

2
3 **MINUTES OF REGULAR MEETING**

4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 1776 E. Washington Street

6 Urbana, IL 61801

7
8
9 **DATE:** November 10, 2011

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

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

Urbana, IL 61802

12
13 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Roger Miller, Melvin Schroeder,
14 Eric Thorsland, Paul Palmgren

15
16 **MEMBERS ABSENT :** Brad Passalacqua

17
18 **STAFF PRESENT :** Lori Busboom, John Hall, Andrew Kass

19
20 **OTHERS PRESENT :** Neal Toler, William J. Jones, Alan Singleton, Letha Gast, Stephen
21 Gast, Martha Gast, Rhys Bater, Ben Shadwick, Phillip Jones, Justine
22 Becker, Julia Hall, Jean Fisher, Mark Fisher, Larry Hall, Khadyah
23 Horton, Asia Horton

24
25
26 **1. Call to Order**

27
28 The meeting was called to order at 6:30 p.m.

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

31
32 The roll was called and a quorum declared present with one member absent.

33
34 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
35 witness register. He reminded the audience that when they sign the witness register they are
36 signing an oath.

37
38 **3. Correspondence**

39
40 None

41
42 **4. Approval of Minutes (July 28, 2011 and September 15, 2011)**

43
44 Mr. Courson moved, seconded by Mr. Miller to approve the July 28, 2011 and September 15,
45 2011, minutes as submitted. The motion carried by voice vote.

46
47 **5. Continued Public Hearing**

48

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1 Case 687-AM-11 Petitioner: Philip W. and Sarabeth F. Jones Request to amend the Zoning
2 Map to change the zoning district designation from CR Conservation Recreation to AG-1
3 Agriculture. Location: An approximately 12.69 acre tract of land that is located in the North
4 Half of the South Half of the Northeast Quarter of Section 27 of Crittenden Township and
5 located on the west side of Illinois Route 130 (CR1600E) and 1,328 feet south of the
6 intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly known
7 as the property at 175N CR 1600E, Villa Grove.

8
9 Case 688-S-11 Petitioner: Philip W. and Sarabeth F. Jones Request to authorize the
10 construction and use of a “Heliport-Restricted Landing Area” as a Special Use on land that is
11 proposed to be rezoned to the AG-1 Agriculture Zoning District from the current CR
12 Conservation Recreation Zoning District in related zoning case 687-AM-11; and with a waiver
13 of a Special Use standard condition required by Section 6.1 that requires a runway safety area
14 to be located entirely on the lot. Location: An approximately 12.69 acre tract of land that is
15 located in the North Half of the South Half of the Northeast Quarter of Section 27 of
16 Crittenden Township and located on the west side of Illinois Route 130 (CR1600E) and 1,328
17 feet south of the intersection of Illinois Route 130 and CR 200N and County Highway 16 and
18 commonly known as the property at 175N CR 1600E, Villa Grove.

19
20 Mr. Thorsland called Cases 687-AM-11 and 688-S-11 concurrently.

21
22 Mr. Thorsland stated that the petitioner has requested that both of these cases be continued to a date
23 in February. He said that the Board does not have a date certain for continuance in February because
24 the County Board has not approved their 2012 calendar. He entertained a motion for continuance.

25
26 Mr. Palmgren moved, seconded by Mr. Courson to continue Cases 687-AM-11 and 688-S-11 to
27 the first meeting in February, 2012. The motion carried by voice vote.

28
29 **6. New Public Hearings**

30
31 Case 689-AM-11 Petitioner: Charles T. and Shelly Sollers Request to amend the Zoning Map
32 to allow for the establishment and use of 1 single family residential lot in the CR Conservation-
33 Recreation District by adding the Rural Residential Overlay (RRO) Zoning District. Location:
34 An approximately 6 acre tract of land that is located in the West Half of the North Half of the
35 Northeast Quarter of Section 27 of Crittenden township and that is located approximately one-
36 half mile west of the intersection of County Highway 16 and Illinois Route 130 and located on
37 the south side of County Highway 16 (CR 200N).

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

4
5 Mr. Thorsland asked the petitioner if they desired to make a statement outlining the nature of their
6 request prior to introducing evidence.

7
8 Mr. Singleton stated that he had no additional comments or evidence to present at this time although
9 he will be happy to address any comments, questions, or concerns of the Board.

