

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: June 30, 2005

PLACE: 1776 East Washington Street
Meeting Room 1

TIME: 7:00 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Doug Bluhm, Dennis Goldenstein, Debra Griest, Joseph L. Irle, Richard Steeves, Melvin Schroeder, Roger Miller

MEMBERS ABSENT : None

STAFF PRESENT : John Hall, Lori Busboom, Joel Fletcher

OTHERS PRESENT : Mark Thompson, David Atchley, Tim Woodard, David Kunde, Eric Thorsland, Harold Lawler, Lisa Haynes, Bill Bagby, Dad Madhuvidyananda, Diane Gordon, John Wright, Don Wauthier, Mary Ellen Lawler,

1. Call to Order

The meeting was called to order at 7:05 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes: (August 12, 2004)

Mr. Irle moved, seconded by Mr. Bluhm to approve the August 12, 2004, minutes as submitted. The motion carried by voice vote.

5. Public Hearing for Remanded Case:

Case 459-AM-04: Petitioner: Tim and Cyndy Woodard and Chris Creek. Request to amend the Zoning Map to allow for the development of 7 single family residential lots (as amended on June 15, 2005) in the CR, Conservation Recreation Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: An approximately 27,730 acre tract of land that is located in the Northeast 1/4 of the Northwest 1/4 of Section 36 of Newcomb Township and fronts on the south side of CR 2500N and on the west side of CR 550E at the intersection of CR 2500N and CR 550E and that is also known generally as Lot 4 and portions of Lots 2 and 3 of the proposed Summerfield Subdivision that is currently being

subdivided with the Village of Mahomet.

Mr. Hall stated that this is a remanded case. He said that the nature of the remand indicated that the public hearing needed to be reopened because ELUC wanted the Board to clarify the Findings and Final Determination and that has to occur at a public hearing. He said that a formal frontage protest against this case was filed on May 10, 2005, by a landowner with enough frontage (20% or more) to trigger the supermajority requirement for approval by the County Board. However, subsequent revisions to the plat have reduced the size of the proposed RRO District and the frontage of the RRO District has also been reduced and this protest now only accounts for about 12% of the frontage and the supermajority requirement for approval by the County Board is no longer required. He said that the protest remains in place but has no effect. He said some items in the Finding of Fact do need to be amended to reflect the fewer number of lots in the RRO even though the total number of lots that are proposed for the entire 40 acres has not changed. He said that the Petitioner could have divided the property into four lots with no RRO approval and the amended petition reflects that with one of those being a 27.730 acre lot and that lot is proposed to be the RRO. He said that presuming the RRO is approved the arrangement of lots is just the same as it was before and therefore towards the end of the Summary of Evidence when the Comparison of Non-RRO to the RRO is reviewed, that comparison doesn't change. He said that the RRO will still add six lots and a lot of those items are still 150% greater than they would be with just four lots. He said that someone who reads each item will think those items are still based on a 10 lot RRO and they will need to be revised or somehow made clear that the petition has been amended.

Ms. Griest asked if there were any questions for Mr. Hall and there were none.

Mr. David Atchley, Civil Engineer for HDC Engineering stated that he did not have any additional information and was available to answer any questions that the Board may have regarding the proposed RRO.

Ms. Griest asked Mr. Atchley if there was any additional information that the Board could take into consideration that may have been overlooked.

Mr. Atchley stated that there are four lots planned and the fourth lot will be split into a total of six lots. He said that four of those lots will go south and the other two lots will go west therefore reducing the traffic percentages.

Mr. Steeves stated that the number of lots are the same therefore the number of homes which can be built are the same.

Mr. Atchley stated that he was correct.

Mr. Hall stated that Item #12.B of the As-Approved Summary of Evidence and Finding of Fact indicates that the subject property could be divided into four parcels without authorization for the RRO Zoning District. He said that those four parcels at this time consist of three lots of essentially the same shape as proposed in the RRO and the fourth lot which encompasses the seven lots that are in the RRO. He said that this has been stated all along.

Mr. Steeves stated that the time that was spent on the re-write regarding how many lots can be built on 40 acres. He said that once a landowner got to three lots they were done but now there are four lots and one of those lots can be divided into seven lots.

Mr. Hall stated that this RRO is under the current ordinance and the re-write is totally different and has not been adopted.

Ms. Griest stated that when the location description is reviewed to accommodate the reduction in the frontage area which is under consideration and the reduction to seven lots for the RRO also the acreage reduced. She said that really the Board is not considering those other three units that were divided off as part of the "by-right" division but only considering an RRO on the "by-right" division that was lot 4.

Mr. Steeves stated that on the original case the Board's concerns regarded water drainage and flooding along the ditch and the Sangamon River and those concerns have not changed.

Mr. Hall stated that those concerns were not the main concern but whatever concerns that the Board had should not be changed simply because the petition has been changed. He said that it is the same amount of lots with the same amount of traffic the Board just needs to be careful how they describe it in the evidence.

Ms. Griest asked Mr. Hall how this is the same amount of lots when the Board cannot consider the lots which were divided "by-right".

Mr. Hall stated that the number of houses proposed for this property, in total, has not been increased it is still ten homes. He said that if the Board does not feel that the roads can handle the traffic from ten homes then the realm that the Board has to work with is between three and ten homes.

