

AS APPROVED MAY 17, 2007

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3 **MINUTES OF REGULAR MEETING**

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5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 1776 E. Washington Street

7 Urbana, IL 61801

9 **DATE:** September 28, 2006

**PLACE:** 1776 East Washington Street  
Meeting Room 1

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

Urbana, IL 61802

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13 **MEMBERS PRESENT:** Doug Bluhm, Debra Griest, Richard Steeves, Melvin Schroeder, Roger  
14 Miller

16 **MEMBERS ABSENT :** Dennis Goldenstein, Joseph Irle

18 **STAFF PRESENT :** John Hall, J.R. Knight, Leroy Holliday

20 **OTHERS PRESENT :** Michael Tague, Ray Hughes, Julie Hughes, Jim Hires, Ted Rund, Nathan  
21 Montgomery, Lawrence Hatch, Robert Link, Bobbie Johnson, Henry Lipps,  
22 Traci Lipps, Jenny Parks, James Lowry

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25 **1. Call to Order**

27 The meeting was called to order at 7:09 p.m.

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

31 The roll was called and a quorum declared present.

33 **3. Correspondence**

35 None

37 **4. Approval of Minutes (July 27, 2006)**

39 Mr. Steeves stated that Page 16, Line 19 should be revised to indicate the following: **Mr. Schroeder**  
40 **moved, seconded by Mr. Irle to recess the July 27, 2006, meeting for a five minute break.** He said that  
41 the draft minutes indicate that he seconded the motion, but this would be impossible since he was absent  
42 from the meeting.

44 **Mr. Steeves moved, seconded by Mr. Bluhm to approve the July 27, 2006, minutes as amended. The**  
45 **motion carried by voice vote.**

47 **Mr. Bluhm moved, seconded by Mr. Steeves to rearrange the agenda and call Case 548-S-06 prior to**  
48 **Case 535-S-06 and Case 506-AM-06. The motion carried by voice vote.**

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**5. Continued Public Hearing**

**Case 535-S-06 Petitioner: Traci Lipps Request to authorize the construction and use of a pond that is five acres in area in the AG-1, Agriculture Zoning District. Location: A 37-acre tract in the Southwest Quarter of the Northeast Quarter of Section 36 of Somer Township and commonly known as the field on the North side of Oaks Road approximately one-half mile west of Cottonwood Road.**

Ms. Griest informed the audience that this is an Administrative Case and 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. Hall distributed a Supplemental Memorandum dated September 28, 2006, to the Board for review. He said that the distributed Supplemental Memorandum has two letters attached from Mr. James Cottrell, attorney for the Stanton Special Drainage District regarding Pages 260-264 from the Drainage Record Book 4 of the Champaign County Circuit Clerk. He said that the Supplemental Memorandum dated September 22, 2006, reviews the visit to the Champaign County Circuit Clerk’s office by Mr. Lawrence Hatch, Ms. Jenny Park, petitioner’s attorney, and himself. He said that not all records were available on September 20, 2006, because the district file had been checked out by Judge Ford. He said that the information that was reviewed on September 20, 2006, was referred to as “the old” information. He said that the meaning of the following phrase was not clear and there was disagreement about its meaning among the parties viewing the records on that day: “...;and also various tile and open drains draining the several tracts of land in said proposed Drainage District, and having for their outlets the said main open ditch above described.”

Mr. Hall stated that Mr. Cottrell commented on this phrase in his September 22, 2006, letter as follows: “Paragraph 4 of the report of the temporary Drainage District Commissioners describes the system of drainage that existed in September of 1908, the date of the report. The phrase “...various tile and open drains draining the several tracts of land...” refers to the tile drains that were already in place in 1908. Mr. Hall continued to read Mr. Cottrell’s comments included in the September 28, 2006, Supplemental Memorandum. Mr. Hall said that the large tile which runs through the subject property is not indicated on the original drainage map and is not indicated on the revised drainage map in 1909 nor Hubert Goodell’s map dated August 1940 (showing the entire district including district tile similar to the 1908 and 1909 maps). He said that Mr. Cottrell suggested in his letter dated September 27, 2006, that Mr. Hatch will need to find a court order, more specifically indicating that the tile in the area that he is concerned with is District tile. He said that that Mr. Cottrell’s comments from his September 22, 2006 and September 27, 2006, letters should be added to the Summary of Evidence at Item # 12.D.(10).

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

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

1  
2 Ms. Griest asked the audience if they had any questions for Mr. Hall.  
3  
4 Mr. Hatch, who resides at 101 West Windsor Road, Urbana and is the owner of 37 acres to the southwest of  
5 the subject property asked Mr. Hall if they were in agreement and disagreement at the courthouse.  
6  
7 Mr. Hall stated yes.  
8  
9 Mr. Hatch asked Mr. Hall if he remembered reading the petition to organize the drainage district in 1908.  
10  
11 Mr. Hall stated yes.  
12  
13 Mr. Hatch asked Mr. Hall if he was able to locate an order organizing the drainage district.  
14  
15 Mr. Hall stated no.  
16  
17 Mr. Hatch stated that certain documents regarding the drainage district were not available but it appeared  
18 that the drainage district was organized in 1908.  
19  
20 Mr. Hall stated that Mr. Hatch was correct.  
21  
22 Mr. Hatch asked Mr. Hall if he noticed a special assessment for work completed in the drainage district.  
23  
24 Mr. Hall stated yes.  
25  
26 Mr. Hatch asked Mr. Hall if he agreed that the subject property located in Section 36 was included in the  
27 original special assessment as part of the district.  
28  
29 Mr. Hall stated that he does not remember seeing this particular item but the land in question shows up on  
30 every map that he has seen, starting with the 1908 map.  
31  
32 Mr. Hatch asked Mr. Hall if the 1908 map included the land in question within the district.  
33  
34 Mr. Hall stated yes.  
35  
36 Mr. Hatch asked Mr. Hall if they reviewed the Map of Proposed Cleanout of the main Open Ditch prepared  
37 by Hubert Goodell dated August 1940. He said that the map was only of the Open Ditch which is east of the  
38 subject property therefore it is not relevant.  
39  
40 Mr. Hall stated yes the Map of Proposed Cleanout of the main Open Ditch was reviewed. He said that the  
41 map does have some relevance because it is a map of the drainage district showing a 30-inch and 24-inch  
42 tile but did not show any new tiles near the subject property.  
43  
44 Mr. Schroeder stated that he owns a lot of land and he pays taxes to the drainage district for cleaning and

