25

26 Mr. Goldshlag asked who would enforce those times.

27

28 Mr. Thorsland stated that the Board defines the rules when the dogs can be outside and if complaints are

1 received the Department of Planning and Zoning will contact the petitioner and if the issue continues the
2 Special Use Permit will be taken away.

3
4 Mr. Goldshlag stated that frankly he does not want this to become a case like Mr. Frazier's in which the
5 petitioner does something and a lot of people must suffer and the Board is attempting to mitigate the
6 problems. He said that currently the business just started operation and it has been very cold outside
7 therefore not many dogs have been at the kennel. He said that people have not had the chance to experience
8 the business at full capacity. He said that he does not want the Board to require particular times because he
9 does not believe that they are very enforceable and it would just become a big nuisance.

10
11 Mr. Thorsland asked Mr. Goldshlag if the required barriers that are for a typical kennel are more what he
12 would be happy with.

13
14 Mr. Goldshlag stated that he would be happy if the kennel was moved towards the back of the property as far
15 away from the road as possible and if the visual and noise barriers were required. He said that this property
16 used to be a farmstead and there are warehouses in the back of the property and it is his understanding that
17 one of the buildings is to be demolished. He said that he is not sure if Mr. Johnson will be utilizing the other
18 building but with due diligence Mr. Johnson should be able to construct a kennel where the dogs will not be
19 agitated by the traffic on the road, both pedestrian and vehicular.

20
21 Mr. Hall asked Mr. Goldshlag if he would still be concerned about the noise if the dogs were only housed in
22 the house.

23
24 Mr. Goldshlag stated that he tried to examine some of the evidence presented in the package. He said that
25 the layout of the house is very inaccurate because the dimensions do not add up and is grossly inaccurate.
26 He said that it is his opinion that the house is very small to house 15 dogs plus someone living there plus a
27 space to groom and take care of the dogs; he does not believe that it is large enough to house 15 animals
28 most of the day. He said that he is afraid that the operation will inevitably spill into the outside kennels

1 because there will not be adequate space for the dogs inside.

2

3 Mr. Thorsland stated that the Board has requested that a better site plan be submitted.

4

5 Mr. Hall asked Mr. Goldshlag if he has viewed the photographs that are included in the Supplemental
6 Memorandum dated February 12, 2015.

7

8 Mr. Goldshlag stated that he has not reviewed the Supplemental Memorandum dated February 12, 2015.

9

10 Mr. Thorsland stated that he will make sure that Mr. Goldshlag has an opportunity to review the
11 memorandum.

12

13 Mr. Goldshlag stated that the reason why he is concerned about the noise is because he had a chance to
14 review some of the responses by the petitioner on the variance application regarding how he would mitigate
15 the noise. He said that when the petitioner was asked whether or not the Special Use will be injurious to the
16 District in which it shall be located, or otherwise detrimental to the public welfare, the petitioner indicated
17 that the property is zoned AG-1, therefore it could be used as a farm, or to keep other livestock. Dogs are
18 cleaner than livestock that are kept in barns or pastures like cows and pigs that create smells that go beyond
19 the perimeter of the property. Mr. Goldshlag stated that he does not believe that Mr. Johnson or Mr. Handal
20 would sincerely do their best effort to protect the neighbors from noise and he also believes that the noise
21 would affect both the neighborhood's comfort and property values of the adjacent houses.

22

23 Mr. Thorsland stated that the subject property is not farmed but it was not long ago that where the
24 subdivision is located was farmland and the subject property sat very far away from Champaign. He noted
25 that since the property is zoned AG-1 it is very possible that the subdivision could have a very different type
26 of operation adjacent next to it. He said that as an owner of a farm that has housed pigs in the past it is his
27 opinion that dogs would be better than pigs. He said that he does not believe that the petitioner was trying to
28 be facetious in his answers but was pointing out that the subject property is located near a very densely

1 populated subdivision but the AG-1 zoning begins across the road and agricultural land could be used for
2 many different uses by right. He noted that there is a *Right to Farm* in the County and the State of Illinois
3 therefore the petitioner could have 200 cattle or pigs on the subject property and neither one of those uses
4 would require review by this Board.

5

6 Mr. Goldshlag stated that we are not hearing a petitioner for a swine farm.

7

8 Mr. Thorsland stated that Mr. Goldshlag is correct and he should be very happy about that point. He said
9 that the Board is going to work with the noise barrier and it appears that the waiver of the barrier is the most
10 concern and the distance of the exercise/training area from any adjacent residential structure. He asked the
11 audience to keep in mind that the members of the Board do hail from the unincorporated areas of Champaign
12 County and not one of the members are unfamiliar how the wind blows from the rural area. He said that the
13 adjacent subdivision is on the edge of the unincorporated area and the subject property is in the
14 unincorporated area and unfortunately the barrier is very small between the two.

15

16 Ms. Lee asked Mr. Goldshlag to clarify which facility he was discussing when he spoke about the dogs
17 barking at him when he jogs.

18

19 Mr. Goldshlag stated that he was discussing the research facility.

20

21 Ms. Lee asked Mr. Goldshlag if the dogs bark at him from this facility when he jogs past it.

22

23 Mr. Goldshlag stated that it is winter time and the kennel is not in full operation yet and only a couple of
24 dogs are present outside but during the summer months he expects more dogs to be outside. He said that he
25 does not want the petitioner to go through more expense and have the operation go any further and then the
26 complaints start. He said that the reason why the County has zoning rules is to foresee situations before they
27 occur. He said that he has not been disturbed to the point where he will file a complaint with the Board yet
28 and he does not want to get to the point either. He requested that the Board also looks into whether the

1 square footage of the house is appropriate for housing this many dogs.

2

3 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Goldshlag and there
4 were none.

5

6 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Goldshlag and there was no one.

7

8 Mr. Thorsland called Mr. Fuad Handal to testify.

9

10 Mr. Thorsland stated that Mr. Handal has left the meeting.

11

12 Mr. Thorsland called Mr. Johnson to the witness microphone.

13

14 Mr. Lawrence Reginald Johnson, stated that he generally goes by the name "Reggie" when addressed. He
15 said that he sees people walking and jogging every day on the walk path in the subdivision and there are
16 dogs that live in the subdivision which are near the walk path and they bark at everyone who passes by. He
17 said he has lived at the subject property for over one year and he has his personal dogs and other peoples'
18 dogs and he has not witnessed any of the dogs on his property bark at anyone. He said that he always
19 supervises his dogs and the dogs are not left outside for hours at a time unsupervised. He said that the dogs
20 do go out to exercise but he is with them the entire time.

21

22 Mr. Johnson stated that the facility that is north of the subject property and the subdivision has
23 approximately 50 dogs. He said that he does not want 50 dogs at his facility and he does not intend to ever
24 have that many dogs at his facility.

25

26 Ms. Lee asked Mr. Johnson how many dogs he personally owns that are at the facility currently.

27

28 Mr. Johnson stated that he personally owns six dogs and they are all male.

1

2 Mr. Thorsland asked Mr. Johnson if the 15 dogs that he indicated would be housed at the property includes
3 his six personal dogs.

4

5 Mr. Johnson stated yes.

6

7 Mr. Thorsland asked Mr. Johnson if he would agree to a condition on the permit indicating that no more than
8 15 dogs, including Mr. Johnson's personal dogs, could be at the facility at any one time.

9

10 Mr. Johnson stated yes.

11

12 Mr. Thorsland asked Mr. Johnson if he would agree to a condition that the front exercise area could only be
13 used for no more than 15 dogs under the supervision of Mr. Johnson or a worker.

14

15 Mr. Johnson stated yes. He said that he does not trust people's dogs because they may unlock the gate or
16 climb over the fence therefore it is his experience that they have to be supervised at all times. He noted that
17 he did receive his license from the State of Illinois. He said that the State inspectors came to the property
18 and performed an inspection and issued his license.

19

20 Mr. Thorsland stated that the Board would like to have a copy of the license issued by the State of Illinois
21 and any other certifications that Mr. Johnson may have. He said that the Board would like to have a
22 complete floor plan of the house indicating the use of each location in the house. He said that the barrier is a
23 concern, so the petitioners may consider the slates that go into the chain link fence that create a visual
24 barrier. He said that there is a ditch by the subject property but there are some very narrow plantings that
25 could be installed. He asked Mr. Johnson if he would agree to install a sound or visual barrier on the front
26 side of the property if the Board required it as a condition.

27

28 Mr. Johnson stated yes. He said that he and Mr. Handal installed the fence and began the kennel operation

1 before they were aware that they were required to obtain a Special Use Permit from the County. He said that
2 once they found out that they needed a Special Use Permit they submitted the application immediately. He
3 said that they were under the impression that since they were in the country they didn't need anything other
4 than approval from the State of Illinois.

5
6 Mr. Thorsland stated that the situation is understandable and in all his years on the Board the most important
7 thing that County does not do and will probably never have a budget to do is communicate to the public what
8 the Zoning Board of Appeals does and what the public needs to do to meet the County's requirements. He
9 said that the Board cannot imagine what everyone wants to do or what people think they get to do which is
10 why the Board exists. He said that the Board appreciates the fact that as soon as the petitioners knew what
11 they needed to do they applied for the Special Use Permit and paid the applicable fees.

12

13 Mr. Passalacqua asked if the location of the front fence is compliant.

14

15 Mr. Hall stated that he does not know what compliance Mr. Passalacqua is interested in.

16

17 Mr. Passalacqua stated that the fence appears to be too close to the road.

18

19 Mr. Hall stated that the fence can be at the property line.

20

21 Mr. Passalacqua stated that the location of the poles and the fence is permissible.

22

23 Mr. Hall stated yes.

24

25 Mr. Lee asked if permissible means the line of the road right-of-way.

26

27 Mr. Hall stated yes.

28

1 Mr. Thorsland noted that someone could put their fence right up to the sidewalk.

2

3 Mr. Thorsland stated that it appears that the petitioners are willing to work with the Board and staff to do
4 what they can do to obtain approval and to work with the neighbor's concerns. Mr. Thorsland stated that
5 currently the main concerns from the neighbors are visual and noise barriers. He said that it is the winter
6 months therefore everyone has their windows and doors closed so we anticipate everyone to have more
7 activity which includes Mr. Johnson's business. He said that the Board would like to get this case resolved
8 so that everyone is comfortable and before Mr. Johnson gets moving along any further. He said that the
9 Board cannot make Mr. Johnson do anything but can request that he does not take in more business than he
10 already has until the case is resolved.

11

12 Mr. Johnson stated that he understands the Board's request.

13

14 Mr. Thorsland requested a copy of any documentation regarding Mr. Johnson's certification as a state
15 certified trainer. He said that Mr. Johnson should call Ms. Chavarria regarding any information regarding the
16 septic system. He said that the Board is not requiring an architectural drawing but a better drawing of the
17 property and the interior of the house and its use would be appreciated. He said that the petitioners should
18 think about the future and include any visions that they may have.

19

20 Mr. Johnson stated that any visions or dreams that he has for the future could not occur on the subject
21 property because it is too small.

22

23 Mr. Thorsland stated that the Board should know about any demolition of existing buildings and what would
24 be located in that vacant location.

25

26 Mr. Johnson stated that he does not own the property therefore he will need to contact Mr. Handal regarding
27 the septic system.

28

1 Mr. Thorsland stated that the Board needs to know the location of the septic system and when it was checked
2 and by whom.

3
4 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony
5 regarding this case and there was no one.

6
7 Ms. Lee asked Mr. Johnson if he ever takes his own dogs along the sidewalk outside of the fenced area.

8
9 Mr. Johnson stated that he does not because he does not have insurance for that area. He said that he only
10 has insurance for the subject property therefore everything he does happens on the property.

11
12 Mr. Thorsland stated that the Board would love to see a copy of that insurance policy.

13
14 Mr. Johnson stated that he will submit it to staff.

15
16 Mr. Thorsland asked the petitioner if he would be available for a continuance date of April 16, 2015.

17
18 Mr. Johnson stated yes.

19
20 Mr. Thorsland entertained a motion to continue Case 793-S-14 to the April 16, 2015, meeting.

21
22 **Ms. Capel moved, seconded by Mr. Passalacqua to continue Case 793-S-14, to the April 16, 2015,**
23 **meeting.**

24
25 Mr. Goldshlag requested the opportunity to cross examine Mr. Johnson.

26
27 Mr. Thorsland called Mr. Goldshlag to the cross examination microphone.

28

1 Mr. William Goldshlag asked Mr. Johnson to indicate the indoor square footage which is available for the
2 kennel.

3

4 Mr. Johnson stated that he does not know the exact square footage of the area but he uses the first floor
5 which has one room which is approximately 16' x 20' and the other room is smaller.

6

7 Mr. Thorsland stated that dimensions of the interior of the house are on the drawing that Mr. Johnson
8 submitted to staff.

9

10 Mr. Goldshlag stated that he realizes that the dimensions are on the drawing but the dimensions do not add
11 up which is why he is double checking the dimensions.

12

13 Mr. Johnson stated that the dogs are housed in crates and kennels in the house. He said that he lets the dogs
14 out to exercise every other hour so that they are not cooped up in the crates and kennels for several hours at a
15 time. He said that he is always outside with the dogs during their exercise time. He said that the dogs do
16 sleep in their crates and kennels at night and the dogs do sleep all night.

17

18 Mr. Thorsland asked Mr. Johnson if he releases all of the dogs outside at once or does he release them in
19 shifts for exercise time.

20

21 Mr. Johnson stated that he exercises the dogs in shifts. He said that the dogs that get along are allowed to go
22 out together under his supervision. He said that there may be a time when he only exercises one dog outside
23 and there may be other times when there are two or three dogs outside for exercise under his supervision.

24

25 Mr. Goldshlag asked Mr. Johnson how often he takes the dogs outside.

26

27 Mr. Johnson stated that he exercises the dogs every other hour during the day which, depending upon the
28 weather, would be between six and eight times per day.

1

2 Mr. Goldshlag asked Mr. Johnson if he would train dogs with behavioral issues and if so does he believe that
3 he has enough space for 15 dogs with behavioral issues.

4

5 Mr. Johnson stated that when he trains dogs with behavioral issues he will have the owner bring the dog to
6 him and he will work with the owner and the dog and then have the owner take the dog home. He said that
7 dogs with serious behavioral issues do not come to his facility because he does not take aggressive dogs.

8

9 Mr. Thorsland asked Mr. Johnson if he has a form that clients must complete when they bring their dogs to
10 the facility.

11

12 Mr. Johnson stated yes. He said that he keeps record of their shots.

13

14 Mr. Thorsland stated that he would appreciate a copy of the form submitted as evidence for Board review.
15 He said that if the kennel has guidelines or rules that are presented to the owners the Board would also
16 appreciate the ability to review that information as well.

17

18 Mr. Passalacqua asked Mr. Johnson if he has a flyer or website which describes his services.

19

20 Mr. Johnson stated that he does have a flyer that he can submit. He said that normally people call him due to
21 word of mouth.

22

23 Mr. Passalacqua stated that anything that Mr. Johnson can add regarding his business and its services would
24 be helpful for the Board's review.

25

26 Mr. Thorsland stated that he assumes that the flyer indicates the hours of operation and when animals are
27 accepted. He said that he also assumes that clients do not drop off their dogs at 10:00 p.m.

28

1 Mr. Johnson stated that sometimes people will drop off their dogs during an emergency situation.

2

3 Mr. Thorsland asked Mr. Johnson to indicate his normal non-emergency hours.

4

5 Mr. Johnson stated that his regular hours of operation are 7:00 a.m. to 7:00 p.m.

6

7 Mr. Thorsland stated that as much information that Mr. Johnson can provide the Board the better. He
8 recommended that Mr. Johnson discuss any questions or concerns with Ms. Chavarria prior to the next
9 meeting for this case.

