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MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61801**

**DATE: March 29, 2012 PLACE: Lyle Shield’s Meeting Room
1776 East Washington Street
Urbana, IL 61802**

MEMBERS PRESENT: Catherine Capel, Thomas Courson, Eric Thorsland, Paul Palmgren, Brad Passalacqua

MEMBERS ABSENT : Roger Miller

STAFF PRESENT : Connie Berry, John Hall, Andrew Kass

OTHERS PRESENT : Judy Swartzendruber, David Swartzendruber, George R. Davis, Jack Murray, Lauren Murray-Miller, Anne Murray, Scott Sivers, Steven Khachaturian, Roger Burk, Ann Burk, Philip Kesler, Susan Kesler, Randall Green, Ben McCall, Birgit McCall, Steve Burdin, Peggy Anderson, Herb Schildt, Rick Balsbaugh, Jeff Fisher

1. Call to Order

The meeting was called to order at 6:15 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with two members absent at the time of roll call and one vacant Board seat.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing.

3. Correspondence

None

4. Approval of Minutes

None

Mr. Passalacqua moved, seconded by Mr. Palmgren to re-arrange the agenda and hear Case 701-AT-

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1 11 as the last case of the meeting. The motion carried by voice vote.

2
3 **5. Continued Public Hearing**

4
5 **Case 698-S-11** Petitioner: **S.J. Broadcasting, LLC**, with owners **Steven J. Khachaturian, Jon E.**
6 **Khachaturian and the estate of Clinton C. Atkins.** Request to authorize a radio transmission tower
7 **that is 346 feet in height and transmitter building as a Special Use with waivers (variance) of standard**
8 **conditions in the AG-1 Zoning District, subject to the required variance in related Case 706-V-12.**
9 Location: **A 5 acre tract in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter**
10 **of Section 36 of Tolono Township and commonly known as a vacant parcel on the west side of CR**
11 **1200E and CR 700N, Tolono.**

12
13 **Case 706-V-12** Petitioner: **S. J. Broadcasting, LLC**, with owners **Steven J. Khachaturian, Jon E.**
14 **Khachaturian and the estate of Clinton C. Atkins.** Request to authorize the following in the **AG-1**
15 **District: A. Authorize the use of a 5 acre lot on best prime farmland in lieu of the maximum lot size of**
16 **3 acres on best prime farmland in the AG-1 District for the construction and use of a radio**
17 **transmission tower and transmitter building in related Special Use Permit Case 698-S-11 (included as**
18 **the original variance); and B. Waiver (variance) of standard conditions for a front yard setback of 70**
19 **feet from CR 1200E in lieu of the required 100 feet and a rear yard setback of 40 feet in lieu of the**
20 **required 50 feet.** Location: **A 5 acre tract in the Northeast Quarter of the northeast Quarter of the**
21 **Southeast Quarter of Section 36 of Tolono Township and commonly known as a vacant parcel on the**
22 **west side of CR 1200E and located approximately one-half mile south of the intersection of CR 1200E**
23 **and CR 700N, Tolono.**

24
25 Mr. Thorsland called Case 698-S-11 and Case 706-V-12 concurrently.

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

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

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1
2 Mr. Thorsland asked if the Petitioner desired to make a statement outlining the nature of their request.

3
4 Mr. Randall Green, attorney representing the petitioners, stated that S.J. Broadcasting proposes to construct a
5 346 foot radio tower which will actually be 349 feet once the necessary FAA Beacon is added to the top of
6 the tower. He said that the site is on the southeast side of Tolono and consists of five acres however this is a
7 tower site with three guy wires therefore the entire five acres will not be taken out of production. He said
8 that S.J. Broadcasting is leasing the land subject to a 25-year lease and the current landowner will still be
9 able to farm around the tower and guy wire locations to the extent possible. He said that a tower which is
10 over 100 feet is only allowed by way of a Special Use Permit in the AG-1 zoning district. He said that they
11 expect that the tower will provide extended broadcast range for the radio station as well as providing
12 additional emergency broadcasting capabilities. He said that S. J. Broadcasting has been in discussions with
13 at least one cell company because they were advised by the Village of Tolono's Planning and Zoning
14 Commission that the reception is poor to none existent on the south side of Tolono and that they would
15 gladly entertain a tenant to sub-lease on the tower for improved service. He said that he has been in touch
16 with Verizon and they indicated that they are interested in the site therefore they have begun initial
17 negotiations for a tower lease.

18
19 Mr. Thorsland asked the Board if there were any questions for Mr. Green.

20
21 Mr. Passalacqua asked Mr. Green if the dual use would be on the same tower or would another structure be
22 required.

23
24 Mr. Green stated that it would require another structure but as part of the lease agreement the cell phone
25 company will be responsible for any zoning issues.

26
27 Mr. Passalacqua asked Mr. Green if the Verizon equipment would co-exist on the subject tower.

28
29 Mr. Green stated yes.

30
31 Mr. Thorsland asked the Board if there were any additional questions for Mr. Green and there were none.

32
33 Mr. Thorsland asked if staff had any questions for Mr. Green.

34
35 Mr. Hall asked Mr. Green if the tower will be a new tower directly ordered from the manufacturer.

36
37 Mr. Green stated yes. He said that the tower manufacturer will fabricate, deliver and erect the tower.

38

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1 Mr. Hall asked Mr. Green if the Village of Tolono's Planning and Zoning Commission voiced any concerns
2 indicating that the cell phone service may experience interference by the radio frequency.

3
4 Mr. Green stated that the Village of Tolono's Planning and Zoning Commission did not voice any concerns
5 about any interference. He noted that this is a time sensitive nature to S. J. Broadcasting with respect to
6 delivery time because there will be an \$18,000 savings if they are able to sign the contract to have the tower
7 erected by the end of the month.

8
9 Mr. Passalacqua asked if the Zoning Board is the final authority to approve this project.

10
11 Mr. Hall stated yes. He said that before S. J. Broadcasting has final approval for construction they would
12 need to file for a Zoning Use Permit.

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

16
17 Mr. Thorsland called Scott Sivers to testify.

18
19 Mr. Sivers deferred to testify at this time and requested that all questions be posed to Mr. Green.

20
21 Mr. Thorsland called Steve Khachaturian to testify.

22
23 Mr. Khachaturian deferred to testify at this time and requested that all questions be posed to Mr. Green.

24
25 Mr. Thorsland called John Hall to testify.

26
27 Mr. Hall stated that there are three memorandums for Cases 698-S-11 and 706-V-12. He said that the
28 Preliminary Memorandum is dated March 9, 2012 and the first Supplemental Memorandum is dated March
29 23, 2012. Mr. Hall distributed the second Supplemental Memorandum dated March 29, 2012, to the Board
30 for review.

31
32 Mr. Hall thanked Mr. Green for being so cooperative with these cases from the beginning. Mr. Hall stated
33 that the ZBA should know that in the past the Board has approved radio towers at various distances from the
34 public road. He said that since he has been the Zoning Administrator his mode of operation is that when the
35 Zoning Ordinance requires a setback to the structure it is to the closest part of the structure and a 100 foot
36 setback from a public street applies to the closest ground anchor. He said that there have been towers in the
37 past approved with no concern about where the ground anchors were located and that got everyone off on the
38 wrong foot. He said that three years ago there were two METCAD towers reviewed and approved by this

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1 Board and in those cases the setbacks went to the closest point of the structure and this was the same issue
2 with the five acre lot size. He said that the reason why the cases had to be re-advertised was to provide for
3 the closest point of the structure which are the ground anchors. He said that the petitioner spent a lot of time
4 keeping the ground anchors in compliance as much as possible with the County's setbacks and this week
5 staff realized that in the process of working with the petitioner to get the ground anchors as compact as
6 possible something else happened which is what is included in the Supplemental Memorandum dated March
7 29, 2012.

8
9 Mr. Hall requested that the Board review Attachment C., Tower and Anchor Locations, of the Supplemental
10 Memorandum dated March 29, 2012. He said that Mr. Green mentioned that there is an FAA Beacon on the
11 top of the tower and the tower has already received both FCC and FAA approvals which means that they are
12 expecting a tower in this location. Mr. Hall stated that as far as he knows the tower has been engineered for
13 the guy anchors but the south guy anchor is located in the centerline of a gentle surface swale that could
14 easily be overlooked. He said that with the help of the GIS Consortium a topographic map was developed
15 indicating the swale that feeds to the very large box culvert which is under CR 1200E. He said that the
16 Board should assume that there is a tile in the swale and the 1971 Champaign County General Drainage Map
17 indicates an underground drain in the same location. He said that from staff's perspective a tile is expected
18 to exist within the swale yet the FAA and FCC expects a tower to be in this location. He said that in order
19 for the ZBA to take its normal care in protecting tiles as it normally does staff has proposed a condition on
20 page 4 and 5 of the Supplemental Memorandum dated March 29, 2012. He said that staff recommends that
21 there be an investigation required to identify the location of the underground drainage tile. He said that he
22 does not know how the ground anchors work and he does not believe that they go straight in the ground. He
23 said that staff is suggesting that someone needs to investigate whether or not the tile exists and determine, by
24 use of accurate measurements, if the ground anchor poses a risk to the tile and if the tile needs to be
25 relocated or not.

26
27 Mr. Hall stated that the petitioner must agree to any special conditions and if the petitioner does not agree
28 then it cannot be imposed and the ZBA must take action without the special condition. He said that staff has
29 spoken with the petitioner about the proposed special condition and the petitioner indicated that they were
30 not real pleased with it but the Board must determine whether or not it is necessary and then make sure that
31 the petitioner is willing to accept it and if they do not then the Board must take action without the condition.

32
33 Mr. Hall stated that the new supplemental memorandum discusses the surface drainage and documents the
34 fact that the general drainage map indicates a tile in the swale. He said that when staff completed its site
35 visit the box culvert was identified and north of the culvert is a catch basin of about 18 to 20 inches in
36 diameter. He said that he expected to see a tile at the bottom of the catch basin but he only found large
37 amounts of sediment which makes him wonder if the tile is plugged. He said that on the east side of the box
38 culvert was a new surface inlet which is presumably for a new tile.

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1
2 Mr. Hall stated that attached to the Supplemental Memorandum dated March 29, 2012, is a new site plan.
3 He said that the petitioner has had discussions with other folks who use the existing grass driveway on the
4 north line of the property and the result of those discussions is that the petitioner is proposing to build a new
5 driveway solely for the transmitter building and there is a new condition which makes it very clear that
6 approval at this time would be based upon the site plan submitted on March 27, 2012. He said that the
7 petitioner has been very cooperative and helpful during this case and has always been responsive but at this
8 point the petitioner is telling the Board that the issues regarding the tower, ground anchor and tiles are fixed.
9

10 Mr. Thorsland noted that ZBA Board member, Tom Courson, arrived at the meeting at 6:25 p.m.

11
12 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

13
14 Mr. Thorsland called Mr. William Bates to testify.

15
16 Mr. William Bates, who resides at 631 CR 1200E, Tolono, stated that he is present tonight to object to the
17 request by S.J. Broadcasting, LLC, also known as Stevie J. Broadcasting, for construction of a 346 foot,
18 6,000 watt broadcast transmission tower within the extra-territorial jurisdiction of the Village of Tolono, for
19 the following reasons: 1. On file with the Federal Communications Commission are reams of citizens'
20 complaints about radio frequency interference after newly constructed broadcast transmitters become
21 activated. He said that the Federal Communications Commission has listed on their website the most
22 common cause of consumer complaints such as, communication systems that transmit signals (transmitters)
23 are capable of generating interference; this includes radio and television stations; and 2. To date no Tolono
24 resident and specifically those in close proximity to the proposed 346 foot transmitting tower have been
25 notified of any potential problems this 6,000 watt transmitter may create. The documentation being
26 presented to the Zoning Board does not include a single piece of data addressing a potential electrical
27 interference problem. Documented lists of citizen complaints to the Federal Communications Commission
28 are numerous whenever a new radio transmission tower is constructed or when transmission power is
29 increased. Now is the time to anticipate, study and evaluate any transmission interference problems before
30 any additional consideration by the Zoning Board; and 3. More recent complaints to the FCC have
31 referenced both wired and wireless phone and data transmission interference when in close proximity to this
32 type of 6,000 watt transmitter tower; and 4. In Tolono and the surrounding area, many residents have rooftop
33 antennas because of poor reception issues. The FCC has received numerous interference complaints for TV
34 reception after a transmission tower is activated. In some areas residents with satellite dishes have had their
35 signal scrambled within close proximity of a new transmission tower; and 5. Other more recent concerns
36 find that farmers with GPS guidance systems for planting and fertilizing cropland may not be able to use the
37 guidance system within proximity of broadcast transmission towers; and 6. The big question is are the lessor
38 and lessee of the proposed transmission tower prepared and able to indemnify the community against money

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1 damages which may arise from their transmitting activities. Citizens' complaints to the FCC sometimes
2 takes years to litigate or resolve and can be very expensive for government and private homeowners.

3
4 Mr. Bates stated that S. J. Broadcasting, LLC, in their construction application, have not addressed any of
5 these issues and, in the public interest, these issues most definitely need to be given serious consideration
6 before any approval is given by the Planning and Zoning Board. He said that because time is short he would
7 like to make a brief emphatic reference to several County pre-requisites necessary for approval that he
8 believes have not and cannot be met by the applicant at the proposed location.

9
10 Mr. Bates stated that Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning
11 Board of Appeals unless the public hearing record and written application demonstrate the following:

12 Item #1: That the Special Use is necessary for the public convenience at that location. Mr. Bates asked how
13 this transmitting tower is necessary for the public convenience when it isn't wanted or needed by the public.
14 He said that the radio station is already licensed to the City of Tuscola and is fully operational with the
15 transmitter outside of Pesotum along I-57 therefore there is no advantage to Tolono citizens for a transmitter
16 tower from Tuscola to be constructed in Tolono. Item #2: That the Special Use is so designed, located, and
17 proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or
18 otherwise detrimental to the public welfare. Mr. Bates asked if electrical interference pollution is injurious
19 to the surrounding community and detrimental to the public welfare. Item #3: That the Special Use
20 conforms to the applicable regulations and standards and preserves the essential character of the DISTRICT
21 in which it shall be located, except where such regulations and standards are modified by Section 6. Mr.
22 Bates asked how a giant 346 foot, 6,000 watt radio transmission tower with a blinking red night light
23 preserves the essential character of an agricultural community because it doesn't. He said that the next step
24 will more likely be an effort to start leasing space on the tower for additional commercial transmission
25 equipment. Item 4: That the Special Use is in harmony with the general purpose and intent of the ordinance.
26 Mr. Bates stated that the only special use in harmony here it seems is a humming duet by the lessor and
27 lessee on their way to the bank. He said that two business entities benefit by drawing revenue from the
28 Champaign-Urbana listening audience for their Tuscola based station while the local community gets a
29 lowering of its quality of life and daily viewing of a monstrosity as they see the lowering in property values
30 and the probability of ongoing litigations from area residents. Item #5: That in the case of an existing
31 nonconforming use, it will make such use more compatible with its surroundings. Mr. Bates stated that this
32 nonconforming use will be an aesthetic eyesore and could not be any more incompatible with its rural
33 surroundings and the Village of Tolono.