10
11 Mr. John Hall distributed a Supplemental Memorandum dated November 10, 2011, to the Board for
12 review. He said that in addition to the Supplemental Memorandum the Board has been presented
13 with a new Draft Summary of Evidence and a separate handout. He said that an assessment of Policy
14 4.3.1 has been added to the Summary of Evidence. He said that the Board has not seen this policy
15 assessment previously and it is sort of a policy that incorporates several other policies and staff did
16 not make a recommendation on the one aspect of the policy. He said that there are other policies
17 included in the Summary of Evidence that he does not believe that the Board went over previously
18 although he does believe that staff made a recommendation for most of those policies.

19
20 Mr. Hall stated that at the end of the last meeting there was a discussion in regards to the comments
21 by the Historic Preservation Agency and he had forgotten about that discussion until he was able to
22 review the minutes from that last meeting. He said that he drafted a condition but even if he had
23 remembered the discussion at the last meeting he would have probably drafted the condition anyhow
24 so that the Board had a condition in front of them to verify that they do not want to require a Phase I
25 survey. He said that the petitioner has complied with all of the requirements of the Ordinance and
26 they applied to the Historic Preservation Agency and the Historic Preservation Agency replied that
27 they would like to see a Phase I survey. Mr. Hall stated that requiring a Phase I survey is not a
28 requirement of the Ordinance and if the Board desires to require the Phase I survey then the draft
29 condition is available for the Board's review but if the Board does not want to require the Phase I
30 survey then the condition will not apply.

31
32 Mr. Hall stated that at the last meeting there was also discussion that it would be worthwhile to add
33 some evidence regarding the NPDES requirements for these sites and he agrees with that
34 recommendation. He said that the Board should include such evidence any time there is a
35 discretionary approval so that the petitioners are aware of these requirements which do apply even
36 though the County has not actually adopted an Ordinance to enforce it. He said that the separate
37 handout applies to both cases before the Board tonight and could be added as a new item #13 prior to
38 the special conditions in each case. He said that the draft condition is as follows: The petitioner

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1 must file a Notice of Intent with the Illinois Environmental Protection Agency and prepare and
2 maintain onsite a Stormwater Pollution Prevention Plan (SWPPP) that conforms to the National
3 Pollutant Discharge Elimination System (NPDES) requirements for construction sites, during any
4 construction or regrading that disturbs an acre or more of land. Mr. Hall stated that if someone is
5 merely building a home he cannot imagine that they would disturb an acre or more of land unless
6 they really have a grand scheme. He said that as a practical matter he does not believe that this
7 creates a problem for any single family dwelling but if an acre is disturbed there is supposed to be a
8 Stormwater Pollution Prevention Plan on site at all times with a Notice of Intent at the beginning of
9 the project and a Notice of Termination at the end. He said that this is not a condition and merely
10 evidence so that the petitioner is made aware of it. He reminded the Board and the petitioner that on
11 Case 689-AM-11, if this case is recommended for approval and if it is approved by the County
12 Board, the rezoning itself will not resolve all of the issues on the property. He said that the rezoning
13 is a necessary step and it is the first step in getting any of the other issues resolved although he would
14 not want anyone to believe that the rezoning settles those issues.

15
16 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

17
18 Mr. Thorsland asked the petitioner if there was any information that he would like to add.

19
20 Mr. Alan Singleton, attorney for the petitioner, stated that he is assisting Mr. and Mrs. Sollers and
21 Mr. and Mrs. Shadwick work through the issues with respect to the RRO. He said that both cases are
22 pretty straight forward and Mr. Hall has provided a nice overview of the cases in the memorandums.
23 He said that his inclination would be to not have a Phase I survey but if the Board believes that such
24 a survey is important then they will go with it.

25
26 Mr. Thorsland asked the Board if there were any questions for Mr. Singleton and there were none.

27
28 Mr. Thorsland asked if staff had any questions for Mr. Singleton and there were none.

29
30 Mr. Thorsland stated that the Board should review the information in the memorandum, and the
31 Draft Summary of Evidence. He said that the new Supplemental Memorandum includes evidence
32 regarding conformance with County policies.

33
34 Mr. Hall stated that Policy 4.3.1 is the third agricultural objective and the Summary of Evidence
35 reviews Objectives 4.1 and 4.2. He said that Objective 4.3 is the overview of the overall suitability
36 of the property.