Ms. Griest stated that "by-right" there can be four houses but ten if the one larger tract is divided into six lots.

Mr. Hall stated that the only way that the lots can be further divided is to apply for an additional RRO. He said that the Petitioner has to divide the lots with the Village of Mahomet in order to have good zoning lots but the number of lots which the Petitioner can create, under the subdivision process, is established by the Zoning Ordinance. He said that it is conceivable that the Village of Mahomet could have some subdivision concern that might actually limit the number of lots below the RRO but that issue is between the Village and the Petitioner. He said that for zoning purposes the number of lots would be capped by either the number of lots approved in the RRO or by what is possible "by-right." He said that we already know that "by-right" there can be no more than four homes situated on this 40 acres.

Mr. Irle stated that the division for the three lots is the responsibility of the Village of Mahomet but the rest of the division is the responsibility of the County.

Mr. Hall stated that the lots have all been carefully designed to meet the zoning requirements. He said that this Board has put a lot of time into the decisions that lead the Petitioners to be able to do four lots.

Mr. Atchley stated that the Village of Mahomet has the subdivision regulations but since it is not contiguous to the Village of Mahomet the County has the zoning regulations which regulate the number of lots and their sizes. He said that "by-right" the Petitioner could do four lots on the 40 acres and this is the plat which has been taken to the Village of Mahomet for consideration. He said the Village of Mahomet will look at the County for zoning regulations and the lots do meet those regulations. He said that it has been stipulated to the Village of Mahomet that lot 4 is intended to be replatted into seven lots if the RRO is approved. He said that if the RRO is not approved the subdivision will stay with the Village of Mahomet and the 40 acres will be divided into the four lots.

Mr. Hall stated that this is absolutely 100% in conformance with the Zoning Ordinance. He said that this is not skirting the zoning laws nor going against the state statutes but is following the rules.

Mr. Bluhm stated that there will still be ten homes on the parcel, three will be "by-right" and seven will be within the RRO.

Ms. Griest asked if there were any further questions for Mr. Atchley and there were none.

Mr. Hall stated that the RRO is for seven homes but the RRO is what causes this property to end up placing ten homes out into the County. He said that if ten homes is too much then the RRO for seven homes is too much. He said that looking at this case as placing only six new homes in the County is not the proper way to review it because the other three homes are being ignored. He said that the Board has to look at this case in terms of total homes recognizing that certain portion of that comes from the RRO, which the Board has discretionary approval over, and a certain portion comes from what can happen with no approval.

Ms. Griest asked if the four homes are allowed "by-right" then how is considering the traffic impact of those four homes in addition to the seven any different than considering the traffic impact for the rights of development of the landowners that are adjacent or across the road. She said that these parcels that would already be divided "by-right" are really only considering the RRO on one parcel being subdivided from one unit to seven units. She said that the other three lots are there "by-right" and the development on those would be no different than the development on the adjacent properties across the road of this parcel. She said that the Board cannot really consider that seven development as a ten.

Mr. Steeves stated that the impact is the same whether the three "by-right" lots are ignored or not.

Mr. Hall stated that the second sentence in Item #33.A(3) of the As-Approved Summary of Evidence and Finding of Fact should be revised to state the following: The proposed RRO of seven homes results in about 150% more homes than the non-RRO alternative of only 4 homes and will likely result in more litter.

Mr. Steeves stated that the same statement regarding seven homes rather than 10 homes should be included in #33.A(1); and 33.A(2).

Ms. Griest stated that approval of the RRO should not be contingent upon the fact of ten homes since the four are allowable "by-right" but on the additional homes.

Ms. Griest asked if there were any additional questions for Mr. Atchley and there were none.

Mr. David Kunde, who resides at 505F CR 2500N, Mahomet, IL stated that the previous discussion clarified his understanding of the case. He said that if you are talking about a traffic survey with the ten lots then what about the development which Mr. Woodard is doing on the east side of 550E and what is going to be the impact of that additional traffic.

Mr. Hall stated the development along 550E is from different parcels are not under consideration at this time. He said that in order to include that development in consideration of the traffic impact the Board would have consider the number of lots for all parcels in the area.

Mr. Tim Woodard, Petitioner stated that he is building his own home on the east side along 550E which consists of 46 acres which is a combination of woods and pasture. He said that there is no plan to build any additional homes along the east side of 550E.

Ms. Griest asked if there were any questions for Mr. Woodard and there were none.

Mr. Eric Thorsland, who resides at 480E CR 2500N, Mahomet, IL stated that in the end there are still ten new homes proposed with the same traffic impact. He said that the only change was a way to beat the formal frontage protest which eliminated the supermajority requirement. He said that if the Board was concerned about the ten homes before then they should still be concerned about them now regardless of the math.

Ms. Griest asked if there were any questions for Mr. Thorsland and there were none.

Mr. Harold Lawler, who resides at 2471 CR 550E, Dewey stated that everything that he had stated before still stands. He asked who has the authority of taking lot 4 and making into seven more lots and where does the Village of Mahomet come into this case.