1 maintenance of the district tile that is located on his land. He asked if Mr. Hatch is paying taxes on the tile  
2 which is located on the subject property because if he is not then the tile is a private tile and not a drainage  
3 district tile.  
4  
5 Ms. Griest asked Mr. Schroeder if he pays taxes to a drainage district specific to a tile that is located on his  
6 property as opposed to the general tax assessment that everyone in the district pays.  
7  
8 Mr. Schroeder stated yes. He said that there is a special assessment that is indicated on the taxes for repair  
9 and maintenance.  
10  
11 Mr. Hall asked Mr. Schroeder if the tile is the outlet or is it an open ditch.  
12  
13 Mr. Schroeder stated that it is not an open ditch.  
14  
15 Mr. Hall stated that if it is not an open ditch then it is an entirely different situation than in this instance.  
16  
17 Mr. Hatch stated that the assessment showed in 1908, indicating that his particular 80 acres was included in  
18 the special assessment.  
19  
20 Mr. Hall stated that the subject property, as well as Mr. Hatch's property, has always shown up on maps for  
21 the drainage district.  
22  
23 Mr. Hatch asked Mr. Hall about the provisions of the funds provided by the Stanton Drainage District to  
24 repair and replacement of a tile which is located west of Mr. Christians' farm, runs through his land and  
25 travels to the South Forty Subdivision. He said that if this tile is not part of the drainage district why would  
26 the Stanton Drainage District provided funding for its repair.  
27  
28 Mr. Hall stated that he does not know if a drainage district participating in repairs to a tile makes that tile a  
29 drainage district tile.  
30  
31 Ms. Jenny Park, petitioner's attorney, stated that she has no comments to add but would like the Board to  
32 reach a final determination at tonight's hearing.  
33  
34 Ms. Griest stated that the Ordinance requires that the Board take action in no less than two meetings if she is  
35 making a specific request for a vote. She asked Ms. Park if she is requesting such a vote.  
36  
37 Ms. Park stated yes.  
38  
39 Ms. Griest asked the Board if they had any questions for Ms. Park and there were none.  
40  
41 Ms. Griest asked if staff had any questions for Ms. Park and there were none.  
42  
43 Ms. Griest asked the audience if anyone had any questions for Ms. Park and there were none.  
44

9/28/06

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ZBA

1 Ms. Bobbie Johnson, who resides at 1755 CR 1850N, Urbana asked Mr. Hall if the court records which were  
2 checked out by Judge Ford could be requested for review.

3  
4 Mr. Hall stated that if the Board members require access to those records then they can request access.  
5

6 Ms. Griest asked the Board if they had any questions for Ms. Johnson and there were none.  
7

8 Ms. Griest asked if staff had any questions for Ms. Johnson and there were none.  
9

10 Ms. Griest asked the petitioner if there were any questions for Ms. Johnson and there were none at this time.  
11

12 Ms. Griest asked the audience if anyone had any questions for Ms. Johnson.  
13

14 Mr. Hatch asked Ms. Johnson if she was a landowner near the subject property.  
15

16 Ms. Johnson stated yes.  
17

18 Mr. Hatch asked Ms. Johnson if she would like to review the documents which were unavailable on  
19 September 20, 2006, for review.  
20

21 Ms. Johnson stated that it would be a good idea to review those records.  
22

23 Ms. Griest asked Ms. Johnson what is the value of knowing whether the tile is a district tile or not. She said  
24 that the drainage district representative has testified that they do not believe that it is a drainage district tile.  
25 She said that previous testimony has been received from the drainage district commissioners and the  
26 petitioner that they are required by law to improve the tile to the district's standards.  
27

28 Ms. Johnson stated that she would like to know that everything is going to be covered regarding the tile  
29 rather than end up with other drainage issues that occur in the area.  
30

31 Ms. Griest asked Mr. Hall if there was legal remedy that is outside this Board's control if there is a tile  
32 which is a district tile that is not maintained at a district level or is disrupted by a private owner.  
33

34 Mr. Hall stated that there is a legal remedy. He said that his understanding is that Ms. Johnson would like to  
35 be assured that there will not be a need for a legal remedy and that everything will be done properly. He  
36 said that he does not know that clarifying the status of the tile in regard to the drainage district is relevant to  
37 whether or not the work is done properly. He said that he does understand Ms. Johnson's concern in that  
38 other improvements which should have been done properly in the past apparently were not done properly.  
39

40 Mr. Steeves asked if the Board is able to make a condition that everything is done under the direction of the  
41 drainage district.  
42

43 Mr. Hall stated no.  
44

1 Mr. Hatch referred to Mr. Cottrell's letter dated September 22, 2006, indicating that the District is a District  
2 by User. He asked Ms. Johnson if she had ever heard of the term, "District by User."

3  
4 Ms. Griest informed Mr. Hatch that Ms. Johnson did not testify to the content of Mr. Cottrell's letter  
5 therefore it is inappropriate to cross examine her about his statements. She reminded Mr. Hatch that he must  
6 limit his cross examination to what the witness presented in testimony.

7  
8 Mr. Lipps, petitioner, asked Ms. Johnson if it would put her mind at ease if she knew that he has hired an  
9 engineering firm which specializes in drainage and tile work. He said that he will hire a professional tiling  
10 company that specializes in this type of work and uses the best technology that is available to date.

11  
12 Ms. Johnson stated that she is not against the proposal but does want the work completed correctly.

13  
14 Mr. Hatch stated that he would like to address the work, which was provided funding by the Stanton Special  
15 Drainage District and the surrounding landowners, on the tile which runs from Mr. Christian's farm through  
16 his 80 acres and on to the South Forty Subdivision where it connects to the subject property. He said that  
17 the South Forty is upstream to the subject property. He said that each of the upstream landowners in the  
18 South Forty contributed along with the Stanton Special Drainage District for a new tile from the south side  
19 of Oaks Road to north through the South Forty and east to Mr. Lipps property.

20  
21 Ms. Griest informed Mr. Hatch that his testimony has already been entered as evidence and it is not  
22 necessary to repeat it. She requested that Mr. Hatch only provide new testimony to the Board.

23  
24 Mr. Hatch stated that the *Illinois Drainage Code* must be followed when a tile is rerouted.

25  
26 Ms. Griest stated that if the tile was a drainage district tile it would be under the jurisdiction of the drainage  
27 district. She said that Page 8 of the August 31, 2006, Draft minutes indicates testimony by Mr. Hatch that  
28 he and other adjacent landowners paid the district towards a tile to be placed along his property and west of  
29 the subject property. Mr. Maddock, representative for drainage district, testified that the Stanton Special  
30 Drainage District also paid towards the tile. She said that Mr. Maddock also repeatedly stated that even  
31 though the Stanton Special Drainage District paid toward to the tile it is not a Stanton Special Drainage  
32 District tile. She said that testimony has been received indicating that even if it were a drainage district tile  
33 it would be rerouted under drainage district standards and the required law. She said that she does not mean  
34 to appear inconsiderate or rude but she does not understand what Mr. Hatch hopes to achieve by  
35 continuously covering the same point.

36  
37 Mr. Hatch stated that if the Stanton Drainage District provides funds and cooperates in the work on the tile  
38 then they must have some control over the tile.

39  
40 Mr. Hall stated that Mr. Cottrell states in his September 27, 2006, letter that in order for this to be a district  
41 tile a court order must be discovered making it a district tile. He noted that all of the records for Stanton  
42 Special Drainage District have been reviewed.

43  
44 Mr. Hatch stated that he believes that the tile was present when the drainage district was organized.