37
38 Mr. Thorsland read LRMP Goal 4 Agriculture, indicated on Page 15 of the Summary of Evidence as

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1 follows: LRMP Goal 4 is entitled, "Agriculture" and is relevant to the proposed zoning because the
2 proposed rezoning includes land currently zoned AG-2 and proposed to be zoned B-4. Goal 4 states,
3 "Champaign County will protect the long term viability of agriculture in Champaign County and its
4 land resource base."
5

6 Mr. Hall stated that the previous statement was taken from a previous memorandum. He said that
7 the statement should be corrected to indicate that the land is currently zoned CR and is proposed to
8 be rezoned with the RRO overlay. He said that this error probably occurs in the Summary of
9 Evidence for Case 690-AM-11 as well. Mr. Hall stated that the numbering for the Summary of
10 Evidence should be corrected beginning with item #12 on Page 15 revised as item #24 and so on.
11

12 Mr. Thorsland read corrected item #24 as follows: LRMP Goal 4 is entitled, "Agriculture" and is
13 relevant to the proposed zoning because the proposed rezoning includes land currently zoned CR and
14 proposed to be zoned with the RRO overlay. Goal 4 states, "Champaign County will protect the long
15 term viability of agriculture in Champaign County and its land resource base." Mr. Thorsland asked
16 the Board to indicate if the proposed rezoning ACHIEVES/DOES NOT ACHIEVE Goal 4.
17

18 Mr. Courson indicated that the proposed rezoning ACHIEVES Goal 4.
19

20 The Board agreed with Mr. Courson's recommendation that the proposed rezoning ACHIEVES Goal
21 4.
22

23 Mr. Thorsland asked the Board if there was any disagreement with staff's recommendation that the
24 proposed rezoning ACHIEVES Objective 4.1 and Policy 4.1.1 and that Policy 4.1.1 DOES NOT
25 APPEAR TO BE RELEVANT to any specific Rural Residential Overlay map amendment.
26

27 The Board agreed with staff's recommendation that the proposed rezoning ACHIEVES Objective 4.1
28 and that Policy 4.1.1 DOES NOT APPEAR TO BE RELEVANT to any specific Rural Residential
29 Overlay map amendment.
30

31 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.1.6
32 and Policy 4.1.8.
33

34 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
35 4.1.6 and Policy 4.1.8.
36

37 Mr. Thorsland stated that Objective 4.2 is entitled "Development Conflicts with Agricultural
38 Operations" and states, "Champaign County will require that each discretionary review development

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1 will not interfere with agricultural operations. He asked the Board if the proposed rezoning
2 ACHIEVES/DOES NOT ACHIEVE Objective 4.2.

3
4 Mr. Courson stated that the proposed rezoning ACHIEVES Objective 4.2.

5
6 The Board agreed with Mr. Courson’s recommendation that the proposed rezoning ACHIEVES
7 Objective 4.2.

8
9 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.2.

10
11 The Board agreed with staff’s recommendation that the proposed rezoning CONFORMS to Policy
12 4.2.2.

13
14 Mr. Thorsland stated that Policy 4.2.3 states, “The County will require that proposed discretionary
15 development explicitly recognize and provide for the right of agricultural activities to continue on
16 adjacent land. He said that staff recommends that the proposed rezoning CONFORMS to Policy
17 4.2.3.

18
19 The Board agreed with staff’s recommendation that the proposed rezoning CONFORMS to Policy
20 4.2.3.

21
22 Mr. Thorsland stated that Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and
23 non-agricultural land use nuisance conflicts, the County will require that all discretionary review
24 consider whether a buffer between existing agricultural operations and the proposed development is
25 necessary.” He said that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.4.

26
27 The Board agreed with staff’s recommendation that the proposed rezoning CONFORMS to Policy
28 4.2.4.

29
30 Mr. Thorsland stated the Objective 4.3 is entitled, “Site Suitability for Discretionary Review
31 Development” and states, “Champaign County will require that each discretionary review
32 development is located on a suitable site.” Mr. Thorsland asked the Board if the proposed rezoning
33 DOES/DOES NOT achieve Objective 4.3.

34
35 Mr. Courson stated that the proposed rezoning DOES achieve Objective 4.3.

36
37 Mr. Thorsland stated that Policy 4.3.1 states, “On other than best prime farmland, the County may
38 authorize a discretionary review development provided that the site with proposed improvements is

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1 suited overall for the proposed land use. He asked the Board if the proposed rezoning
2 CONFORMS/DOES NOT CONFORM to Policy 4.3.1 and if the subject property is SUITED/NOT
3 SUITED for residential development. This type of development is consistent with existing
4 development in the area.

5
6 Mr. Kass noted that the following text should be stricken from 1(a): This type of development is
7 consistent with existing development in the area.

8
9 Mr. Courson stated that the subject property is SUITED for residential development and that the
10 proposed rezoning CONFORMS to Policy 4.3.1 and therefore it DOES achieve 4.3.