10

11 **The motion carried by voice vote.**

12

13 Mr. Thorsland entertained a motion to extend the meeting to 10:00 p.m.

14

15 **Ms. Capel moved, seconded by Ms. Lee to extend the meeting to 10:00 p.m. The motion carried by**
16 **voice vote.**

17

18

19 **Case 794-S-14 Petitioner: Premier Cooperative, Inc. with board members Greg Miller, William**
20 **Stierwalt, Kim Jolley, Kenneth Hieser, Stephen Hettinger, Pat Feeney, James Kleiss, Douglas**
21 **Hansens, John Murray, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller,**
22 **General Manager and James Deters, Chief Financial Officer. Request: 1) Authorize construction of**
23 **two 24,000 gallon bulk fuel storage tanks in the B-1, Rural Trade Center Zoning District; and 2)**
24 **Authorize the following waiver to the standard conditions of the “Gasoline and Volatile Oils Storage**
25 **in the B-1 and B-3 Districts” Special Use as per Section 6.1.3 of the Zoning Ordinance: Gasoline and**
26 **Volatile Oils Storage Facilities shall not be permitted closer than 500 feet from the R District or any**
27 **Residential, Institutional, or Public Assembly Use.” Location: A 8.19 acre tract in the South Half of**
28 **the Southwest Quarter of Section 17, Township 20N, Range 9E, in Somer Township and commonly**

1 **known as Premier Cooperative at 1711 East Leverett Road, Champaign.**

2

3 **Case 797-AM-15 Petitioner: Premier Cooperative, Inc. with board members Greg Miller, William**
4 **Stierwalt, Kim Jolley, Kenneth Hieser, Stephen Hettinger, Pat Feeney, James Kleiss, Douglas**
5 **Hansens, John Murray, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller,**
6 **General Manager and James Deters, Chief Financial Officer. Request to amend the Zoning Map to**
7 **change the zoning district designation from AG-2, Agriculture Zoning District to the B-1, Rural Trade**
8 **Center Zoning District in order to operate the proposed Special Use in related Case 794-S-14.**
9 **Location: A 8.19 acre tract in the South Half of the Southwest Quarter of Section 17, Township 20N,**
10 **Range 9E, in Somer Township and commonly known as Premier Cooperative at 1711 East Leverett**
11 **Road, Champaign.**

12

13 Mr. Thorsland called Cases 794-S-14 and 797-AM-15 concurrently.

14

15 Mr. Thorsland informed the audience that Case 794-S-14 is an Administrative Case, and as such the County
16 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
17 show of hands for those who would like to cross examine and each person will be called upon. He requested
18 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
19 that those who desire to cross examine are not required to sign the witness register but are requested to
20 clearly state their name before asking any questions. He noted that no new testimony is to be given during
21 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
22 exempt from cross examination.

23

24 Mr. Thorsland asked the petitioners if they would like to make a statement regarding their case.

25

26 Mr. David Kieffer, Fuel Manager for Premier Cooperative Inc., stated that he is present tonight to request
27 that the subject property be rezoned from AG-2 to B-1 to allow for the construction of a bulk fuel facility.
28 He said that the facility will be a benefit for their local patrons which are the local farmers in the area but

1 will also help reduce the amount of traffic on the roads that are currently required to travel to northern and
2 southern portions of the County for fuel. He said that to accommodate their dry area they are requesting the
3 ability to construct a couple of tanks in the middle of where Premier Cooperative does business.

4
5 Mr. Passalacqua asked Mr. Kieffer if the bulk fuel facility is for Premier Cooperative's vehicles or retail sale
6 for other agricultural operations.

7
8 Mr. Kieffer stated that the purpose for the bulk facility is for retail sale to other agricultural operations.

9
10 Ms. Lee stated that the residences are less than 500 feet from the location of the proposed fuel tanks. She
11 asked Mr. Kieffer if they could relocate the fuel tanks to maintain the required 500 foot distance.

12
13 Mr. Kieffer stated yes. He said that initially when they submitted the drawing they were indicating where
14 they might construct the tanks due to wind reasons going in and out of the building. He said that the tanks
15 will be relocated to meet the requirement and it is not an issue.

16
17 Ms. Lee stated that recently the County has had tornadoes and the tanks are located southwest of the
18 residence.

19
20 Mr. Kieffer stated that the tanks will be moved.

21
22 Mr. Thorsland stated that if the tanks are to be relocated a new drawing will need to be submitted to staff for
23 review.

24
25 Mr. Kieffer stated that he will submit a new drawing indicating the new location.

26
27 Mr. Hall asked Mr. Kieffer if he is indicating that they can meet the 500 foot setback.

28

1 Mr. Kieffer stated yes they can meet the 500 foot setback therefore they do not require the waiver.

2

3 Mr. Thorsland asked the Board and staff if there were any additional questions for Mr. Kieffer and there
4 were none.

5

6 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kieffer and there was no one.

7

8 Mr. Thorsland called Mr. Seth Rients to testify.

9

10 Mr. Seth Rients, who resides at 1807 E. Leverett Road, Champaign, stated that his home is indicated in the
11 photographs included in the packet. He said that the memorandum indicates that there will be an
12 environmental assessment completed but he has not seen this study yet.

13

14 Mr. Kieffer stated that the environmental assessment is currently being prepared. He said that their
15 environmental consultant is present tonight at the meeting. He said that part of it had to do with the drainage
16 assessment that had to be completed as well and the paperwork for the drainage assessment were not
17 received until the 4th or 5th of February therefore some of that is still being drawn up. He said that they are
18 requesting the rezoning portion of their request so that they can move forward with the rest of it as they see
19 fit. He said that there will be a full Spill Prevention Control and Countermeasure (SPCC) Plan provided
20 before construction.

21

22 Mr. Thorsland called Jeff Breen to testify.

23

24 Mr. Jeff Breen, Fixed Asset Manager for Premier Cooperative, Inc., who resides at 308 E. Marshall, Tolono,
25 stated that he is present tonight to answer any questions that Mr. Kieffer may not be able to answer.

26

27 Mr. Thorsland stated that the Board has heard testimony indicating that the tanks can be relocated to
28 eliminate the need for Part B. of Case 794-S-14. He said that the Board and staff will need to review the

1 new site plan as soon as possible.

2

3 Mr. Breen stated that he can have the new site plan available as early as tomorrow.

4

5 Mr. Thorsland stated that the Board will attempt to fit Case 794-S-14 into the docket as soon as possible. He
6 asked Mr. Breen if he anticipates having the SPCC Plan prior to the next meeting.

7

8 Mr. Breen stated yes.

9

10 Mr. Thorsland asked staff and the Board if there were any questions for Mr. Breen and there were none.

11

12 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Breen and there was no one.

13

14 Mr. Thorsland called Karl Newman to testify.

15

16 Mr. Karl Newman, who resides at 1821 Robert Drive, Champaign, stated that he is the Senior Project
17 Manager for GEOCON Professional Services, LLC. and is the environmental consultant for Premier
18 Cooperative. He said that if the Board will remember he sat before the Board for Premier Cooperative's
19 Apex facility at Tolono but the facility at Leverett is smaller. He said that what he will be preparing is a
20 SPCC Plan which is a written document that Premier will have in place at the facility before it goes into
21 operation and it is basically a plan to prevent spills from the facility. He said that in the unlikely event if
22 there is a spill, proper procedures will respond to it, including proper notifications to necessary state and
23 federal agencies. He said that the plan is not an environmental assessment as such but it is a plan that will be
24 in place after construction of the facility and prior to placement and operation to try to prevent any spills of
25 oil from the facility.

26

27 Mr. Thorsland stated that the plan will be similar to the one prepared for the Tolono facility.

28

1 Mr. Newman stated yes. He said that generally for a bulk storage facility, which is what this project will be,
2 those types of facilities which have more the 1,320 gallons of storage are required by federal regulation to
3 have this type of plan. He said that the construction and permitting of the facility are handled by the Office
4 of the State Fire Marshal and Premier will certainly have to go through those hoops to get the facility
5 constructed.

6
7 Mr. Thorsland stated that he would anticipate increased traffic due to delivery of the bulk fuel to the facility
8 and the outgoing sales of the fuel. He asked Mr. Newman if he had any idea of the amount of increase for
9 traffic.

10
11 Mr. Newman stated that he would not have an answer to Mr. Thorsland's question regarding the increase in
12 traffic.

13
14 Mr. Thorsland asked staff and the Board if there were any questions for Mr. Newman and there were none.

15
16 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Newman and there was no one.

17
18 Mr. Thorsland called David Kieffer back to the witness microphone to address his question regarding
19 anticipated increased traffic.

20
21 Mr. Kieffer stated that additional traffic will be about four trucks per day. He said that he currently has
22 vehicles stationed at this location for the fuel division therefore it will not increase much. He said that the
23 four trucks would be coming in to fill the facility and as far as going out of the facility they already do. He
24 said that transportation on the County's roads would decrease because he is taking those trucks and either
25 going to the Tolono facility or going all the way up to their Ford County-Elliott location. He said that he is
26 trying to keep fuel for the farmer's roughly in the Champaign-Urbana area therefore not requiring them to
27 travel north or south but overall there will be less traffic countywide.

28

1 Mr. Thorsland stated that it sounds like it would be a wash because the trucks that are stationed at Leverett
2 travel somewhere to get filled anyway.

3

4 Mr. Kieffer stated that roughly it would be four additional semi-loads per day coming off of the interstate.

5

6 Mr. Passalacqua asked Mr. Kieffer if the trucks that he is discussing are Premier Cooperative's trucks and
7 not clients.

8

9 Mr. Kieffer stated yes. He said that the trucks are Premier Cooperative's trucks or a vendor that hauls for
10 Premier Cooperative and nobody can legally dispense from the Leverette location other than Premier
11 Cooperative.

12

13 Mr. Thorsland asked staff and the Board if there were any questions for Mr. Kieffer and there were none.

14

15 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kieffer and there was no one.

16

17 Mr. Thorsland noted that the revised site plan should be submitted to staff as soon as possible.

18

19 Mr. Thorsland stated that the Preliminary Memorandum dated February 5, 2015, includes the Draft Finding
20 of Fact for Case 797-AM-15. He said that the Board can review the entire finding or move directly to the
21 Summary Finding of Fact.

22

23 Mr. Passalacqua stated that the Board should move to the Summary Finding of Fact because the new site
24 plan will not change any of the LRMP Goals and Policies.

25

26 Mr. Thorsland noted that a new item #7 should be added to the Documents of Record as follows:
27 Supplemental Memorandum with attachments for Case 794-S-14 dated February 12, 2015.

28

1 Mr. Hall stated that this finding is identical to the finding for the Tolono facility although the site plans are
2 much different. He said that staff found no differences for the findings, therefore the Board can invest as
3 much time that the Board deems necessary.

4
5 Ms. Lee asked Mr. Hall when the Tolono facility case was completed.

6
7 Mr. Hall stated that the Tolono facility case was completed in 2012.

8
9 Mr. Thorsland stated that the Board spent a lot of time on the Tolono case and the Board received very good
10 information regarding their spill response and all of this came from authorities higher than the ZBA and
11 Premier met all of their requirements. Mr. Thorsland stated that the Board can move to adopt the Finding of
12 Fact, Documents of Record and Summary Finding of Fact as written because he saw nothing different than
13 what the Board received previously.

14
15 Mr. Thorsland entertained a motion to adopt the Finding of Fact, Documents of Record and Summary
16 Finding of Fact for Case 797-AM-15.

17
18 **Mr. Passalacqua moved, seconded by Mr. Randol to adopt the Finding of Fact, Documents of Record**
19 **and Summary Finding of Fact for Case 797-AM-15. The motion carried by voice vote.**

20
21 Mr. Passalacqua stated that it is very unfortunate that the Board does not have the revised plan.

22
23 Mr. Thorsland stated that it is unfortunate but it is important for the Board to have it so that everyone knows
24 what is being approved.

25
26 Mr. Thorsland entertained a motion to move to the Final Determination for Case 797-AM-15.

27
28 **Ms. Capel moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 797-AM-**

1 15.

2

3 Mr. Thorsland informed the petitioners that currently the Board has one vacant Board seat and one absent
4 Board member therefore it is at their discretion to either continue Case 797-AM-15 until a full Board is
5 present or request that the present Board move to the Final Determination. He informed the petitioners that
6 four affirmative votes are required for approval.

7

8 Mr. Breen requested that the present Board move to the Final Determination.

9

10 **Final Determination for Case 797-AM-15:**

11

12 **Mr. Passalacqua moved, seconded by Mr. Randol that pursuant to the authority granted by Section**
13 **9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
14 **determines that the Zoning Ordinance Amendment requested in Case 797-AM-15 should BE**
15 **ENACTED by the County Board in the form attached hereto.**

16

17 Mr. Thorsland requested a roll call vote.

18

19 The roll was called as follows:

20

21	Randol-yes	Capel-yes	Griest-absent
22	Lee-yes	Passalacqua-yes	Thorsland-yes

23

24 Mr. Hall informed the petitioners that they have received a recommendation for approval therefore Case 797-
25 AM-15 will be forwarded to the Champaign County Environment and Land Use Committee for their March
26 5, 2015, meeting.

27

28 Mr. Thorsland stated that the Board needs to continue Case 794-S-14 to a later meeting.

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Mr. Hall stated that the Board could continue Case 794-S-14 to the February 26, 2015, meeting.

Mr. Thorsland stated that later during this meeting the Board will be posed a question whether to begin the February 26, 2015, meeting at 6:00 p.m. or 6:30 p.m. He said that the agenda for the February 26, 2015, meeting is very busy. He said that he assumes that Premier Cooperative will have the revised site plan to staff quickly therefore he would entertain a motion to continue Case 794-S-14 to the February 26, 2015, meeting.

Mr. Passalacqua moved, seconded by Mr. Randol to continue Case 794-S-14 to the February 26, 2015, meeting. The motion carried by voice vote.

Mr. Thorsland entertained a motion to begin the February 26, 2015, meeting at 6:00 p.m.

Mr. Randol moved, seconded by Ms. Capel to begin the February 26, 2015, meeting at 6:00 p.m. The motion carried by voice vote.

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Thorsland informed the Board that the February 26, 2015, meeting will be a very busy meeting.

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

1 None

2

3 **10. Adjournment**

4

5 Mr. Thorsland entertained a motion to adjourn the meeting.

6

7 **Ms. Capel moved, seconded by Ms. Lee to adjourn the meeting. The motion carried by voice vote.**

8

9 The meeting adjourned at 9:53 p.m.

10

11

12

13 Respectfully submitted

14

15

16

17

18 Secretary of Zoning Board of Appeals

19

20

21

**EXCERPT OF APPROVED MINUTES FOR JANUARY 15, 2015,
FOR CASES 769-AT-13 AND 773-AT-14**

1
2 **5. Continued Public Hearing**
3

4 Case 769-AT-13 Petitioner: Zoning Administrator Request to amend the Champaign
5 County Zoning Ordinance by amending the Champaign County Storm Water
6 Management Policy by changing the name to the Storm Water Management and Erosion
7 Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and
8 amend the Storm Water Management and Erosion Control Ordinance as described in the
9 legal advertisement which can be summarized as follows: I. Revise existing Section 1 by
10 adding a reference to 55 ILCS 5/5-15-15 that authorizes the County Board to have
11 authority to prevent pollution of any stream or body of water. (Part A of the legal
12 advertisement); and II. Revise existing Section 2 by merging with existing Sections 3.1 and
13 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and
14 preventing water pollution and fulfilling the applicable requirements of the National
15 Pollutant Discharge System (NPDES) Phase II Storm Water Permit. (Part B of the legal
16 advertisement); and III. Add new Section 3 titled Definitions to include definitions related
17 to fulfilling the applicable requirements of the National Pollutant Discharge Elimination
18 System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement); and
19 IV. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15
20 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities
21 including a requirement for a Land Disturbance Erosion Control Permit including Minor
22 and Major classes of Permits that are required within the Champaign County MS4
23 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a
24 common plan of development must comply with the Illinois Environmental Protection
25 Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit;
26 add requirements for administration and enforcement Permits; and add new Appendices
27 with new standards and requirements for both Minor and Major Permits. (Parts D, E, L,
28 M, N, O, T, U, and V of the legal advertisement); and V. Revise existing Section 7 to be new
29 Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties
30 and add minimum erosion and water quality requirements for all construction or land
31 disturbance; and VI. Revise existing Section 5 to be new Section 8 and add a Preferred
32 Hierarchy of Best Management Practices. (Part H of the legal advertisement); and VII.
33 Revise and reformat existing Section 6, 8, 9, 10, 11, 12, and the Appendices and add new
34 Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement).
35

36 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing
37 tonight must sign the witness register for that public hearing. He reminded the audience that
38 when they sign the witness register they are signing an oath. He asked the audience if anyone
39 desired to sign the witness register at this time.
40

41 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his
42 request.
43

44 Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated
45 January 15, 2015, to the Board for review. He said that the Board has received two previous
46 Supplemental Memorandums regarding this case since the Board last met so there is a lot of

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1 information that the Board has not had a chance to discuss. He said that the Supplemental
2 Memorandum distributed tonight includes the revised Technical Appendices D and E and new
3 Appendix F which contains all Standard Details. He said that hopefully with the changes to the
4 technical appendices staff has addressed every comment that was received in the public hearing
5 although some of those comments had to do with whether or not the IDOT form should be used.
6 He said that one thing that the IDOT forms do that no other set of forms does is that they are a
7 comprehensive set specifically intended to respond to the needs related to the NPDES program.
8 He said that as far as he is concerned the use of IDOT forms is not mandatory as long as
9 whatever form is used by an applicant provides at least as much relevant information as the
10 IDOT forms. He said that he knows there are local engineers who prefer to use their own forms
11 and that is fine as long as those forms do everything that the IDOT forms do. He said that he
12 does not want this to be a burden on private sector engineers.
13