34
35 Mr. Bates stated that in conclusion, he will put forth a question and answer it. Would the ZBA like to live
36 within 220 yards of the proposed structure? He said that he does live that close and he submits that if found
37 in a similar situation not one of the ZBA members here representing the public interest would allow this ill-
38 advised, misplaced monstrosity to proceed. He recommended and urged that the special use permit

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1 application not be approved at this time.

2

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

4

5 Mr. Thorsland asked if staff had any questions for Mr. Bates and there were none.

6

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

8

9 Mr. Thorsland asked if anyone else desired to sign the witness register at this time to present testimony
10 regarding these cases.

11

12 Mr. Thorsland called Randall Green to testify.

13

14 Mr. Randall Green, attorney representing the petitioner, stated that the tower is anticipated to be
15 approximately 6,000 watts and will operate a little lower than that once it is in operation. He said that the
16 tower which is located at the corner of Windsor Road and Neil Street operates at about 50,000 watts which is
17 around nine times the power of the proposed tower in terms of interference and there are plenty of residents
18 in the area and no complaints of interference are reported. He said that there is a similar tower in northeast
19 Urbana with a similar situation and is near the Myra Ridge subdivision. He said that the petitioner has been
20 in contact with Verizon and both entities desire to increase coverage in the area. He said that in terms of
21 radio broadcast coverage the tower will increase that coverage to the east which is important for getting
22 emergency broadcasting out to the listening area. He said that the petitioner does not desire to build the
23 tower for the fun of it because it is an expensive tower which costs a lot of money and its purpose is only to
24 increase broadcast range and not produce interference. He said that concerns were raised at the Village of
25 Tolono meeting regarding interference with GPS systems for farmers therefore his clients contacted a GPS
26 company to see if they too would be interested in leasing space on the tower to increase GPS accuracy for the
27 local farmers.

28

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

30

31 Mr. Thorsland asked if staff had any questions for Mr. Green.

32

33 Mr. Hall asked Mr. Green if he had any other evidence to help the Board sort through his testimony versus
34 Mr. Bates' testimony.

35

36 Mr. Green stated that approvals have been received from the FCC and the FAA-IDOT Division of
37 Aeronautics. He said that the placement of the proposed tower is such that it will have as little intrusion
38 upon surrounding neighbors as possible but there are very few residences in the area. He said that there will

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1 be a few residences in any area where a radio broadcast tower is proposed because it makes no sense to
2 locate a tower where no one lives. He said that his clients desire to be good neighbors and cooperate with
3 everyone. He said that there were concerns by the neighbors to the north of the subject property regarding
4 the grass driveway therefore options were discussed for improving the grass driveway for the mutual benefit
5 of both parties. He said that the neighbors preferred that the petitioners create their own accessway to the
6 subject property rather than utilizing the grass driveway therefore, at the petitioner's expense, a new
7 driveway will be constructed. He said that the petitioners do not desire to disturb the residents or farmers in
8 the area.

9
10 Mr. Green stated that in regards to the drainage issues which came up earlier it is his understanding from the
11 engineer that they had originally submitted a wider guy radius but it had to be cut down to minimize the
12 setback area that they are requesting. He said that as the guy wire radius expands the setback variance
13 becomes closer and closer to the right of way or property lines. He said that they do have leeway to make the
14 guy wire anchors anywhere between the shortened radius and the elongated radius that they had earlier
15 requested. He said that if it turns out that existing drainage tile is discovered the petitioners have agreed to
16 promptly repair any damage to drainage tiles. He said that the process with the FAA is a lengthy and
17 expensive process therefore they do not have the leeway to move the tower 20 feet to the north or south to
18 move a guy anchor because it is economically unfeasible. He said that he has been told that it could take up
19 to six months to amend the plans and since time is of the essence at this point his clients are willing to
20 simply repair, restore and improve any tile that they encounter during construction.

21
22 Mr. Hall asked Mr. Green if the radius for each anchor has to be the same as all the others or could it be
23 asymmetrical.

24
25 Mr. Green stated that all of the anchors have to be symmetrical because it affects the structural integrity of
26 the tower.

27
28 Mr. Palmgren asked Mr. Green what the FCC certifies.

29
30 Mr. Green stated that he is not sure what the FCC certified because he was only retained for zoning purposes
31 and the petitioners had other representatives to address the certification process with the FCC and FAA.

32
33 Mr. Palmgren asked Mr. Green if the FCC and the FAA addressed interference.

34
35 Mr. Green stated that he assumes that the FCC and FAA addressed the issue of interference but he does not
36 know as to what extent they addressed it. He said that he is relatively certain the tower will not interfere
37 with critical communication networks and to the extent that it does the petitioner is to cease operations
38 immediately. He said that a copy of the FCC approval letter was provided in the Board's packet.

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1
2 Mr. Thorsland asked Mr. Green if he has had time to review the special conditions for the tile.

3
4 Mr. Green stated yes.

5
6 Mr. Thorsland asked Mr. Green if the petitioner is comfortable with those conditions.

7
8 Mr. Green stated that there is a pre-construction investigation required to locate the tiles on the entire
9 property although they are not constructing on the entire five acres but on very small fraction of the five
10 acres. He said that it would be cumbersome to the extent that if they found the tile it would fall upon their
11 shoulders to locate the entire tile within the property therefore it would be their preference to agree to the
12 conditions to promptly repair and reroute the tile as they encounter it during construction. He said that this
13 would allow them to undertake the construction a little bit sooner than they would otherwise be able to and
14 still address the drainage concerns that may exist.

15
16 Mr. Hall stated that the conditions are drafted at a certain point and time and staff reuses those conditions
17 without any editing necessary and sometimes staff does not. He said that given the limited disturbance of the
18 property he would recommend that subparagraph 3 under Condition D be stricken because it is not necessary
19 and the only concern is whether or not the tile will be disturbed by the anchor. He said that the condition
20 was previously proposed for a project that would have a lot of development everywhere on the site. He said
21 that he does not know how the ground anchors run and asked if Mr. Green could provide an engineering
22 statement indicating if they did find the tile and whether the anchor poses any harm to the tile.

23
24 Mr. Passalacqua asked Mr. Green if he is aware of the proximity of the proposed tower site to the other
25 towers in the area.

26
27 Mr. Green stated that there are several towers in the subject site area.

28
29 Mr. Thorsland requested that Scott Sivers approach the witness microphone.

30
31 Mr. Scott Sivers stated that broadcast towers which are similar to the proposed tower are several miles away
32 from the subject site.

33
34 Mr. Passalacqua asked Mr. Sivers if he is aware of the wattage for those broadcast towers.

35
36 Mr. Sivers stated that he does not know the wattage of those other towers.

37
38 Mr. Passalacqua stated that if there are concerns regarding interference it would be nice to know such

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1 information.

2

3 Mr. Sivers stated that wattage for the proposed tower is not as strong as most of the other radio station's
4 towers. He said that he did not come to the meeting tonight with comparable information for the other radio
5 towers.

6

7 Mr. Thorsland stated that testimony was given tonight about a radio tower which produces 50,000 watts.

8

9 Mr. Sivers stated that the WHMS radio tower produces 50,000 watts and is approximately 15 miles away
10 from the subject site.

11

12 Mr. Passalacqua stated that the WHMS radio tower is not a good comparison to the subject tower although it
13 is with all of the neighboring properties across the street it is assumed that the WHMS radio tower is
14 working fine.

15

16 Mr. Sivers stated yes.

17

18 Mr. Passalacqua asked if there is a spray of output.

19

20 Mr. Sivers stated that the tower itself does not radiate signal because the signal only comes from the antenna.

21

22 Mr. Passalacqua stated that he is only trying to get a feel of the affects to the non-participating properties to
23 the south of the subject site. He said that he does not expect Mr. Sivers to have the information for the other
24 towers but they are very close to residences and he is trying to get a feel for comparison to the subject tower.

25

26 Mr. Sivers stated that he appreciates Mr. Passalacqua's concerns.

27

28 Mr. Thorsland asked Mr. Sivers how the anchors are installed into the ground.

29

30 Mr. Sivers stated that the anchors are placed at an angle similar to the guy wire itself.

31

32 Mr. Thorsland stated that it is possible that the anchor will be inserted along the outside of the tile and not
33 straight down into the tile.

34

35 Mr. Sivers stated yes.

36

37 Mr. Courson asked if the anchor is a screw type anchor.

38

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1 Mr. Siverson stated that the anchors are installed into a cement foundation.

2

3 Mr. Hall asked Mr. Siverson to indicate the depth of the foundation.

4

5 Mr. Siverson stated that he does not know the actual depth of the foundation but it should be included in the
6 submitted plans.

7

8 Mr. Thorsland asked the Board if there were any additional questions for Mr. Siverson and there were none.

9

10 Mr. Thorsland asked if staff had any additional questions for Mr. Siverson and there were none.

11

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

13

14 Mr. Thorsland asked Mr. Green if the intent is to continue past the 25 year lease.

15

16 Mr. Green stated that if the tower is useful then he would assume that the lease will continue past 25 years
17 but it is hard to say whether or not the tower would be useful at that time. He said that in 25 years time there
18 could be new technology that would replace what is in place today.

19

20 Mr. Thorsland asked if the leases for the cell phone companies will be on a yearly basis.

21

22 Mr. Green stated that the cell phone company leases tend to run for three to five year increments with
23 automatic renewals. He said that generally the leases run for ten to 20 years including the extensions.

24

25 Mr. Thorsland asked Mr. Green if there is a planned policy and remedy for any interference complaint filed
26 by a neighbor.

27

28 Mr. Green stated that it is virtually impossible to establish an agreement with surrounding landowners. He
29 said that during negotiations with the parties involved in the leases interference is considered and
30 immediately powered down if one party would cause interference with the other.

31

32 Mr. Thorsland stated that he is not interested in the interference between the parties but the interference with
33 the neighbor's television signal, wireless router, wireless mouse, etc. He asked if there is a plan to remediate
34 the interference.

35

36 Mr. Green stated that if it is proven that the interference is coming from the tower then the petitioner would
37 do their best to remedy the situation. He said that although the WHMS tower is not comparable their
38 broadcast signals, in general, can similarly affect such devices regardless of where the tower is located. He

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1 said that it doesn't matter where a tower is located if it is going to be used for comparison purposes as to the
2 type of interference. He said that there are several radio broadcast towers as well as cell phone towers
3 located in and around a lot of densely populated areas and to his knowledge interference has not been a big
4 problem.

5
6 Mr. Passalacqua asked Mr. Green who will be responsible for taking down the tower if its services become
7 obsolete.

8
9 Mr. Green stated that S.J. Broadcasting is obligated to take down the tower and restore the land to its original
10 condition. He said that no one can guarantee that a company will be in existence at the time that such occurs
11 but at this time it has been agreed that S. J. Broadcasting is responsible.

12
13 Mr. Thorsland asked the audience if anyone else desires to sign the witness register to present testimony for
14 these cases and there was no one.

15
16 Mr. Thorsland closed the witness register for Cases 698-S-11 and 706-V-12.

17
18 Mr. Thorsland asked the Board if there were any questions for staff and there were none.

19
20 Mr. Thorsland stated that the Board should now review the Special Conditions for Approval. He said that
21 previously during the hearing Special Condition D.(a)(3) was stricken. He asked Mr. Hall if there were any
22 additional changes to the proposed special conditions.

23
24 Mr. Hall stated that Special Condition D. does not explicitly provide for an engineering assessment of the
25 risk posed to a tile that is found. He said that D.(a)(1) discusses subsurface investigations intended to
26 identify if any underground tile are at risk of damage by construction. He said that the obvious thing to do
27 would be to provide a provision that a statement is required from on Illinois Licensed Engineer certifying
28 that a tile is present but the anchor does not pose any risk.

29
30 Mr. Thorsland stated that he would like to remove the word "south" from D.(a)(1) and tower anchors.

31
32 Mr. Hall stated that the south anchor is the only one where staff suspects that there will be a problem.

33
34 Mr. Thorsland stated that staff does not believe that there may be a small problem with any of the other
35 anchors.

36
37 Mr. Hall stated that subparagraph D.(b) on page 5 of the March 29, 2012, Supplemental Memorandum is
38 intended to address that concern.

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Mr. Thorsland stated that D.(a)(1) should remain as written.

Mr. Hall stated that he does not recall any instance like this in all of the years that he has been working with this Board where as luck would have it there is such a conflict with what staff believes is in the ground versus what needs to go on top of it. He said that this situation is very unique and he believes that it merits actual investigation.

Mr. Thorsland asked Mr. Hall if he would like the new text regarding the certification by an Illinois Licensed Engineer inserted into D.(a)(1).

Mr. Hall stated that the new text should actually be inserted into D.(a)(4) instead of D.(a)(1). He said that revised Special Condition D.(a)(4) should read as follows: Documentation and certification of all subsurface investigations by an Illinois Professional Engineer shall be provided to the Zoning Administrator including a statement of no risk if in the opinion in the engineer's approval the anchor will not harm the existing tile in which case the tile doesn't have to be relocated.

Mr. Green stated that each anchor is currently engineered to be 11 feet in length and 3' x 3' in width and depth and 8-1/2 feet below the surface. He said that the anchor will be 11 feet in length but at an angle it would only go to a depth of 8-1/2 feet.

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

Mr. Passalacqua asked what happens if this is an extreme wet location.

Mr. Hall stated that there will have to be an excavation to form the footing and during the process of the excavation it will be discovered whether a tile exists or not.

Mr. Green stated that if a tile is encountered the petitioners would like to repair or redirect that tile at the time.

Mr. Hall stated that this entire time he has been assuming that the anchor would be driven into the ground.

Mr. Green stated that there is a provision for soil testing therefore some boring will be performed to test the soil conditions.

Mr. Passalacqua asked what kind of adjustment is available for the guy wires.

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1 Mr. Hall stated that the only way that the radius of the guy wires can be adjusted would not be in keeping
2 with the advertised waivers of standard conditions.