Mr. Hall stated that the Zoning Ordinance establishes the limit on the number of lots but the actual legal document that divides the farmland into building lots, the subdivision plat, is what the Village of Mahomet approves. He said that the Village of Mahomet has to review the subdivision aspects of the proposed lots and if the lots do not meet the subdivision regulations then the development will not be approved by Mahomet. He said that with the amended petition Mr. Lawler's property still touches approximately 500 feet of the RRO but touches more of the lots which are allowed "by-right." He said that those three lots have to be done so that they are legal without the RRO and two of the lots have access strips, which is in conformance with the Zoning Ordinance, but if the RRO is approved the land which would have been used for driveways will be used for streets.

Ms. Griest asked if there questions for Mr. Lawler and there were none.

Ms. Lisa Haynes, who resides at 480E CR 2500N, Mahomet stated that it is obvious what Mr. and

Mrs. Woodard and Mr. Creek did to take away Mr. Lawler's formal frontage protests rights is deceitful. She requested that Newcomb Township Planning Commission receive a copy of the full packet before any decision is made. She said that there are other neighbors in the area which were not aware of the proposed development because they were not notified by the County but now that they are aware of it they are very concerned and upset. She requested that she be placed on all mailing lists for any proposed subdivisions in Newcomb Township.

Ms. Griest asked if there were any questions for Ms. Haynes and there were none.

Mr. Hall stated that the Newcomb Township Planning Commission did receive a packet regarding this case and no comments have been received.

Mr. Goldenstein asked why such a drastic change was made for lot 3 in the revised plat.

Mr. Atchley stated that the reason is two-fold, obviously one was because of the protest rights and the other was to keep the archeological resource on one lot.

Ms. Griest closed the witness register.

Mr. Hall stated that his advice to the engineer on this project, from the very beginning, was to create the "by-right" lots so that you cannot have a frontage protest because it is the rational thing to do. He said that this minimizes time and trouble for everyone involved and is completely in conformance with what the Zoning Ordinance allows. He said that in this case the engineer chose not to take his advice.

Mr. Hall stated that Item #16.F(1) of the As-Approved Summary of Evidence should be revised to state the following: The Area General Plan received on November 24, 2004, indicates two lots fronting on CR 2500N on the north side of the subject property and five lots that access CR 550E on the east side of the property. He said that the last sentence of #Item 16.F(2) should be revised to read as follows: The traffic assumed to be generated by the five lots that front onto CR 550E (50 ADT) is about 20% of the maximum recommended traffic volume. He said that Item #16.F(3) should be revised to read as follows: The traffic assumed to be generated by the five lots that front onto CR 550E (50 ADT) is less than 20% of the maximum recommended traffic volume. He said that the second sentence in Item #16.F(4) should be revised to read as follows: The traffic assumed to be generated by the five lots that front onto CR 550E (50 ADT) is less than 20% of the maximum recommended traffic volume and about 5% of the ASDT for 2001. The traffic assumed to be generated by the entire proposed RRO is about 9.6% of the 2001 ADT. He said that the second sentence in Item #26.F.(6)(b) should be revised to read: In general, the traffic assumed to be generated by the five lots proposed to front onto CR 550E is never more than 20% of the maximum recommended traffic and generally less than 20% of the maximum recommended traffic and is less than 10% of the 2001 AADT measured by IDOT. He said that the second sentence in Item #33.A(1) should be revised to read: The seven homes in the proposed RRO and the total development will generate 150% more traffic than the non-RRO alternative development of only 4 homes. He said that the second sentence in Item #33.A(2) should be revised to read as follows: The proposed RRO of seven homes is about 150% more homes than the non-RRO alternative development of only 4 homes and will probably result in more trespass. He said that the second sentence in Item #33.A(3) should read as follows: The proposed RRO of seven homes is about

150% more homes than the non-RRO alternative development of only 4 homes and will likely result in more litter. He said that the second sentence in Item #33.B(1) should read as follows: The proposed RRO of seven homes is about 150% more non-agricultural homes than the non-RRO alternative development of only 4 homes and could result in more complaints. He said that the fourth sentence in Item #33.B.(3) should read as follows: The proposed RRO of seven homes is about 150% more non-agricultural homes than the non-RRO alternative development of only 4 homes and could result in more complaints about the livestock operation.

Mr. Bluhm stated that Item #1 of the Finding of Fact should be revised to indicate seven residences rather than 10 residences.

Mr. Hall stated that Item #1 should not be changed because it will be included in the new Finding of Fact.

He said that all of Item #13, Attachment G. Changes to Item 13. In Summary of Evidence, which was included in the June 24, 2005, Supplemental Memorandum should be revised. He said that the changes will be the changes for the new Summary of Evidence and the previous Summary of Evidence and Finding of Fact will be replaced with what the Board approves at tonight's meeting.

Ms. Griest stated that the two new maps will need to be included in the Documents of Record.

Mr. Hall stated that he was going to include the maps with the Supplemental Memorandum, dated June 24, 2005, when he revised the Documents of Record. He said that ELUC requested that he explain the Board's action and he was unable to do so but he did relate to the Committee that there were two items discussed during the formulation of the Findings of Fact on April 14, 2005. He said that one of those items was Mr. Schroeder's concern regarding service traffic to rural residents and whether it was accurately reflected in the ADT data and this was incorporated into the Finding of Fact. He said that Mr. Steeves had a concern regarding the drainage situation in the area, which was not incorporated into the Finding of Fact and he was left wondering if Mr. Steeves concerns were answered or if he still had questions which did not get answered.

Mr. Steeves stated that he still has questions regarding the drainage. He said that recognizing the situation and the impact of the flooding that many more houses will make an existing situation worse.