14 Mr. Hall stated that Technical Manual Appendix D is for the Minor Land Disturbance Erosion
15 Control Permit. He said that attached to Appendix D is a revised Erosion Control Practices Flow
16 Chart which indicates all of the Standard Details. He said that as long SD1, SD2, SD3, SD5,
17 SD6, SD11, and SD12 are on the site plan that is all that would have to be done. He said that the
18 attached Example Erosion and Sediment Control Plans refer to a one acre lot which is 200 feet
19 wide and should indicate the amount of soil disturbance to that lot. He said that within the area
20 where the Minor or Major LDEC permit may be required he believes that in most cases it will be
21 a lot that is 200 feet wide or a lot that is 150 feet wide in the AG-2 district and he does not
22 anticipate anything any smaller but it can't be ruled out. He said that we might have a 10,000
23 square lot which is already connected to a sanitary sewer in which case the septic field area
24 would not be a concern. He said that the examples deal with the most difficult cases but
25 certainly does not address all cases. He said that the Notes on Installation and Construction
26 Sequence has really changed from what the previous had because the previous version had
27 whatever Champaign and Urbana had come up with but citizens of Champaign and Urbana are
28 completely different than our citizens. He said that Champaign County citizens will have to file
29 both a Zoning Use Permit and a Land Disturbance Erosion Control (LDEC) Permit and will need
30 to do that in the proper sequence. He said that Final Stabilization will come after the Zoning
31 Compliance Inspection. He said that the Notes on Concentrated Flows were kept and if someone
32 is building a new home and a LDEC Permit is obtained the downspouts must be taken care to
33 assure the protection of bare earth. He said that pamphlet versions of Appendices D & E have
34 the Standard Details called out in the Table of Contents but in terms of the Ordinance those
35 Standard Details will be included in Appendix F.
36

37 Mr. Hall stated that Appendix E relates to Major Land Disturbance Erosion Control Permits. He
38 said that all of the forms have been updated from IEPA and IDOT. He said that the Erosion
39 Control Practices Flow Chart was not updated for the Major Land Disturbance Erosion Control
40 Permit as was the Flow Chart for the Minor Land Disturbance Erosion Control Permit because
41 for most Major Land Disturbance Erosion Control Permits there will be an engineer involved and
42 they know this stuff backwards and forwards. He said that on page 4 of 8 of the new IDOT form
43 BDE 2342(Rev.3/20/14) the applicant will need to explain the selection of Permanent Storm
44 Water Management Controls. He said that the guidance in Item II.E.1. indicates that the
45 practices selected for implementation were determined on the basis of the technical guidance in
46 Chapter 41(Construction Site Storm Water Pollution Control) of the IDOT Bureau of Design and

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1 Environment Manual therefore if you have to provide an explanation if you are using anything
2 other than the IDOT Bureau of Design and Environment Manual. He said that someone using
3 this form on a Major Land Disturbance Erosion Control Permit project had better be referring to
4 the Storm Water Management and Erosion Control Ordinance. He said that a note on the Table
5 of Contents of Appendix E indicates the following: Illinois Department of Transportation Storm
6 Water Pollution Prevention Plan (SWPPP) Form (Note: Under item II.E.1 the technical basis for
7 selection of permanent storm water management controls should be the Champaign County
8 Storm Water Management and Erosion Control Ordinance. He said that we are not really
9 interested in the IDOT Bureau of Design and Environment Manual to the extent that it may be
10 based on the Illinois Urban Manual.

11
12 Ms. Lee asked Mr. Hall to indicate the location of the note again.

13
14 Mr. Hall stated that the note is in the Table of Contents for Appendix E.

15
16 Mr. Hall stated that the Supplemental Memorandum dated January 15, 2015, included
17 Attachments III and JJJ. He said that Attachment III is a list of 15 minor edits that he had
18 received in a message from the State's Attorney's office. He said that in some cases the edits
19 delete an entire sentence and he is hoping that when the Board is ready to take final action on
20 this case the Board will have the Finding of Fact with the proposed amendment that is being
21 recommended. He said that hopefully with enough advance notice he will know how to format
22 the amendment and these changes will all be part of it. He noted that these edits are not included
23 in any version that the Board has seen to date but they are all necessary changes.

24
25 Mr. Hall stated that Attachment JJJ is another revision for stockpiles and he realized that the
26 current requirements for stockpiles really anticipate that in every case there would be enough
27 area for 30 feet of separation from the stockpile to the nearest lot line. He said that if the
28 property is located in the AG-1 and AG-2 districts for new lots there should be no problem
29 meeting that standard. He said that in the MS4 jurisdictional area there may be some older lots
30 that are narrower than 150 feet and greater flexibility may be necessary in the MS4 area. He said
31 that in Section 11.5 he proposes to reduce the 30 feet separation to only 10 feet from the nearest
32 property under other ownership. He said that if a developer is doing a subdivision he doesn't
33 have to worry about lot lines and if it is a homebuilder that has two lots side by side he won't
34 have to worry about that intervening lot line. He said that Section 11.5 will be for people who
35 are already dealing with the erosion and sediment controls and staff will be at their property
36 every week to complete an inspection therefore they will not have a chance to forget that the silt
37 controls at the base of the stockpile are kept in good condition. He said that the other 99% of our
38 jurisdiction will not be dealing with erosion and sedimentation controls and staff will not be at
39 their property on a weekly basis. He said all of the lots in the AG-1 district should generally be
40 200 feet wide and in those instances he does not believe that the separation distance to the
41 property line should be reduced to 10 feet and hopes that they maintain the silt fence. He said
42 that Section 6.4, which is only applicable if you are outside of the MS4 area, indicates that if
43 someone is in those areas and they have at least 150 feet in width and at least 30,000 square feet
44 in area the 30 feet separation does not apply. He said that the logic in that instance is that
45 someone is not doing the whole erosion and sedimentation controls and staff will not be there to
46 remind them that the silt fence needs maintained. He said that he believes that for the vast

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1 majority of the jurisdiction the separation distance should be 30 feet but there may be some
2 places where there may be old lots and new lots created in zoning districts which are less than
3 150 feet wide and in those instances they will have an allowable 10 feet separation to the nearest
4 property under other ownership provided that erosion and sedimentation controls are installed
5 and maintained as required in Section 11. He said that his provides for all possibilities but it
6 does not provide maximum flexibility and the reason for that is when you are outside of the MS4
7 area the property owner is not going to be in tune to the maintenance that the erosion and
8 sedimentation controls require and for that reason he knows that some people will be opposed to
9 this. He said that frankly he would be willing to follow whatever option the Zoning Board thinks
10 should be followed. He said that if the Zoning Board believes that we should always provide the
11 flexibility to go down to a 10 feet separation provided that the proper controls are installed then
12 that is what he will indicate because it is more important to get this in place. He said that the
13 Board needs to decide what it wants to recommend to the County Board and how a particular
14 version of the amendment should be formatted.

15
16 Ms. Lee stated that revised Section 6.4. D.1.(d) indicates: not within a drainage ditch easement.
17 She said that Section 11.5 does not include this text.

18
19 Mr. Hall stated that Section 11.5A does include the text, “not in a drainage ditch easement”. He
20 said that paragraph that she is interested in is Paragraph 6.4.E which is not in tonight’s
21 memorandum but is indicated on Page 20 of the Draft Storm Water Management and Erosion
22 Control Ordinance dated December 5, 2014. He said that drainage ditch easement does need to
23 be added to Paragraph 6.4.E. He said that separations that apply in Section 6.4.D should apply in
24 Section 6.4.E. He said that tonight’s memorandum reformats Section 6.4.D so that each
25 separation is on a separate line and has a separate letter designation and Section 6.4.E should be
26 formatted in the same manner except that the separation to the road side ditch and the property
27 line are not relevant in Section 6.4.E. He said that Section 6.4.E discusses where we do not want
28 buildings to be constructed and clearly we don’t want buildings to be constructed in a drainage
29 ditch easement. He said that he does not see the need to add anything related to the roadside
30 ditch or to a property line in Section 6.4.E because we can trust our existing required yards for
31 those things.

32
33 Mr. Hall stated that whatever the Board decides to recommend to the County Board as the final
34 version of the Ordinance he would like to go back to a version of the tables that were included in
35 the January 9th mailing. He said that the Board has seen different versions of the table,
36 Attachment BBB, and hopefully when this goes to the County Board there will be a version of
37 this table with the ordinance that the ZBA has recommended. He said that things which are not
38 recommended on Attachment BBB could either be indicated with strikeout or just not included
39 but the table is a handy way to get an idea of what the amendment will do therefore he wants to
40 have a version of this table with whatever the ZBA recommends. He said that he would like to
41 do the same thing with Attachment CCC, Summary of Proposed Amendment Benefits and Costs.
42 He said that the tables can be revised on a hearing night when the Board is ready to take final
43 action and again, the tables are a handy way to indicate to the County Board what the ZBA is
44 recommending.

45
46 Ms. Griest asked Mr. Hall if Attachment BBB is only one page or are the following pages

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1 mismarked.
2

3 Mr. Hall stated that the entire packet is Attachment BBB and was created in such a way where
4 there is more than one header and he erroneously forgot to revise the header on each page. He
5 said that this table is also the first version of the table where it does not talk about what Case
6 773-AT-14 is about. He said that for Case 773-AT-14 there is a version of this table for just
7 grading and demolition.
8

9 Ms. Griest asked Mr. Hall if Attachment BBB also indicates grading because the first column on
10 page 1 discusses mass grading not related to other construction.
11

12 Mr. Hall stated no. He said that Case 769-AT-13 does not do anything about mass grading.
13

14 Ms. Griest stated that what she thought she heard Mr. Hall state was that this is the first table
15 which excludes the grading but doesn't Attachment BBB discuss grading.
16

17 Mr. Hall stated yes but there is another table for Case 773-AT-14 which shows what that case
18 proposed to do regarding grading.
19

20 Mr. Thorsland stated that Attachment BBB indicates that Case 769-AT-13 doesn't do anything
21 for mass grading.
22

23 Mr. Hall stated that Attachment BBB is only relevant for Case 769-AT-13 and Case 769-AT-13
24 does nothing for grading not related to other construction outside of the MS4 area.
25

26 Ms. Lee asked if Case 769-AT-13 is dealing with both inside and outside the MS4 jurisdictional
27 area.
28

29 Mr. Hall stated yes. He said that Case 773-AT-14 has nothing to do with the MS4 jurisdictional
30 area. He said that if the optional minimum requirements are not recommended then Case 773-
31 AT-14 is not required. He said that Attachment CCC for Case 769-AT-13 has footnotes
32 referring to the exact spots in the Finding of Fact that are most relevant to the costs and benefits
33 associated with each of these alternatives. He said that if the Board does not agree with the
34 Finding of Fact then more evidence needs to be added because the one thing that it has to do is
35 reflect the opinion of this Board on this amendment.
36

37 Ms. Lee stated that Attachment BBB for Case 769-AT-13 indicates Proposed Ordinance
38 Requirements Outside the MS4 Area and Inside the MS4 Area therefore should the table be for a
39 different case.
40

41 Mr. Hall stated that the table includes the MS4 area but only to demonstrate that Case 773-AT-
42 14 does nothing in the MS4 area. He said that related Case 769-AT-13 talked about the optional
43 minimum requirements because if you don't recommend the optional minimum requirements in
44 Case 769-AT-13 then the Board would not recommend Case 773-AT-14 but if the Board does
45 recommend Case 773-AT-14 then you recommend the optional minimum requirements in Case
46 769-AT-13.

**EXCERPT OF APPROVED MINUTES FOR JANUARY 15, 2015,
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1
2 Mr. Thorsland asked Mr. Hall if he wanted to review previous memorandums regarding Case
3 769-AT-13 with the Board.
4

5 Mr. Hall stated that he would be happy to review all of the memorandums with the Board if the
6 Board desires or he can only review the memorandums which the Board has questions on.
7

8 Mr. Thorsland stated that it is clear that the Board is not going to finish Case 769-AT-13 or Case
9 773-AT-14 tonight but he would like the Board to continue reviewing the information. He said
10 that the memorandums from the December meeting and tonight's meeting should be carefully
11 reviewed and any questions or concerns regarding the memorandums should be voiced by the
12 Board. He said that the Board should come to each meeting prepared so that these cases can be
13 moved forward.
14

15 Mr. Hall stated that he would be happy to review all of the substantive evidence because it is
16 hard to get motivated to review this information outside of the meeting.
17

18 Mr. Passalacqua stated that he would like to review this information now.
19

20 Mr. Hall stated that the substantive evidence started back with the Supplemental Memorandum
21 dated September 11, 2014, which included evidence regarding the achievement of Policy 8.4.5
22 and that memorandum was very long and complicated. He said that Policy 8.4.5 has to do with
23 meeting the relevant NPDES requirements and those are not something that you can just point to
24 and say this is the requirement. He said the evidence indicates what the EPA states the
25 requirements are and then the evidence indicates why our existing policy doesn't do that and
26 why the amendment does. He said that it touches on the fact that we had this suggestion from
27 the EPA staff that we should make the LDEC permits a requirement throughout the County. He
28 said that he appreciates the EPA staff's suggestion but he cannot find anywhere in writing that
29 that is the actual requirement and that makes a huge difference to Champaign County.
30

31 Ms. Griest asked Mr. Hall if the difference is economical in that a large number of staff would be
32 required if it were required countywide.
33

34 Mr. Hall stated yes, and that is reviewed in Attachment TT, Cost Impact Related to Staffing. He
35 said that the attachment states that regarding the added costs to Champaign County government
36 and taxpayers, the proposed amendment is likely to be cause for adequate staffing in the
37 Department of Planning and Zoning. He said that the attachment indicates all of the new
38 inspections that will be added which would amount to five new inspections for each permit plus
39 a weekly inspection.
40

41 Mr. Randol stated that the EPA has no idea what is going on locally.
42

43 Mr. Hall stated that this is the Illinois EPA not the Federal EPA.
44

45 Mr. Randol stated that the Illinois EPA doesn't have a clue either.
46

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1 Mr. Hall stated that the attachment also discusses the amount of time that the optional minimum
2 requirements would add, which he believes would be very minimal. He said that any time you
3 add a new requirement you add additional time for explanation to each and every citizen that
4 needs to know. He said that the attachment discusses the amount of time required for ILR10
5 compliance and that will not be much and currently we should already be explaining ILR10. He
6 said that the attachment discusses the volume of new LDEC permits based on the past 18 months
7 and at the end it states that within the MS4 area there were 41 structures located in the MS4 area
8 and of those 41 only 7 would have required erosion and sediment controls. He said that staff will
9 have a lot of new headaches for 7 permits but outside of the MS4 area there were 137 permits
10 and of those 58 would require new inspections. He said that within a typical year there would be
11 33 new structures with at least an inspection every week. He said that within the MS4 area with
12 the ordinance that is before the Board staff would be doing 208 additional inspections per year
13 and he believes that staff could do that. He said that these inspections would be elevated to a
14 higher priority than any other activity in the office other than getting the budget and ELUC and
15 ZBA agendas submitted on time.

16 Mr. Randol asked if other duties completed by staff would be placed on the side.
17

18 Mr. Hall stated that only a few people in the office would be doing the LDEC inspections and
19 eventually he hopes that all staff would be able to do them but for the first few years there will only
20 be a couple of the staff members who will actually go out and do those inspections and that
21 would probably be himself and the Zoning Officer. He said that the day to day permitting would
22 continue uninterrupted and the zoning cases would be handled by the Senior Planner and will
23 continue uninterrupted therefore the core functions will continue.
24

25 Mr. Passalacqua stated that the hardest pill for him to swallow is that all of this is already
26 required by another entity and yet it is being put on the County as another layer and expense.
27

28 Mr. Hall stated that those rules were adopted for the County's jurisdiction to enforce and the
29 County will directly see the benefits of those rules regardless of the expense. He said that the
30 MS4 area is 1% of our jurisdiction but if you look at the density of permits within that 1% he
31 can't even tell the Board how much greater it is than the rest of the County's jurisdiction and that
32 is why they are targeting that area. He said that there is a greater density of development and it
33 does impact water quality to a much greater extent than the rest of Champaign County.
34

35 Ms. Lee asked Mr. Hall how he justifies doing that regulation for the MS4 into the rest of the
36 County.
37

38 Mr. Hall stated that the evidence that is front of the Board currently indicates that it cannot be
39 done. He said that we are not required to do it and it is a good thing because we could not afford
40 to do it.
41

42 Mr. Passalacqua stated that these rules will not go well with developers and contractors when
43 they drive down the township roads and see row crops right up to the ditch.
44

45 Mr. Randol asked Mr. Hall what will happen if the ZBA does not make a recommendation.
46

**EXCERPT OF APPROVED MINUTES FOR JANUARY 15, 2015,
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1 Mr. Hall stated that the County Board will approve it anyway and if the County Board does not
2 approve it he would guarantee that it will become an enforcement case with the Illinois EPA.