3

4 Ms. Capel asked if Special Condition D(a) should be stricken.

5

6 Mr. Hall stated that he believes that Special Condition D.(a) could be stricken because Special Condition
7 D.(b) covers the situation. He said that relocation of the tile has to be in keeping with the Stormwater
8 Management Policy which requires some documentation from an Illinois Professional Engineer therefore if
9 the Board is comfortable with such then Special Condition D.(a) should suffice.

10

11 Mr. Thorsland stated that he agrees with Ms. Capel and Mr. Hall. He said that in light of how the petitioners
12 are going to put the anchor in the ground Special Condition D.(b) covers the entire situation.

13

14 Mr. Passalacqua stated that testimony has been received indicating that the intent is to be a good neighbor
15 but does the Board need to create a condition regarding complaints.

16

17 Mr. Hall stated that if the Board does not have such a condition the Board could be accused of not bothering
18 to have a condition even though the condition doesn't really do much. He said that the Board is aware that
19 there is condition for wind farm interference and that requirement does not amount to a lot but on the other
20 hand the wind farm company reports to the County Board every year and if a record of complaints is
21 received then the wind company will have to answer to the County Board.

22

23 Mr. Passalacqua stated that he would think that the petitioners would be comfortable with a condition
24 regarding addressing complaints.

25

26 Mr. Thorsland asked Mr. Green if a phone number is posted on the property for the public to contact.

27

28 Mr. Green stated that the petitioners are indicating that they are agreeable to posting such information.

29

30 Mr. Thorsland stated that for a wind farm a sign indicating the phone number to a complaint hotline is to be
31 posted at each tower site. He said that the same type of information could be placed on the radio tower
32 regardless of whether the complaint is due to fire, wind damage or that someone's television signal is being
33 interrupted by the radio tower's frequency. He said that a Special Condition E. could read as follows: E. If
34 after construction of the radio tower the owner or operator receives a written complaint related to
35 interference with local broadcast or residential television the owner or operator shall take reasonable steps to
36 respond to the complaint. He asked Mr. Green if his clients are agreeable to such a condition.

37

38 Mr. Green stated that his clients have indicated that they are agreeable to such a condition.

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1
2 Mr. Hall asked Mr. Green if it is his testimony that there will be a telephone number posted on either the
3 transmitter building or fence for people to call with questions or complaints.

4
5 Mr. Green stated no, such was not part of the existing plan but if it is posed as a condition then his clients are
6 agreeable in complying.

7
8 Mr. Passalacqua stated that he is addressing the neighbor's concerns and it is his understanding that the FCC
9 is already setup for receiving these types of complaints should problems arise.

10
11 Mr. Thorsland asked staff and the Board if there were any further questions for Mr. Green and there were
12 none.

13
14 Mr. Thorsland read the Special Conditions as follows:

- 15
16 **A. The development of the site must be substantially the same as indicated in the approved**
17 **site plan submitted on March 27, 2012, and in conformance with every special**
18 **condition.**

19 The special condition stated above is required to ensure the following:

20 **That the development of the site is the same as described in the public hearing.**

21
22 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

- 23
24 **B. The proposed transmitter building shall only be used for the purposes of housing**
25 **equipment associated with operation and maintenance of the transmission tower.**

26 The special condition stated above is required to ensure the following:

27 **That the proposed transmitter building is not used for purposes other than the storing**
28 **of equipment associated with the transmitter tower.**

29
30 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

- 31
32 **C. The existing driveway shall not be used to gain access to the tower or transmitter**
33 **building during construction and after completion of construction.**

34 The special condition stated above is required to ensure the following.

35 **That the existing driveway does not become in a state of disrepair.**

36
37 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.

38

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1 **D.(a) If any underground drain tile is encountered during construction the applicant must do**
2 **the following:**

3 **1. Construction shall cease until the course of each tile across the subject property**
4 **is established by additional investigation and construction shall not recommence**
5 **until authorized by the Zoning Administrator except that construction does not**
6 **implicate the tile may continue.**

7
8 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.
9

10 **2. The Zoning Administrator shall be notified within 48 hours or the next business**
11 **day.**

12
13 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.
14

15 **3. Any tile that is encountered during construction must be relocated or rerouted**
16 **in conformance with the Champaign County Stormwater Management Policy**
17 **unless the proposed construction is modified to avoid the tile. Any modification**
18 **of the construction to avoid the tile shall be indicated on a revised site plan**
19 **approved by the Zoning Administrator. Relocated tile shall be non-perforated**
20 **conduit to prevent root blockage. Conformance of any tile relocation with the**
21 **Stormwater Management Policy shall be certified by an Illinois Professional**
22 **Engineer.**

23
24 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.
25

26 **4. As-built drawings shall be provided of any relocated underground drain tile**
27 **and shall be approved by the Zoning Administrator prior to approval of a**
28 **Zoning Use Permit Application on the subject property. Any relocated drain**
29 **tile must be inspected by the Zoning Administrator prior to backfilling.**

30
31 The special condition stated above is required to ensure the following:
32

33 **Possible field tiles on the subject property are identified prior to development**
34 **and adequately protected and that any possible tiles that are discovered during**
35 **construction are adequately protected.**

36
37 Mr. Thorsland asked Mr. Green if the petitioners agree to the special condition and Mr. Green indicated yes.
38

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1 **Mr. Courson moved, seconded by Mr. Palmgren to approve the special conditions as amended.**

2
3 Ms. Capel stated that Mr. Thorsland needs to read Special Condition E and suggested that the Board use the
4 language utilized in the wind farm case.

5
6 Mr. Hall stated that he does not have such language with him tonight but he has drafted text for Special
7 Condition E as follows:

8
9 **E. A minimum 2' x 2' all weather sign shall be posted on the exterior of the**
10 **transmitter building and visible to the public that states the phone number to**
11 **call with complaints about electromagnetic interference.**

12
13 Mr. Hall stated that a Special Condition F. could be added although he cannot begin to list all of the types of
14 interference that Mr. Bates mentioned but on the condition requiring reasonable steps to respond we are
15 talking about a lot more than broadcast residential television and he is wondering if broadcast residential
16 television could be a written complaint related to electromagnetic interference from the radio tower, which is
17 the language of 6.1.4.H.4. He said that special condition F. could read as follows:

18
19 **F. If after construction of the radio tower the operator receives a written complaint**
20 **related to electromagnetic interference from the transmitter tower the**
21 **owner/operator shall take reasonable steps to respond to the complaint.**

22
23 Ms. Capel asked if the sign could include an address for written complaints.

24
25 Mr. Hall stated that an address may be easier than a phone number because a phone number would have to
26 be manned at some point and an address is always there. He said that the special condition would be revised
27 as follows:

28
29 **E. A minimum 2' x 2' all weather sign shall be posted on the exterior of the**
30 **transmitter building and visible to the public that states the address to which**
31 **written complaints about electromagnetic interference can be sent.**

32
33 Mr. Hall stated that a proposed Special Condition A. was proposed in the Summary of Evidence dated
34 March 15, 2012, therefore the special conditions that Mr. Thorsland previously read should be revised
35 accordingly and Special Condition F. is the condition related to the sign and Special Condition G. is the
36 condition regarding reasonable response.

37
38 Mr. Green asked if the sign condition only requires the address for which a complaint should be mailed

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1 because the petitioner does not want to invite complaints with a phone number and address. He said that he
2 does not know what other towers are required to do but this would be the petitioner's preference.

3
4 Mr. Thorsland asked the Board to comment on the petitioner's request.

5
6 Ms. Capel stated that she believes that the phone number and address should be included on the sign.

7
8 Mr. Siverson suggested that the FAA registration number be included on the sign.

9
10 Mr. Hall stated that the sign should include the owner's name, phone number, address and the FAA
11 registration number.

12
13 New Special Condition F. should be amended as follows:

14
15
16 **F. A minimum 2' x 2' all weather sign shall be posted on the exterior of the**
17 **transmitter building and visible to the public that states the owner's name,**
18 **phone number, address and the FAA registration # to which written complaints**
19 **about electromagnetic interference can be sent.**

20
21 Mr. Thorsland requested a motion to approve the special conditions.

22
23 **Ms. Capel moved, seconded by Mr. Courson to approve Special Conditions A-G as amended. The**
24 **motion carried by voice vote.**

25
26 Mr. Thorsland stated that a new item #6 should be added to the Documents of Record indicating the
27 following: Supplemental Memorandum dated March 23, 2012. He said that a new item #7 should be added
28 to the Documents of Record indicating the following: Supplemental Memorandum dated March 29, 2012
29 with attachments: A. Champaign County Drainage District Map with Legend; and B. Revised Site Plan
30 received March 27, 2012; and C. Tower and Anchor Location Map; and D. Large LIDAR Topographic Map
31 prepared by the Champaign County GIS Consortium (not attached, presented at the March 29, 2012, public
32 hearing).

33
34 **Finding of Fact for Case 698-S-11:**

35
36 From the documents of record and the testimony and exhibits received at the public hearing for zoning case
37 698-S-11 held on March 15, 2012 and March 29, 2012, the Zoning Board of Appeals of Champaign County
38 finds that:

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

Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein, IS necessary for the public convenience at this location because the tower will provide increased emergency broadcast to the east and would increase the broadcast signal for the radio station.

Mr. Thorsland stated that the tower would potentially benefit a cell phone company with better cell phone coverage.

- 2. The requested Special Use Permit, subject to the special conditions imposed herein, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.**
 - a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.**

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

- b. Emergency services availability is ADEQUATE.**

Mr. Thorsland stated that emergency services availability is ADEQUATE.

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

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

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

Ms. Capel stated that the Special Use WILL be compatible with adjacent uses because farming can continue to take place on the property except for the small area required for the tower.

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

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1 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE because a special
2 condition is imposed requiring repair of the tile if it is damaged.

3
4 **f. Public safety will be ADEQUATE.**

5
6 Ms. Capel stated that public safety will be ADEQUATE.

7
8 **g. The provisions for parking will be ADEQUATE.**

9
10 Mr. Thorsland stated that provisions for parking will be ADEQUATE.

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

15
16 **3a. The requested Special Use Permit, subject to the special conditions imposed herein,**
17 **DOES conform to the applicable regulations and standards of the DISTRICT in which**
18 **it is located.**

19
20 Ms. Capel stated that the requested Special Use Permit, subject to the special conditions imposed herein,
21 DOES conform to the applicable regulations and standards of the DISTRICT in which it is located.

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

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

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

31
32 **b. The Special Use WILL be compatible with adjacent uses.**

33
34 Mr. Palmgren stated that the Special Use WILL be compatible with adjacent uses.

35
36 **c. Public safety will be ADEQUATE.**

37
38 Mr. Courson stated that public safety will be ADEQUATE.

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Mr. Thorsland stated that the requested Special Use Permit, subject to the special conditions imposed herein, DOES preserve the essential character of the DISTRICT in which it is located.

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

a. The Special Use is authorized in the District.

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

Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this location.

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

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

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

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

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

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

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

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1 **6. Regarding necessary waivers of standard conditions:**

2 **A. Regarding the requested waiver of the standard condition in Section 6.1.3 for a**
3 **communications tower for a setback from the centerline of CR 1200E of 70 feet**
4 **instead of the Standard Condition setback from the street centerline of 100 feet:**

5
6 **(1) The waiver, subject to the proposed special condition, IS in accordance**
7 **with the general purpose and intent of the Zoning Ordinance and WILL**
8 **NOT be injurious to the neighborhood or to the public health, safety,**
9 **and welfare.**

10
11 Mr. Thorsland stated that the waiver, subject to the proposed special condition, IS in accordance with the
12 general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to
13 the public health, safety and welfare.

14
15 **(2) Special conditions and circumstances DO exist which are peculiar to the**
16 **land or structure involved, which are not applicable to other similarly**
17 **situated land and structures elsewhere in the same district.**

18
19 Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or
20 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
21 same district.

22
23 **(3) Practical difficulties or hardships created by carrying out the strict letter**
24 **of the regulations sought to be varied WILL prevent reasonable or**
25 **otherwise permitted use of the land or structure or construction.**

26
27 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
28 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
29 or construction.

30
31 **(4) The special conditions, circumstances, hardships or practical difficulties**
32 **DO NOT result from actions of the applicant.**

33
34 Ms. Capel stated that the special conditions, circumstances, hardships or practical difficulties DO NOT result
35 from actions of the applicant.

36
37 **(5) The requested waiver, subject to the proposed special condition, IS the**
38 **minimum variation that will make possible the reasonable use of the**

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1 **land/structure.**

2
3 Ms. Capel stated that the requested waiver, subject to the proposed special condition, IS the minimum
4 variation that will make possible the reasonable use of the land/structure.

5
6 **B. Regarding the requested waiver of the standard condition in Section 6.1.3 for a**
7 **communications tower for a rear yard of 40 feet instead of the Standard**
8 **Condition side yard of 50 feet.**

9
10 **(1) The waiver, subject to the proposed special condition, IS in accordance**
11 **with the general purpose and intent of the Zoning Ordinance and WILL**
12 **NOT be injurious to the neighborhood or to the public health, safety,**
13 **and welfare.**

14
15 Ms. Capel stated that the waiver, subject to the proposed special condition, IS in accordance with the general
16 purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the
17 public health, safety and welfare.

18
19 **(2) Special conditions and circumstances DO exist which are peculiar to the**
20 **land or structure involved, which are not applicable to other similarly**
21 **situated land and structures elsewhere in the same district.**

22
23 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
24 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the
25 same district.

26
27 **(3) Practical difficulties or hardships created by carrying out the strict letter**
28 **of the regulations sought to be varied WILL prevent reasonable or**
29 **otherwise permitted use of the land or structure or construction.**

30
31 Mr. Thorsland stated that practical difficulties or hardships created by carrying out the strict letter of the
32 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
33 or construction.

34
35 **(4) The special conditions, circumstances, hardships, or practical difficulties**
36 **DO NOT result from actions of the applicants.**

37
38 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT

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1 result from actions of the applicants.

- 2
3 **(5) The requested waiver, subject to the proposed special condition, IS the**
4 **minimum variation that will make possible the reasonable use of the**
5 **land/structure.**
6

7 Mr. Courson stated that the requested waiver, subject to the proposed special condition, IS the minimum
8 variation that will make possible the reasonable use of the land/structure.
9

- 10 **7. The special conditions imposed herein are required to ensure compliance with the**
11 **criteria for Special Use Permits and for the particular purposes described below:**
12

13 **A. Regarding State of Illinois accessibility requirements:**

- 14 **(1) The Zoning Administrator shall not approve a Zoning Use Permit for the**
15 **proposed Special Use Permit without certification by an Illinois Licensed**
16 **Architect or Illinois Professional Engineer that the proposed transmitter**
17 **building will comply with Illinois Accessibility Code and Illinois**
18 **Environmental Barriers act or documentation from the Illinois Capital**
19 **Development Board that no part of the proposed transmitter building**
20 **has to be accessible nor does the tower;**
21

- 22 **(2) If documentation from the Illinois Capital Development Board does**
23 **indicate that any part of the proposed Special Use must be accessible the**
24 **Zoning Administrator shall not authorize a Zoning Compliance**
25 **Certificate authorizing operation of the proposed Special Use Permit**
26 **until the Zoning Administrator has verified that the Special Use as**
27 **constructed does in fact comply with the Illinois Accessibility Code and**
28 **Illinois Environmental Barriers Act.**
29

30 The special conditions stated above are required to ensure that the proposed
31 Special Use meets applicable state codes for handicap accessibility.
32

33 **B. The development of the site must be substantially the same as indicated in the**
34 **approved site plan submitted on March 27, 2012, and in conformance with**
35 **every special condition.**
36

37 The special condition is required to ensure that the development of the site is the
38 same as described in the public hearing.