Mr. Hall stated that none of the homes in the proposed development will be required to be elevated to be above the 100-year flood plain. The natural ground elevation is above the 100-year flood plain. He said that our whole regulation of development is based on the fact that when you take 40 acres of farmland and convert it to 40 acres of sod there is less runoff.

Mr. Steeves stated that there won't be 40 acres of sod but 10 roofs and 10 driveways.

Mr. Irle stated that the cul-de-sac driveway will be serving six homes. He said that he is under the impression that people are going to find a way to build houses where they want to build them. He said that at least in this situation the Board does have a way to control the number of driveways, mailboxes and assist the township road commissioner. He said that he would rather have this situation than have an uncontrolled environment with six separate parcels scattered in the rural

area with separate driveway, mailboxes, etc.

Mr. Bluhm stated that Item #P of the Finding of Fact indicates that a site may be unsuited overall if it is clearly inadequate in one respect. He said that for each of the Board members may make their own decision if it is inadequate in one respect. He said that he is concerned about future cases and ELUC remanding cases back to the ZBA.

Mr. Hall stated that this Board could find this unsuitable just on one basis alone but because it is in the "despite" portion of the Finding, it means that at least when this finding was written that wasn't the intent. He said that eventually the By-Laws will be amended so that the ZBA can send a case to the County Board with less than five affirmative votes and it won't be considered a denial. He said it has to be a denial if less than five affirmative votes are received for a variance or special use but not when it goes to the County Board.

Ms. Griest stated that if Item G is reviewed in the Finding of Fact it indicates that the soils are not Best Prime Farmland soils and Champaign County has agreed that development is preferred on land that is not Best Prime Farmland although the LESA score is 208 to 212 which gives a high rating for protection. She said that this in itself is conflicting therefore it is not clear cut one way or another.

Mr. Irle stated that in previous cases problematic areas have been noted in the findings for ELUC's review.

Ms. Griest stated that one of the concerns of the flooding was a result of the deck height of the bridge which floods frequently and the fact that the bridge was engineered below the flood line.

Mr. Irle stated that in a previous case the engineer testified that the bridge was constructed eight feet below the back water flood area or the back water flood area was not taken into consideration during construction of the bridge.

Mr. Hall stated that the subdivision engineer testified that the bridge design was constructed below the Base Flood Elevation because back water affects were not considered and yet for some reason this testimony does not show up in the Summary of Evidence.

Mr. Irle stated that the draft minutes of the April 14, 2005, ZBA meeting indicates discussion of the bridge.

Mr. Hall stated that testimony had been received from David Atchley at the February 03, 2005, ZBA meeting. He said that Mr. Atchley testified that during his research of the flood plain information he received information regarding the bridge on CR 2500N and the bridge was designed to account for the Big Ditch and did not account for the back water flow from the Sangamon River therefore designed 8 to 10 feet below what should have been required. He said that this testimony should be added to the Summary of Evidence as Item #17.F(7).

Mr. Bluhm stated that Item #17.C(3) of the As-Approved Summary of Evidence & Finding of Fact (Denial Recommended) indicates that Mr. Kunde explained that in 1993, CR 2500N was flooded and a good part of the surrounding land was flooded including the subject property and the 100-

year floodplain was exceeded by five feet. Mr. Bluhm stated that he has not reviewed the elevations on the map to see where the five feet is on the property.

Mr. Hall said that the BFE is indicated on the proposed plan by small dashed lines and those are one foot contours. He said that the BFE that is referred to in that testimony is the same BFE that is on this map and flood water five feet above the BFE would pretty much put lots 7, 8, 9 and 10 under water. He said that there would be significant encroachments on lots 3 and 4 but there would still be large areas above even that elevation.

Mr. Atchley stated that a year class event to peak the 100 year by five feet is astronomical. He said that typically the difference between a 100 year event and a 500 year event is in the neighborhood of ½ to 1 foot.

Mr. Kunde stated that when that flood occurred the IGA in Mahomet was sand bagging their parking lot. He said that the flood that we had this year was barely up to his basement level.

Mr. Bluhm asked Mr. Kunde if he knew his elevation data.

Mr. Kunde stated that he does not. He said that his understanding was that his walk-out basement was outside of the 100 year flood plain.

Ms. Griest stated that the ELUC comments reflect that the ZBA's three to three vote was inconsistent with the way the Finding of Fact was written. She said that the charge to this Board is to re-evaluate the Finding of Fact and determine if it was written in accordance with our expectations and if it was not does it need amended. She said that the Board also needs to reconsider if anyone's position has changed and if not the clarification needs to be added as to why the Board is conflicted on this case. She said that the draft May 09, 2005, ELUC minutes indicate the following: Mr. Langenheim stated that the ZBA has written a series of findings and then has acted contrary to those findings therefore ELUC is required to change those findings or recommend approval. Mr. Fletcher stated that Mr. Langenheim was correct or ELUC could remand the case back to the ZBA or approve it based on the ZBA's findings. Mr. DiNovo stated that the Committee should be aware that this is a situation that is a feature of state law. The state law requires the ZBA to act by a supermajority to take any action in favor of the petitioner but only a simply majority to adopt the findings. He said that it is entirely possible that you could have findings that go in one direction and action from the ZBA that does not follow that direction. She said that the law does allow the capability to write the findings as the ZBA wrote them and the vote to come out in the manner that it did but what it didn't do is clearly portray why it happened to ELUC. She said that if we are saying "is suited" and "will be compatible" and the evidence is supporting those determinations then ELUC will expect that the vote would go in favor of the petitioner's request and if the vote was not going to go in favor of the petitioner's request then their expectation would be to see documentation supporting "not suited" and "will not be compatible." She asked the Board if any of the factors have changed based upon the testimony received at tonight's hearing or during the re-evaluation of the previous testimony. She asked if there is a way that this needs to be worded more effectively or more accurately.