1  
2 Ms. Griest asked Mr. Hatch if he believes that the subject tile which is located on the property owned by Mr.  
3 Lipps was installed by the funds produced from the special assessment in 1908.  
4  
5 Mr. Hatch stated that it may have already been there and was part of the District by User which became part  
6 of the district. He said that Mr. Cottrell explains District by User in his letter dated September 22, 2006.  
7  
8 Ms. Griest stated that there is no proof that this occurred. She asked Mr. Hatch if he had any additional, new  
9 testimony to add to this case. She said that the Board has an appropriate body of evidence that shows that  
10 there are parties who are in disagreement on their position of an ownership of the tile. She said that the  
11 Board is permitted by law and capable of proceeding with final action with the understanding of the  
12 disagreement.  
13  
14 Ms. Griest asked the Board if they had any questions for Mr. Hatch and there were none.  
15  
16 Ms. Griest asked if staff had any questions for Mr. Hatch and there were none.  
17  
18 Ms. Griest asked the petitioner or their representative if they had any questions for Mr. Hatch and there were  
19 none.  
20  
21 Ms. Griest asked the audience if anyone had any questions for Mr. Hatch and there were none.  
22  
23 Mr. Robert Link, who resides at 101 West Windsor Place, Urbana stated he does not have an ownership  
24 interest in the subject property and is only making an observation of the hearing. He said that he cannot  
25 understand why a drainage district would pay a share of the installation or repair of a tile without having  
26 ownership of the tile.  
27  
28 Ms. Griest asked the Board if they had any questions for Mr. Link and there were none.  
29  
30 Ms. Griest asked if staff had any questions for Mr. Link.  
31  
32 Mr. Hall asked Mr. Link if he had experience in engineering.  
33  
34 Mr. Link stated that he is an engineering graduate, a registered architect and a landowner.  
35  
36 Ms. Griest asked the petitioner or their representative if they had any questions for Mr. Link.  
37  
38 Ms. Park asked Mr. Link if opposes the proposed pond.  
39  
40 Mr. Link stated that he has no objection to the proposed pond as long as it is constructed properly.  
41  
42 Ms. Griest asked the audience if anyone had any questions for Mr. Link and there were none.  
43  
44 Mr. Hatch asked Mr. Link if he has visited the subject property.

1  
2 Mr. Link stated yes.  
3  
4 Mr. Hatch asked Mr. Link if he witnessed the work which was completed west of the Lipp's tract.  
5  
6 Ms. Griest ruled Mr. Hatch out of bounds. She said that Mr. Link did not testify to any specific knowledge  
7 of development on other properties but did testify to his understanding of how a drainage district should  
8 operate and that it was his understanding that it would be unexpected for them to have participated in the  
9 development or improvement of a tile that is not included in their jurisdiction.  
10  
11 Mr. Hatch stated that Mr. Link is aware that the drainage district participated in the work for the tile.  
12  
13 Ms. Griest stated that it is well documented that the drainage district participated in the work for the tile and  
14 no one is disputing that fact although the Board has reviewed all of the relevant evidence that has been  
15 submitted.  
16  
17 Mr. Hatch moved to dismiss the hearing for this case.  
18  
19 Ms. Griest informed Mr. Hatch that he does not have the authority to request dismissal.  
20  
21 Ms. Griest asked the audience if there was anyone who has not signed the witness register and would like to  
22 present new testimony regarding this case and there was no one.  
23  
24 Ms. Griest closed the witness register.  
25  
26 Mr. Hall asked Mr. Hatch if the Board were to approve this case at tonight's hearing the petitioner could not  
27 begin construction until the engineering drawings are approved by the County's Consulting Engineer. He  
28 said that he does not know how far the petitioner is with their engineering drawings but reviews by the  
29 County's Consulting Engineer could take between one to two months. He said that assuming that it could be  
30 one and one-half months before any work could be authorized would that be enough time for anyone who  
31 wanted to further investigate the jurisdiction of the tile.  
32  
33 Mr. Hatch stated yes. He said that this should have been done three months ago. He said that they do not  
34 oppose the proposed pond but they would like to be assured that it is constructed properly.  
35  
36 Ms. Griest asked if the Board was to take action at tonight's hearing and at a later date discovers that the tile  
37 is a drainage district tile would that change the petitioner's responsibility in handling the tile.  
38  
39 Mr. Hall stated that the petitioner will have to make sure that they have all of the necessary approvals  
40 required by the drainage district before they disturb the tile.  
41  
42 Ms. Griest asked if it is generally the drainage district's responsibility to certify their ownership and if they  
43 had a concern to pursue it.  
44



1 Mr. Hall stated that if the drainage district wants to assert their ownership then it would be their  
2 responsibility to prove it.

3  
4 Ms. Griest asked if the drainage district would have any legal obligation to do such and would that affect the  
5 Board's proceedings.

6  
7 Mr. Hall stated that not unless someone appealed the Board's decision in court.

8  
9 Mr. Bluhm asked if the ownership of the tile has anything to do with the Board's decision. He said that if it  
10 is a drainage district tile then they must obtain the necessary approvals but if it is not a drainage district tile  
11 then the petitioner must follow the County's requirements.

12  
13 Mr. Hall stated that the approval of this Board would not have to be any different if it were or were not a  
14 drainage district tile.

15  
16 Ms. Griest asked if this were a drainage district tile would there were any additional restrictions on this  
17 approval that would not already be placed on this case.

18  
19 Mr. Hall stated no. He said that currently cases are being docketed for January, 2007. He said that there is a  
20 backlog of cases and in the 16 years that he has been with the department the County has invested more  
21 resources in attempting to discover the status of this tile than they have invested in any similar case. He said  
22 that a response has been received from the drainage district commissioner and from the drainage district  
23 attorney. He said that extreme evidence has been received indicating that this is not a drainage district tile.

24  
25 Mr. Hall stated that a new Item #9 should be added to the Documents of Record indicating the Supplemental  
26 Memorandum dated September 28, 2006. He said that the Supplemental Memorandum indicated that a new  
27 Item #12.D(10)(a)-(e) be added to the Summary of Evidence. He said that he does not believe that any new  
28 evidence has been presented to the Board at tonight's hearing which should be included in the Summary of  
29 Evidence.

30  
31 **Finding of Fact for Case 535-S-06:**

32  
33 From the documents of record and the testimony and exhibits received at the public hearing conducted on  
34 June 29, 2006 and August 31, 2006 and September 28, 2006, the Zoning Board of Appeals of Champaign  
35 County finds that:

- 36  
37 **1. The requested Special Use Permit is necessary for the public convenience at this**  
38 **location.**

39  
40 Mr. Steeves stated that the requested Special Use Permit is necessary for the public convenience at this  
41 location because the petitioner desires to install a lake on his property and in order to do such he must make  
42 changes to the tile so that he can use the property as he desires.

- 43  
44 **2. The requested Special Use Permit, subject to the special condition imposed**

herein, is so designed, located, and proposed to be operated so that it will not be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety and welfare.