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- C. The proposed transmitter building shall only be used for the purposes of housing equipment associated with operation and maintenance of the transmission tower.**
- The special condition is to ensure that the proposed transmitter building is not used for purposes other than storing of equipment associated with the transmitter tower.
- D. The existing driveway shall not be used to gain access to the tower or transmitter building during construction and after completion of construction.**
- The special condition is required to ensure that the existing driveway does not become in a state of disrepair.
- E. (a) If any underground tile is encountered during construction the applicant must do the following:**
- 1. Construction shall cease until the course of each tile across the subject property is established by additional investigation and construction shall not recommence until authorized by the Zoning Administrator except that construction does not implicate the tile may continue.**
 - 2. The Zoning Administrator shall be notified within 48 hours or the next business day.**
 - 3. Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer.**
 - 4. As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning**

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Administrator prior to approval of a Zoning Use Permit Application on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.

The special condition is required to ensure that possible field tiles on the subject property are identified prior to development and adequately protected and that any possible tiles that are discovered during construction are adequately protected.

F. A minimum 2' x 2' all weather sign shall be posted on the exterior of the transmitter building and visible to the public that states the owner's name, phone number, address and the FAA registration # to which written complaints about electromagnetic interference can be sent.

G. If after construction of the radio tower the operator receives a written complain related to electromagnetic interference from the transmitter tower the owner/operator shall take reasonable steps to the respond to the complaint.

Finding of Fact for Case 706-V-12:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 706-V-12 held on March 15, 2012 and March 29, 2012, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. Thorsland stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because this particular location will improve the emergency broadcast coverage to the east and possibly provide better cell phone coverage for emergency communications.

Mr. Hall stated that five acres is the minimum amount of land required to accommodate the tower and the elimination of the variance for setback would require more land.

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of

3/29/2012

1 **the land or structure or construction.**

2
3 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
4 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure
5 or construction because the applicants would be unable to construct the tower at that desired height and
6 footprint.

7
8 **3. The special conditions, circumstances, hardships, or practical difficulties DO NOT**
9 **result from actions of the applicants.**

10
11 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
12 result from actions of the applicants because the applicants are using the smallest amount of land possible to
13 locate the tower.

14
15 **4. The requested variance, subject to the special conditions imposed, IS in harmony with**
16 **the general purpose and intent of the Ordinance.**

17
18 Mr. Thorsland stated that the requested variance, subject to the special conditions imposed, IS in harmony
19 with the general purpose and intent of the Ordinance because it allows for continued agricultural operations
20 on the majority of the lot.

21
22 **5. The requested variance, subject to the special condition imposed, WILL NOT be**
23 **injurious to the neighborhood or otherwise detrimental to the public health, safety, or**
24 **welfare.**

25
26 Ms. Capel stated that the requested variance, subject to the special condition imposed, WILL NOT be
27 injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because there
28 will not be any increase in traffic and there is a safe access with adequate visibility and emergency services
29 to the site.

30
31 Mr. Thorsland added the provisions to provide adequate drainage and the applicant's contact
32 information will be available to address interference concerns and complaints.

33
34 **6. The requested variance, subject to the special condition imposed, IS the minimum**
35 **variation that will make possible the reasonable use of the land/structure.**

36
37 Ms. Capel stated that the requested variance, subject to the special condition imposed, IS the minimum
38 variation that will make possible the reasonable use of the land/structure because the requested variance is

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1 necessary due to the location of the anchors.

2
3 Mr. Hall asked if the Board should add evidence regarding Mr. Bates' testimony. He said that Mr. Bates'
4 testimony will be included in the minutes of this meeting but it is obvious that his testimony changed the
5 conditions therefore it should be apparent that Mr. Bates' testimony was heard. He said that the final
6 determination for Special Use Permits with associated variances is a huge undertaking and the Board has
7 done a good job. He said that it is up to the Board as to whether anything should be added to the Summary
8 of Evidence or whether the record of the case would be adequate.

9
10 Ms. Capel asked if Mr. Bates' testimony should be indicated under Special Condition F and G.

11
12 Mr. Hall stated that Special Conditions F and G were constructed at tonight's meeting therefore there is no
13 narrative. He said that the narrative could indicate the following: The special condition stated above is
14 required to ensure the following: That any electromagnetic interference caused by the tower is dealt with in
15 a reasonable way.

16
17 Mr. Thorsland entertained a motion to approve the Summary of Evidence, Documents of Record and Finding
18 of Facts as amended.

19
20 **Mr. Courson moved, seconded by Ms. Capel to approve the Summary of Evidence, Documents of**
21 **Record and Finding of Fact as amended. The motion carried by voice vote.**

22
23 **Ms. Capel moved, seconded by Mr. Palmgren to move to the Final Determination for Cases 698-S-11**
24 **and 706-V-12. The motion carried by voice vote.**

25
26 Mr. Thorsland informed the petitioners that one Board member was absent and one Board member seat was
27 vacant therefore it is at their discretion to either continue Cases 698-S-11 and 706-V-12 until a full Board is
28 present or request that the present Board proceeds to the Final Determinations. He informed the petitioners
29 that four affirmative votes are required for approval.

30
31 Mr. Green stated that the petitioners have requested that the present Board proceed to the Final
32 Determinations.

33
34 **Final Determination for Case 698-S-11:**

35
36 **Ms. Capel moved, seconded by Mr. Courson that the Champaign County Zoning Board of Appeals**
37 **finds that, based upon the application, testimony and other evidence received in this case that the**
38 **requirements for approval of Section 9.1.11B. HAVE been met and pursuant to the authority granted**

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1 by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special Use
2 requested in Case 698-S-11 is hereby GRANTED WITH SPECIAL CONDITIONS to the petitioner
3 S.J. Broadcasting, LLC, with owners Steven J. Khachaturian, Jon E. Khachaturian and the estate of
4 Clinton C. Atkins, to authorize the construction of a radio transmission tower and transmitter
5 building as a Special Use in the AG-1 Zoning District, subject to the following conditions:
6

7 **A. Regarding State of Illinois accessibility requirements:**

8 (1) **The Zoning Administrator shall not approve a Zoning Use Permit for the**
9 **proposed Special Use Permit without certification by an Illinois Licensed**
10 **Architect or Illinois Professional Engineer that the proposed transmitter**
11 **building will comply with Illinois Accessibility Code and Illinois**
12 **Environmental Barriers act or documentation from the Illinois Capital**
13 **Development Board that no part of the proposed transmitter building**
14 **has to be accessible nor does the tower;**

15
16 (2) **If documentation from the Illinois Capital Development Board does**
17 **indicate that any part of the proposed Special Use must be accessible the**
18 **Zoning Administrator shall not authorize a Zoning Compliance**
19 **Certificate authorizing operation of the proposed Special Use Permit**
20 **until the Zoning Administrator has verified that the Special Use as**
21 **constructed does in fact comply with the Illinois Accessibility Code and**
22 **Illinois Environmental Barriers Act.**

23
24 The special conditions stated above are required to ensure that the proposed
25 Special Use meets applicable state codes for handicap accessibility.
26

27 **B. The development of the site must be substantially the same as indicated in the**
28 **approved site plan submitted on March 27, 2012, and in conformance with**
29 **every special condition.**

30
31 The special condition is required to ensure that the development of the site is the
32 same as described in the public hearing.
33

34 **C. The proposed transmitter building shall only be used for the purposes of**
35 **housing equipment associated with operation and maintenance of the**
36 **transmission tower.**

37
38 The special condition is to ensure that the proposed transmitter building is not used

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for purposes other than storing of equipment associated with the transmitter tower.

D. The existing driveway shall not be used to gain access to the tower or transmitter building during construction and after completion of construction.

The special condition is required to ensure that the existing driveway does not become in a state of disrepair.

E. (a) If any underground tile is encountered during construction the applicant must do the following:

- 1. Construction shall cease until the course of each tile across the subject property is established by additional investigation and construction shall not recommence until authorized by the Zoning Administrator except that construction does not implicate the tile may continue.**
- 2. The Zoning Administrator shall be notified within 48 hours or the next business day.**
- 3. Any tile that is encountered during construction must be relocated or rerouted in conformance with the Champaign County Stormwater Management Policy unless the proposed construction is modified to avoid the tile. Any modification of the construction to avoid the tile shall be indicated on a revised site plan approved by the Zoning Administrator. Relocated tile shall be non-perforated conduit to prevent root blockage. Conformance of any tile relocation with the Stormwater Management Policy shall be certified by an Illinois Professional Engineer.**
- 4. As-built drawings shall be provided of any relocated underground drain tile and shall be approved by the Zoning Administrator prior to approval of a Zoning Use Permit Application on the subject property. Any relocated drain tile must be inspected by the Zoning Administrator prior to backfilling.**

The special condition is required to ensure that possible field tiles on the subject

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1 property are identified prior to development and adequately protected and that any
2 possible tiles that are discovered during construction are adequately protected.

3
4 **F. A minimum 2' x 2' all weather sign shall be posted on the exterior of the**
5 **transmitter building and visible to the public that states the owner's name,**
6 **phone number, address and the FAA registration # to which written complaints**
7 **about electromagnetic interference can be sent.**

8
9 The special condition stated above is required to ensure that any electromagnetic
10 interference caused by the tower is dealt with in a reasonable way.

11
12 **G. If after construction of the radio tower the operator receives a written complain**
13 **related to electromagnetic interference from the transmitter tower the**
14 **owner/operator shall take reasonable steps to the respond to the complaint.**

15
16 The special condition stated above is required to ensure that any electromagnetic
17 interference caused by the tower is dealt with in a reasonable way.

18
19 The roll was called:

20
21 Courson-yes Miller-absent Passalacqua-yes
22 Palmgren-yes Capel-yes Thorsland-yes

23
24 **Final Determination for Case 706-V-12:**

25
26 Ms. Capel moved, seconded by Mr. Passalacqua that the Champaign County Zoning Board of
27 Appeals finds that, based upon the application, testimony, and other evidence received in this case,
28 that the requirements for approval in Section 9.1.9.C HAVE been met and pursuant to the authority
29 granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, the Zoning Board of Appeals
30 of Champaign County determines that the Variance requested in Case 706-V-12 is hereby GRANTED
31 WITH CONDITIONS to the petitioner S.J. Broadcasting, LLC, with owners Steven J. Khachaturian,
32 Jon E. Khachaturian and the estate of Clinton C. Atkins, to authorize a variance of setbacks,
33 maximum lot size, as well as waivers (variance) of standard conditions for front yard setbacks, rear
34 yard setbacks to allow for the construction of a communications tower.

35
36 The roll was called:

37
38 Palmgren-yes Capel-yes Courson-no

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1 Miller-absent Passalacqua-yes Thorsland-yes

2

3 Mr. Hall informed the petitioners that they have received an approval for both cases. He said that staff will
4 send out the appropriate paperwork within the next few weeks.

5

6 Mr. Thorsland called for a ten minute recess.

7

8 **The Board recessed at 7:50 p.m.**

9 **The Board resumed at 8:00 p.m.**

10

11 Mr. Thorsland stated that the Board will now hear Case 702-V-11, Roger Burk.

12

13 **Case 701-AT-11 Petitioner: Zoning Administrator Request: Part A. Revise paragraph 6.1.4D.1 to**
14 **require that documentation of design compliance with applicable industry standards be submitted**
15 **prior to receiving a Zoning Compliance Certificate for either a WIND FARM or for any single WIND**
16 **FARM TOWER. Part B. Revise paragraph 6.1.4 F. as follows: 1. Revise subparagraph 6.1.4 F. 1. To**
17 **require that agreements between the Applicant and the County engineer shall not be forwarded to the**
18 **County Board before the special use permit is forwarded and that all other agreements shall be**
19 **executed prior to the close of the public hearing before the BOARD; and 2. Delete subparagraph 6.1.4**
20 **F. 1.u; and 3. Add new subparagraph 6.1.4 F.3. to require at the time of decommissioning a Roadway**
21 **Use and Repair Agreement with the appropriate highway authority. Part C. Revise paragraph 6.1.4**
22 **J. to require the Applicant to submit a copy of the Agency Action Report or the Detailed Action**
23 **Report, if applicable that is submitted to the Endangered Species Program of the IDNR as well as the**
24 **response from IDNR. Part D. Add new subparagraph 6.1.4 E. 7. to require that a permanent soil**
25 **erosion and sedimentation plan be submitted for all WIND Farm Tower sites and access roads. Part**
26 **E. Revise subparagraph 6.1.4S.1.(c)(3) to authorize flexibility in the locations of WIND TOWERS**
27 **from what is indicated on the site plan provided that the final locations comply with any required**
28 **waivers or special conditions of approval and the applicant conducts a noise study to verify**
29 **compliance with the maximum allowable noise limit if the location of WIND TOWERS differ on the**
30 **site plan submitted with the zoning use permit application from the site plan submitted with the**
31 **special use permit application. Part F. Strike the requirement for “reclamation agreement” for NON-**
32 **ADAPTABLE STRUCTURES and WIND FARMS and replace with a requirement of “site**
33 **reclamation plan” and add certain other related requirements as follows: 1. Section 3 revise the**
34 **definition of “NON-ADAPTABLE STRUCTURE” to include a WIND TURBINE TOWER and a**
35 **WIND FARM TOWER as currently defined in Section 3.; and 2. Make the following revisions to**
36 **paragraph 6.1.1A.: a. Strike references to “reclamation agreement” and replace with “site reclamation**
37 **plan”;** and b. **Revise subparagraphs 6.1.1A.1. through 5 as follows: (1) Require a site reclamation plan**
38 **for NON-ADAPTABLE STRUCTURES; and (2) Require the site reclamation plan to be binding upon**

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1 all successors of title to the land and require reclamation work be performed and that a letter of credit
2 be provided for financial assurance; and (3) Limit consideration of salvage value to be as limited by
3 Paragraph 6.1.4P. c. Revise subparagraph 6.1.1A.6 to strike “120 days” and replace with “180 days”
4 and insert “or applicant” after “landowner”. D. Revise paragraph 6.1.1A. to add other related
5 requirements. 3. Revise paragraph 6.1.4P as follows: a. Revise paragraph 6.1.4P to strike references
6 to “reclamation agreement” and replace with “site reclamation plan”; and b. Delete subparagraphs
7 6.1.4P.3.(d), (e), and (f) and add new subparagraph to require the following: (1) At the time of
8 decommissioning a Roadway Use and Repair Agreement; and (2) The depth of removal of foundation
9 concrete below ground shall be a minimum of 54 inches and require that replacement soil shall meet
10 specified minimum standards of soil quality; depth; compaction; and drainage; and c. Revise
11 subparagraph 6.1.4P.4.(a) to require an irrevocable letter of credit and an escrow account as financial
12 assurance to be provided for the site reclamation plan; and d. Insert new subparagraph 6.1.4P.4.(b) to
13 require the following: (1) Authorize salvage value to be deducted from decommissioning costs, subject
14 to meeting specified standards; and (2) Add requirements for determining estimated net salvage value
15 based on the average salvage price of the past five years and including and deconstructions costs; and
16 (3) Add a limit of 70% for the amount of estimated salvage value that may be deducted from
17 estimated decommissioning costs; and (4) Require the site reclamation plan to provide for legal
18 transfer of the STRUCTURE to the demolisher should the reclamation work be performed; and (5)
19 Limit the maximum allowable credit for the salvage value of any WIND FARM TOWER to no more
20 than the estimated decommissioning cost of removal of the above ground portions of that WIND
21 FARM TOWER. e. Renumber existing subparagraph 6.1.4P.4(b)(5) to become new subparagraph
22 6.1.4P.4(d) and revise to require regular adjustment to the amount of financial assurance to ensure
23 that it reflects current information by requiring an Illinois Professional Engineer to provide an
24 updated report of estimates of decommissioning costs and salvage values. f. Revise paragraph 6.1.4P
25 to add other related requirements. Note: The description of the request has been simplified from the
26 legal advertisement. See the legal advertisement included with the memorandum.