Mr. Goldenstein asked if Item #1 could be revised to state why the proposed site is well suited and why it is not well suited.

Ms. Griest stated that the question was asked before and the Board was told no. She asked Mr. Fletcher if this was possible.

Mr. Fletcher stated that the Board needs to make a finding as to whether the proposed site is suited. The Board can list facts that either support or do not support that determination.

Ms. Griest stated that this is what the Board felt that they had done. She said that they used the despite as the qualifiers and when the final vote was taken the Board was not in agreement.

Mr. Fletcher stated that finding indicated support of the request but the vote indicated differently.

Ms. Griest stated that the vote was a tie vote and was insufficient to pass the request. She said that there should not be an expected guarantee that when the finding states "is suited" that everyone is absolutely in concurrence with that.

Mr. Fletcher stated that the statement in the finding was supportive in conclusion despite those comments. He said that if the Board wants to reverse that finding indicating that the Board does not support despite the factors supporting development it would be consistent with the vote.

Mr. Steeves stated that when the findings are determined it is unknown what the final roll call vote will be.

Mr. Fletcher stated that the findings reflect a legislative record which supports the Board's full decision if the Board does not support the findings then it means that the findings are not accurate and the Board may need to reconsider the findings.

Ms. Griest stated that Land Use Regulatory Policy 1.5 indicates that the site is considered unsuited for development if its features or location would detract from the proposed use; and that a site is also unsuitable if development there would create a risk to the health, safety, or property of the occupants, the neighbors or the general public; and that a site may be unsuited overall if it is clearly inadequate in one respect even if it is acceptable in other respects. She said that is why some people may have felt that the findings were in order with their general opinion. She said that perhaps the Board neglected in reviewing Item P of the finding prior to determining "is suited" or "is not suited." She asked Mr. Fletcher if it is his opinion that if the finding indicates "is suited" and "will be compatible" that there is a legal expectation that the vote is favorable and a non-favorable vote would lead to a legal challenge.

Mr. Fletcher stated that final vote must be consistent with finding and if it not then the findings must be reconsidered.

Ms. Griest asked how this could be done if when the final vote is taken the hearing is completed.

Mr. Fletcher stated that under state law the Zoning Ordinance cannot lock in a result based upon a finding.

Mr. Hall stated that perhaps this is a feature of the By-Laws which require revision.

Mr. Fletcher stated that the vote which counts is the ultimate vote.

Mr. Hall stated that the Zoning Ordinance requires that the findings for an RRO must be based upon suitability and compatibility with agriculture. He said that adding more details to this process will not get this Board anywhere.

Mr. Steeves stated that it appears that this Board is tied up with our own regulations and is unable to agree with each other.

Mr. Hall stated that ELUC is aware that this case may come back to them with the same type of vote.

Mr. Schroeder asked if the ZBA could send this back to ELUC.

Mr. Hall stated that the public hearing has been re-opened and cannot be closed without a final vote.

Mr. Steeves stated that this Board either has to change the Finding of Fact or re-vote.

Mr. Hall stated that they asked the Board to clarify the findings.

Mr. Steeves stated that this cannot be done because the Board is split in its vote.

Mr. Irle stated that ELUC would like to see compelling reasons why members voted against the finding.

The Board recessed at 9:00 p.m.

The Board resumed at 9:17 p.m.

Ms. Griest stated that Mr. Fletcher requested that this case be continued so that he can do some additional research on matters related to this case.

Mr. Steeves moved, seconded by Mr. Irle to continue Case 459-AM-04: Tim and Cyndy Woodard and Chris Creek to the September 29, 2005, meeting. The motion carried by voice vote.

6. Continued Public Hearings

Case 479-S-04 Petitioner: Gary Brummet, DVM, d.b.a. A&E Animal Hospital. Request to authorize the expansion and use of an existing veterinary hospital where animals are kept temporarily outside of the kennel as a Special Use in the AG-2, Agriculture Zoning District. Location: A 2.2 acre tract of land in the North ½ of the North ½ of the Northeast ¼ of Section 27 of Urbana Township and that is commonly known as the A&E Animal Hospital located at 3003 East Windsor Road, Urbana.

Mr. Hall stated that the annexation of the subject property is not yet complete but is still proceeding and is anticipated. He said that the Petitioner has already requested one extension therefore he cannot request an additional extension. The Board may dismiss the case or continue the case to allow more time for annexation. The Petitioner has been informed that if the Board dismisses the case and the annexation does not take place the request will need to be resubmitted as a new case.

Mr. Bluhm moved, seconded my Mr. Irle to continue Case 479-S-04: Gary Brummet, DVM, d.b.a. A & E Animal Hospital, to the September 15, 2005, Zoning Board of Appeals meeting. The motion carried by voice vote.