Mr. Bluhm stated that the requested Special Use Permit, subject to the special condition imposed herein, is so designed, located and proposed to be operates 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 because the petitioner has an engineering firm preparing the drawings of the pond and the rerouting of the tile. He said that the petitioner must comply with the Champaign County Stormwater Management Policy.

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

Mr. Steeves stated that the requested Special Use Permit does conform to the applicable regulations and standards of the District in which it is located.

Mr. Hall stated that he realized that the Board did not approve Item #16 of the Summary of Evidence regarding the Board’s expectation regarding submittal and approval of the stormwater drainage plan.

Ms. Griest read Item #16 as follows:

**A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management Policy shall be submitted and approved as part of the Zoning Use Permit application and review and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate to ensure that the construction of the pond conforms to the requirements of the Stormwater Management Policy.**

**Mr. Bluhm moved, seconded by Mr. Steeves to approve the condition included as Item #16 of the Summary of Evidence. The motion carried by voice vote.**

**3b. The requested Special Use Permit, subject to the special condition herein, does preserve the essential character of the District in which it is located.**

Mr. Steeves stated that the requested Special Use Permit, subject to the special condition herein, does preserve the essential character of the District in which it is located because the tile in question is only being rerouted around a lake and the direction of the flow has not been changed from its current position. He said that the tile will be in the same or better condition than it is currently.

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

Mr. Bluhm stated that the requested Special Use Permit, subject to the special condition imposed herein, is in harmony with the general purpose and intent of the Ordinance because all of the zoning requirements are

1 to be met and the Stormwater Management Policy must be met. He said that if it is determined that the  
2 subject tile is a drainage district tile then all drainage district approvals must be obtained.

3  
4 **5. The requested Special Use is not an existing nonconforming use.**

5  
6 Mr. Steeves stated that the requested Special Use is not an existing nonconforming use.

7  
8 **Mr. Bluhm moved, seconded by Mr. Steeves to adopt the Summary of Evidence, Documents of Record  
9 and Finding of Fact as amended. The motion carried by voice vote.**

10  
11 **Mr. Steeves moved, seconded by Mr. Miller to close the public hearing for Case 535-S-06. The motion  
12 carried by voice vote.**

13  
14 Ms. Griest informed the Petitioner that the Board is short two members and it is at his discretion whether the  
15 Board moves to a final determination with the present Board or request that the case be continued until all  
16 Board members are present.

17  
18 Mr. Lipps requested that the present Board proceed to the final determination.

19  
20 **Final Determination for Case 535-S-06:**

21  
22 **Mr. Bluhm moved, seconded by Mr. Schroeder that the Champaign County Zoning Board of Appeals  
23 finds that, based upon the application, testimony, and other evidence received in this case, that the  
24 requirements of Section 9.1.11B have been met, and pursuant to the authority granted in Section  
25 9.1.6B of the Champaign County Zoning Ordinance determines that the Special Use requested in Case  
26 535-S-06 is hereby granted with special conditions to the petitioner Henry and Traci Lipps, to  
27 authorize the construction and use of a pond that is five acres in area in the AG-1 Agriculture Zoning  
28 District subject to the following special condition:**

29  
30 **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater  
31 Management Policy shall be submitted and approved as part of the Zoning Use Permit  
32 application and review and all required certifications shall be submitted after construction  
33 prior to issuance of the Zoning Compliance Certificate to ensure that the construction of the  
34 pond conforms to the requirements of the Stormwater Management Policy.**

35  
36 The roll was called:

37  
38 **Bluhm-yes Goldenstein-absent Irle-absent**  
39 **Miller-yes Schroeder-yes Steeves-yes**  
40 **Griest-yes**

41  
42  
43 **Case 506-AM-06 Petitioner: Ted Rund Request to amend the Zoning Map to change the zoning  
44 district designation from B-3, Highway Business Zoning District to B-4, General Business Zoning**

1 **District. Location: Lots 15 and 16 in Stern’s Industrial Subdivision that are commonly known as the**  
2 **Salt and Light Building at 1512 W. Anthony Drive, Champaign.**

3  
4 Mr. Hall distributed a Supplemental Memorandum dated September 28, 2006, to the Board for review. He  
5 briefly reviewed the attachments to the Supplemental Memorandum and stated that these items have been  
6 added as Documents of Record. He noted that the addition of five parking spaces at the Northeast corner of  
7 the property meet all of the zoning requirements. He said that the revised site plan, in regard to parking, is  
8 no less conforming than the property was before therefore no variance is required in regard to parking.

9  
10 Ms. Griest asked the Board if they had any questions for Mr. Hall and there were none.

11  
12 Mr. Ted Rund, owner of the subject property, stated that Salt and Light is trying to be a good neighbor and it  
13 appears that most of the neighbors agree.

14  
15 Ms. Griest noted that this is not an Administrative Case therefore no cross examination will be allowed.

16  
17 Mr. Michael Tague, Attorney for the property owner Mr. Rund, stated he would like to concentrate on the  
18 compatibility with the neighborhood and the abatement of complaints about dumping and the unacceptable  
19 peak traffic times. He distributed a photograph of a new sign which was recently placed on the property  
20 regarding dumping. He said that the direction received from the Board members was clear in that Salt and  
21 Light needed to be aggressive about the dumping situation. He said that video cameras have been installed,  
22 the drop boxes have been renovated and the west side has been cleaned up and screened. He said that there  
23 have been indications that there was a vehicular incident where a child drove into the side of a bus. He  
24 distributed the Illinois Traffic Crash Report which indicates the circumstances of the incident. He said that  
25 the report shows that this was an incident which was not attributable to the operations of Salt and Light. He  
26 said that the Planning and Zoning staff has put in a lot of resources and effort and has been very proactive in  
27 telling the Petitioner what needs to be done to achieve various things under the County’s guidelines. He  
28 said that the Petitioner has taken the steps necessary so that the outdoor storage areas are screened and  
29 complies with the County’s requirements. He said that Salt and Light would like to attempt not utilizing this  
30 area for outdoor storage but if there are items present because of the unique nature of this institution the  
31 proper screening has been provided. He said that the Petitioner was able to deal with the drop off box  
32 concerns and was also able to add three more parking spaces for the good of the cause.