27
28 Mr. Thorsland called Case 701-AT-11 and in order to save time he requested that the Secretary insert the
29 entire description of the case in the minutes.

30
31 Mr. Thorsland called John Hall to testify.

32
33 Mr. Hall stated that the case has been re-advertised and includes the requirement for a noise study. He said
34 that the condition in the wind farm case was not that any different location of a turbine triggered the need for
35 a noise study. He said that there were three levels of flexibility allowed in the wind farm conditions and the
36 proposed condition included on page 3 of the Supplemental Memorandum dated March 29, 2012, only
37 requires a noise study if the Board allows more than 10% flexibility in location of the turbines. He said that
38 part of the wind farm condition was that more than 1,500 feet away the Board allowed up to 500 feet of

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1 flexibility without a noise study and there was a range where the Board limited it to 10% and then the noise
2 study was required for anything that ended up with less than 1,500 feet and the reasoning was because the
3 Board felt the change was so dramatic that there should be a noise study. He said that this is not that
4 dramatic and only indicates that any time you allow more than 10% flexibility it has to be accompanied by a
5 noise study. He said that the Board can go back to how the case was originally advertised in that any
6 flexibility requires a noise study but that is likely to be changed because that is not what was done on the
7 wind farm. He said that for things that start out at 2,500 feet away 10% is not enough flexibility but staff's
8 experience with the California Ridge Wind Farm is that there have been three turbines moved and none of
9 them were moved more than 50 feet to accommodate the site conditions. He said that he can understand
10 why the wind farm company wanted greater flexibility because they did not know what they actually needed
11 and they did not want to have come back for a special use and that makes sense. He said that requiring a
12 new noise study for any flexibility doesn't make sense on the face of it but that is what was originally
13 advertised and if the Board wants to go with that version then it is up to the Board.

14
15 Mr. Hall stated that the Supplemental Memorandum dated March 29, 2012, includes new proposed evidence
16 and revisions. He said that new item 17.D should be added as follows: Regarding the requirement of Part
17 F.3.e. that the amount of financial assurance must be adjusted every year after year 13. (1) It is unlikely that
18 the financial assurance will need adjusted every year; and (2) It is possible that turbulent economic
19 conditions could arise that might require annual updates; and (3) Even if the update were only required more
20 often than once every two years "as needed" some amount of review would be necessary every year in order
21 to determine if the financial assurance would need updating; and (4) therefore it is reasonable to simply
22 require an annual update every year after year 13.

23
24 Mr. Hall stated that proposed new item 17.D summarizes the discussion that the ZBA had regarding the
25 financial assurance and the Board's reasoning will be clear to the County Board. He said that with this new
26 evidence and the Board's consideration of the change to Part E. this case may be ready for final action
27 tonight.

28
29 Mr. Thorsland stated that the March 23, 2012, Supplemental Memorandum includes points generally
30 regarding the LRMP Goal, Objectives, and Policies and unless the Board disagrees there are no decision
31 points for the Board to determine.

32
33 Mr. Thorsland stated that page 11 of 29 of the Supplemental Memorandum dated March 29, 2012, includes
34 the Summary Finding of Fact. He said that the Board needs to make a recommendation regarding item 2.

35
36 Mr. Thorsland asked the Board if they would like to proceed to the Finding of Fact for Case 701-AT-11 at
37 tonight's meeting and the Board indicated yes.

38

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

2
3 **Mr. Courson moved, seconded by Mr. Palmgren to extend the meeting to 10:00 p.m. The motion**
4 **carried by voice vote.**

5
6 Mr. Thorsland informed the audience that anyone wishing to testify for Case 701-AT-11 must sign the
7 witness register. He reminded the audience that when they sign the witness register they are signing an
8 oath.

9
10 Mr. Thorsland stated that since there is no one else who desires to sign the witness register for Case 701-
11 AT-11 he will close the witness register for that case.

12
13 Mr. Thorsland stated that a new item 8. should be added to the Documents of Record as follows:
14 Supplemental Memorandum dated March 29, 2012.

15
16 **Summary Finding of Fact for Case 701-S-11:**

17
18 From the documents of record and the testimony and exhibits received at the public hearing conducted on
19 February 2, 2012, February 16, 2012, and March 29, 2012, the Zoning Board of Appeals of Champaign
20 County finds that:

- 21
22 **1. The proposed Zoning Ordinance text amendment *IS NECESSARY TO ACHIEVE***
23 **the Land Resource Management Plan because:**
24
25 **A. The proposed Zoning Ordinance text amendment *IS NECESSARY TO***
26 ***ACHIEVE* LRMP goals 8 and 9.**
27 **B. The proposed Zoning Ordinance text amendment will also *HELP ACHIEVE***
28 **LRMP goals 2 and 4.**
29 **C. The proposed Zoning Ordinance text amendment *WILL NOT IMPEDE* the**
30 **achievement of the other LRMP goals 1, 3, 5, 6, 7, and 10.**
31
32 **2. The proposed text amendment *WILL* improve the Zoning Ordinance because it will:**
33
34 **A. *HELP ACHIEVE* the purpose of the Zoning Ordinance.**

35
36 Mr. Courson stated that the proposed text amendment *WILL* improve the Zoning Ordinance.

37
38 Mr. Hall recommended that an item 2.B. be added the Summary Finding of Fact as follows: B. *WILL*

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1 improve the text of the Zoning Ordinance (see item 17 on page 10).

2
3 Mr. Thorsland asked the Board if they were comfortable with Mr. Hall’s recommendation for new item
4 2.B. and the Board indicated yes.

5
6 **B. WILL improve the text of the Zoning Ordinance.**

7
8 Mr. Thorsland entertained a motion to approve the Summary of Evidence, Documents of Record and
9 Finding of Fact as amended.

10
11 **Mr. Courson moved, seconded by Mr. Passalacqua to approve the Summary of Evidence,**
12 **Documents of Record and Finding of Fact as amended. The motion carried by voice vote.**

13
14 Mr. Thorsland informed the petitioner that one Board member was absent and one Board member seat was
15 vacant therefore it is at his discretion to either continue Case 701-AT-11 until a full Board is present or
16 request that the present Board proceed to the Final Determination. He informed the petitioner that four
17 affirmative votes are required for approval.

18
19 Mr. Hall requested that the present Board proceed to the Final Determination.

20
21 **Final Determination for Case 701-AT-11:**

22
23 **Mr. Courson moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2 of**
24 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
25 **determines that the Zoning Ordinance Amendment requested in Case 701-AT-11 should BE**
26 **ENACTED by the County Board in the form attached hereto.**

27
28 The roll was called:

29	30 Miller-absent	30 Passalacqua-yes	30 Palmgren-yes
31	31 Thorsland-yes	31 Capel-yes	31 Courson-yes

32
33 **702-V-11 Petitioner: Roger Burk Request to authorize the following in the I-1 Light Industry Zoning**
34 **District: Part A. Variance for a proposed warehouse storage facility with a setback of 54 feet from the**
35 **centerline of Paul Avenue, a local street, in lieu of the minimum required 58 feet; and Part B.**
36 **Variance for a side yard of 5 feet in lieu of the minimum required side yard of 10 feet; and Part C.**
37 **Variance for a rear yard of 5 feet in lieu of the minimum required rear yard of 20 feet; and Part D.**
38 **Variance from the visibility triangle requirements for a corner lot; and Part E. Variance from the**

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1 **minimum required number of parking spaces for industrial uses; and Part F. Variance from the**
2 **loading berth requirements in lieu of the required 1 loading berth; and Part G. Variance from a**
3 **minimum separation from a side property line for parking spaces of 1 foot in lieu of the minimum**
4 **required 5 feet. Location: Lots 299 and 300 of Wilber Heights Subdivision in the Southwest Quarter**
5 **of Section 31 of Somer Township and commonly known as the buildings at 101 Paul Avenue,**
6 **Champaign.**

7
8 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
9 sign the witness register for that public hearing. He reminded the audience that when they sign the witness
10 register they are signing an oath.

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

20
21 Mr. Thorsland asked the petitioner if he would like to make a statement outlining the nature of his request.

22
23 Mr. Roger Burk, who resides at 2611 Sangamon Drive, Champaign, stated that he is proposing a warehouse
24 for storage of vehicles in one-half of the building and his personal vehicles in the other one-half of the
25 building.

26
27 Mr. Thorsland called John Hall to testify.

28
29 Mr. Hall stated that there are four memorandums for Case 702-V-11. He said that the Preliminary
30 Memorandum dated March 9, 2012, had case maps and the Preliminary Summary of Evidence attached. He
31 said that the Supplemental Memorandum dated March 15, 2012, added new evidence and modified some of
32 the evidence and included photographs of the existing property. He said that the Supplemental
33 Memorandum dated March 23, 2012, included a revised Summary of Evidence and incorporated everything
34 up to that time. He said that the Supplemental Memorandum dated March 29, 2012, includes new evidence
35 proposed to be new item 7.F. of the Summary of Evidence and the evidence is as follows: F.: Regarding the
36 proposed side and rear yard: (1) Even though this part of Wilber Heights is zoned I-1 Light Industry there
37 are still many nonconforming dwellings in the neighborhood and the adjacent properties are in residential
38 use; and (2) Footnote 8 in Section 5.3 of the Zoning ordinance provides that within the one and one-half mile

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1 extraterritorial jurisdiction of a zoned home rule municipality the minimum SIDE YARD in the R-1 and R-2
2 Districts shall equal the minimum SIDE YARD of the comparable municipal zoning district in effect on
3 January 1, 2004, as established by the translation table of the municipal ordinance; and (3) The City of
4 Champaign is a zoned home rule municipality and the subject property is within the one and one-half mile
5 extraterritorial jurisdiction of the City. Thus, if the subject property were zoned R-2 Single Family the
6 minimum side yard would be 8 feet; and (4) The minimum rear yard in the R-2 Single Family District is the
7 same as the I-1 Light Industry District which is 20 feet; and (5) The proposed use is a warehouse and self-
8 storage warehouses. Any business activity authorized in the I-1 district may occur inside any of the
9 warehouse spaces unless the Board imposes (and the petitioner agrees to accept) a special condition limiting
10 those activities. The Board has imposed such a condition prohibiting business use in one other self-storage
11 warehouse and that condition has proved difficult to enforce. A condition limiting the hours of all activity
12 should be easier to enforce.

13
14 Mr. Hall stated that the Supplemental Memorandum dated March 29, 2012 also includes a new item 12.C to
15 be added to the Summary of Evidence as follows: 12.C.: Business activities between the hours of 10PM and
16 7AM shall be limited as follows: (1) No activity (other than storage) shall occur in any of the self storage
17 warehouse spaces during these hours; and (2) No business activity (other than office) shall occur in the
18 warehouse space during these hours but the owner may use the space for personal activities. The special
19 condition stated above is required to ensure the following: That the variance for side and rear yard does not
20 contribute to undue nuisance conditions for adjacent residential properties.

21
22 Mr. Hall stated that this is an industrial district and the side and rear yard variances are requested from those
23 industrial standards and at the same time all of the adjacent properties are residential. He said that literally
24 anything that can happen in the I-1 District can happen in this building but what has been proposed is a self
25 storage warehouse and warehouse. He said that unless the Board imposes a condition the spaces in the
26 proposed building could be rented out for different industrial uses. He said that staff is proposing the
27 condition because staff receives complaints all of the time about the County approving industrial use in
28 Wilber Heights but industrial uses is what the area is zoned. He said that when this Board approves a
29 variance for an industrial use side yard with all of the surrounding properties being residential the County
30 has discretion about that and the Board can impose the condition or ignore it but after all of the time that
31 staff spends discussing this with the residents of Wilber Heights staff thought that the condition would be a
32 reasonable condition to place before the Board.

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

35
36 Ms. Capel asked Mr. Hall if lighting is an issue.

37
38 Mr. Hall stated that the Zoning Ordinance includes the Standard Condition that requires all exterior lighting

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1 to be full-cutoff. He said that a condition limits the hours of operation but it is unknown as to what will
2 happen in the proposed spaces and what type of noises will be generated therefore it is his view as the
3 Zoning Administrator that the property is located in an industrial district and during the day there will be the
4 sounds and activities that occur in an industrial district. He said that if the condition is approved it will
5 assure that at night time there will be some reduction in noise and activities. He said that the only reason that
6 staff is proposing the condition is because of the requested variance and if there were no variance then there
7 would be no condition.

8
9 Mr. Palmgren asked Mr. Hall if he is proposing limited access during these hours.