Case 461-S-04: Petitioner: Mark Thompson Request to authorize the establishment and use of an Organized Camp as a Special Use in the CR, Conservation Recreation Zoning District and to waive, as described in the application, the standard conditions for an Organized Camp requiring a 100 feet setback from the centerline of the public street. Location: Approximately 96 acres of land located in the West ½ of the Southwest 1/4 and the West ½ of the Northeast 1/4 of the Southwest 1/4 of Section 17 of East Bend Township that is bordered on the west by CR 700E and on the south by CR 3300N and that is commonly known as the farm located at 3333 CR 700E, Fisher.

Mr. Hall stated that he has not received any new information although the Petitioner is present at tonight's hearing therefore perhaps he can give the Board an update.

Mr. Mark Thompson, who resides at 564B CR 2400N, Dewey, IL stated that currently he is on hold. He said that he is working with the Champaign County Rifle Association in preparing plans for the rifle shooting range. He said that at the last meeting Mr. Scott Rodgers, East Bend Township Road Commissioner indicated that he was concerned with the access to the pond and pedestrians walking on the road. He said that he and Mr. Rodgers are discussing alternatives such as driving the kids over to the pond. He said that the number of opportunities that would present themselves for the kids to visit the pond would be so limited and if the case is hedged on this issue then the kids would probably be driven to the pond. He requested that Case 461-S-04 be continued.

Mr. Irle moved, seconded by Mr. Steeves to continue Case 461-S-04: Mark Thompson to the August 11, 2005, Zoning Board of Appeals. The motion carried by voice vote.

7. New Public Hearings

Case 493-S-05: Petitioner: Green Island, Incorporated and William Bagby, agent and a major shareholder; and Dr. Ronald Marusarz (a major shareholder); and Rev. Dadaji Madhuidyananada (a major shareholder). Request to authorize the establishment and use of a Private Club as a Special Use in the CR, Conservation Recreation Zoning District. Location: Lot 3 of the Green Island Incorporated Subdivision which is known as a vacant lot on the east side of High Cross

Road with street address of approximately 2312 High Cross Road, Urbana.

Mr. Hall stated that on August 09, 2004, Zoning Use Application (ZUPA) 152-00-03 was submitted by Bill Bagby for a proposed "campground kitchen" to be located on Lot 3 of Green Island Subdivision. The campground kitchen was not permissible on a residential lot and so the Zoning Officer and Associate Planner subsequently met with Mr. Bagby on a number of occasions to discuss the proposed use of the subject property and the Zoning Ordinance requirements. Mr. Bagby eventually applied for a Special Use Permit for a Private Club. He said that the club would principally be used by the shareholders in Green Island, Incorporated (the owner of the property) during weekend camping trips and meetings at the property. He said that when the Preliminary Memorandum was mailed a site plan had not been submitted.

Ms. Griest informed the audience that this is an Administrative Hearing as such the County allows anyone the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of hands for those who would like to cross examine and each person will be called upon. She requested that anyone called to cross examine go to the cross examination microphone to ask any questions. She said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. She noted that no new testimony is to be given during the cross examination.

Mr. Bill Bagby, who resides at 2314 N. High Cross Rd, Urbana, Il stated that after speaking with staff he was able to come up with a plan for the property. He said that an easement agreement is in place with Green Island, Incorporated for access but he is aware that a variance will be required for the proposed ten foot driveway. He said that at Highcross Road there is a 26 foot wide rock drive that comes in over his property and then it changes to a 14 foot rock drive that goes in front of the Club Manager's residence. He said that the drive continues to the octagon building, campground kitchen, which would be the lodge. He said that there is approximately 30 acres to maintain therefore a grounds keeper residence is proposed. He said that the activities are involved around teaching yoga classes, for free, and also nature trails and tours. He said that there are two other proposed structures which consist of an equipment storage shed and a greenhouse.

Ms. Griest asked if the Board has any questions for Mr. Bagby and there were none.

Ms. Griest asked if staff had any questions for Mr. Bagby.

Mr. Hall asked Mr. Bagby if he had a chance to review the Summary of Evidence and the description about how many people may be using the facility on a typical weekend and how many people might be present during special events and how often will those events occur.

Mr. Bagby stated that he has had a chance to review the Summary of Evidence. He said that 70 people per event appears adequate but it would probably be better to consider 100 people per event so that the case does not require revisiting. He said that in reality it may only be 20 people that actually visit the site but it is unknown. He said that the Summary of Evidence indicates that on a typical weekend attendance is no more than 15 visitors that will be camping and hiking on the property although it is probably more like two or three visitors. He said that the yoga class is part

of a pre-registration event which will take place on Lot 4 and explained that most activities will take place on Lot 3.

Ms. Griest asked if members of the audience had any questions for Mr. Bagby.

Mr. John Wright, who resides at 3202 Bruce Acres Drive, Urbana asked Mr. Bagby what type of sewage facilities would be on the site.

Mr. Bagby stated that city sewer is available but they do not feel that this is an environmentally sound thing to do. He said that he is a licensed private sewage installation contractor and has worked with the Illinois Department of Health regarding the addition of a sand filter to the aerobic system.

Mr. Wright asked who sets the standards for such a system once it is installed.

Mr. Bagby stated that the Illinois Department of Health would be responsible for all inspections.