3
4 Mr. Passalacqua stated that he is surprised that we have as much flexibility in writing the
5 ordinance and the Illinois EPA didn't just say here is the way your ordinance is going to read.

6
7 Mr. Hall stated that he does wish that the Illinois EPA had given us the text of the ordinance and
8 then there would be no uncertainties but this is the best that staff could come up with.

9
10 He said that he believes that staff made progress with the exemption of 10' instead of the 30' and
11 it will be very helpful.

12
13 Mr. Randol agreed.

14
15 Mr. Hall stated that he is not aware of any other numerical requirement in the ordinance which
16 requires editing. He said that if the Board sees anything that they believe requires editing they
17 should notify staff.

18
19 Mr. Passalacqua stated that construction or stockpiles in the drainage easements is not allowed
20 anyway therefore it is already covered.

21
22 Mr. Hall stated that it is already covered but the Board should not underestimate the blindness of
23 individuals who believe that they can build wherever they want to.

24
25 Mr. Passalacqua stated that he understands that but writing two ordinances about the same thing
26 is not going to open their eyes any more.

27
28 Ms. Lee stated that Case 773-AT-14 is not required by the Illinois EPA.

29
30 Mr. Hall stated no. He said that the only costs related to Case 773-AT-14 is when someone is
31 causing a problem and needs to put up an erosion and sediment control to stop that problem.

32
33 Mr. Passalacqua stated that would be covered by ILR10.

34
35 Mr. Hall stated no. He said that Case 773-AT-14 does not have a minimum size that it applies to
36 and it applies across the board therefore if you are causing erosion and sedimentation and a
37 neighbor complains you are going to have to stop it. He said that Case 773-AT-14 is a great
38 value for the other 99% of our jurisdiction. He said that some people would probably say that
39 the only way that they guarantee that they are not creating a problem is to put those controls in
40 the first place. He said that we don't get that many complaints today and he doesn't think that
41 we have to go that far but in any given instance there will always be something that you wouldn't
42 otherwise have to do that you have to do.

43
44 Mr. Randol stated that if a developer buys 100 acres for development the land belong to him. He
45 asked if the County will still control what the developer is doing on his property when he puts in
46 the streets that the township, County, or village have not accepted. He asked if this ordinance

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1 will apply to the developer's construction on his property or will it apply when someone has
2 legal jurisdiction over that construction.

3
4 Mr. Hall stated that under the current rules if someone is going to dedicate the street to a public
5 agency they have to build to the standards of that jurisdiction. He said that if someone is
6 developing 100 acres it seems likely that ILR10 is going to be a requirement and that is between
7 the developer and the EPA. He said that in regards to this ordinance, if the Board does not
8 recommend that the County Board make ILR10 compliance a requirement outside of the MS4
9 area, then the only thing that this ordinance will do is if the Board recommends the optional
10 minimum requirements they will be in place during construction and if the developer makes a
11 mistake and cause erosion or sediment he will have to correct it.

12
13 Mr. Randol stated that if the erosion and sediment is running off onto the developer's streets it
14 shouldn't be an issue.

15
16 Mr. Hall stated that it is difficult to talk about a development like that in the County's
17 jurisdiction during this day and age because he cannot imagine it happening due to the Rural
18 Residential Overlay.

19 He said that the drainage would presumably send the storm water to the street and into the curb
20 inlet and hopefully the developer would be smart enough to keep those curb inlets from getting
21 full of sediment which is running off the land that he is developing. He said that many times
22 erosion and sedimentation controls save the developers money because stupid things don't
23 happen but it cannot always be guaranteed. He said that he can remember a developer in the
24 Mahomet area who experienced a big storm and a lot of sediment was washed into one of the
25 pools that was connected to the Lake of the Woods and that pool had to be cleaned out. He said
26 that this situation occurred because the Mahomet developer did not have the proper erosion and
27 sedimentation controls in place. He said that the drainage does not always go into the street
28 where it is supposed to go and it all depends upon the design of the development.

29
30 Mr. Hall stated that the existing Storm Water Management Policy has a basic requirement that
31 you follow the *Illinois Urban Manual* erosion and sedimentation controls. He said that
32 development done under this ordinance and not within the MS4 area would not be required to
33 comply with ILR10. He said that he cannot imagine a developer not willing to send in notice to
34 the EPA and installing of the erosion and sedimentation controls and even if they are supposed to
35 do it does not mean that the Storm Water Management Policy will make it happen. He said that
36 a lot of erosion and sedimentation controls makes the development project go easier. He said that
37 the last big subdivision completed in the County's jurisdiction was a 10 lot RRO that installed
38 new concrete streets in the rural area; they did terrible erosion controls and the ditches silted in
39 more than one time during construction and had to be cleaned up and at that time. He said that he
40 does not know if the developer even bothered with ILR10 compliance. He said that he does not
41 expect ILR10 compliance to be a requirement and this doesn't do anything other than if the
42 highway commissioner complained about his ditches being silted full, staff could do something
43 about that under this ordinance. He said that as it was the Highway Commissioner couldn't even
44 complain about his ditches being silted in.

45
46 Mr. Randol stated that it is hard for a highway commissioner to complain when the farmers fill

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1 the ditches as well therefore he would have to complain about everyone.
2
3 Mr. Passalacqua reminded Mr. Randol that agriculture is exempt.
4
5 Mr. Hall stated that he does not see many farm fields where ditches get silted in after a normal
6 rain.
7
8 Ms. Lee stated that the road ditches near the previously approved substation in St. Joseph
9 Township are silted in by the farm field.
10
11 Mr. Hall stated that hopefully the substation will reduce the amount of silt because the area of the
12 substation will be gravel.
13
14 Ms. Lee asked Mr. Hall to explain the purpose of Case 773-AT-14 and what will it accomplish
15 for Champaign County.
16
17 Mr. Hall stated that most erosion complaints staff receives are about people tracking dirt and
18 mud onto the public road while they are grading and Case 773-AT-14 would give staff the tool to
19 stop that practice.
20
21 Ms. Lee asked Mr. Hall if that is the only effect of Case 773-AT-14.
22
23 Mr. Hall stated yes.
24
25 Mr. Passalacqua asked Mr. Hall if Case 773-AT-14 will cover the farmer throwing mud off his
26 tractor tires when moving from field to field.
27
28 Mr. Hall stated no.
29
30 Mr. Randol stated that it is the responsibility of the township highway commissioner to address
31 the farmer throwing mud off of his tractor tires when moving from field to field.
32
33 Mr. Thorsland stated that he rides his motorcycle on the rural roads and 99% of the time the mud
34 and debris on the roads is not from the farmers but from construction activity. He said that very
35 close to his residence he has someone who stages construction activity so that there is always
36 construction activity occurring and they strip the entire lot and when it rains the dirt is in the
37 road. He said that during the construction there are trucks moving in and out of the property
38 therefore they place pebble type gravel on a thin culvert and drag the entire yard out every day
39 onto the road. He said that he supports Case 773-AT-14 if it can stop this nuisance. He said that
40 in the end Case 773-AT-14 is in the best interests of the township highway commissioner, the
41 township and the developer and construction people because there are many people who have
42 had accidents on township roads and have enjoyed wonderful settlements from township
43 insurance due to an accident. He said that eventually Case 773-AT-14 will save municipalities,
44 townships and Champaign County money.
45
46 Ms. Lee asked Mr. Hall if Case 773-AT-14 will include all of Champaign County including the

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1 municipalities.

2
3 Mr. Hall stated that Case 773-AT-14 does not include the municipalities or land which is under
4 an annexation agreement with the municipalities. He said that hopefully Case 773-AT-14 will
5 stop the mud from being tracked onto the road but at least by the end of the day it would have to
6 be cleaned off.

7
8 Mr. Thorsland stated that generally 99% of the time the only person who goes back out to the
9 road to clean off the mud is the farmer because he wants his soil in his field. He said that
10 contractor will not go back out and clean off the road because he is off to the next job site.

11
12 Ms. Griest stated that Case 773-AT-14 will not deal with these instances because those are going
13 to be under Case 769-AT-13 because they are not a grading or demolition permit. She said that
14 demolition and grading are separate from construction and if there is construction it would be
15 under Case 769-AT-13.

16
17 Mr. Hall stated that Case 769-AT-13 would address the situation if it is related to other
18 construction and Case 773-AT-14 is only necessary when it is grading that is not related to other
19 construction.

20
21 Mr. Thorsland stated that it tends to be secondary activity.

22
23 Ms. Griest stated that the secondary activity is related to the original construction. She said that
24 what Mr. Thorsland is talking about is still going to be under Case 769-AT-13 because they are
25 not going to come back to obtain a second permit under Case 773-AT-14 for their seeding and
26 grading when they build a new house. She said that personally living in the country close to a
27 municipality she would say that she sees the opposite of what Mr. Thorsland has indicated that
28 occurs in his area because she has the commercial farmers who bring in two combines, four
29 tractors, five semi-trucks and several grain wagons and they come in harvest the field and pull
30 out leaving the road a muddy mess and they never come back to clean the road. She said that the
31 farmers who farm their own ground or who farm less than four or five thousand acres will not
32 leave the roads in a muddy mess but when you see big operators with mass equipment they tend
33 to leave a mess on the roads. She said that there was an accident on High Cross Road recently
34 due to the mud that was tracked out of the field and onto the road by one of these big commercial
35 farm operators. She said that agriculture is exempt therefore this Board is not going to stop these
36 situations. She said that in her area she is not seeing roads left in a muddy mess due to someone
37 putting in a new yard or repairing their lawn and she is not seeing a lot of demolition either. She
38 said that she is in favor of requiring a demolition permit but she is opposed to requiring a grading
39 permit because she is not seeing the value and it puts an unnecessary burden on a segment of the
40 industry that is not causing the problem. She said that she won't say that under a new
41 construction situation they are not as much a problem as the siding and roofing people or the
42 other trucks that come in and out of the property but all of those contractors will not be present if
43 it is only repair to an existing structure.

44
45 Mr. Hall asked Ms. Griest to explain the burden that will be placed on these folks.

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1 Ms. Griest stated that the documentation indicates that there will be fees for grading and
2 demolition permits.

3
4 Mr. Hall stated that it may state that in the notice but it is not stated in the Ordinance that is
5 before the Board.

6
7 Ms. Griest stated that she is looking at the notice and it isn't uncommon that she has not found it
8 in the Ordinance yet.

9
10 Mr. Hall stated that staff has not proposed any fees for grading permits but that does not mean
11 that 25 years from now we won't add a fee.

12
13 Ms. Griest stated that we are adding costs because it costs them time and money to fill out the
14 application, submit it to the office and that time is money to those contractors.

15
16 Mr. Hall stated that he would say that is a reasonable cost so that staff can answer calls when
17 they are received asking why someone is tracking mud onto the road.

18
19 Mr. Thorsland requested that the Board not go too far into Case 773-AT-14 at this time because
20 we are attempting to review Case 769-AT-13.

21
22 Ms. Lee asked Mr. Hall if a permit was required for the substation which is east of Sidney next
23 to the railroad tracks.

24
25 Mr. Hall stated that the substation is an Ameren Substation which is exempt from County
26 zoning.

27
28 Ms. Lee stated that even Ameren will track mud onto the road.

29
30 Mr. Hall stated that Ameren is a public utility and is exempt from County zoning.

31
32 Mr. Hall stated that Attachment UU, Draft Evidence Regarding Statutory Authority, has
33 evidence that has been reviewed by the State's Attorney and merely establishes that we have the
34 authority to adopt an erosion control ordinance. He said that Attachment UU. ends with the
35 following paragraph: The Champaign County State's Attorney Office has also determined that
36 the best alternative to the use of authority provided in 55 ILCS 5/5-15015 is to enter in to an
37 intergovernmental agreement with the Illinois Environmental Protection Agency. Approval of
38 such an agreement would only require a simple majority approval (12 of 22 elected members).
39 He said that this is the best alternative to what staff is proposing and what staff is proposing is to
40 use the authority provided in 55 ILCS 5/5-15015.

41
42 Ms. Lee stated that she looked up 55 ILCS 5/5-15015 and the exception is the following:
43 provided that the authority of the Pollution Control Board of the State of Illinois shall not be
44 superseded.

45
46 Mr. Hall stated that he will guarantee that the County will be doing that.

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1
2 Mr. Hall stated that Attachment WW, Draft Evidence Regarding Public Outreach, refers to the
3 draft public handout. He said that if the Board believes that the draft handout is accurate and
4 helpful then he would like to be able to tell that to the County Board. He said that if the Board
5 finds that the revised Zoning Use Permit Application form is adequate then he would also like to
6 share that with the County Board. He said that there are some County Board members who puts
7 a lot of faith into handouts that make sense and that is why staff prepared that evidence.

8
9 Mr. Hall stated that Attachment VV, Draft Evidence Regarding County Board Options is
10 probably the most important evidence. He said that this attachment reviews every option that is
11 part of this text amendment. He said that Part A. reviews the optional minimum requirements
12 which involve Paragraph 6.1F, Paragraph 6.4A, Paragraph 6.4B, Paragraph 6.4C, Paragraph
13 6.4D, Paragraph 6.4E, Paragraph 6.4F and Subsection 6.5. He said that when he wrote this
14 evidence he wasn't sure if the Board would treat all of those as a single thing or pick and choose
15 therefore at the end of each of these discussions there is a narrative IS/IS NOT included in the
16 recommendation by the ZBA. He said that personally he believes that the Board should take this
17 as an all or nothing and those decision points could be removed. He said that the evidence
18 reviews the changes that have been made since ELUC reviewed it the first time and many times
19 there has been no change. He said that the only change is adding greater flexibility in regards to
20 the stockpiles which is under Paragraph A. He said that Paragraph B. discusses ILR10
21 compliance. He said that the Ordinance has changed a lot from what ELUC saw so evidence
22 regarding ILR10 compliance, even though it is a very small part of the Ordinance, is two pages
23 long because it reviews every change that is being made. He said that once the Board decides
24 whether it HAS or HAS NOT recommended the alternative the Board does not need to say IS/IS
25 NOT at the end therefore additional editing will be required.

26
27 Mr. Hall stated that the only new fee added in this amendment is for the Minor LDEC Permit and
28 the fee is \$50 in addition to the Zoning Use Permit fee. He said that the fee is not meant to
29 recapture all of the costs because if staff spends more than one hour discussing something with a
30 citizen staff has spent more than \$50 of the County's time.

31
32 Ms. Griest asked about the applicability of these permits to those parcels that have a pre-
33 annexation or annexation agreement with the municipalities and how those parcels are exempt.
34 She asked if that exemption further narrows our sampling of permits with respect to Champaign,
35 Urbana and Savoy with respect to if they are within the one and one-half mile jurisdiction to
36 receive approval they have to go through those municipalities and if they have access to or would
37 have access to a sanitary sewer they are required to enter into that pre-annexation agreement
38 before they can obtain a permit. She asked if staff had already factored this situation into the
39 computation of the numbers.

40
41 Mr. Hall stated yes, the numbers indicated already exclude those properties which already have
42 pre-annexation agreements.

43
44 Ms. Griest asked if those parcels will still need to obtain a permit through the County because
45 she has a pre-annexation agreement for her parcel and she obtained her permit through the
46 County.