10
11 Mr. Hall stated that the intent of the condition is that there should not be anyone moving in and out of the
12 storage spaces between the hours of 10 PM and 7AM. He said that the intent of the condition is literally that
13 there will be no activity in the self storage spaces at all. He said that no one will be living on the property
14 and there will be no night watchman and it is true that there is a large mall located on one side of the
15 property and residences on the other three sides but no one will be present on the property at night unless Mr.
16 Burk is present in his own space.

17
18 Mr. Courson stated that he drives past the property several times per day and the streets are narrow in the
19 neighborhood and he is concerned about granting such a small setback for the streets for parking along the
20 north side. He said that the subject property is an extremely small lot and the neighbor to the north will have
21 a direct view of the activities that are occurring on the property. He asked if any of the neighbors have
22 expressed concerns regarding the petitioner's request.

23
24 Mr. Thorsland asked the Board if there were any addition questions for comments for Mr. Hall and there
25 were none.

26
27 Mr. Hall stated that one neighbor was present at the last meeting although she is not present tonight. He said
28 that he has not taken any calls on this case and he is not aware of any calls received by other members of the
29 Department of Planning and Zoning staff. He said that he assumes that everyone in this small neighborhood
30 is aware of Mr. Burk's proposal.

31
32 Mr. Kass stated that the only call that he received regarding the case was from Mike Kobel, Chief of the
33 Eastern Prairie Fire Protection District and he basically just had questions regarding the nature of the case.

34
35 Mr. Thorsland asked the Board if there were any questions for Mr. Burk and there were none

36
37 Mr. Thorsland asked if staff had any questions for Mr. Burk and there were none.

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- 1 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Burk and there was no one.
2
3 Mr. Thorsland asked staff to explain why Part A. is no longer required.
4
5 Mr. Hall stated that Part A. was reviewed in the Supplemental Memorandum dated March 15, 2012. He said
6 that staff had worked on the case without completing the averaging process along Paul Avenue which the
7 Zoning Ordinance allows in area such as Wilber Heights. He said that once staff had the chance to complete
8 the averaging along Paul Avenue it was determined that the Zoning Ordinance would allow as little as a 7-
9 1/2 foot yard along Paul Avenue. He said that the plan that Mr. Burk has proposed provides for all of the
10 parking that is required although the parking is closer to the property line than what the Zoning Ordinance
11 normally requires and is included as part of the variance. He said that all of the parking is off-street and the
12 condition that the Board would normally consider regarding parking was not warranted in this case therefore
13 it was not included. He said that a variance for the side and rear yard is included in the request because the
14 parking is principally on the north side and there is a visibility triangle issue on Market Street. He said that
15 there will need to be a septic system if there is ever a bathroom installed in the building which will also be
16 along Market Street. He said that the loading berth requirement is part of the variance because Mr. Burk
17 thought that it was a reasonable request since one parking space is provided for each unit.
18
19 Mr. Courson stated that many times with a self storage warehouse there will be an oversized truck or U-Haul
20 which is longer than a normal parking space for a regular vehicle.
21
22 Mr. Hall stated that it is very rare to have every renter present at the same time and the only way to include a
23 loading berth is to make the building smaller. He said that the Zoning Ordinance does not require the
24 loading berth to be in front of the spaces although there is a lot of room along Market Street but that is not
25 where someone is going to want to park to unload their U-Haul. He said that if this is a concern of the Board
26 the only alternative is to require that the building be made smaller but it is at the Board's discretion.
27
28 Mr. Thorsland requested that Mr. Burk address the Board.
29
30 Mr. Thorsland stated that looking at the annotated site plan the ADA parking is located along the west side
31 of the building. He asked Mr. Burk if the area between the ADA parking and the other parking where the
32 sidewalk is located will be paved.
33
34 Mr. Burk stated that the ADA parking and the sidewalk will be paved.
35
36 Mr. Thorsland asked Mr. Burk about the area in between.
37
38 Mr. Burk stated that the area in between will be rock and not grass.

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- 1
2 Mr. Thorsland stated that to alleviate Mr. Courson's concern someone could come onto the rock area with
3 their U-Haul to unload.
4
5 Mr. Courson stated that someone could but will they because most people back up to the door of the unit to
6 unload.
7
8 Mr. Passalacqua asked staff if the parking areas are 16' x 21'.
9
10 Mr. Hall stated that he believes it is 21' x 22'.
11
12 Mr. Passalacqua stated that the sidewalk is four feet wide and the parking spot next to it is 20' wide.
13
14 Mr. Hall stated that the area is 17' x 22'.
15
16 Mr. Thorsland asked the Board if there were any additional questions for Mr. Burk and there were none.
17
18 Mr. Thorsland asked if staff had any additional questions for Mr. Burk and there were none.
19
20 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Burk and there was no one.
21
22 Mr. Thorsland stated the Board and the petitioner appear to be comfortable with Special Conditions A and B
23 therefore proposed Special Condition C needs to be discussed.
24
25 Mr. Thorsland requested the Board's comments on proposed Special Condition C.
26
27 Mr. Courson asked if proposed Special Condition C is enforceable.
28
29 Mr. Thorsland stated that he would assume that proposed Special Condition C will be enforced the same way
30 as most of the other special conditions in that someone will call staff to complain.
31
32 Mr. Thorsland asked the Board if a sign should be proposed as a condition of approval.
33
34 Mr. Courson stated that a sign would be appropriate.
35
36 Mr. Hall asked if a 2' x 2' sign is being proposed.
37
38 Mr. Courson stated that a sign could be placed on each unit although it would not need to be 2' x 2'. He said

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1 that perhaps a 12 inch sign would be appropriate so that the occupant would view it every time they pull up
2 to their unit.

3
4 Mr. Hall stated the sign should indicate that no activity is to take place during the hours of 10PM and 7AM.

5
6 Mr. Passalacqua stated that the sign may stipulate where someone can and cannot park their vehicle.

7
8 Mr. Thorsland asked if the Board would be planning for Somer Township as to their roads being blocked.
9 He said that he is comfortable with a sign indicating the hours but not parking. He asked Mr. Courson how
10 parking is handled at his facility.

11
12 Mr. Courson stated that the access is off of the road and his facility is fenced therefore he has no issue with
13 people parking along the road.

14
15 Mr. Thorsland asked Mr. Courson to indicate how many people are normally at his storage units at one time.

16
17 Mr. Courson stated that he only has five units but there may be three people there at the same time. He said
18 that the amount of traffic is normally very small for a warehouse but if someone starts running a business out
19 of the one of the units then there could be a lot of traffic movement. He said that if he is correct every one of
20 the units could house any of the allowed uses and it is likely that some type of delivery vehicle could be up
21 to 40 feet long and no turn-around is available.

22
23 Mr. Thorsland stated that the only remedy is to require that the building be made smaller.

24
25 Mr. Courson stated that he does not believe that the subject site is a good location for the proposed
26 warehouse because it is an incredibly small lot.

27
28 Mr. Thorsland noted that all of the lots in the area are incredibly small lots.

29
30 Mr. Courson stated that the sale of the subject site is pending.

31
32 Mr. Thorsland stated that the lot's current use is an abandoned building.

33
34 Mr. Courson stated that its current use is a vacant lot.

35
36 Mr. Hall stated that if the Board cannot find a way to authorize such a simple building on these lots in
37 Wilber Heights then the Board is telling the property owners that their properties cannot be used which goes
38 against everything in the Zoning Ordinance. He said that there has to be a way that the land can be used

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1 which will be consistent with what the Zoning Ordinance is about and perhaps the only way is to reduce the
2 number of self storage units and if that is the case then that is what the Board should do. He said that Mr.
3 Burk's intended use is one thing and the Board always has to approve a case assuming a worst case scenario.
4 He said that if someone puts a business in the number of units that the Board is willing to approve he could
5 see increased activity and a vehicle consistently present with no indication of who owns the vehicle. He said
6 that Mr. Courson's concern about having all of the activity on the property, which is what the Zoning
7 Ordinance requires, could require more of a front yard along Paul Avenue to literally provide more length for
8 vehicles. He said that perhaps after listening to the concerns from the Board it may be necessary for staff to
9 work with Mr. Burk some more before the Board takes action.

10
11 Mr. Passalacqua stated that an auto business is located north of the subject property and it appears that all of
12 their parking is paved. He said that he understands that the property to the north is larger but is that possible
13 for Mr. Burk's proposed use. He asked if the front yard indicated on the March 2, 2012, site plan is a certain
14 size for a reason.

15
16 Mr. Hall stated that there is a visibility triangle which takes up one-half of the front yard.

17
18 Mr. Passalacqua asked if someone could park in the visibility triangle.

19
20 Mr. Hall stated no.

21
22 Mr. Passalacqua asked if that requirement applies to the lot to the north.

23
24 Mr. Hall stated that it appears that the lot to the north may well comply with the visibility triangle. He said
25 that Mr. Burk has the plumbing stubbed in for a bathroom and if he is going to have a bathroom a septic
26 system will be required because there is no sewer available. Mr. Hall stated that a septic system will take up
27 a lot of the lot's square footage.

28
29 Mr. Passalacqua stated that he has worked in this area a little bit and it is tough to get around. He said that
30 he agrees that people will probably pull up to this building and stop wherever they decide to stop. He said
31 that the subject property is probably in a busier location than the property to the north therefore it is very
32 important that the Board approve this project correctly.

33
34 Mr. Hall stated that the only way to not have the issues which the Board is voicing concerns about is to
35 reduce the number of units so that the full 50 feet of the lot is available for vehicles with trailers.

36
37 Mr. Courson stated that even a crew cab truck with a trailer attached would be an issue.

38

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- 1 Mr. Hall stated that this is a problem with properties such as these because staff does not have good guidance
2 to advise the petitioner's about what they should request.
3
- 4 Mr. Courson stated that he agrees that the building would be a vast improvement to the area but not at the
5 risk of safety. He said that not having a loading berth for a warehouse seems odd.
6
- 7 Mr. Hall stated that the Board sees loading berths all of the time which are not more than an area that is
8 being called a loading berth. He said that Mr. Courson's concern is the actual use of the lot given the
9 constraints of the property. He said that staff may need to work with Mr. Burk more regarding his request.
10
- 11 Mr. Passalacqua asked Mr. Hall if there is a generic size requirement for a loading berth.
12
- 13 Mr. Hall stated the minimum size requirement for a loading berth is 12' x 40'. He said that the property is
14 only 50 feet deep and a loading berth is required to be 40 feet long.
15
- 16 Mr. Thorsland stated that at best one of the units would have to be removed along the east side for a loading
17 berth and he does not believe that it would be functional. He said that the Board may have to weigh the
18 balance of taking what is effectively a very difficult lot and allowing an industrial use on it which is certainly
19 much better than what currently exists.
20
- 21 Mr. Passalacqua asked if ADA is required for the use.
22
- 23 Mr. Hall stated yes.
24
- 25 Mr. Thorsland stated that the space between the parking spots and the ADA area will be stone.
26
- 27 Mr. Thorsland asked if the Board would prefer that staff continue working with the petitioner to address the
28 Board's concerns.
29
- 30 Ms. Capel stated that she would prefer to have staff continue working with Mr. Burk.
31
- 32 Mr. Hall stated that given his understanding of the Board's concerns the building would have to be made
33 smaller by one unit which would give room for a loading berth eliminating the need for Part F. He asked the
34 Board if they desired to have a condition regarding no parking in the street. He said that such a condition is
35 difficult to enforce but it makes the Board's intention very clear.
36
- 37 Mr. Courson stated that such a condition is not necessary if it cannot be enforced.
38

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1 Mr. Thorsland stated that rather than trying to patch this all together tonight he believes that it would be
2 better for Mr. Burk and staff to work on a modified site plan. He asked Mr. Burk if he would be comfortable
3 with a continuance date.

4
5 Mr. Burk indicated yes.

6
7 Mr. Hall stated that the case could be continued to the April 12, 2012, meeting and the only cases which
8 would be heard at that meeting would be Case 685-AT-11 and 702-V-11.

9
10 Mr. Thorsland asked Mr. Burk if he feels that he would have enough time to work with staff on a revised
11 plan if his case was continued to the April 12, 2012, meeting.

12
13 Mr. Burk stated yes.

14
15 Mr. Thorsland asked if staff would have enough time to work with Mr. Burk on a revised plan for Case 702-
16 V-11.

17
18 Mr. Hall stated yes.

19
20 Mr. Thorsland entertained a motion to continue Case 702-V-11 to the April 12, 2012, meeting.

21
22 **Mr. Passalacqua moved, seconded by Ms. Capel to continue Case 702-V-11 to the April 12, 2012,**
23 **meeting. The motion carried by voice vote.**

24
25 **6. New Public Hearings**

26
27 **Case 699-AM-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren**
28 **Murray and landowner John Murray Request to amend the Zoning Map to change the zoning**
29 **district designation from the AG-1 Agriculture Zoning District to the AG-2, Agriculture Zoning**
30 **District in order to operate the proposed Special Use in related zoning case 700-S-11. Location: A 10**
31 **acre tract in the Southwest Quarter of the Northwest Quarter of Section 14 of Hensley Township and**
32 **commonly known as the home at 2150 CR 1000E, Champaign.**

33
34 **Case 700-S-11 Petitioner: L.A. Gourmet Catering, LLC, with owners Annie Murray, Lauren**
35 **Murray and landowner John Murray Request to authorize the construction and use of an Event**
36 **Center as a “Private Indoor Recreational Development” as a Special Use on land that is proposed to**
37 **be rezoned to the AG-2, Agriculture Zoning District from the current AG-1, Agriculture District in**
38 **related Case 699-AM-11. Location: A 10 acre tract in the Southwest Quarter of the Northwest**

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1 **Quarter of Section 14 of Hensley Township and commonly known as the home at 2150 CR 1000E,**
2 **Champaign.**

3
4 Mr. Thorsland called Cases 699-AM-11 and 700-S-11 concurrently.

5
6 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
7 sign the witness register for that public hearing. He reminded the audience that when they sign the witness
8 register they are signing an oath.

9
10 Mr. Thorsland informed the audience that Case 700-S-11 is an Administrative Case and as such the County
11 allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a
12 show of hands for those who would like to cross examine and each person will be called upon. He requested
13 that anyone called to cross examine go to the cross examination microphone to ask any questions. He said
14 that those who desire to cross examine are not required to sign the witness register but are requested to
15 clearly state their name before asking any questions. He noted that no new testimony is to be given during
16 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
17 exempt from cross examination.

18
19 Mr. Thorsland asked the petitioners if they would like to make a statement outlining the nature of their
20 request.