33  
34 Mr. Tague stated that he and Mr. Rund agrees with staff’s observation that there has recently been a trend to  
35 change B-3 zoned areas to B-4. He said that staff has also shown in Item #10 of the Revised Draft Summary  
36 of Evidence dated September 28, 2006, that the Future Land Use Map of the City of Champaign  
37 Comprehensive Plan indicates that the subject property is labeled as Commercial/Industrial. He said that if  
38 and when the subject property comes in to the City of Champaign this particular use is a use that is  
39 permitted by-right as an eleemosynary entity. He said that in regard to Item #22 of the Revised Draft  
40 Summary of Evidence regarding the third commercial land use goal, the Petitioner has submitted a petition  
41 signed by neighbors of the subject property which indicate support of Salt and Light in its current location.  
42 He said that although the entire neighborhood was not canvassed there were 92 people who signed the  
43 petition during a short amount of time. He said that there have been concerns indicating the Mass Transit  
44 District buses have been impeded although Thomas Costello, MTD Assistant Managing Director, has

1 indicated that buses in rural neighborhoods have general problems due to the size of the buses. He said that  
 2 the closest neighbor, located directly adjacent to the subject property, has submitted their support for Salt  
 3 and Light. He said that the similarity between the church which is located across the road with a parking lot  
 4 and this particular charitable use. He said that there was testimony indicating that a big event caused more  
 5 participants than normal although this was a joint effort between the neighboring church and Salt and Light.  
 6 He said that the compatibility of having this particular mechanism for religious good deeds through this  
 7 church is another nexus between the compatibility of having this entity located at this location. He said that  
 8 there is a need for Salt and Light in the community and the neighborhood. He said that the MTD does not  
 9 have any traffic issues which are unique to this location versus any place else. He said that there have been  
 10 no complaints received from the business to the east of the subject property. He said that if the requested  
 11 use was compared to what could actually be allowed, by-right, under B-3 zoning no rational neighbor would  
 12 support a fast food restaurant or tavern/bar located next to their residence. He said that the evidence would  
 13 show that a charity providing the necessary goodwill and service to the needy people in the community is  
 14 more compatible than other uses that could be allowed by-right on the subject property under B-3 zoning.  
 15 He said that Mr. Nathan Montgomery will testify concerning implementation details on how the program  
 16 has worked with all of the improvements.

17

18 Ms. Griest asked the Board if there were any questions for Mr. Tague and there were none.

19

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

21

22 Mr. Nathan Montgomery, Director of Salt and Light Ministry stated that a petition was taken throughout the  
 23 neighborhood to gain support. He said that Salt and Light Ministry is aware that many of the residents of  
 24 the neighborhood are clients which receive services. He said that there are approximately four or five streets  
 25 which were covered and 92 signatures were received in support of the facility. He said that there are two  
 26 neighbors that have voiced their complaints and disagreement to the request from Salt and Light for the  
 27 rezoning but most generally the neighborhood supports Salt and Light. He said that security cameras have  
 28 been installed at a great cost to alleviate some of the concerns and meet the requirements of the County. He  
 29 said that they have retrofitted the bins to cut down on the possibility of people entering the facility and  
 30 rummaging through the items which have been left. He said that the door has been changed and padlocked  
 31 so that those items are not accessible. He said that 7 days per week someone is present at the facility to  
 32 empty the bins and to make sure that no items are left outside for an extended amount of time. He said that a  
 33 sign is located on the bin indicating that the bin is for clothing only and requests that people do not leave  
 34 anything outside the collection bin. He said that it is posted that taking items from inside or around the bin  
 35 is illegal and that violators will be prosecuted. He said that the new sign is also present at the facility  
 36 indicating that no dumping is allowed and that cameras are on site. He said that no parking signs have been  
 37 placed on the fence which borders the alleyway between the subject property and Mr. Woolen's property.  
 38 He said the Mr. Woolen complained that people would park along the fence therefore blocking his access to  
 39 his garage from the alley therefore the signs are to prevent this from happening. He said that during the  
 40 giveaway days he is outside directing people where they should and should not park. He said that  
 41 photographs were submitted regarding the parking on August 9, 2006. He said that this was a rainy day and  
 42 regretfully he was unable to attend the distribution therefore he was not available to direct the traffic or to  
 43 indicate where people should and should not park. He said that unfortunately Mr. Woolen waits with his  
 44 camera and when the opportunity arises to snap a picture he will take it even if Salt and Light is already

1 trying to address the situation. He said that they are trying to be proactive and trying to address the issues  
2 but is doesn't seem to be sufficient. He said that very frequently Salt and Light has volunteer groups which  
3 pick up trash that may come from the facility.  
4

5 Mr. Montgomery stated that Salt and Light participated in a Family Resource Day which involved over one  
6 dozen area churches and over 500 families were provided with backpacks and school supplies. He said that  
7 on this day three people, including him, were outside directing traffic so that it was a non-issue.  
8

9 Ms. Griest asked the Board if they had any questions for Mr. Montgomery and there were none.  
10

11 Ms. Griest asked staff if there were any questions for Mr. Montgomery.  
12

13 Mr. Hall asked Mr. Montgomery the date of the Family Resource Day.  
14

15 Mr. Montgomery stated that the Family Resource Day was August 12, 2006. He said that the incident that  
16 took place between the MTD bus and the child did not involve Salt and Light. He said that the  
17 neighborhood child was out with his mother and while she was walking he was riding his bicycle. He said  
18 that the child was ahead of his mother while coming through the alley between Mr. Woolen's home and Salt  
19 and Light and upon not looking ahead he ran into the bus. He said that the actual incident had nothing to do  
20 with Salt and Light yet pictures of the incident were submitted for the Board's review.  
21

22 Mr. Hall asked Mr. Montgomery what type of assurance could be given to the Board that the same  
23 procedures regarding traffic, parking, distribution will carrying on if he moves on to a different organization.  
24

25 Mr. Montgomery stated that there is one other paid staff person, operation manager, which has been at the  
26 facility for over one year and an additional staff person will be hired in January. He said that these two  
27 people will assist him in placing these procedures in to a policy which must be followed to achieve a  
28 successful distribution event. He said that if he does move on the policy will be in place and subsequent  
29 employees will be aware of the procedures for each event.  
30

31 Mr. Steeves asked if Salt and Light is overseen by a Board of Directors.  
32

33 Mr. Montgomery stated yes. He said that there is a Board of Directors which varies from different churches  
34 in the community. He said that these people are very involved in charitable work and are aware of how  
35 issues are dealt with properly.  
36

37 Mr. Ray A. Hughes, who resides at 2205 Walters Drive, Champaign distributed photographs to the Board  
38 for review. He said that the letter from the MTD is a letter from someone who spoke to someone about  
39 something and it was his belief that this type of practice was not allowed during the public hearing process.  
40

41 Ms. Griest stated that this would be an "ex-parte" conversation that she had with Mr. Hughes as a result of  
42 very agitated phone call to her home. She said that this phone call upset her family therefore she called Mr.  
43 Hughes and requested that he refrain his "ex-parte" conversations with the Board.  
44

9/28/06

AS APPROVED MAY 17, 2007

ZBA

1 Mr. Hughes stated that he called and left a message for all of the ZBA members and staff requesting that an  
2 emergency meeting be called due to a child being hit by a bus next to Salt and Light. He said that the letter  
3 is from someone who is not the normal bus driver for the neighborhood therefore he is not fully aware of  
4 what is going on out there.

5  
6 Ms. Griest stated Mr. Costello is the Assistant Managing Director for the Mass Transit District therefore he  
7 is allowed to speak for the entire organization.