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1
2 Mr. Hall stated that Ms. Griest's permit was approved before the current court decision regarding
3 the *Chatham* decision.
4

5 Ms. Griest stated that she obtained her permit through the County after the court case. She said
6 that she received approval for the creation of the parcel from the City of Urbana but any
7 permitting went through the County.
8

9 Mr. Hall stated that the City of Urbana loves to avoid their responsibilities related to the
10 *Chatham* decision because it requires them to spend time and money on properties for which
11 they do not receive any tax benefits.
12

13 Ms. Griest stated that the City of Urbana would not allow her to create her lot without a pre-
14 annexation agreement.
15

16 Mr. Hall stated that normally the City of Urbana does not require a pre-annexation agreement
17 just for subdivision approval. He said that if Ms. Griest had built her building under a City of
18 Urbana permit, there would have been applicable building codes required and there were no
19 building codes required under the County.
20

21 Ms. Griest stated that there is a big push related to the sanitary sewers and in Urbana Township
22 when a parcel that is connected to the city sewer and was connected prior to the
23 intergovernmental agreement gets sold, the City of Urbana is not requiring that the new
24 homeowners enter into an annexation agreement with Urbana and they are annexing those
25 parcels because they are connected to the sanitary sewer. She said that as this all relates to Case
26 769-AT-13 will this situation exclude a lot of the parcels that are in the one and one-half mile
27 jurisdiction, because that is a large portion of the MS4 area.
28

29 Mr. Hall stated that our current policies are supposed to be following whether there is a pre-
30 annexation agreement or not. He said that if staff does not know there is a pre-annexation
31 agreement then staff cannot act appropriately. He said that he is not aware of any push by the
32 City of Urbana. He said that it the City of Urbana's call related to whether or not there is a new
33 sewer connection and a new sewer connection triggers the requirement for an annexation
34 agreement. He said that from what he has observed over the years the City of Urbana tries to
35 minimize annexation agreements and they have fewer than the City of Champaign. He said that
36 this will not change that because we are already supposed to be doing it which is to say if there is
37 a pre-annexation agreement staff does not write permits on the property and it is between the
38 landowner and the municipality. He said that if there is construction related clearly that would
39 go to the city but if Case 773-AT-14 is adopted and the grading permit you do not have to have a
40 sewer connection to do grading and Case 773-AT-14 would be unrelated.
41

42 Ms. Griest stated that her question was related to Case 769-AT-13 and if it would further reduce
43 our statistics.
44

45 Ms. Lee stated that all of the MS4 area is outside of the jurisdiction of the municipalities.
46

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1 Mr. Hall stated no. He said that the MS4 properties are not within the municipal area but they
2 are within the one and one-half mile jurisdictional area and sometimes they will be under a pre-
3 annexation agreement but most times they will not. He said that he would imagine that the
4 municipalities would be willing to take over all of our permitting in the MS4 area but he knows
5 that a selective part of the County Board would not want to turn over that permitting authority
6 because they are the County Board member's constituents and they want to be responsible for
7 permitting their constituents. He said that the County could manage to get out of this MS4
8 requirement if we would just let the municipalities do all of those permits but he has no reason to
9 believe that the County Board will be interested in that.

10
11 Mr. Herb Schildt requested the opportunity to sign the witness register to present testimony.

12
13 Mr. Thorsland called Herb Schildt to testify.

14
15 Mr. Herb Schildt, who resides at 398 CR 2500N, Mahomet, asked Mr. Hall to indicate what
16 sections of the ordinance are optional.

17
18 Mr. Hall stated that Draft Version of the Storm Water Management and Erosion Control
19 Ordinance dated December 5, 2014, indicates that parenthetical statement in italics underneath
20 each of the optional sections. He said that sections are as follows: Sections 6.1F, 6.4, and 6.5.

21
22 Mr. Schildt stated that he just wanted to be clear that the optional sections are 6.1F, all of 6.4 and
23 all of 6.5.

24
25 Mr. Hall stated that Section 6 includes one of the requirements that Mr. Schildt had previously
26 asked questions about regarding the location of the sump pump outlets. Mr. Hall stated that Mr.
27 Schildt's question is addressed in Sections 6.1E and 6.1D and they are not optional.

28
29 Mr. Schildt asked Mr. Hall if Technical Manuals D & E only apply to LDEC permits outside of
30 the MS4 area.

31
32 Mr. Hall stated no.

33
34 Mr. Schildt asked if a LDEC permit only applies within the MS4 area.

35
36 Mr. Hall stated yes.

37
38 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schildt and there
39 were none.

40
41 Mr. Thorsland stated that the Board will take a five minute break. He said that he understands
42 that there are a lot of documents to review but it would be very helpful if the Board would start
43 from tonight's memorandum and move backwards and then start again ending with tonight's
44 memorandum.

45
46 Mr. Hall stated that in the Draft Finding of Fact that was mailed with the January 9, 2015,

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1 Supplemental Memorandum there were little sections of new evidence that were added but they
2 are unlined and the Board should do a quick review to see if any of the evidence is significant
3 enough to actually point out when the Board resumes.
4

5 **The Board recessed at 8:24 p.m.**

6 **The Board resumed at 8:30 p.m.**
7

8 Mr. Hall stated that the Draft Finding of Fact includes new evidence that the Board has not seen.
9 He said that page 5 of the Draft Finding of Fact indicates Policy 8.4.2 which states the
10 following: "The County will require storm water management designs and practices that provide
11 effective site drainage, protect downstream drainage patterns, minimize impacts on adjacent
12 properties and provide for stream flows that support healthy aquatic ecosystems." He said that
13 the optional minimum requirements would HELP ACHIEVE Policy 8.4.2 and so will ILR10
14 compliance.
15

16 Mr. Hall stated that Page 16 includes evidence regarding Policy 8.5.1 which states the following:
17 "For discretionary development, the County will require land use patterns, site design standards
18 and land management practices that, wherever possible, preserve existing habitat, enhance
19 degraded habitat and restore habitat." He said that the underlined text indicates that the proposed
20 text amendment will NOT IMPEDE the achievement of Policy 8.5.1. He said that the proposed
21 text amendment will not achieve Policy 8.5.1 because it deals with such a small area that you
22 can't say that it will actually save habitat.
23

24 Mr. Hall stated that page 23 includes shaded text which will be relocated in the Finding of Fact
25 and the area that the text is relocated to is also shaded. He said that item #16.B.(4)a.(b) has been
26 relocated to page 26, item 16.B(5)(b) and item #16.B(4)a.(c) has been relocated to page 27 item
27 16.B(6)b. He said that the shaded area discusses staffing impacts related to the optional
28 minimum requirements and he believes that it will have little impact on staffing requirements.
29

30 Mr. Hall stated that pages 25 and 26 include new evidence about staffing impacts related to
31 ILR10 compliance and text was added regarding the added construction cost related to the
32 optional minimum requirement. He said that he spoke before about how any added cost would
33 be more or less directly related to the problems that have to be fixed with the optional minimum
34 requirements. He said that pages 26 and 27 include evidence about the added cost for ILR10
35 compliance and theoretically there would be no added cost because ILR10 compliance is already
36 a requirement. He said that the reality is that some people avoid ILR10 compliance today and if
37 we start requiring it for County permits they will no longer be able to avoid it. He said that
38 evidence indicates that there may be some new cost and it would help the EPA enforce ILR10
39 compliance.
40

41 Ms. Lee stated that item # (6) on page 26 indicates that the added cost that could result from
42 requiring ILR10 compliance for county permitting of land disturbance outside of the Champaign
43 County MS4 Jurisdictional Area. She asked if we just discussed that Case 769-AT-13 covers
44 outside of the MS4 area.
45

46 Mr. Hall stated that he remembers some question regarding inside and outside of the MS4 area.

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1 He said that the ILR10 compliance, the option, is all outside of the MS4 area but inside the MS4
2 area, we have to require ILR10 compliance.

3
4 Ms. Lee asked if this text indicates that we are going to require it outside of the MS4 area.

5
6 Mr. Randol stated that requiring ILR10 compliance outside of the MS4 is the option and the
7 Board could decide not to require it.

8
9 Mr. Hall stated that the evidence has to be written as if it was to be required and this is what the
10 impact would be. He said that pages 27 and 28 include important evidence regarding the impact
11 of the optional minimum requirements on the Zoning Ordinance's purpose in promoting public
12 health, safety, comfort, morals, and general welfare throughout the County. He said that given
13 that that the optional minimum requirements are what would come into play when staff receives
14 a complaint from a neighbor then requiring those would help achieve or promote public health,
15 safety, comfort, morals, and general welfare throughout the County and the only cost would be
16 whatever you have to do in any given instance. He said that it is a great value for the cost unless
17 he is overlooking something in which case new evidence will need to be added.

18
19 Mr. Hall stated that pages 31 and 32 include evidence regarding the size of the MS4
20 Jurisdictional Area. He said that the MS4 area is 1% of the County's jurisdiction and it may get
21 larger in the future.

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

24
25 Mr. Thorsland stated that this text amendment is very important and every member of the Board
26 should have an opportunity to work on it. He said that Mr. Passalacqua will be absent from the
27 January 29th meeting and Ms. Griest will be absent from the February 12th meeting therefore he
28 hopes that everyone will be present for the February 26th meeting. He said that a continuance to
29 January 29th would allow the Board to continue working through the information and the Board
30 can receive input from Ms. Capel with the intent of not finalizing the case but moving it forward.

31
32 Mr. Thorsland entertained a motion to continue Case 769-AT-13 to the January 29, 2015, public
33 hearing.

34
35 **Ms. Griest moved, seconded by Mr. Randol to continue Case 769-AT-13 to the January 29,**
36 **2015, public hearing. The motion carried by voice vote.**

37
38 Mr. Hall noted that if the first opportunity for the whole Board to vote on Case 769-AT-13 is in
39 fact on February 26th the one month would be worth it to give every Board an opportunity to
40 weigh in on that vote because this is an important amendment.

41
42 **773-AT-14 Petitioner: Zoning Administrator Request to amend the Champaign County**
43 **Storm Water Management and Erosion Control Ordinance that is the subject Zoning Case**
44 **769-AT-13, by adding the following: A. Add a requirement for a Grading and Demolition**
45 **Permit for any grading or demolition that disturbs an acre or more of land or for any**
46 **grading or demolition that is part of a larger common plan of development in which one**

**EXCERPT OF APPROVED MINUTES FOR JANUARY 15, 2015,
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1 acre or more of land disturbance will occur, and that is not related to any proposed
2 construction; and B. Add fees for Grading and Demolition Permits; and C. Add required
3 information to be provided in the application for a Grading and Demolition Permit; and D.
4 Add a requirement that any grading or demolition pursuant to a Grading or Demolition
5 Permit shall comply with the Illinois Environmental Protection Agency's ILR 10 General
6 Storm Water Permit for Construction; and E. Add a requirement that any demolition
7 pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection
8 Agency's regulations enforcing the National Emission Standard for Hazardous Air
9 Pollutants for regulated asbestos; and F. Add prohibitions against changing the flow of
10 water and blocking the flow of water; and G. Add other requirements related to Grading
11 and Demolition Permits.

12
13 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing
14 tonight must sign the witness register for that public hearing. He reminded the audience that
15 when they sign the witness register they are signing an oath. He asked the audience if anyone
16 desired to sign the witness register at this time.

17
18 Mr. Thorsland asked the petitioner if he desired to make a statement outlining the nature of his
19 request.

20
21 Mr. John Hall, Zoning Administrator, stated that these cases have been going on so long that it is
22 easy to forget how long ago it was that the Board reviewed this case. He said that since the last
23 time that the Board has reviewed this case staff has introduced the general exemptions therefore
24 eliminating a lot of text from this particular amendment because a lot those exemptions are part
25 of the general exemptions. He said that in the previous version we had a copy of the ILR10
26 Notice of Intent but in the current version of Case 769-AT-13 whether or not ILR10 applies is
27 located in Section 4.1.A. it was therefore deleted from Section 6 under Case 773-AT-14. He
28 said that the only thing at issue for Case 773-AT-14 is whether we require a demolition and
29 grading permit or do we not. He said that there are no fees proposed in Case 773-AT-14
30 although fees were proposed in the legal advertisement because we are not going to do a lot on
31 the grading and demolition permit other than taking it in and making sure that it is complete. He
32 said that the only reason he is proposing a demolition and grading permit is so that the optional
33 minimum requirement in Case 769-AT-13 can be made to apply in these instances. He said that
34 if we do not require a grading permit he does not believe that the courts would allow us to apply
35 the minimum optional requirements to instances of grading not related to other construction
36 because we are not requiring a permit. He said that the logic of Case 773-AT-14 is that those
37 protections apply in instances of demolition or grading.

38
39 Mr. Passalacqua asked if a contractor is going to do some grading on property and he submits a
40 permit will there be an inspection at some point or will the inspection only be complaint driven.

41
42 Mr. Hall stated that there is no inspection and the contractor will only need to apply for a permit
43 if he is grading one acre or more and anything less that is not related to anything else does not
44 require a permit.

45
46 Mr. Passalacqua asked if he is not satisfied with his property because when he mows it is rough

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1 therefore he hires a contractor to grade ¾ of an acre of his 1.99 acre parcel. He said that he does
2 not need to apply for a permit but ILR10 will apply.

3
4 Mr. Hall stated that no permit and not ILR10 is required because only ¾ of an acre is being
5 disturbed.

6
7 Mr. Passalacqua stated that in this instance this would be grading not related to anything else and
8 no permit is required.

9
10 Mr. Hall stated yes. He said that he believes that the optional minimum requirements would
11 apply if Mr. Passalacqua's grading created problems for his neighbors. He requires grading
12 permits; therefore, that gives us the right to apply the optional minimum requirements. He said
13 that in Mr. Passalacqua's case, however, he is not grading one acre or more but the optional
14 minimum requirement will apply.

15
16 Mr. Passalacqua stated that this is much like his 11.5' x 11.5' shed which did not require a
17 Zoning Use Permit but it was still required to meet the requirements of the Zoning Ordinance for
18 setbacks and yards.

19
20 Mr. Hall stated yes.

21
22 Mr. Randol stated that the only reason why an inspection would be completed would be because
23 a complaint was filed with staff.

24
25 Mr. Hall stated yes.

26
27 Mr. Hall stated that Attachment B. for Case 773-AT-14 is provided for the Board's review. He
28 said that the Board has also received a Preliminary Finding of Fact for Case 773-AT-14 and there
29 is evidence throughout the Finding of Fact.

30
31 Mr. Thorsland asked the Board if there were any questions regarding any of the information
32 included in the Preliminary Finding of Fact for Case 773-AT-14.

33
34 Ms. Griest stated that earlier Mr. Hall indicated that there were no fees proposed for a demolition
35 and grading permit although page 19, item #E, indicates the following: At the time the
36 application is filed for a Demolition Permit or a Grading Permit a fee of \$50 shall be paid.

37
38 Mr. Hall stated that Ms. Griest is correct and the last page of the Supplemental Memorandum
39 dated January 9, 2015, retains the \$50 fee.

40
41 Ms. Griest asked if the \$50 fee should be stricken.

42
43 Ms. Lee stated that item B. of the description also indicates the following: Add fees for Grading
44 and Demolition Permits.

45
46 Mr. Hall stated that he knows that description creates the case in which the County Board can

**EXCERPT OF APPROVED MINUTES FOR JANUARY 15, 2015,
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1 act.

2

3 Mr. Hall stated that \$50 may capture most of staff's costs for a grading permit because there is so
4 little work involved and if not having a fee is what it takes to get the grading permit requirement
5 in place, then he would say don't add the fee; but this is for the Board to determine.

6

7 Mr. Randol asked Mr. Hall for how small of an area would this be applicable. He asked if he
8 wanted to grade where the downspouts are located, which may be less than ¼ acre, would he be
9 required to obtain a grading permit.

10

11 Mr. Hall stated no. He said that one acre is the threshold.

12

13 Mr. Randol stated that the fee would apply.

14

15 Mr. Passalacqua stated no. He said that if the grading is less than one acre no permit is required
16 although the grading must be in compliance.

17

18 Mr. Hall stated that the grading permit kicks in at one acre or more. He said that currently the
19 County has a three acre parcel outside of Urbana that has been graded with no construction on it
20 but staff received complaints the entire time that the grading took place. Mr. Hall said that the
21 property owner would have paid \$50 and received a permit. He said that eventually the Illinois
22 EPA found out about the grading and made the property owner apply for an ILR10.

23

24 Mr. Randol asked Mr. Hall to indicate the cost of an ILR10.

25

26 Mr. Hall stated that an ILR10 costs more than \$50.

27

28 Ms. Lee asked Mr. Hall when ILR10 applies when doing demolition and grading.

29

30 Mr. Hall stated that ILR10 applies if the property owner is doing one acre or more. He said that
31 it would require the application fees for the ILR10 and would require erosion and sedimentation
32 controls which could be substantial at a few thousand dollars.

33

34 Ms. Lee stated that if it is already required for one acre or more why does the EPA want the
35 County involved as well.

36

37 Mr. Randol stated that they want the County involved for enforcement.

38

39 Mr. Hall stated that he wants to give the County Board the option to say that they will have their
40 staff go out and enforce erosion and sedimentation controls when a complaint is received. He
41 said that regarding the case near Urbana the neighbors called the EPA and they received action
42 and mud was no longer tracked on their road. He said that when those neighbors called staff we
43 had no idea of what was going on therefore staff had to visit the property.

44

45 Ms. Lee asked if a public utility, such as Ameren, is subject to ILR10.

46

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1 Mr. Hall stated that a public utility is subject to ILR10 but that is between them and the EPA.