Mr. Wright asked if there would be any odor to this system.

Mr. Bagby stated that there would be no odor.

Rev. Dadaji Maduvidyananada, a co-petitioner who resides at 2308 N. Highcross Road, Urbana stated that he was available to answer any questions that the Board may have regarding the proposal.

Ms. Griest asked if the Board had any questions for Rev. Maduvidyananada and there were none.

Ms. Griest asked if staff had any questions for Rev. Maduvidyananada and there were none.

Ms. Griest asked if members of the audience had any questions for Rev. Maduvidyananada.

Mr. Wright asked Rev. Maduvidyananada if he was an owner and would he be supervising the yoga classes.

Rev. Maduvidyananada stated that he represents the corporation which owns the lots and Ananda Marga. He said that he will work at the facility as a teacher. He noted that he is a monk and owns no personal property but he does live in the home which is located on Lot 4.

Ms. Diane Gordon, who resides at 3212 Bruce Acres Drive, Urbana stated that she lives at the end of the cul-de-sac of Bruce Acres Drive and is the closest resident to Mr. Bagby's property. She said that she has lived at her property for many years and has raised her family there. She said that she intends to live at her property until her passing and is very concerned with Mr. Bagby's proposals. She said that when Mr. Bagby moved into his property as an environmentalist he spent many hours moving dirt around making a berm along the property line. She said that he has not maintained this berm and it is very ugly due to the weeds and tall grasses which are allowed to grow. She said that she has contacted Mr. Bagby about the situation and he was uncooperative

about maintaining it. She said that the berm is so deep that when it rains the water rushes down the berm and accumulates around her house and stands. She said that she is concerned with the West Nile Virus and how this water collects and has insects and mosquitos. She said that she is limited to a wheelchair and the patio that she used to enjoy is now off limits due to the standing water. She said that Mr. Bagby didn't consider the neighbors in building this berm and has not taken any responsibility for the weeds, standing water or unattractiveness of the property. She said that there are moles and rodents existing on the property now that were never there before Mr. Bagby purchased this property.

Ms. Griest requested that Ms. Gordon keep her comments related to issues which specifically relate to zoning. She said that the moles and rodents are not a factor of zoning and the drainage issue, although the Board does understand her dilemma, is covered under the Illinois Drainage Law and she could seek civil action to resolve that issue.

Ms. Gordon stated that she is concerned as to how many people will really be on the property and how much traffic will be generated by his proposals. She said that she and her neighbors would like to keep their quiet neighborhood.

Ms. Griest asked if the Board had any questions for Ms. Gordon and there were none.

Ms. Griest asked if staff had any questions for Ms. Gordon and there were none.

Ms. Griest asked if the Petitioners had any questions for Ms. Gordon and noted that the questions should only be related to zoning.

Mr. Bagby stated that he is sorry that Ms. Gordon feels the way that she does. He said that he does not own the property and he did mow the berm for free.

Ms. Gordon stated that she has a letter from Mr. Bagby regarding the mowing of the berm.

Ms. Griest asked if there were any other individual present which had questions for Ms. Gordon and there were none.

Mr. Bluhm moved, seconded by Mr. Goldenstein to continue the June 30, 2005, meeting to 10:30 p.m. The motion carried by voice vote.

Mr. John Wright stated he represents several people who live in the Bruce Acres Subdivision. He said that his first issue is with the plans for the sewage on the subject property. He said that when Mr. Bagby first moved into his home the neighborhood began smelling an odor which was much like septic odors. He said that he and his neighbors had their septic systems serviced to assure that the odor was not coming from their systems. He said that the property directly west of the hydroponic facility also had their septic system serviced but he is not aware if this was due to the apparent odor. He said that the odor is still present in the air and he does not know where the specific odor is coming from but he believes that it is coming from the subject property. He said that he has found inconsistencies in Mr. Bagby's statements to the neighbors. He said that his second issue is the future plans for the site. He said that they are concerned that what is considered as rural residential property will be turned into a club with high attendance which will

create a noise issue. He said that he is concerned with the insect infestation and the large mosquito population. He said that he has been mowing the grass that Ms. Gordon has referred to with the implied permission from Mr. Bagby. He requested that the Board not approve the Special Use Permit request and that they research the items which have been brought forth during this hearing.

Ms. Griest asked if the Board had any questions for Mr. Wright.

Mr. Irle asked Mr. Wright if there were approximately eight homes in the Bruce Acres Subdivision.

Mr. Wright stated that eight homes is accurate. He said that his home is on the northeast corner of Bruce Acres and Highcross Road.

Mr. Irle asked Mr. Wright if he lives next to this berm and if there is a ponding and drainage issue.

Mr. Wright stated that his property is probably the least affected property by the berm. He said that Mr. Bagby has testified that he does not own the property but he has been the main contact person for the property and if there is a different party which should be contacted then the neighbors should be notified of this party.

Mr. Irle asked if the drainage issue is a problem of the runoff of the berm or from obstruction of a drainage way.

Mr. Wright stated that there is a definite problem with the ponding in his neighbors yards.

Mr. Schroeder asked Mr. Wright if he knew the purpose of the berm.

Mr. Wright stated that he is not aware of the purpose of the berm.

Ms. Griest asked if the Board had any questions for Mr. Wright and there were none.