8  
9 Mr. Hughes stated that he does feel that this is fair. He reviewed the distributed photographs with the Board  
10 and discussed the situations, as noted in the pictures that occur during distribution days. He said that if the  
11 structure was to be built under today's standards and requirements it would not be allowed due to the lack of  
12 visibility. He said that he has important personal things to do in his life and he does not stand outside with  
13 his camera waiting to take pictures of the facility. He said that donations being left outside of the building  
14 are not unusual and he has contacted the County Sheriff's office and the City of Champaign Police  
15 Department. He said that both entities have informed him that they will actively pursue anyone who is  
16 caught dumping on the facility. He said that he personally requested someone to not leave a freezer at the  
17 facility and their response was that they received the freezer from the facility. He said that he asked this  
18 person if the freezer was in working order and no response was given. He said that the freezer was left at  
19 the facility and remained in the same place for several weeks therefore he again contacted the police  
20 department and was told that the freezer was removed within the hour. He said that the City of Champaign  
21 Police Department informed him that it was his responsibility to contact them about the freezer.

22  
23 Mr. Hughes read the third commercial land use goal. He said that he and Mr. Woolen have both protested  
24 the requested map amendment and have indicated that the use makes it hard for them to turn North on to  
25 Walters Drive from Anthony Drive. He said that he disagrees with Item #5.B. of the Revised Draft Finding  
26 of Fact. He said that it is his understanding that this statement is based on using Anthony Drive as the  
27 entrance and exit to the subject property. He said that this statement does not account that the facility is  
28 using Walters Drive, a residential street, for entrance and exit to the subject property. He said that there are  
29 450 homes in the neighborhood that use Campbell Drive and Walters Drive as their primary thoroughfare.  
30 He said that if 450 homes are multiplied by 10 it equals 4500 trips per day and if divided by 2 there are 2250  
31 trips per day. These roads are already congested and the addition of the traffic from Salt and Light will be  
32 way over the recommended traffic count to Walters Drive. He said that Item #6.B(d) indicates the hours of  
33 operation for Salt and Light although it should be noted that distribution also occurs on Mondays. He said  
34 that the Summary of Evidence indicates that no reduction of parking may take place although there has been  
35 a reduction. He said that Item #9.A(1) indicates that the B-3 Highway Business District is intended to  
36 provide areas for commercial establishments which primarily serve the needs of motorists and are intended  
37 for application only adjacent to major thoroughfares in the County. He said that Walters Drive is a  
38 residential street and is not a major thoroughfare. He said that Item #17 indicates that Policy 3.5 of the Land  
39 Use Goals and Policies states that the County Board will not encourage major new commercial  
40 developments except in those areas which can be adequately served by public mass transit. He said that this  
41 property conforms because it is within the MTD area but the distributed photographs document that this  
42 heavy of usage for a road that is already overused makes the property not conform because it creates a safety  
43 hazard. He said that after the child was hit by the bus there was another accident at the same area where  
44 someone hit the fence. He read Item #21 and stated that he does not feel that the second commercial land

1 use goal is achieved due to the overuse of the road. He read Item #22 and stated that the owner of the  
2 property has completed a lot of renovations and he has installed cameras but people still leave items and  
3 they go through the side door to access the bins. He read Item #27 and stated that the use is not compatible  
4 to the neighborhood because people arrive at the subject property at midnight to drop off items and  
5 rummage through items. He said that if someone opened up his neighbor's door and began rummaging  
6 through their stuff the police would do something about it. He said that he believes that it was not ethical  
7 for Mr. Montgomery to testify that most of the people that signed the petition in support of Salt and Light  
8 are clients of the facility. He said that if they are clients then they should not have signed the petition  
9 because they have accepted a gift from Salt and Light. He said that he tried to contact the State Ethics  
10 Committee but they have not had time to respond to his inquiry prior to this meeting. He said that it is a  
11 requirement that the Planning and Zoning Department send out notice of the request to all landowners  
12 within 250 feet of the subject property. He said that many of the landowners which are within 250 feet do  
13 not travel Walters Drive and are not aware of the activities that take place on a daily basis. He said that  
14 there are many other places that Salt and Light could locate this facility.

15  
16 Ms. Griest asked the Board if they had any questions for Mr. Hughes and there were none.

17  
18 Ms. Griest asked if staff had any questions for Mr. Hughes and there were none.

19  
20 Mr. Jim Hires, Executive Director of the Eastern Illinois Foodbank stated they annually provide 800 tons of  
21 food to Champaign County. He said that 800 tons of food annually would be equivalent to 11,000 people  
22 per month. He said that Salt and Light helped 23,000 individuals with almost 95 tons of food supplied  
23 through the Eastern Illinois Foodbank. He said that Salt and Light is one of the largest and most active food  
24 pantries within Champaign County. He said that if they were required to move, shut down it would disrupt  
25 the need in the area. He said that he would desire that the County allow Salt and Light to remain in  
26 operation at its present location.

27  
28 Ms. Griest asked the Board if they had any questions for Mr. Hire and there were none.

29  
30 Ms. Griest asked if staff had any questions for Mr. Hire and there were none.

31  
32 Mr. Montgomery stated he did testify that Salt and Light is open for distribution on Monday and Wednesday  
33 during the hours of 1 p.m. and 5 p.m. He said that his testimony is reflected in Item 22.B(4)(f) of the  
34 Revised Draft Summary of Evidence dated September 22, 2006. He said that the vast majority of traffic is  
35 on Wednesday from 1 p.m. to 3 p.m., therefore the traffic situation is not everyday all day long. He said that  
36 the six year old ran into the bus and he walked away with his mother. He said that a delivery person from  
37 Heartland Express hit the Salt and Light fence when he realized that he was at the wrong location. He said  
38 that Salt and Light will take responsibility for what they are responsible for but there is a fine line for what  
39 they have control over.

40  
41 Ms. Griest asked the Board and staff if there were any questions for Mr. Montgomery and there were none.

42  
43 Ms. Julie Hughes, who resides at 2205 Walters Drive, Champaign stated that when the child was hit by the  
44 bus the people from Salt and Light immediately came out and took the mother and child into their building.



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

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

Mr. Hall stated that Page 13 through 18 of the revised Draft Finding of Fact dated September 28, 2006, includes Mr. Montgomery's testimony.

Ms. Griest asked if Mr. Montgomery's new testimony, received at tonight's hearing, should be added to the Summary of Evidence. She said that Mr. Montgomery stated that seven days per week, Salt and Light has on-site collection of the drop off bins.

Mr. Hall stated that Mr. Montgomery's testimony could be added as a new Item #22.E. He said that Item #22.E would read as follows: At the September 28, 2006, ZBA meeting, Nathan Montgomery, Director of Salt and Light, testified that someone is available to clean out the drop-off bins on the subject property seven days a week.