2

3 Ms. Lee asked if a citizen complained would the EPA do anything about it since it is a public
4 utility.

5

6 Mr. Hall stated that the EPA has talked to Ameren about the new power line that they plan to
7 install. He said that as short staffed as the EPA is they always go out and investigate a complaint
8 when it is received.

9

10 Ms. Griest asked Mr. Hall if they had ILR10 compliance requirement for a permit Case 773-AT-
11 14 would also require them to get a permit through the County.

12

13 Mr. Hall stated yes.

14

15 Mr. Passalacqua stated that it is double indemnity.

16

17 Mr. Hall stated that they are already subject to the ILR10 requirement.

18

19 Mr. Passalacqua stated that they are already subject to the ILR10 requirement regardless of
20 whether we adopt this ordinance.

21

22 Mr. Hall stated yes.

23

24 Mr. Passalacqua asked if the County is doing this for the \$50 or so that the County answers the
25 call instead of the Illinois EPA.

26

27 Mr. Hall stated that the Illinois EPA will also answer the call.

28

29 Mr. Passalacqua stated that it is his understanding that the State and Federal governments are
30 coming out to the counties requesting that they do this.

31

32 Mr. Hall stated that ILR10 only applies and the EPA will only go out when there is one acre or
33 more being disturbed. He said that the main reason for the optional minimum requirements and
34 the grading permit is so that if there is less than one acre the optional minimum requirements still
35 apply and you still cannot cause harm to your neighbors. He said that the EPA will not come out
36 to do anything because ILR10 is not required.

37

38 Mr. Passalacqua stated that we have to write this to guarantee compliance even if it is under the
39 minimums.

40

41 Mr. Hall stated yes, because he does not believe that the courts would not allow us to apply
42 something to grading when we made the decision not to require a grading permit.

43

44 Mr. Passalacqua stated that we will have to have a requirement for building permits on covered
45 buildings to be able to enforce compliance on buildings that do not require a permit. He said that
46 if we did not have a building permit on a home we could not enforce compliance on a structure

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1 that did not require a permit. He said that without this amendment we have no enforcement on
2 compliance even if it is under the minimum.

3
4 Mr. Hall stated yes.

5
6 Ms. Lee asked Mr. Hall if staff had the enforcement power now.

7
8 Mr. Hall stated no, the enforcement would fall to the Illinois EPA. He said that to the extent of
9 giving people the recourse when they have a complaint will further the Zoning Ordinance's
10 objective of public welfare.

11
12 Ms. Lee stated that currently when staff receives complaints from people regarding the dirt on
13 the road staff cannot do anything about it.

14
15 Mr. Hall stated that he cannot do anything about dirt on the road unless it is a County Highway
16 and then he will contact Jeff Blue, Champaign County Highway Engineer, and then Jeff Blue
17 will do something about it.

18 He said that if he knows a highway commissioner is concerned he will let him know but the
19 highway commissioners loath upsetting any member of their constituency, at least in his
20 experience. He said that he hasn't yet met a highway commissioner who is deeply concerned
21 about mud on the road and perhaps that is because they cannot do anything about agricultural
22 mud.

23
24 Mr. Hall stated that the Finding of Fact for Case 773-AT-14 includes the Board decision points
25 and those decision points are indicated in bold italics. He said that he included the \$50 fee just
26 because we know this is a new task that we will be doing but this is much less work than the
27 Minor LDEC permit so he believes that we could justify not having the fee. He said that we all
28 know that if the County Board wants to add a fee later they will. He said that when the Board
29 finally takes action on Case 773-AT-14 the issue of the fee is another part of defining the
30 amendment that can be recommended to the County Board.

31
32 Ms. Griest stated that a multi-acre parcel that is staged in sections less than one acre for grading
33 and seeding will get around the requirement as long as it has re-established before they disturb
34 another section.

35
36 Mr. Hall stated yes. He said that if they could do each of those phases and achieve final
37 stabilization before they have one acre in total disturbed at any time then that is exactly what the
38 NPDES wants which is no more than one acre disturbed at any time.

39
40 Ms. Lee stated that Attachment CCC indicates Case 769-AT-14 therefore should it be Case 769-
41 AT-13 or is the table for Case 773-AT-14.

42
43 Mr. Hall stated that Attachment CCC is the new table and it is only for Case 769-AT-13.

44
45 Ms. Griest stated that the Documents of Record on Pages 14 & 15 in the Finding of Fact for Case
46 773-AT-14 indicates Case 769-AT-14 rather than Case 769-AT-13.

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14

Mr. Hall stated that he will correct these typos.

Mr. Thorsland stated that if the Board sees any other typos in the text they should contact staff.

Mr. Thorsland asked the Board if there were any other questions for Mr. Hall regarding Case 773-AT-14 and there were none.

Mr. Thorsland entertained a motion to continue Case 773-AT-14 to the January 29, 2015, public hearing.

Ms. Lee moved, seconded by Mr. Randol to continue Case 773-AT-14 to the January 29, 2015, public hearing. The motion carried by voice vote.

CASE NO. 769-AT-13

SUPPLEMENTAL MEMORANDUM

March 6, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall**, Zoning Administrator
Susan Chavarria, Senior Planner

Request:

Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amend the Storm Water Management and Erosion Control Ordinance as described in the legal advertisement (see attached) which can be summarized as follows:

- I. Revise existing Section 1 by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water. (Part A of the legal advertisement)
- II. Revise existing Section 2 by merging with existing Sections 3.1 and 3.2 to be new Section 2 and add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part B of the legal advertisement)
- III. Add new Section 3 titled Definitions to include definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit. (Part C of the legal advertisement)
- IV. Revise existing Section 7 to be new Section 6 and add a prohibition against erosion or sedimentation onto adjacent properties and add minimum erosion control and water quality requirements that are required for all construction or land disturbance. (Part F of the legal advertisement)
- V. Revise existing Sections 3.3, 3.4, and 4 and add new Sections 5, 11, 12, 13, 14, and 15 and add new Appendices C, D, and E. Add requirements for Land Disturbance activities including a requirement for a Land Disturbance Erosion Control Permit including Minor and Major classes of Permits that are required within the Champaign County MS4 Jurisdictional Area; add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements; add fees and time limits for each class of Permit; add requirements for administration and enforcement of Permits; and add new Appendices with new standards and requirements for both Minor and Major Permits. (Parts D, E, L, M, N, O, T, U, and V of the legal advertisement)
- VI. Revise existing Section 5 to be new Section 8 and add a Preferred Hierarchy of Best Management Practices. (Part H of the legal advertisement)
- VII. Revise and reformat existing Sections 6, 8, 9, 10, 11, 12, and the Appendices and add new Section 18. (Parts G, I, J, P, Q, R, S and W of the legal advertisement)

STATUS

The Approved Minutes for this case from the 1/15/15 meeting are attached.

A Corrected Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements (Att. BBB) and a Corrected Documents of Record are attached.

Minor edits are proposed to paragraphs 4.1 B. and C. See the discussion below.

A Revised Summary of Proposed Amendment Benefits and Costs is also attached .

CORRECTED ATTACHMENT BBB AND CORRECTED DOCUMENTS OF RECORD

Board members noticed several inconsistencies in Attachment BBB and the Documents of Record at the 1/15/15 public hearing and corrected versions are attached.

Similar corrections will be made to the Documents of Record for Case 773-AT-14.

PROPOSED REVISION TO PARAGRAPHS 4.1 B. AND C.

The following revision (shaded portion) is proposed to paragraphs 4.1B. and C. This is not a change to any requirements and is only intended to increase the readability of the proposed amendment.

Annotated:

- B. Within the Champaign County MS4 JURISDICTIONAL AREA (see Appendix C), all Sections of this Ordinance may apply subject to relevant exemptions. when LAND-DISTURBANCE activities disturb one acre or greater or less than an acre if it is part of a COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD that ultimately disturbs one acre or greater, except those activities listed in General Exemptions (Section 4.2), Storm Water Drainage Plan Exemptions (Section 4.3), and LDEC PERMIT Exemptions (Section 4.4); and
- C. Outside of the Champaign County MS4 JURISDICTIONAL AREA (see Appendix C), all Sections of this Ordinance may apply subject to relevant exemptions, unrelated except those sections relevant only to Land Disturbance Erosion Control Permits (Section 12, 13, 14, and 15).

Non-annotated:

- B. Within the Champaign County MS4 JURISDICTIONAL AREA (see Appendix C), all Sections of this Ordinance apply subject to relevant exemptions.
- C. Outside of the Champaign County MS4 JURISDICTIONAL AREA (see Appendix C), all Sections of this Ordinance apply subject to relevant exemptions except those sections relevant only to Land Disturbance Erosion Control Permits (Section 12, 13, 14, and 15).

REVISED SUMMARY OF BENEFITS AND COSTS

A Revised Summary of Proposed Amendment Benefits and Costs is attached. The right hand column of the Revised Summary now includes prompts to the relevant items in the Finding of Fact to help ZBA members coordinate their recommendation with the Finding of Fact.

ATTACHMENTS (* = Attachments lettered consecutively from the Preliminary Memorandum)

A Case Description from Legal Advertisement

*BBB Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)

*KKK Excerpt of Minutes for Cases 769-AT-13 and 773-AT-14 from the of the Approved Minutes of January 15, 2015 (attached separately)

*LLL Case 769-AT-13 Summary of Proposed Amendment Benefits and Costs REVISED DRAFT 3/6/15

*MMM Corrected Documents of Record

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

FEBRUARY 6, 2014

Amend the Champaign County Zoning Ordinance by amending the Champaign County Stormwater Management Policy by changing the name to Storm Water Management and Erosion Control Ordinance and amending the reference in Zoning Ordinance Section 4.3.10; and amending the Storm Water Management and Erosion Control Ordinance as follows:

Part A. Revise Section 1 Authority by adding a reference to 55 ILCS 5/5-15015 that authorizes the County Board to have authority to prevent pollution of any stream or body of water.

Part B. Revise Section 2 as follows:

1. Merge existing Intent and Requirements (Sections 3.1) and General Requirements (Section 3.2) with existing Purpose (Section 2).
2. Add purpose statements related to preventing soil erosion and preventing water pollution and fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit.

Part C. Add new Section 3 titled Definitions and add definitions related to fulfilling the applicable requirements of the National Pollution Discharge Elimination System (NPDES) Phase II Storm Water Permit.

Part D. Change the title of existing Section 4 to Scope and make the following changes:

1. Add a requirement that Land Disturbance have requirements identified in the Ordinance.
2. Add a requirement that all sections of the Ordinance are applicable to land disturbance activities in the Champaign County MS4 Jurisdictional Area.
3. Add a requirement that land disturbance of one acre or more in a common plan of development must comply with the Illinois Environmental Protection Agency's ILR 10 Permit requirements.
4. Add a requirement that all Sections except those related to the Land Disturbance Erosion Control Permit (Sections 12, 13, 14, and 15) are only applicable when a land subdivision requires approval of the Champaign County Board and when construction occurs that requires a Zoning Use Permit.
5. Add a requirement that Protect Existing Drainage and Water Resource (Section 6) and Easement (Section 7) are applicable to all subdivisions, zoning use permits and land disturbances regardless of the amount of area involved or percent impervious surface.
6. Add a requirement that Land Disturbance and Erosion Control Requirements (Section 11) are applicable with any Storm Water Drainage Plan or necessary enforcement action.
7. Add a requirement for erosion and sedimentation controls when there is more than 10,000 square feet of land disturbance in total, after the Effective Date.
8. Add exemptions to Land Disturbance Erosion Control Permits.

Part E. Add a new Section 5 titled Authorizations and Project Termination and make the following changes:

1. Relocate existing Reviewing Authorities (existing Section 4.1) and remove Special Use Approvals
2. Relocate existing Authorization to Construct (existing Section 3.3) and add authorizations for Land Disturbance Erosion Control Permits.
3. Relocate existing Requirements for Final Approvals (existing Section 3.4) and rename to Project Termination, and add requirements for Land Disturbance Erosion Control Permits.

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

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- Part F. Renumber existing Section 7 to new Section 6 titled Protect Existing Drainage and Water Resource and make the following changes:
1. Add new requirement to prohibit erosion or sedimentation onto adjacent properties.
 2. Add new requirements for discharges from sump pumps.
 3. Add new minimum erosion control and water quality requirements including a minimum requirement for proper disposal of construction waste; minimum requirement for location and control of soil stockpiles; and a requirement to cleanup sediment that enters onto public areas and adjacent properties.
- Part G. Renumber existing Section 9 to new Section 7.
- Part H. Change existing Section 5 to new Section 8 titled Storm Water Drainage System and add a Preferred Hierarchy of Best Management Practices.
- Part I. Change existing Section 6 to new Section 9 titled Storm Water Drainage Plan and merge with existing Section 12.
- Part J. Renumber existing Section 8 to new Section 10.
- Part K. Add new Section 11 titled Land Disturbance and Erosion Control and include the following:
1. Add general requirements for erosion and sediment control operations.
 2. Add list of practices that should be applied to minimize soil erosion.
 3. Add list of practices that should be applied to minimize sediment.
 4. Add requirements for filtering dewatering practices at construction sites.
 5. Add requirements for soil stockpiles.
 6. Add requirements for maintenance of erosion and sediment control measures.
- Part L. Add new Section 12 titled Land Disturbance and Erosion Control Permits and include the following:
1. Add a requirement for Land Disturbance Erosion Control Permits.
 2. Add a requirement that the class of permit Land Disturbance Erosion Control Permit – Minor is required for any land disturbance of less than one acre that is part of a common plan of development or sale of record that is not otherwise exempt.
 3. Add a requirement that the class of permit Land Disturbance Erosion Control Permit – Major is required for any land disturbance of one acre or more that is not otherwise exempt.
 4. Add required forms and procedure requirements for each permit class.
 5. Add that the class of permit Land Disturbance Erosion Control Permit – Major shall comply with current ILR10 requirements.
 6. Add a fee schedule with fees for each class of permit.
 7. Add a requirement that an issued permit authorizes only those activities shown on approved plans.
 8. Add time limitations for Land Disturbance Erosion Control Permits.
 9. Add responsibilities of the holder of the Land Disturbance Erosion Control Permit.
 10. Add requirements for maintenance of erosion control facilities and other drainage structures during and after construction.

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

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- Part M. Add new Section 13 titled Administration of Land Disturbance and Erosion Control Permits and include the following:
1. Add duties of the Zoning Administrator as established in the Champaign County Zoning Ordinance.
 2. Add conditions of Land Disturbance and Erosion Control Permit approval to prevent the creation of a nuisance or unreasonable hazard to persons or to public or private property including specific erosion and sediment controls, safety structures, grading improvements, adequate dust controls, and acceptance of discharges on others property.
 3. Add conditions to which a Land Disturbance Erosion Control Permit might be denied if the Erosion and Sediment Control Plan does not meet the requirements of the ordinance and restrictions if the permit is denied.
 4. Add conditions to Land Disturbance Erosion Control Permit and plans to ensure that no work occurs without prior written approval, that any changes to plans must be submitted prior to work being conducted, and methods for changing an approved document.
 5. Add requirement of site inspections during specific phases of the work to ensure compliance with the conditions of the Ordinance.
- Part N. Add new Section 14 titled Liability Related to Land Disturbance and Erosion Control Permits and include a requirement that all responsibilities and liabilities are held by the permit holder and no liability is held by Champaign County.
- Part O. Add new Section 15 titled Enforcement of Land Disturbance and Erosion Control Permits and include the following:
1. Add a requirement that work shall be done in accordance with the approved plans, the approved permit, and the Ordinance.
 2. Add a classification of deficient sites and the related enforcement activities.
 3. Add a classification of Non-Compliance on a sites-and the related enforcement activities.
 4. Add a classification of Notice of Violation on a sites and the related enforcement activities.
 5. Add that the Zoning Administrator may require activities that shall be undertaken in order to prevent imminent hazards, dangers and adverse effects.
 6. Add conditions and procedures that allow the Zoning Administrator to issue a stop-work order and that all work must stop immediately.
 7. Add conditions and procedures for initiating legal proceedings.
 8. Add penalties for violation of the ordinance at not less than one hundred dollars (\$100.00) per day and not more than five hundred dollars (\$500.00) per day.
- Part P. Renumber existing Section 10 to new Section 16.
- Part Q. Change existing Section 11 Waivers to new Section 17 titled Appeal, Waiver or Variance and include the following:
1. Add designation that the reviewing authority may issue a waiver or variance to the ordinance except for ILR10 requirements.
 2. Add procedure for appealing a decision made by a reviewing authority.
- Part R. Add new Effective Date (Section 18).