21
22 Ms. Anne Murray and Mrs. Lauren Murray-Miller stated that they are before the Board tonight requesting a
23 zoning change and a special use permit for L.A. Gourmet Catering. They said that the change will allow
24 them to provide Champaign County and surrounding communities a unique setting for their special events
25 which is not available now. They said that the atmosphere that they are looking for cannot be obtained in
26 town or even on the edge of town and they have searched the Champaign-Urbana area for two years for their
27 five year catering business' needs and they have completed extensive market research regarding this type of
28 service in the area. They said that they are excited about the outdoor atmosphere and the seclusion on the
29 property.

30
31 Mr. Thorsland called John Hall to testify.

32
33 Mr. John Hall distributed a Supplemental Memorandum dated March 29, 2012, for Case 700-S-11 to the
34 Board for review. He said that the new memorandum includes new evidence summarizing the comments
35 from Berns, Clancy and Associates on the engineering review and that the letter from Berns, Clancy and
36 Associates is attached to the memorandum. He noted that Berns, Clancy and Associates only reviewed it for
37 feasibility so this is not an approval of the exact engineering.

38

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1 Mr. Hall stated that the subject property is not located in the mapped floodplain but it is located next to a
2 swale that carries a large amount a water during a 50 year event. He said that the engineer obtained the
3 elevation of the floodwaters in the swale from the bridge design and some part of the subject property is
4 occupied by floodwater during a 50 year event. He said that the petitioner is proposing a compensatory
5 detention area on the western end of the lot and that is an area that will be shaped to hold more stormwater
6 than it holds right now and that is because at the east end of the property where the event center, parking and
7 detention basin and septic system are proposed is pushing out into the area where the 50 year flow currently
8 goes therefore the compensatory storage is to provide a makeup area.
9

10 Mr. Hall stated that new item 8.B.(2)(f) addresses the proposed tree screening. He said that the site plan
11 depicts a row of evergreen trees along the north property line and the trees are proposed as a fulfillment of
12 the required screening for the parking area. He said that BCA reminds us that if those trees are literally at
13 the north property line they will be blocking the drainage and catching debris and making the debris pile up
14 on the adjacent property. He recommended that the trees be moved back from the property line as far as
15 possible so that they are not contributing to the blocking of the stormwater and the debris that they catch will
16 remain on the subject property and not flow over onto the adjacent property. He said that the Zoning
17 Ordinance can have the screening that it needs for the surrounding neighbors and it won't impact the attempt
18 in creating a very nice environment because it is such a small change.
19

20 Mr. Hall stated that the subject property is located two miles outside of the City of Champaign and it is not
21 within the one and one-half extra-territorial jurisdiction of the City of Champaign. He said that the AG-2
22 District generally occurs within the one and one-half mile area but it doesn't stay within the one and one-half
23 mile area and to illustrate such he brought the zoning maps for Somer and Hensley Townships for the
24 Board's review.
25

26 Mr. Hall indicated that northeast of Urbana in Somer township there are areas of AG-2 located two and one-
27 half miles beyond the ETJ of Urbana. He said that this area has been zoned AG-2 since 1973 and he can
28 guarantee the Board that in 1973 it was more than two and one-half miles from Urbana. He said that in
29 Hensley township, which is northwest of the City of Champaign, it is apparent that there are only a few areas
30 remaining which are zoned AG-2. He said that for some reason the drafters of the zoning map allowed a lot
31 of AG-2 northeast of Urbana but they did not place much northwest of Champaign and none west of
32 Champaign. He said that the drafters of the zoning map did not bother to indicate why the zoning map was
33 created in the manner that it was created. He said that he is not suggesting that these issues are justification
34 for the requested rezoning but AG-2 occurs in a lot more areas than just within the one and one-half ETJ of a
35 municipality. He said that on the Map Amendment Finding of Fact staff did not find where the rezoning
36 poses any problem with any of our policies because most of the policies that are relevant have to do with the
37 actual physical relationship of the use as it relates to the agricultural area. He said that since the subject
38 property fronts a County Highway that can handle the traffic staff does not see that many issues other than

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1 the possible issue of AG-2 being further than one and one-half miles from a municipality.

2
3 Mr. Hall stated that staff has proposed a lot of conditions for the special use and not because of problems
4 that staff foresees. He said that the stormwater drainage plan looks good thus far and the accessibility
5 requirements are always required and the new state building code is required for all commercial buildings
6 such as the one proposed. He said that the health department has to approve and license the food service,
7 and the owners have already complied with the liquor license requirements. He said that the septic system
8 has already been approved by the health department. He said that he wonders how many drainage tiles go
9 under the subject property. He said that staff is not proposing a specific investigation and staff is not
10 proposing an actual investigation to locate them but any tile that is encountered will have to be dealt with
11 accordingly and either relocated or if there is parking spaces to be placed over it the tile will have to be
12 replaced with ductile iron. He said that drainage tiles are going to be a big part of the construction of this
13 project and all that we can do is make sure that the petitioner knows how to deal with those once they are
14 encountered. He said that the screening has to be a certain size within a certain number of years and
15 hopefully moved back from the property line. He said that the petitioners plan to redo the driveway, which
16 is a good thing, and where it connects to County Highway 1 it needs to be approved by the County Engineer.
17 He said that there is a lot of evidence on a special use like this and staff does not see any big problems at this
18 point and it isn't ready for final action tonight because there is so much information to review. He said that
19 with a case like this where the map amendment goes on to the County Board but the ZBA is the final say on
20 the special use permit there is always the question about whether to take action on both cases and see what
21 happens with the map amendment. He said that at times the Board desires to do such so that the County
22 Board knows that the ZBA is completely comfortable with the special use permit. He said that the Board
23 could take action on one of the cases or both of the cases.

24
25 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.

26
27 Mr. Courson stated that he has worked on the property in the past for the previous owner and not the
28 petitioners. He said that the evergreens located on the north edge will provide shade on the crops and the
29 adjacent landowner may not appreciate having the trees located on the property line.

30
31 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were none.

32
33 Mr. Thorsland called Ms. Swartzendruber to testify.

34
35 Ms. Judy Swartzendruber, who resides at 2129 CR 1000E, Champaign stated that she is speaking as a
36 resident of the community and she would like to draw attention to several features which concern the
37 neighbors. She said that she and her husband are concerned about the water runoff from the subject property
38 and how it will affect the neighbors. She said that the swale, which was previously mentioned, has in the

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1 past created a lot of flood problems on downstream properties as it empties out along I-57. She said that
2 they are concerned about the added noise because the area is not a serene and quiet neighborhood and the
3 road, which is known as the Dewey-Fisher Road, is heavily traveled. She said that the traffic on this road
4 begins around 4:30 a.m. and does not let up until mid-day and begins again until late in the evening with
5 truck traffic going all night long. She said that the proposed entrance to the property, proposed as Pear Tree
6 Lane, is at a very low point and not visible to oncoming traffic from either direction and is a site which
7 experiences a maximum amount of snow drifts during the winter storms.

8
9 Ms. Swartzendruber stated that approximately five years ago she was before the Board defending the
10 neighborhood and its culture of the neighborhood when the Hindu Temple project was proposed. She said
11 that the Hindu Temple project is in close proximity to the subject property for this case and if the Hindu
12 Temple and the proposed event center have events at the same time they could create quite a traffic jam in
13 the neighborhood especially if there are approximately 400 people attending an event at the proposed event
14 center and the Hindu Temple has approximately 500 people attending their event.

15
16 Ms. Swartzendruber stated that the area's community is concerned about the widening of the road because
17 there have been discussions indicating that the Dewey-Fisher Road needs to be widened. She said that if
18 there are trucks delivering supplies to the Hindu Temple and food items to the event center the road will
19 only deteriorate even more. She said that she and her husband are not in favor of the road being widened
20 because it would place the traffic closer to their home.

21
22 Ms. Swartzendruber stated that when she and her husband moved to their residence the area was a farming
23 community which provided a lot of space to enjoy the sunset and the sunrise but now the proposed Hindu
24 Temple will be located outside of her front window and she will not be able to view the sunrise in the
25 morning. She said that the proposed event center will be located just down the road which will cause
26 another change in the culture of their neighborhood and she asked that the ZBA allow the neighbors the
27 opportunity to reflect their feelings regarding keeping their neighborhood as a quiet farming area. She said
28 that the petitioners believe that the subject property is an ideal location which will provide them with the
29 flexibility and atmosphere that could not be obtained in the city and Ms. Swartzendruber agrees but she and
30 her husband and the other neighbors were there first and they do not want more noise and traffic brought to
31 their community. She said that allowing the proposed use will rob the community of the things that they
32 have enjoyed for over twenty years therefore they opposed the petitioner's requests.

33
34 Ms. Swartzendruber stated that there was an article in the *News Gazette* regarding the special use and
35 rezoning requests by the ABC Learning Center to the Village of Savoy. She said that she applauds the
36 Village of Savoy Plan Commission because they recommended a denial to the special use and rezoning
37 requests. She said that the Village of Savoy Plan Commission listened to the community when the
38 residents indicated their opposition to the proposal because they did not feel that that the proposed use was

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1 a good fit for the neighborhood and they expressed their concerns regarding the noise that would be
2 generated by the play area. She said that she considers her backyard to be an extension of her home and she
3 likes it to be reasonable quiet.

4
5 Ms. Swartzendruber stated that the ZBA may believe that the proposed use is progress but she and her
6 husband do not agree because they believe that the proposed use is disgusting.

7
8 Mr. Thorsland asked the Board if there were any questions for Ms. Swartzendruber regarding Case 700-S-11
9 and there were none.

10
11 Mr. Thorsland asked if staff had any questions for Ms. Swartzendruber regarding Case 700-S-11 and there
12 were none.

13
14 Mr. Thorsland called Mr. Jack Murray to testify.

15
16 Mr. Jack Murray who resides at 2607 CR 1000E, Champaign stated that he and his family desire to build the
17 event center. He said that his family has been farming in Hensley Township for over 100 years and the
18 watershed that goes across the subject property also goes across their properties in several places. He said
19 that he serves on two separate drainage commissions and he contacted Joe Irle, Beaver Lake Drainage
20 District Commissioner, to obtain his approval for the construction of the proposed event center on the
21 subject property. He said that he and Mr. Irle reviewed the plans and located and mapped all of the existing
22 drainage tiles.

23
24 Mr. Thorsland asked the Board if there were any questions for Mr. Murray and there were none.

25
26 Mr. Thorsland asked if staff had any questions for Mr. Murray.

27
28 Mr. Hall asked Mr. Murray if the existing tiles presented any real big problems with the way that the retreat,
29 parking and the ponds are designed.

30
31 Mr. Murray stated that there are some tiles which will require some relocation because of the ponds but if
32 you are familiar with how the water comes off of the adjacent properties the retention pond and the other
33 pond will slow down that flow. He said that Mr. Irle indicated that the ponds will do nothing but help the
34 watershed on that area because all of the water runs from the south to north and the ponds will help slow
35 down the water that is coming off of the subject property currently. He said that moving the lane to the north
36 and getting it off of the property line will help the drainage situation because, as the neighbors are aware, the
37 property has not been very well maintained in the last 25 years. He said that being a farmer and knowing a
38 lot about drainage he knows that the drainage situation has not been ideal in how it has been handled over

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1 the past 25 years.

2

3 Mr. Thorsland asked the audience if anyone desires to cross examine Mr. Murray regarding Case 700-S-11
4 and there was no one.

5

6 Mr. Thorsland called Mr. Ben McCall to testify.

7

8 Mr. Ben McCall, who resides at 1085 CR 2200N, Champaign, stated that he desires to separate his testimony
9 into two parts. He said that the first part will be as a representative of the Hensley Township Plan
10 Commission and the second part will be his own concerns as a neighboring landowner.

11

12 Mr. McCall distributed a Special Report from Hensley Township Plan Commission to the Board for review
13 and submitted the report as a Document of Record. He read the report as follows:

14 The Hensley Township Plan Commission held a Special Meeting on March 28, 2012, to review
15 Cases 699-AM-11 and 700-S-11. After reviewing the preliminary memoranda from Planning and
16 Zoning dated March 23, 2012, the Commission voted unanimously to object to the proposed map
17 amendment in Case 699-AM-11 as well as the proposed special use permit Case 700-S-11. We
18 hereby recommend that the Hensley Township Board of Trustees submit our written objections to the
19 County Board within 30 days after the Zoning Board of Appeals hearing, in order to force a ¾
20 supermajority vote of the County Board pursuant to 55ILCS5/5-12014(c). We voted to transmit this
21 document to the Township Board, and also present this document to the Zoning Board of Appeals at
22 its March 29, 2012, meeting. The foremost concerns of the Hensley Township Plan Commission are
23 to preserve best prime farmland for agricultural use, and to preserve the agricultural character of rural
24 Hensley Township from the encroachment of urban uses and other uses that are injurious to the
25 character of the district. We therefore object to the proposed map amendment in Case 699-AM-11 in
26 the strongest possible terms. It is clear that this rezoning is not intended to reflect an actual change
27 in the character or use of the surrounding area, but rather is intended only to enable a special use that
28 is specifically forbidden in the AG-1 district.

29

30 The Plan Commission objects to this rezoning for the following reasons:

31 1. We are concerned that the impacts of the proposed special use on drainage are understated. The
32 proposed 15” storm sewer outlet will unreasonably concentrate the drainage flow from the
33 impervious surfaces on the subject property onto the farm ground to the north. This, combined with
34 the consistent flow of water resulting from the proposed septic system, is certain to negatively impact
35 field operations on the adjoining land. This is in violation of the principle of Illinois drainage law
36 articulated in the Case of Templeton v. Huss: “the court held that the developer was liable for
37 damages to the lower land if the development interfered so much with the natural seepage that the
38 amount and velocity of water running off the developer’s land were unreasonable increased.”