**Mr. Bluhm moved, seconded by Mr. Steeves to extend the September 28, 2006, ZBA meeting to 10:15 p.m. The motion carried by voice vote.**

Mr. Hall stated that Item #6.C(4) should be revised to read as follows: Section 8 of the Zoning Ordinance provides that a nonconforming use which is nonconforming only because of failure to provide required off-street parking spaces shall have all the rights of a conforming use provided that no further reduction takes place. The proposed use appears to use the building in a similar manner as the previous use, and the Zoning Administrator determined that the addition of five spaces on the revised site plan received on September 26, 2006, at the northwest corner of the building makes up for any lost parking and the use is therefore, no less conforming. He said that the same text should be included under a new Item #22.F(2). He said that Item #22.F(1) should be revised to read as follows: The outdoor storage area is screened as required by Section 7.6 of the Zoning Ordinance with a Type D screen. Section 4.3.3 H.d. of the Zoning Ordinance specifies that a Type D screen is as follows: A landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.

Mr. Hall stated that the following items should be added to the Documents of Record: #17: Photographs submitted by Michael Tague at the September 28, 2006, ZBA meeting; #18: Illinois Traffic Crash Report submitted by Michael Tague at the September 28, 2006, ZBA meeting; #19: Drawing of adjacent properties submitted by Ray Hughes at the September 28, 2006, ZBA meeting; and #20: Photographs submitted by Ray Hughes at the September 28, 2006, ZBA meeting.

Ms. Griest read Item #22 of the Summary of Evidence regarding the third commercial land use goal.

Mr. Bluhm stated that based on the current land use the proposed map amendment ACHIEVES the third commercial land use goal.

**The consensus of the Board was that based on the current land use the proposed map amendment**

1 **ACHIEVES the third commercial land use goal.**

2  
3 Ms. Griest read Item #27 of the Summary of Evidence regarding the fourth general land use goal.

4  
5 Mr. Bluhm stated that overall the fourth general land use goal will BE ACHIEVED by the proposed map  
6 amendment based on conformance or achievement with the preceding policies and goals.

7  
8 **The consensus of the Board was that overall the fourth general land use goal will BE ACHIEVED by**  
9 **the proposed map amendment based on conformance or achievement with the preceding policies and**  
10 **goals.**

11  
12 Mr. Hughes disagreed.

13  
14 Ms. Griest informed Mr. Hughes that, at this point in the meeting, public participation is not allowed. She  
15 said that she is not qualified to assess the traffic counts because it is not her profession or specialty and the  
16 Board relies completely and has complete confidence in staff’s review and recommendations. She said that  
17 given the requirement of taking staff’s professional tabulation over her own, which is a lay tabulation, she  
18 will yield to their tabulation in every instance. She said that unless Mr. Hughes can prove that he is a  
19 professional in that field she will still yield to staff’s tabulation. She said that the minutes will note that Mr.  
20 Hughes submitted alternative information regarding the traffic issue based on his lay findings.

21  
22 Mr. Hall stated that Mr. Hughes is questioning the determination of Item #22. He said that the following  
23 text could be added: At the September 28, 2006, Mr. Ray Hughes recommended that the proposed map  
24 amendment DOES NOT ACHIEVE the third land use goal because the road is stretched to its limits.

25  
26 Mr. Hughes agreed with Mr. Hall’s recommendation of the added text.

27  
28 Mr. Hall stated that he does not agree in suggesting that a road which is 24 foot wide has the capacity of  
29 600ADT because a road which is 22 foot wide has a capacity of 400 ADT. He said that the capacity of the  
30 road which is 24 foot wide is too complicated and he strongly disagrees that it has a capacity of 600 ADT.

31  
32 **Mr. Bluhm moved, seconded by Mr. Miller to extend the September 28, 2006, ZBA meeting to 10:30**  
33 **p.m. The motion carried by voice vote.**

34  
35 **Mr. Steeves moved, seconded by Mr. Bluhm to adopt the Summary of Evidence, Documents of Record**  
36 **and Finding of Fact as amended. The motion carried by voice vote.**

37  
38 **Mr. Bluhm moved, seconded by Mr. Schroeder to close the public hearing for Case 506-AM-06. The**  
39 **motion carried by voice vote.**

40  
41 Ms. Griest informed the Petitioner that the Board is short two members and it is at his discretion whether the  
42 Board moves to a final determination with the present Board or request that the case be continued until all  
43 Board members are present.

44

1 Mr. Rund requested that the present Board continue to a final determination.

2

3 **Final Determination for Case 506-AM-06:**

4

5 **Mr. Miller moved, seconded by Mr. Schroeder that pursuant to the authority granted by Section 9.2**  
6 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**  
7 **determines that the map amendment requested in Case 506-AM-05 should be enacted by the County**  
8 **Board.**

9

10 The roll was called:

11

|    |                   |                           |                    |
|----|-------------------|---------------------------|--------------------|
| 12 | <b>Bluhm-yes</b>  | <b>Goldenstein-absent</b> | <b>Irle-absent</b> |
| 13 | <b>Miller-yes</b> | <b>Schroeder-yes</b>      | <b>Steeves-yes</b> |
| 14 | <b>Griest-yes</b> |                           |                    |

15

16 Mr. Hall stated that this case will be forwarded to the Environment and Land Use Committee at the  
17 November 13, 2006 meeting. He said that everyone who has attended this meeting will receive notice.

18

19 **6. New Public Hearings**

20

21 **Case 548-S-06 Petitioner: James Lowry d.b.a. Lowry Stables Request to authorize the use and**  
22 **expansion of an existing riding stable previously authorized as Case 185-S-99 as a Special Use Permit**  
23 **in the AG-1, Agriculture Zoning District. Location: Approximately 31.00 acres in the Southwest ¼ of**  
24 **the Southwest ¼ of Section 17 of Scott Township and commonly known as Lowry Stables located at**  
25 **1522 CR 100E in Seymour.**

26

27 Mr. Hall distributed a Supplemental Memorandum dated September 28, 2006, to the Board for review. He  
28 said that this is a case to expand a Riding Stable that was previously authorized as a special use in Case 185-  
29 S-99. He said that the Supplemental Memorandum dated September 28, 2006, includes a chart for the  
30 *Illinois Livestock Management Facilities Act (510 ILCS 77/et seq.)* and a Revised Summary of Evidence for  
31 Case 548-S-06. He said that in regard to the chart, none of the separations are at issue and the only  
32 requirement which appears to be relevant is that the stable be registered with the Illinois Department of  
33 Agriculture. He said that the stable, as proposed, meets or exceeds all of the standard conditions.

34

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

42

43 Mr. James Lowry, who resides at 1522 CR 100E, Seymour stated that they desire to construct an addition to  
44 the barn and add 10 stalls. He said that since they built the facility the demand for lessons has increased.

1 He said that the addition is a 38' x 50' pole barn. He said that the addition will not change any of the  
2 activities that take place on the property other than it will allow them to house 10 more horses.

3  
4 Ms. Griest asked the Board if they had any questions for Mr. Lowry.

5  
6 Mr. Bluhm asked Mr. Lowry if the additional stalls were to house his personal horses.

7  
8 Mr. Lowry stated that the horses used for lessons are his personal horses but the addition will also help  
9 house training horses. He said that currently they have three full-time lesson horses. He said that they have  
10 gone from approximately 15 lessons per week to 50 lessons per week therefore more horses are required for  
11 the additional lessons.