Attachment A. Case Description from Legal Advertisement

Case 769-AT-13

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- Part S. Re-letter existing Appendix B to be new Appendix A and re-letter existing Appendix A to be new Appendix B.
- Part T. Add new Appendix C titled Champaign County MS4 Jurisdictional Area to include a map of the Champaign County MS4 Jurisdictional Area.
- Part U. Add new Appendix D titled Technical Manual Minor Land Disturbance Erosion Control Permit Standards and Standard Details and include application templates, erosion control plan examples, and standard construction drawings.
- Part V. Add new Appendix E titled Technical Manual Major Land Disturbance Erosion Control Permit Standards and Standard Details and include application templates, erosion control plan examples, and standard construction drawings.
- Part W. Revise and reformat the text, and update all references to new and renumbered Sections.

Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Agriculture Example: Agriculture ³ Grading Example: Mass grading ⁴ not related to other construction	STATUTORILY EXEMPT	STATUTORILY EXEMPT	STATUTORILY EXEMPT	STATUTORILY EXEMPT
	Less than 10,000 SF	NO ZONING USE PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN)	NO PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN)	NO ZONING USE PERMIT REQUIRED BUT SEC. 6.4 MIN. REQUIREMENTS ⁵ APPLY (OPTIONAL)
	10,000 SF or more but less than 1 AC and not part of a larger common plan of dev. * 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	NO ZONING USE PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN)	NO PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN) (SEC. 6.4 MINIMUM REQUIREMENTS PROBABLY NOT ENFORCEABLE SINCE NO PERMIT REQUIRED FOR GRADING UNLESS CASE 773-AT-14 IS APPROVED)	NO ZONING USE PERMIT REQUIRED BUT SEC. 6.4 MIN. REQUIREMENTS ⁵ APPLY (OPTIONAL)
* 1 AC or more ⁶				NO ZONING USE PERMIT REQUIRED BUT SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
* ILR10 COMPLIANCE REQUIRED BY IEPA				NO ZONING USE PERMIT REQUIRED BUT SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14 (corrected March 6, 2015)**

Type of proposed development or land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
<p>Construction Example A: Construction of a new home in the rural districts on a "by-right" lot created by any of the following means: (1) a written legal description conforming to the Illinois Plat Act; or</p>	Less than 10,000 SF		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
<p>(2) a one lot Plat of Subdivision; or (3) a one lot Plat of Survey.</p>	10,000 SF or more but less than 1 AC and not part of a larger common plan of development * 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	ZONING USE PERMIT REQUIRED	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
			ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶ * ILR10 COMPLIANCE REQUIRED BY IEPA		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements¹ REVISED 12/11/14 (corrected March 6, 2015)**

Type of proposed development or land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
<p>Construction Example B: Construction of a new home in the rural districts on a "by-right" lot created by any of the following means: (1) a Plat of Subdivision of two lots; or (2) a Plat of Survey of two lots; or (3) any Plat of Survey or written legal description pursuant to a land auction diagram that illustrated two lots</p>	Less than 10,000 SF		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
<p>(TOTAL LAND DISTURBANCE AT ONE TIME ON ONE OR ALL LOTS)</p>	10,000 SF or more but less than 1 AC and not part of a larger common plan of development * 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	ZONING USE PERMIT REQUIRED	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
			ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED AND SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶ * ILR10 COMPLIANCE REQUIRED BY IEPA		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IF IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED

**Attachment BBB, Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Construction Example C: Construct new dwelling in rural district with establishment of RRO District ⁷ in subdivision with new street	Less than 10,000 SF	ZONING USE PERMIT REQUIRED	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of development		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
(TOTAL LAND DISTURBANCE AT ONE TIME ON ONE OR ALL LOTS)	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	ZONING USE PERMIT REQUIRED	TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶		ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* ILR10 COMPLIANCE REQUIRED BY IEPA		OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	

**Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Construction Example D: Construct new building in Residential District ⁸ , or Business ⁹ or Industrial District ⁸	Less than 10,000 SF	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of development	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED AND SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more ⁶	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	ZONING USE PERMIT REQUIRED INCLUDING TOTAL LAND DISTURBANCE AND ILR10 COMPLIANCE REQUIRED IN S.F.H.A. AND OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY	ZONING USE PERMIT REQUIRED AND SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* ILR10 COMPLIANCE REQUIRED BY IEPA	OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	OPTIONAL: SEC. 4 & 5 REQ. ILR10 COMPLIANCE	

**Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²
Demolition Example: Demolition ⁴ of existing building not related to other construction	Less than 10,000 SF			NO ZONING USE PERMIT REQUIRED BUT OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	10,000 SF or more but less than 1 AC and not part of a larger common plan of dev.			NO ZONING USE PERMIT REQUIRED BUT OPTIONAL: SEC. 6.4 MINIMUM REQUIREMENTS ⁵ APPLY
	* 10,000 SF or more but less than 1 AC and part of a larger common plan of development likely to disturb 1 AC or more	NO ZONING USE PERMIT REQUIRED	NO PERMIT REQUIRED IF NOT IN SPECIAL FLOOD HAZARD AREA (FLOODPLAIN) (SEC. 6.4 MINIMUM REQUIREMENTS PROBABLY NOT ENFORCEABLE SINCE NO PERMIT REQUIRED SINCE NO PERMIT REQUIRED FOR DEMOLITION UNLESS CASE 773-AT-14 IS APPROVED)	NO ZONING USE PERMIT REQUIRED BUT SEC. 12.1 MINOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* 1 AC or more			NO ZONING USE PERMIT REQUIRED BUT SEC. 12.2 MAJOR LDEC PERMIT REQUIRED ⁵ AND ILR10 COMPLIANCE REQUIRED
	* ILR10 COMPLIANCE REQUIRED BY IEPA			

**Attachment BBB. Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance
in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)**

Type of proposed land disturbance	Amount of land disturbance	Existing Ordinance Requirements ¹	Proposed Ordinance Requirements	
			Outside the MS4 Area ²	Inside the MS4 Area ²

NOTES

1. This table does not indicate when a Storm Water Drainage Plan is required, nor does it include information for any rezoning approval, Special Use Permit approval, or subdivision plat approval that may be required. Also does not include approvals related to the Special Flood Hazard Area. Storm Water Drainage Plan requirements are unchanged in the proposed Ordinance. Also see related Case 773-AT-14.
2. The MS4 Jurisdictional Area is that portion of Champaign County in which Champaign County has responsibility for a Municipal Separate Storm Sewer System (MS4) under the National Pollutant Discharge Elimination System (NPDES) administered by the Illinois Environmental Protection Agency (IEPA). See the attached map. Other than the (1) "Optional Minimum Requirements" in Section 6 of the Ordinance that are proposed to be required throughout the unincorporated area and (2) the requirement in Sections 4 and 5 requiring ILR10 compliance outside of the MS4 Jurisdictional Area, the proposed Ordinance is the minimum requirement in the MS4 Jurisdictional Area for compliance with IEPA MS4.
3. Agriculture as defined in the Champaign County Zoning Ordinance. No change is proposed.
4. Mass grading and/or demolition not related to other construction and not in the Special Flood Hazard Area (floodplain) are not currently regulated by the Zoning Ordinance and no Zoning Use Permit is required for mass grading or demolition under those conditions. Related Case 773-AT-14 proposes to add a permit requirement for mass grading and/or demolition not related to other construction. The LDEC Permit proposed in this Case will also regulate mass grading and/or demolition not related to other construction but only in the MS4 Jurisdictional Area.
5. Section 6 of the proposed Ordinance includes General and Minimum Erosion Controls proposed to be required for any land disturbance in the unincorporated area. Requiring the Minimum Erosion Controls in the entire unincorporated area is optional for the County Board but consistent with the Land Resource Management Plan. If the County Board approves the proposed Minimum Erosion Controls those Controls will be required for all future land use permitting.
6. The Minimum Erosion Controls are necessary for the MS4 Area and if the Minimum Erosion Controls are not included in Section 6 of the final Ordinance they will have to be added to Section 11 as requirements for LDEC Permits in the MS4 Area.
7. USEPA requires that agricultural land (ie, row crop) be vegetated with an appropriate protective land cover prior to conversion to non-agricultural use or the land shall be considered to be in a state of land disturbance. Thus, the basic one acre lot split off of farmland will be considered to be in a state of land disturbance if grass is not established prior to application for a Zoning Use Permit.
8. The only location in the MS4 Jurisdictional Area where a municipal comprehensive plan provides for "rural residential development" is northeast of Urbana.
8. A new building must connect to a sanitary sewer if feasible and in the MS4 Jurisdictional Area connection to a sewer generally requires annexation or an annexation agreement with a municipality, either which would remove the construction from the County permitting jurisdiction.

Attachment LLL. Case 769-AT-13 Summary of Proposed Amendment Benefits and Costs REVISED DRAFT 3/06/15

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p>Basic amendment</p>	<p>All Sections except those listed below as "optional"</p>	<ol style="list-style-type: none"> 1. Necessary to meet obligations under Clean Water Act and to avoid litigation with the IEPA. See 13.A.(3)a(q) & (s) in the Finding of Fact. 2. Necessary to help achieve the LRMP. See LRMP Policy 8.4.5 in the Finding of Fact. 	<ol style="list-style-type: none"> 1. There will no added cost to a typical new home outside of the MS4 Jurisdictional Area. 2. The cost of erosion controls for a new home in the MS4 Jurisdictional Area is expected to increase by the following amounts: <ul style="list-style-type: none"> • About \$2,322 to \$3,093 which is about 1.6% to 2.2% of the median sales price for Champaign County, for a typical new home on an assumed typical Champaign County urban lot. See 16.B.(3)b.(b) in the Finding of Fact. • About \$3,898 and \$5,493 which is about 2.7% to 3.9% of the median sales price for Champaign County, for a typical new home on an assumed typical Champaign County rural lot. See 16.B.(3)b.(b) in the Finding of Fact. 3. No additional staffing will be required in the Department of Planning and Zoning, based on the anticipated workload due to the anticipated four "Land Disturbance Erosion Control" permits per year and the additional four inspections per week on average and at least 208 additional inspections per year in total. However, any significant increase in the size of the MS4 Jurisdictional Area (as may occur in 2020 after the decennial Census) will probably require additional staffing. See 16.B.(4)c. & d. in the Finding of Fact. 	<p>{RECOMMENDED/ NOT RECOMMENDED}</p> <p>Coordinate this recommendation with the following items in the Finding of Fact (FOF):</p> <ul style="list-style-type: none"> ○ LRMP Policy 8.4.2 (FOF item 13.A.(2)) ○ LRMP Policy 8.4.5 (FOF item 13.A.(3)) ○ Ord. Purpose par. 2.0(b) (FOF item 16.B.(4)) ○ Ord. Purpose par. 2.0 (e) (FOF item 16.E.) ○ FOF item 20.

Attachment LLL. Case 769-AT-13 Summary of Proposed Amendment Benefits and Costs REVISED DRAFT 3/06/15

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p><u>Optional/ Minimum Erosion Control and Water Quality Requirements.</u> See 19.A. in the Finding of Fact.</p>	<p>Paragraph 6.1F., all of Sec. 6.4 & 6.5 in Draft Ordinance dated 12/5/14</p>	<p>1. Not necessary to help achieve the LRMP although would provide incrementally greater achievement of LRMP. See LRMP Policy 8.4.2 and LRMP Policy 8.4.5 in the Finding of Fact.</p> <p>2. Greater achievement of the Zoning Ordinance purpose to promote public health, safety, comfort, morals, and general welfare throughout the COUNTY because the Optional Minimum Requirements would apply throughout 100% of the unincorporated area rather than merely the 1% that is the MS4 Jurisdictional Area. See paragraph 16.E. in the Finding of Fact.</p>	<p>1. Any additional costs to home owners would be directly related to the damage being prevented because costs may not be incurred except when neighbors complain and the cost would probably be less than the added costs within the MS4 Jurisdictional Area (see above). See paragraph 16.B.(5)a. in the Finding of Fact.</p> <p>2. No significant impact on staffing in the Department of Planning and Zoning. Any significant increase in time will probably only occur due to any required enforcement and in general, there should be no significant impact on overall staffing. See paragraph 16.B.(5)b. in the Finding of Fact.</p>	<p>{RECOMMENDED/ NOT RECOMMENDED}</p> <p>Coordinate this recommendation with the following items in the Finding of Fact (FOF):</p> <ul style="list-style-type: none"> o LRMP Policy 8.4.2 (FOF item 13.A.(2)) <hr/> <ul style="list-style-type: none"> o Ord. Purpose par. 2.0(b) (FOF item 16.B.(5)) <hr/> <ul style="list-style-type: none"> o Ord. Purpose par. 2.0 (e) (FOF item 16.E.) <hr/> <ul style="list-style-type: none"> o FOF item 19.A. (8 sub-paragraphs)

Attachment LLL. Case 769-AT-13 Summary of Proposed Amendment Benefits and Costs REVISED DRAFT 3/06/15

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p><u>Optional</u> ILR10 Compliance Outside of the MS4 Jurisdictional Area for County permits See 19.B. in the Finding of Fact.</p>	<p>Paragraph 4.1A.4.c in Draft Ordinance dated 12/5/14</p>	<ol style="list-style-type: none"> 1. Not required by state law or by the Clean Water Act. See 13.A.(3)a(q) & (s) in the Finding of Fact. 2. Not necessary to help achieve the LRMP although may provide incrementally greater achievement of LRMP. See LRMP Policy 8.4.2 in the Finding of Fact. 3. Would not provide greater achievement of Zoning Ordinance purpose. See paragraph 16.E. in the Finding of Fact. 	<ol style="list-style-type: none"> 1. Any additional costs would be incurred by those who would otherwise avoid current IEPA enforcement of existing state law and the cost would probably be comparable to the added costs within the MS4 Jurisdictional Area (see above). See paragraph 16.B.(6)a. in the Finding of Fact. 2. No significant impact on staffing in the Department of Planning and Zoning. See paragraph 16.B.(6)b. in the Finding of Fact. 	<p>{RECOMMENDED/ NOT RECOMMENDED}</p> <p>Coordinate this recommendation with the following items in the Finding of Fact (FOF):</p> <ul style="list-style-type: none"> o LRMP Policy 8.4.2 (FOF item 13.A.(2)) o Ord. Purpose par. 2.0(b) (FOF item 16.B.(6)) o FOF item 19.B.

Attachment LLL. Case 769-AT-13 Summary of Proposed Amendment Benefits and Costs REVISED DRAFT 3/06/15

Part of Proposed Amendment	Relevant Ordinance Section(s) in 12/5/14 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p><u>Optional</u> \$50 fee is proposed for the Minor LDEC Permit</p>	<p>Paragraph 12.4B.</p>	<p>1. Partially offsets the added staff time required for intake and processing of the Minor LDEC Permit. Note that Case 773-AT-14 includes a \$50 fee for the proposed Grading and Demolition Permits.</p>	<p>1. Adds \$50 application fee in addition to the costs of the erosion controls that are required in the MS4 Area.</p>	<p>{RECOMMENDED/ NOT RECOMMENDED}</p> <p>Coordinate this recommendation with the following items in the Finding of Fact (FOF):</p> <ul style="list-style-type: none"> o Ord. Purpose par. 2.0(b) (FOF item 16.B.) o FOF Par. 19.C.