Ms. Griest asked if staff had any questions for Mr. Wright and there were none.

Ms. Griest asked the Petitioners if they had any questions for Mr. Wright and there were none.

Ms. Griest asked the audience if they had any questions for Mr. Wright and there were none.

Mr. Schroeder asked Mr. Bagby where the dirt for the berm came from.

Mr. Bagby stated that the dirt for the berm came from the lake and he did conduct the crews for construction of the lake which is located on Lot 3 and 4. He said that the lake is one acre in size and is very deep.

Mr. Bluhm asked Mr. Bagby if the lake was at the lowest part of the property.

Mr. Bagby stated that this is correct.

Mr. Goldenstein asked Mr. Bagby if he owned the property when the berm was constructed.

Mr. Bagby stated that he did not own the property when the berm was built. He said that for about one week he did own the entire property but before he agreed to buy the property he gained permission from the zoning office to subdivide the property through the minor subdivision process.

Mr. Irle asked Mr. Bagby if there was a residence south of the lake.

Mr. Bagby stated that there is a residence south of the lake which is occupied by Rev. Dadaji Maduuidyananda.

Mr. Irle asked Mr. Bagby if he had any ownership in Lot 4.

Mr. Bagby stated that he does not have any ownership in Lot 4.

Mr. Irle asked Mr. Bagby if the odor is coming from his property.

Mr. Bagby stated that it has everything to do with his property but has nothing to do with septic. He said that the odor is from a composting operation as part of his organic, hydroponic farm.

Mr. Irle asked Mr. Bagby if the club manager and grounds keeper would live in two separate residences on the site.

Mr. Bagby stated that the club manager and the grounds keeper would eventually live on the site. He said that he is renting the residence which will be used for the club manager but he does have a building permit for a new home to be constructed on his property which is Lot 2.

Ms. Griest stated that the diagram does not indicate parking for the visitors.

Mr. Hall stated that the review of the site plan has not gotten a complete review to date. He said that for use like this the Ordinance does not require paving but the Board can establish conditions which they find appropriate. He said that the Zoning Ordinance still says that there has to be a certain number of parking spaces but since this is the first time that he has seen this plan he is not aware of the number of parking spaces that will be required.

Ms. Griest asked about the camping and if it is for non-motorized campers.

Mr. Bagby stated that since the property is so beautiful the owners of Green Island Inc., wanted to be able to go to the site and camp. He said that one of the major owners has a recreational vehicle and would like to be able to park his camper on the site so that he can enjoy the property. He said that motorized recreational vehicles and tents would be the expectation.

Ms. Griest asked if the hiking would be limited to Lot 3.

Mr. Bagby stated that the entire area which is zoning CR-Conservation Recreation would be available for hiking. He said that this would mostly entail Lot 3 but some of Lot 2 along the creek.

Mr. Hall stated that using Lot 2, even to a limited extent, maybe possible but he will need to do further investigation. He asked Mr. Bagby if the groups of 100 would be staying overnight.

Mr. Bagby stated that they do not have immediate plans to have groups of 100 people, only proposed for future. He said that if they did have such a group then they would have to accommodate them with lodging.

Mr. Bluhm asked Mr. Hall about the easement and the need for a variance for Lot 3.

Mr. Hall stated that a variance would be required for Lot 3 for access. He said that the Zoning Officer and the Zoning Administrator visited the site and confirmed that the lake had a safety ledge and they determined that it did encroach into the setbacks but they did not require a variance. He said the way that the lake was constructed and all that was going on at that time staff did not have an accurate picture of what actually was being proposed. He said that the lake shows up on one plan and not on another and it is hard to get an accurate picture of what is being proposed.

Mr. Goldenstein stated that Item #15 of the preliminary draft indicates that exterior night lighting is not indicated on the site plan. He said that there is no mention of noise or hours of operation. He asked what rights does the owners have if they are granted the use of the property for a private club.

Mr. Hall stated that the Zoning Ordinance establishes the 30 day minimum membership requirement and the special use approval will define the allowed uses. He said that the Board could condition the private club on the ownership by Green Island, Inc.

Mr. Irle moved, seconded by Mr. Miller to continue the June 30, 2005, meeting to 10:40 p.m. The motion carried by voice vote.

Mr. Bluhm moved, seconded by Mr. Irle to suspend the 100 day rule and continue Case 493-S-05: Green Island, Inc. and William Bagby, agent and a major shareholder; and Dr. Ronald Marusarz (a major shareholder); and Rev. Dadaji Maduuidyananada (a major shareholder) to the October 27, 2005, meeting. The motion carried by voice vote.

8. Staff Report

Mr. Hall announced that Mr. and Mrs. Roseman are the proud parents of a daughter, Ashlee Janae Roseman.

9. Other Business

- A. Amendment of ZBA By-Laws Article 6-Procedure regarding cross examination in zoning cases.

Mr. Hall distributed a memorandum for the Board's review. He said that the Board may consider this amendment at their next meeting.

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

Mr. Don Wauthier, Representative of the Village of Mahomet requested that Case 497-AM-05: Steven and Shirley Willard and Helen Willard and Case 498-S-05: rock the shed, inc. and Steve Willard be continued from the next ZBA meeting so that the Village of Mahomet can have an opportunity to submit comments.

11. Adjournment

The meeting adjourned at 10:43 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