12  
13 Ms. Griest asked the Board if there were any further questions for Mr. Lowry and there were none.

14  
15 Ms. Griest asked if staff had any questions for Mr. Lowry.

16  
17 Mr. Hall asked Mr. Lowry to restate how many lessons are given per week.

18  
19 Mr. Lowry stated that approximately 50 paid riding lessons are given per week.

20  
21 Mr. Hall asked how many people are weekly visitors to the stable. He said that there may be a concern  
22 regarding traffic.

23  
24 Mr. Lowry stated he does not have a head count of the number of people that visit the stable weekly for  
25 lessons.

26  
27 Mr. Hall asked Mr. Lowry if the 50 paid riding lessons would result in 50 additional car trips.

28  
29 Mr. Lowry stated not necessarily, because some families have more than one child taking weekly lessons  
30 therefore about 2/3 of the 50 riding lessons would probably result in new trips spread out over a typical  
31 week.

32  
33 Ms. Griest asked the audience if any one had any questions for Mr. Lowry and there were none.

34  
35 Ms. Griest closed the witness register for Case 548-S-06.

36  
37 Mr. Hall stated that a new Item #9.D should be added to the Revised Draft Summary of Evidence. He said  
38 that Item #9.D. should read as follows: The Petitioner, James Lowry testified at the September 28, 2006  
39 meeting of the ZBA that since opening the number of riding lessons at his stables have increased from 15 to  
40 50 per week. He said that a new Item #10.E(2) should be added to the Revised Draft Summary of Evidence.

41 He said that Item #10.E(2) should read as follows: On average the increase in traffic, based on the  
42 testimony of James Lowry, is approximately 3 ADT.

43  
44 **Finding of Fact for Case 548-S-06:**

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From the documents of record and the testimony and exhibits received at the public hearing for zoning case 548-S-06 held on September 28, 2006, the Zoning Board of Appeals of Champaign County finds that:

- 1. The requested Special Use Permit is necessary for the public convenience at this location.**

Mr. Miller stated that the requested Special Use Permit is necessary for the public convenience at this location because of the increased demand for training lessons.

- 2. The request Special Use Permit 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. Steeves stated that the requested Special Use Permit 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 because it is a continuation of an ongoing business that is expanding by approximately one-third of what it is currently doing.

- 3a. The requested Special Use Permit does conform to the applicable regulations and standards of the District in which it is located.**

Mr. Bluhm stated that the requested Special Use Permit does conform to the applicable regulations and standards of the District in which it is located.

- 3b. The requested Special Use Permit does preserve the essential character of the District in which it is located.**

Mr. Steeves stated that the requested Special Use Permit does preserve the essential character of the District in which it is located because all of the surrounding use is agricultural and this is an agricultural use, and the proposed building will be the same as the existing building.

- 4. The requested Special Use Permit is in harmony with the general purpose and intent of the Ordinance.**

Mr. Bluhm stated that the requested Special Use Permit is in harmony with the general purpose and intent of the Ordinance because all Zoning requirements and standard conditions are met; this is an agricultural use in an agricultural area; and they comply with the *Illinois Livestock Management Facilities Act*.

- 5. The requested Special Use is not an existing nonconforming use.**

Mr. Steeves stated that the requested Special Use is not an existing nonconforming use.

Mr. Steeves moved, seconded by Mr. Miller to adopt the Summary of Evidence, Documents of Record

1 and Finding of Fact as amended. The motion carried by voice vote.

2  
3 Mr. Bluhm moved, seconded by Mr. Steeves to close the public hearing for Case 548-S-06. The  
4 motion carried by voice vote.

5  
6 Ms. Griest informed the Petitioner that the Board is short two members and it is at his discretion whether the  
7 Board moves to a final determination with the present Board or request that the case be continued until all  
8 Board members are present.

9  
10 Mr. Lowry requested that the present Board proceed to the final determination.

11  
12 **Final Determination for Case 548-S-06:**

13  
14 Mr. Bluhm moved, seconded by Mr. Steeves that the Champaign County Zoning Board of appeals  
15 finds that, based upon the application, testimony and other evidence received in this case, that the  
16 requirements of Section 9.1.11B have been met, and pursuant to the authority granted by Section  
17 9.1.6B of the Champaign County Zoning Ordinance, determines that the Special Use requested in  
18 Case 548-S-06, is hereby granted to the petitioner James Lowry, d.b.a. Lowry Stables to authorize the  
19 use and expansion of an existing riding stable previously authorized as Case 185-S-99, as a Special Use  
20 Permit in the AG-1 Agriculture Zoning District.

21  
22 The roll was called:

|    |                   |                           |                    |
|----|-------------------|---------------------------|--------------------|
| 23 |                   |                           |                    |
| 24 | <b>Bluhm-yes</b>  | <b>Goldenstein-absent</b> | <b>Irle-absent</b> |
| 25 | <b>Miller-yes</b> | <b>Schroeder-yes</b>      | <b>Steeves-yes</b> |
| 26 | <b>Griest-yes</b> |                           |                    |
| 27 |                   |                           |                    |

28  
29 **Case 549-S-06** Petitioner: **Jeff Scruggs, d.b.a. Cook Portable Warehouses and James Burch, d.b.a.**  
30 **James Burch Commercial and Industrial Real Estate. Request to authorize the following as Special**  
31 **Use: A. Authorize the ongoing use of a Real Estate office as a principal use; and B. Authorize the**  
32 **establishment of a Portable Storage Building office as a second principal use. And to waive the**  
33 **standard condition requiring 20 feet of separation between two principal structures on one lot.**  
34 **Location: Approximately 6.15 acres, lying North of Anthony Drive, in the Northwest Quarter of the**  
35 **Northwest Quarter of Section 2 of Champaign Township and commonly known as the vacant field at**  
36 **2404 N. Mattis Avenue, Champaign.**

37  
38 Mr. Hall stated that staff was informed that the Petitioner could not appear at tonight’s hearing although the  
39 Petitioner had arranged for an employee to present. He said no one is present and the By-Laws indicate that  
40 the Board could dismiss the case although he would not recommend such. He said that the first available  
41 continuance for this case is December 28, 2006, unless the Board desires to waive the 100-day rule.

42  
43 Mr. Steeves stated that he would suggest waiving the 100-day rule.

9/28/06

AS APPROVED MAY 17, 2007

ZBA

1 Mr. Steeves moved, seconded by Mr. Bluhm to waive the 100-day rule. The motion carried by voice  
2 vote.

3  
4 Mr. Bluhm moved, seconded by Mr. Schroeder to continue Case 549-S-06 to January 11, 2007. The  
5 motion carried by voice vote.

6  
7

8 **7. Staff Report**

9

10 None

11

12 **8. Other Business**

13

14 None

15

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

17

18 None

19

20 **10. Adjournment**

21

22 The meeting adjourned at 10:23 p.m.

23

24

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26

27 Respectfully submitted

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32 Secretary of Zoning Board of Appeals

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ZBA //

***DRAFT SUBJECT TO APPROVAL DRAFT***

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