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated February 6, 2014, with Attachments (* attachments handed out at the meeting):
 - A Case Description from Legal Advertisement
 - B ELUC Memorandum dated 10/29/13 with attachments except Att. F Draft *Storm Water Management and Erosion Control Ordinance* (with new text underlined)
 - C ELUC Memorandum dated 12/30/13 with attachments
 - D Revised Draft *Storm Water Management and Erosion Control Ordinance* dated 2/6/14 (with new text underlined)
 - *E Champaign County Stormwater Management Policy As Amended 2/20/03
 - *F “National Pollutant Discharge Elimination System-Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges; Final Rule Report to Congress on the Phase II Storm Water Regulations; Notice,” 64 Federal Register 235 (8 December 1999), pp. 68722 - 68723, 68751, 68791 – 68796, 68804 - 68805, 68812, 68815, 68842 - 68846
 - *G Stormwater Phase II Final Rule Small MS4 Stormwater Program Overview. United States Environmental Protection Agency Office of Water Fact Sheet 2.0. January 2000 (revised December 2005)
 - *H Stormwater Phase II Final Rule Who’s Covered? Designation and Waivers of Regulated Small MS4s. United States Environmental Protection Agency Office of Water Fact Sheet 2.1. January 2000 (revised December 2005)
 - *I Stormwater Phase II Final Rule Construction Site Runoff Control Minimum Control Measure. United States Environmental Protection Agency Office of Water Fact Sheet 2.6. January 2000 (revised December 2005)
 - *J Stormwater Phase II Final Rule Small Construction Program Overview. United States Environmental Protection Agency Office of Water Fact Sheet 3.0. January 2000 (revised December 2005)
 - *K General NPDES Permit No. ILR 40 for Discharges from Small Municipal Separate Storm Sewer Systems (Expiration Date March 31, 2014)
 - *L General NPDES Permit No. ILR 10 for Storm Water Discharges From Construction Site Activities (Expiration Date July 31, 2018)

2. Supplemental Memorandum dated February 13, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *M 2010 Census- Urbanized Area Reference Map- Champaign IL
 - *N LRMP Land Use Goals, Objectives, and Policies & Appendix
 - *O Model Erosion and Sediment Control Ordinance. Northeastern Illinois Planning Commission. September 1991.
 - *P City of Urbana Ordinance No. 2007-11-133 Erosion and Sediment Control Ordinance
 - *Q City of Urbana Class 1 & 3 Erosion Control Permit Standard Details (manual of practice)
 - *R City of Urbana Class 2 Erosion Control Permit Standard Details (manual of practice)
 - *S Chapter 40 McLean County, Illinois Zoning Ordinance Article 205
 - *T Macon County, Illinois Stormwater Ordinance. Amended January 2011
 - *U Woodford County, Illinois Single Family Dwelling Permit Requirements handout
 - *V Woodford County, Illinois Erosion Prevention Plan and Permit Application
 - *W Woodford County, Illinois Erosion, Sediment and Storm Water Control Ordinance Amended 12/19/06 with Appendix A
 - *X Comparison of Draft SWMEC Ordinance to City of Urbana Erosion and Sediment Control Ordinance
3. Supplemental Memorandum dated March 13, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *Y Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements ¹REVISED 3/13/14
4. Supplemental Memorandum dated May 1, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *Z Comments received from Berns, Clancy and Associates on February 13, 2014
 - *AA Comments received from Berns, Clancy and Associates on March 13, 2014

5. Supplemental Memorandum dated May 23, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *BB Minutes of 3/13/14 public hearing for Case 769-AT-13 (included separately)
 - *CC Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements ¹ *REVISED* 5/23/14

6. Supplemental Memorandum dated May 29, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *DD Revised Draft Storm Water Management and Erosion Control Ordinance dated 5/29/14 (with new or changed text indicated with double underlining)

7. Table of Public Comments Received on the Draft Ordinance dated June 12, 2014 (handout at the June 12, 2014, public hearing; Tab EE in consecutive lettering of attachments)

8. Supplemental Memorandum dated September 11, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *FF Excerpt of Minutes for Cases 769-AT-14[†] and 773-AT-14 from the of the Approved Minutes of May 29, 2014 (included separately)
 - *GG Excerpt of Minutes for Cases 769-AT-14[†] and 773-AT-14 from the of the Approved Minutes of June 12, 2014 (included separately)
 - *HH. Draft Evidence Regarding Achievement of Policy 8.4.5
 - *II. Draft Evidence Regarding Cost Impact
 - *JJ. Draft Illustration of Example Zoning Use Permit Site Plan for a New Home on a Typical Rural Lot (included separately)
 - *KK. Draft Illustration of Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot (Example 1. Grass already established) (included separately)
 - *LL. Draft Illustration of Example Erosion and Sediment Control Plan (ESCP) for a New Home on a Typical Rural Lot (Example 2. All soil disturbed on property) (included separately)

9. Draft Handout *Erosion Control Requirements in Champaign County* (handout at the September 11, 2014, public hearing; Tab MM in consecutive lettering of attachments)

[†] The correct case number is 769-AT-13

10. Supplemental Memorandum dated December 5, 2014, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *NN Excerpt of Minutes for Cases 769-AT-14† and 773-AT-14 from the of the Approved Minutes of June 12, 2014
 - *OO Excerpt of Minutes for Cases 769-AT-14† and 773-AT-14 from the of the Approved Minutes of September 11, 2014
 - *PP. Revised Section 4.1 Applicability
 - *QQ. Revised Sections 5.2 Authorizations and 5.3 Project Termination
 - *RR. Revised Section 6.1 General Requirement
 - *SS. Revised Paragraphs 6.4A. and 6.4D. Minimum Erosion Control and Water Quality Requirements
 - *TT Draft Evidence Regarding Cost Impact Related to Staffing
 - *UU Draft Evidence Regarding Statutory Authority
 - *VV Draft Evidence Regarding County Board Options
 - *WW. Draft Evidence Regarding Public Outreach
 - *XX. Revised First Page of the Draft Handout *Erosion Control Requirements in Rural Champaign County*
 - *YY. Champaign County Zoning Use Permit Application Form (current version; included separately)
 - *ZZ. Draft Champaign County Land Disturbance and Zoning Use Permit Application
 - *AAA. Revised Draft *Storm Water Management and Erosion Control Ordinance* dated 12/5/14 (with annotations; included separately)
11. Powerpoint presentation for the Draft Storm Water Management and Erosion Control Ordinance given February 13, 2014
12. Preliminary Memorandum for Case 773-AT-14 dated May 23, 2014, with Attachment:
 - A Proposed Amendment

† The correct case number is 769-AT-13

13. Supplemental Memorandum for Case 769-AT-13 dated January 9, 2015, with Attachments (* = Attachments lettered consecutively from the Preliminary Memorandum):
 - A Case Description from Legal Advertisement
 - *BBB Case 769-AT-14† Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements REVISED 12/11/14
 - *CCC Revised Draft Handout Erosion Control Requirements in Rural Champaign County
 - *DDD Case 769-AT-14† Summary of Proposed Amendment Benefits and Costs DRAFT 12/11/14
 - *EEE Preliminary Finding of Fact

14. Supplemental Memorandum for Case 773-AT-13 dated January 9, 2015, with Attachments:
 - A Revised Amendment
 - B Case 773-AT-14 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements and Related Case 769-AT-13¹ REVISED 12/11/14
 - C Preliminary Finding of Fact

15. Supplemental Memorandum for Case 769-AT-13 dated January 15, 2015, with Attachments:
 - A Case Description from Legal Advertisement
 - *FFF Revised Appendix D Technical Manual Minor Land Disturbance Erosion Control Permit (included separately with Appendices E and F)
 - *GGG Revised Appendix E Technical Manual Major Land Disturbance Erosion Control Permit (included separately with Appendices D and F)
 - *HHH Appendix F Standard Details (included separately with Appendices D and E)
 - *III Miscellaneous Minor Edits
 - *JJJ Revised Requirement for Stockpiles

† The correct case number is 769-AT-13

16. Supplemental Memorandum for Case 769-AT-13 dated March 6, 2015, with Attachments:
 - A Case Description from Legal Advertisement
 - *BBB Case 769-AT-13 Proposed Requirements for Typical Land Disturbance Under Proposed Ordinance in Addition to Existing Requirements REVISED 12/11/14 (corrected March 6, 2015)
 - *KKK Excerpt of Minutes for Cases 769-AT-13 and 773-AT-14 from the of the Approved Minutes of January 15, 2015
 - *LLL Case 769-AT-13 Summary of Proposed Amendment Benefits and Costs REVISED DRAFT 3/6/15
 - *MMM Corrected (and Updated) Documents of Record

15. Supplemental Memorandum for Case 773-AT-14 dated March 6, 2015, with Attachments:
 - A Revised Amendment
 - B Case 773-AT-14 Summary of Proposed Amendment Benefits and Costs DRAFT 3/06/15

CASE NO. 773-AT-14

SUPPLEMENTAL MEMORANDUM

March 6, 2015

Petitioner: **Zoning Administrator** Prepared by: **John Hall, Zoning Administrator**
Susan Chavarria, Senior Planner

Request:

Amend the Champaign County Storm Water Management and Erosion Control Ordinance that is the subject of a separate Zoning Case 769-AT-13, by adding the following:

- A. Add a requirement for a Grading and Demolition Permit for any grading or demolition that disturbs one acre or more of land or for any grading or demolition that is part of a larger common plan of development in which one acre or more of land disturbance will occur, and that is not related to any proposed construction.
- B. Add fees for Grading and Demolition Permits.
- C. Add required information to be provided in the application for a Grading and Demolition Permit.
- D. Add a requirement that any grading or demolition pursuant to a Grading or Demolition Permit shall comply with the Illinois Environmental Protection Agency's ILR10 General Storm Water Permit for Construction.
- E. Add a requirement that any demolition pursuant to a Demolition Permit shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- F. Add prohibitions against changing the flow of water and blocking the flow of water.
- G. Add other requirements related to Grading and Demolition Permits.

STATUS

A Revised Amendment is included as Attachment A and reviewed below.

A Summary of Proposed Amendment Benefits and Costs is also provided that includes prompts to the relevant items in the Finding of Fact to help ZBA members coordinate their recommendation with the Finding of Fact, similar to that provided in related Case 769-AT-13.

REVISED AMENDMENT

A Revised Amendment is attached that has the following changes:

- A new paragraph 6.6B. has been added that makes clear that the "optional minimum requirements" in related Case 769-AT-13 (paragraph 6.1F., Section 6.4, and Section 6.5) shall apply even when no Grading or Demolition Permit may be required due to the amount of land disturbance (less than an acre in total).

- Text has been added to paragraph 6.6F. that provides a waiver of the \$50 fee for a Grading or Demolition Permit provided that a Notice of Intent has been submitted to the IEPA and a copy of the NOI is submitted with the application. Note that the application fee for the NOI is substantially greater than \$50 and preparation and submission of an NOI should reduce the amount of time required by Department of Planning and Zoning staff.

REVISED FINDING OF FACT ITEM 16.B.(3)

The following revision is proposed for item 16.B.(3) in the FOF:

- (3) Regarding additional costs related to this Case 773-AT-14:
 - a. A fee of \$50 is proposed for the proposed Grading Permit and the proposed Demolition Permit.

Regarding this proposed fee:

 - (a) This application fee is intended to be a minimal application fee and is not intended to recover all the costs related to the proposed Grading and/or Demolition Permits.
 - (b) This fee is proposed to be waived provided that an ILR Notice of Intent (NOI) will have been submitted to the IEPA and a copy of the NOI provided with the application. The application fee for the NOI is substantially greater than \$50 and preparation and submission of an NOI should reduce the amount of time required by Department of Planning and Zoning staff.
 - b. Any other added costs will be for any required erosion and sediment controls and therefore directly related to minimizing damage to other property and therefore the costs will also be minimized under this proposed amendment.

ATTACHMENTS

A Revised Amendment

B Case 773-AT-14 Summary of Proposed Amendment Benefits and Costs DRAFT
3/06/15

Attachment A. Revised Amendment

Case 773-AT-14

MARCH 6, 2015

Revised Proposed Amendment (new text is underlined)

1. Add the following to Sec. 3 Definitions of the Champaign County Storm Water Management and Erosion Control Ordinance:

DEMOLITION PERMIT: A permit for DEMOLITION activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

GRADING PERMIT: A permit for GRADING activities that are planned for areas outside of the MS4 JURISDICTIONAL AREA.

2. Add the following to Sec. 4. of the Champaign County Storm Water Management and Erosion Control Ordinance:

4.5 GRADING and DEMOLITION PERMIT Exemptions

All GRADING and DEMOLITION meeting the following conditions are exempt from the requirement for a GRADING PERMIT and/or a DEMOLITION PERMIT:

- A. Any GRADING or DEMOLITION pursuant to any of the exempted activities listed in Section 4.2.
- B. GRADING and/or DEMOLITION that is not part of or related to other CONSTRUCTION and that will result in less than one acre of LAND DISTURBANCE and that is not part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD.
- C. GRADING and/or DEMOLITION that is related to and authorized in a ZONING USE PERMIT or a Floodplain Development Permit.

3. Add the following to 5.2 of the Champaign County Storm Water Management and Erosion Control Ordinance:

5G. Approval of any required GRADING PERMIT or DEMOLITION PERMIT outside of the MS4 JURISDICTIONAL AREA.

4. Add the following to Sec. 6 of the Champaign County Storm Water Management and Erosion Control Ordinance:

6.6 DEMOLITION PERMIT and GRADING PERMIT

A. DEMOLITION or GRADING that will result in one acre or more of LAND DISTURBANCE or that is part of a larger COMMON PLAN OF DEVELOPMENT OR SALE OF RECORD which will disturb one acre or more of land, and that is not part of or related to other CONSTRUCTION and that is not located in the Champaign County MS4 JURISDICTIONAL AREA shall be subject to the requirement for either a DEMOLITION PERMIT or a GRADING PERMIT, whichever is applicable.

B. Paragraph 6.6A. notwithstanding, the requirements of paragraph 6.1F., Section 6.4, and Section 6.5 shall apply to any GRADING or DEMOLITION even though no DEMOLITION PERMIT or GRADING PERMIT may be required based on the amount of LAND DISTURBANCE.

Attachment A. Revised Amendment

Case 773-AT-14

MARCH 6, 2015

- C. GRADING that is related to DEMOLITION shall be authorized as part of a DEMOLITION PERMIT.
- D. Application for a DEMOLITION PERMIT or a GRADING PERMIT shall be filed in written form with the ZONING ADMINISTRATOR on such forms as the ZONING ADMINISTRATOR prescribes and shall include the following information:
1. Name and address of the OWNER, the APPLICANT, contractor, engineer and architect when applicable;
 2. Location, including township and section, street number, lot block and or tract comprising the legal description of the site;
 3. Permanent Index Number (PIN);
 4. LOT Area;
 5. ZONING DISTRICT;
 6. Special Flood Hazard Area, if applicable;
 7. USE of existing property and structures;
 8. Proposed USE and any proposed structures;
 9. Estimated cost of proposed construction, GRADING, and/or DEMOLITION;
 10. SITE PLAN indicating all existing and proposed USES and structures;
 11. Extent and nature of proposed LAND DISTURBANCE.
- E. In addition to the application information required by paragraph 6.6 C. for a DEMOLITION PERMIT, each application for a DEMOLITION PERMIT and each application for DEMOLITION pursuant to a LDEC PERMIT shall provide a copy of the completed State of Illinois Demolition/Renovation/Asbestos Project Notification Form. All DEMOLITION authorized under a DEMOLITION PERMIT or pursuant to a LDEC PERMIT shall comply with the Illinois Environmental Protection Agency's regulations enforcing the National Emission Standard for Hazardous Air Pollutants for regulated asbestos.
- F. At the time the application is filed for a DEMOLITION PERMIT or a GRADING PERMIT a fee of \$50 shall be paid except that this fee shall be waived provided that a Notice of Intent shall have been submitted to the IEPA and a copy of the Notice of Intent is submitted with the application.

Attachment A. Case 773-AT-14 Summary of Proposed Amendment Benefits and Costs DRAFT 3/06/15

Part of Proposed Amendment	Relevant Ordinance Section(s) in 1/9/15 Draft	Estimated Benefits	Estimated Costs	ZBA Action
<p>Basic amendment (Adding Grading Permit and Demolition Permit) See item 17 in the Finding of Fact.</p>	<p>Sections 3, 4.5, and 6.6 in the proposed Draft Amendment</p>	<p>1. Not necessary to help achieve the LRMP although would provide incrementally greater achievement of LRMP. See LRMP Policy 8.4.2. (item 13.A.(2) in the Finding of Fact).</p> <p>2. Greater achievement of the Zoning Ordinance purpose to promote public health, safety, comfort, morals, and general welfare throughout the COUNTY because the proposed Grading Permit and Demolition Permit would apply throughout 100% of the unincorporated area rather than merely the 1% that is the MS4 Jurisdictional Area. See paragraph 16.E. in the Finding of Fact.</p>	<p>1. Adds \$50 application fee but any other additional costs to land owners (beyond application fee) would be prevented because costs may not be incurred except when neighbors complain and the cost would probably be less than the added costs within the MS4 Jurisdictional Area (see above). See paragraph 16.B.(3) in the Finding of Fact.</p> <p>2. No significant impact on staffing in the Department of Planning and Zoning. Any significant increase in time will probably only occur due to any required enforcement and in general, there should be no significant impact on overall staffing. See paragraph 16.B.(5)b. in the Finding of Fact.</p>	<p>{RECOMMENDED/ NOT RECOMMENDED}</p> <p>Coordinate this recommendation with the following items in the Finding of Fact (FOF):</p> <ul style="list-style-type: none"> o LRMP Policy 8.4.2 (FOF item 13.A.(2)) <hr/> <ul style="list-style-type: none"> o Ord. Purpose par. 2.0(b) (FOF item 16.B.) <hr/> <ul style="list-style-type: none"> o Ord. Purpose par. 2.0 (e) (FOF item 16.E.) <hr/> <ul style="list-style-type: none"> o Case 769-AT-13 “Optional Minimum Requirements” in Sec. 6.1F., Sec. 6.4 and Sec. 6.5