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- 1 2. We are also concerned that the impacts of the proposed special use on traffic and public safety are
2 understated. County Road 1000E is a busy, high-speed thoroughfare with a 55 mph speed limit, and
3 there are already a considerable number of accidents caused by vehicles turning onto or off of this
4 road into single-family homes or cross streets such as CR 2100N. Having eighty vehicles in a short
5 period of time going from 55 mph to 5 mph to turn off at the same location is likely to lead to even
6 more accidents.
- 7 3. There is no justification for rezoning the subject property from AG-1 to AG-2 other than the
8 desire of the owner to use the property for a purpose that is not allowed in AG-1. This is not a
9 compelling justification.
- 10 4. The rezoning of this parcel from AG-1 to AG-2 seems inappropriate considering the general
11 intent of these zoning districts as described in the Ordinance and the draft finding of fact.
12 Specifically:
- 13 a. The AG-1 district is “intended to protect the areas of the COUNTY where soil and topographic
14 conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture
15 of urban and rural USES which would contribute to the premature termination of AGRICULTURE
16 pursuits”; this description is entirely appropriate for the area in question, and in fact rezoning the
17 parcel out of AG-1 would facilitate the admixture of urban and rural uses that the zoning ordinance
18 intends to prevent; and
- 19 b. The AG-2 District is “intended to prevent scattered indiscriminate urban development” but
20 rezoning a single parcel to AG-2 to enable an urban development such as the proposed use would in
21 fact encourage scattered indiscriminate urban development; and
- 22 c. The AG-2 District is “generally located in areas close to urban areas” but the parcel in question is
23 certainly not close to an urban area; and
- 24 d. The AG-2 District is “intended generally for application to areas within one and one-half miles of
25 existing communities in the COUNTY” but the parcel in question is not within 1.5 miles of
26 Champaign.
- 27 5. The proposed rezoning is incompatible with the stated purposes of Section 2.0 of the Zoning
28 Ordinance, Specifically:
- 29 a. Subsection (l) “prohibiting USES, BUILDINGS or STRUCTURES incompatible with the
30 character of such DISTRICTS,” the proposed special use is clearly incompatible with the character
31 of the surrounding AG-1 district, as it is not allowed in AG-1; and
- 32 b. Subsection (n) “protecting the most productive AGRICULTURAL lands from haphazard and
33 unplanned intrusions of urban USES,” rezoning this parcel of land would enable a haphazard and
34 unplanned intrusion of urban uses into rural Hensley township; and
- 35 c. Subsection (c) “encouraging the compact development of urban areas...” rezoning this parcel
36 would in fact encourage non-contiguous development in an otherwise rural area; and
- 37 d. Subsection (q) “encouraging the preservation of AGRICULTURAL belts surrounding urban areas,
38 to retain the AGRICULTURAL nature of the COUNTY...”, rezoning the parcel in question would

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1 discourage the preservation of the agricultural belt surround the urban Champaign-Urbana area by
2 encouraging an urban use in an agricultural area.

3 6. We strongly object to Section 13.A. of the draft finding of fact, which suggests that “the proposed
4 development supports agriculture or involves a product or service that is better provided in a rural
5 area than an urban area.” An event center for wedding receptions and corporate retreats does not
6 support agriculture, even if some of the corporate retreats are for agricultural businesses.
7 Furthermore, the desire of the owner to construct an event center in a rural setting does not mean that
8 event centers are intrinsically better provided in rural areas.

9 7. We also object to Section 15 of the draft finding of fact, which suggests that the proposed
10 amendment would “help achieve”: the goal of “protection of the public health and public safety.”
11 The fact that the proposed special use involves a septic system and will comply with building codes
12 does not protect public health when compared with the present agricultural use.

13 8. The proposed lighting plan for the property is not only in direct violation of the full cutoff
14 requirements, which indicates that the lighting fixture shall not emit light above the horizontal plan,
15 but is also injurious to the rural character of the district. A conference center that is brightly lit late
16 into the night for wedding receptions is not compatible with the character of agricultural land.

17 9. The proposed special use involves an outdoor patio area as well as walking trails and sculptures,
18 and we are concerned about noise pollution from evening and weekend crowds at wedding
19 receptions and similar events.
20

21 In summary, it is our opinion that the proposed rezoning and special use are completely incompatible
22 with the specific language of the Zoning Ordinance, and also incompatible with its general intent.
23 The draft finding of fact reflects a clear bias towards enabling the development of urban uses in rural
24 settings, which the Hensley Township Plan Commission objects in the strongest possible terms. The
25 simple fact that a landowner wishes to use a piece of AG-1 property for purposes that are clearly
26 incompatible with the AG-1 district cannot possibly justify a rezoning to another district to enable
27 that use. More generally, the Plan Commission is extremely opposed to this type of haphazard and
28 noncontiguous development in rural Hensley township. If requests of this sort are approved, the very
29 qualities the petitioner is seeking, a country setting, will be permanently destroyed for all of the
30 residents of rural Hensley township.

31
32 Mr. Thorsland requested a motion to grant a 30 minutes extension to the meeting.

33
34 **Ms. Capel moved, seconded by Mr. Courson to grant a 30 minutes extension to the meeting. The**
35 **motion carried by voice vote.**

36
37 Mr. Thorsland asked the Board if there were questions for Mr. McCall regarding the Special Report from the
38 Hensley Township Plan Commission and there were none.

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Mr. Thorsland asked if staff had any questions for Mr. McCall regarding the Special Report from the Hensley Township Plan Commission and there were none.

Mr. Thorsland asked the audience if anyone desired to cross examine Mr. McCall regarding Case 700-S-11 and there was no one.

Mr. McCall stated that he will now present his personal testimony. He said that he resides at 1085 CR 2200N, Champaign which is located in the same section and ¾ of one mile from the subject property. He said that the subject property is in direct view of his backyard, rear deck and the rear windows of his home therefore the requests before the Board personally impacts his family. He said that the petitioner indicated that there are no alternative locations available although while driving around the area it is his impression there is alternative land available that would be more contiguous to other development. He said that the areas along Olympian Drive, U.S. Route 150 and the entire Clearview Subdivision which is currently vacant yet offers the rural vista. He said that it is his personal opinion that if the requests were approved it would make a mockery of the zoning process because the ZBA would be indicating that any property can be rezoned anytime an owner wants to do something that is not allowed in the current zoning district and if that is the case why does the County bother with having zoning districts. He said that staff commented that the AG-2 district is not always located within one and one-half miles of an extra-territorial district and he acknowledges that this may be the case but he does not believe that the County needs to add a little tiny dot of AG-2 in the middle of AG-1 land because it seems to be contrary to the entire intent of the Zoning Ordinance.

Mr. McCall stated that the proposed use will have a personal impact upon his family. He said that he chose to live in rural Hensley Township because of the character of the area. He said that the area is an agricultural area that is quiet and dark at night and those are things that he values because they are important to him as a rural resident of Hensley Township. He said that the proposed use will directly affect him and harm all of the qualities that he values as a resident of rural Hensley Township. He said that already the lights from the subject property are shining all night long casting shadows in his backyard therefore he is sure that the proposed use will result in additional light pollution especially if the light plan that is currently proposed will not include full cut-off light fixtures. He said that it is very likely that the proposed use will result in additional noise.

Mr. McCall stated that he realizes that the ZBA members are here to interpret the Zoning Ordinance but there is also a compelling moral argument to the case which is that the petitioner desires to make money by selling the country experience to people who do not live in the country and the act of doing that will actually mean that the experience of living in the country will be diminished for the residents of rural Hensley Township. He said that in regards to Case 700-S-11 he would ask the ZBA to think carefully about the three

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1 criteria that are listed. He said that he does not believe that the special use is necessary for the public
2 convenience at this location. He said that he believes that the special use will be injurious to the district due
3 to the drainage, traffic, noise pollution, etc. He said that he does not believe that the special use will
4 preserve the essential character of the district.

5
6 Mr. Thorsland asked the Board if there were any questions for Mr. McCall and there were none.

7
8 Mr. Thorsland asked if staff had any questions for Mr. McCall and there were none.

9
10 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. McCall regarding Case 700-S-11
11 and there was no one.

12
13 Mr. Thorsland called Mr. Philip Kesler to testify.

14
15 Mr. Philip Kesler, who resides at 1402 E. Woodberry, Mahomet, stated that Mr. McCall made a lot of good
16 points and as an adjacent landowner he believes that the proposed use is a misuse of rural agricultural land.

17
18 Mr. Thorsland asked the Board if there were any questions for Mr. Kesler and there were none.

19
20 Mr. Thorsland asked if staff had any questions for Mr. Kesler and there were none.

21
22 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Kesler regarding Case 700-S-11
23 and there was no one.

24
25 Mr. Thorsland asked the audience if anyone else desired to sign the witness register at this time to present
26 testimony regarding Case 699-AM-11 and 700-S-11.

27
28 Mr. Thorsland called Ms. Peggy Anderson.

29
30 Ms. Peggy Anderson, who resides at 2172 CR 1000E, Champaign, stated that her property is located to the
31 north of the Murray parcel. She said that the Murray land slopes down towards her land therefore her
32 concern is any additional water runoff that would occur if the proposed use is granted. She said that she
33 understands that there are 84 parking spaces proposed but if they are to accommodate 400 people she is
34 concerned that additional parking spaces will be required which also add additional water runoff onto her
35 property. She said that the petitioner indicated that the rural setting appeals to them for their business
36 although she too enjoys the country. She said that her son has decided to move back from the city and
37 obtained an engineering position in the Champaign-Urbana area. She said that her son will be the fifth
38 generation of her family that will live on the farm and he would like to be able to enjoy the current country

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1 atmosphere and not be distracted by lighting, noise pollution, and septic issues with the subject property.
2
3 Mr. Thorsland asked the Board if there were any questions for Ms. Anderson and there were none.
4
5 Mr. Thorsland asked if staff had any questions for Ms. Anderson and there were none.
6
7 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Anderson and there was no one.
8
9 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony
10 regarding Cases 699-AM-11 and 700-S-11 and there was no one.
11
12 Mr. Thorsland asked the Board if they had any questions for staff regarding any of the testimony that has
13 been presented tonight. He said that these cases will not be completed tonight therefore staff requires
14 direction from the Board. He asked the Board if they desired to submit a recommendation on the map
15 amendment to the County Board and await their determination and then move on the special use or would
16 the Board desire to complete both cases at the same time.
17
18 Ms. Capel requested staff's opinion regarding the Board's next step. She said that she would prefer to work
19 on the map amendment first.
20
21 Mr. Hall stated that he has no idea what the inclination of this Board is on the requested map amendment.
22 He said that staff tried to make the petitioners aware of comments like what was received at tonight's
23 meeting. He said that the staff does its best to prepare the petitioners for those comments but at the same
24 time, as the Zoning Administrator, he is at a complete loss to explain why there is so much AG-2 in Somer
25 Township and so little in Hensley. He said that if the Board believes that the requested special use will not
26 harm the district then that would also mean that the rezoning is reasonable. He said that as soon as the
27 Board has an idea on how it would like to vote on the map amendment then forwarding it to the County
28 Board may resolve the issue very quickly but if the Board is ready to take action on the special use permit at
29 the same time then the ZBA will be sending a message to the County Board.
30
31 Mr. Thorsland encouraged the Board to work on both cases.
32
33 Mr. Hall stated that when a project is clearly within the jurisdiction of the CUUATS, Champaign- Urbana
34 Urbanized Area Transportation Study, and staff regularly requests a transportation impact analysis. He said
35 that staff did not request a transportation impact analysis for the Hindu Temple because the property was not
36 located in the jurisdiction of CUUATS and he does not believe that the subject project is within their
37 jurisdiction either. He said that some people would use that as evidence that the proposed use is not in a
38 good location. He asked the Board if they desired to have staff attempt to have a transportation impact

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1 analysis completed by CUUATS. He said that comments regarding the possibility of events being held at the
2 Hindu Temple and the events center at the same time seems unlikely but it could happen. He said that there
3 may be an extra fee for CUUATS to complete a transportation impact analysis because they are not paid to
4 do studies anywhere in the County and they are only staffed and resourced to be concerned about the area of
5 the urbanized area of the transportation study. He said that if CUUATS has time to complete a study the
6 Board has to allow them time to do it therefore if the Board wants staff to investigate obtaining a study it
7 will take more than one month to do so.

8
9 Mr. Thorsland asked if the ADT for the road has been received.

10
11 Mr. Kass stated that the ADT for the road is included in the Summary of Evidence.

12
13 Mr. Hall stated that the some of the basic comments that are received relates to a small use on a heavily
14 traveled road is not normally a problem but a big use on a road that does not get a lot of traffic is generally
15 not a problem but a big use where there is already a lot of traffic can be a problem. He said that generally
16 there are no turn lanes on county highways and it is a difficult thing to do. He said that the County Engineer
17 has not raised any concerns to date and staff can make sure that the County Engineer is giving this issue
18 enough attention and Mr. Hall does not know if an impact analysis can be obtained but if the Board needs
19 such to be comfortable then staff will see what they can do about getting one. He said that staff cannot do a
20 traffic impact analysis that would be meaningful because it should be done by people who are used to
21 creating those types of specialized analysis.

22
23 Mr. Courson stated that the number of sirens that travel past his house, which is also located near the
24 Dewey-Fisher Road, there are several accidents along this particular stretch of road. He said that with the
25 proposed construction of the Hindu Temple and the proposed event center he could see a huge increase in
26 traffic in this rural area. He said that he is concerned with the safety issues with the two uses on a 55 mph
27 County Highway. He said that he would appreciate Mr. Blue reviewing the area and presenting comments
28 regarding the increased traffic created by the two uses and whether he believes that a transportation analysis
29 by CUUATS is necessary.

30
31 Mr. Passalacqua stated that he agrees with Mr. Courson. He said that the events center and the Hindu
32 Temple will create a concentrated amount of traffic at certain times on an already heavily traveled road.

33
34 Mr. Courson stated that if alcohol is being served at the events center then it is likely that people will be
35 driving drunk when they leave the property.

36
37 Mr. Passalacqua asked Mr. Hall if the subject property is considered best prime farmland.
38

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1 Mr. Hall stated yes.

2

3 Mr. Thorsland requested a continuance date for Cases 699-AM-11 and 700-S-11.

4

5 Mr. Hall stated that April 26th would only give staff enough time to find out what Mr. Blue thinks about
6 requiring a traffic impact analysis but it would not allow enough time to obtain it. He said that he doesn't
7 believe that May 17th would even be enough time to have a traffic impact analysis completed but the Board
8 may able to receive comments from Jeff Blue and a start of a traffic impact analysis but a complete analysis
9 by May 17th is probably not possible. He said that perhaps obtaining Jeff Blue's comments and finding out
10 what the next step is could be done by April 26th.

11

12 Mr. Thorsland entertained a motion to continue Cases 699-AM-11 and 700-S-11 to the April 26th meeting.

13

14 **Ms. Capel moved, seconded by Mr. Palmgren to continue Cases 699-AM-11 and 700-S-11 to the April**
15 **26th meeting. The motion carried by voice vote.**

16

17 Mr. Thorsland stated that the Board will now hear Case 701-AT-01.

18

19 **7. Staff Report**

20

21 None

22

23 **8. Other Business**

24

25 **A. Review of ZBA Docket**

26

27 Mr. Thorsland asked Mr. Hall if desired to review the ZBA Docket with the Board.

28

29 Mr. Hall stated that the string of difficult cases continues through the month of May.

30

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

32

33 None

34

35 **10. Adjournment**

36

37 **Mr. Courson moved, seconded by Mr. Palmgren to adjourn the meeting. The motion carried by voice**
38 **vote.**

ZBA

AS APPROVED APRIL 26, 2012

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The meeting adjourned at 9:50 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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