11
12 The Board agreed with Mr. Courson's recommendation that the subject property is SUITED for
13 residential development and that the proposed rezoning CONFORMS to Policy 4.3.1 and therefore it
14 DOES achieve Objective 4.3.

15
16 Mr. Thorsland stated that Policy 4.3.3 states, "The County may authorize a discretionary review
17 development provided that existing public services are adequate to support to the proposed
18 development effectively and safely without undue public expense." He said that staff recommends
19 that the proposed rezoning CONFORMS to Policy 4.3.3.

20
21 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
22 4.3.3.

23
24 Mr. Thorsland stated that Policy 4.3.4 states, "The County may authorize a discretionary review
25 development provided existing public infrastructure, together with proposed improvements, is
26 adequate to support the proposed development effectively and safety without undue public expense."
27 He said that staff recommends that the proposed rezoning CONFORMS to Policy 4.3.4.

28
29 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
30 4.3.4.

31
32 Mr. Thorsland read the special conditions of approval as follows:

- 33
34 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
35 **comply with the requirements of the County Engineer for any required**
36 **driveway entrance.**
37 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
38 **documentation of the County Engineer's approval of the proposed driveway**

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1 entrance.

2 3. Construction related traffic shall not track mud onto the County Highway at
3 any time.

4 4. The Zoning Administrator shall not issue a Zoning Compliance Certificate
5 without documentation of the County Engineer's approval of the constructed
6 driveway entrance including any necessary as-built engineering drawings.

7
8 To ensure that any driveway entrance complies with the County Engineer's
9 requirements.

10
11 Mr. Thorsland asked the petitioner if they agreed to the proposed special conditions.

12
13 Mr. Singleton asked if the proposed special conditions are for both cases.

14
15 Mr. Hall stated yes.

16
17 Mr. Courson stated that he does not like proposed special condition #3. He said that in the rural
18 areas farmers are allowed to track mud on the roads during planting and harvest season and there are
19 no regulations to prohibit that type of traffic. He said that he understands that it is an EPA
20 regulation.

21
22 Mr. Hall stated that proposed special condition #3 is not due to the EPA regulation but because this
23 issue is the only thing that the County Engineer complains about. He said that whether proposed
24 special condition #3 exists or not the County Engineer will still enforce this issue.

25
26 Mr. Courson stated that he still does not agree with the proposed special condition but he is
27 comfortable with leaving it in.

28
29 Mr. Miller stated that the Board can only ask that the petitioner makes their best effort to not track
30 mud onto the County Highway.

31
32 Mr. Thorsland stated that the LRMP Policy 4.3.3 requires discretionary development and urban
33 development to explicitly recognize and provide for the right of agricultural activities to continue on
34 adjacent land. He said that the following condition is intended to provide for that:

35 **B. The owners of the subject property hereby recognize and provide for the right of**
36 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
37 **Resolution 3425.**

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1 The above special condition is necessary to ensure the following:

2 **Conformance with policies 4.2.3 and 5.1.5.**

3

4 Mr. Singleton agreed to the special condition.

5

6 Mr. Thorsland that it is at the Board's discretion whether or not a special condition is necessary
7 regarding the Phase I Archaeological Survey. He said that the Board has heard Mr. Hall's input on
8 this issue and reviewed input from the Illinois Historic Preservation Agency.

9

10 Mr. Miller asked if the petitioner's attorney previously indicated that the area has been built up.

11

12 Mr. Thorsland stated that the elevation plans indicate that the area has been built up for placement of
13 a home.

14

15 Mr. Miller stated that it seems contradictory to require a Phase I Archaeological Survey after the
16 natural terrain has been altered.

17

18 Ms. Capel stated that the entire lot was not disturbed.

19

20 Mr. Hall stated that this is one of the differences between Case 689-AM-11 and 690-AM-11. He
21 said that there are existing structures on the property for Case 689-AM-11 and those structures
22 require permits. He said that he would never propose that those structures would have to comply
23 with this condition even if the Board adopted this condition. He said that if the Board adopts this
24 condition the existing buildings will be exempted. He said that the Board could indicate that they are
25 not worried about construction on the elevated pad and the condition would apply elsewhere
26 although he does not expect construction to be elsewhere.

27

28 Mr. Capel asked if an RRO could be split again.

29

30 Mr. Hall stated that the lot could be split again if another RRO is approved. He said that the two
31 large lots together consist of 12 acres. He said that it is difficult to imagine that all of the area of
32 each lot would have this situation apply and the Board could just determine that this condition is not
33 necessary. He said that almost every RRO that the Board has seen has had a Phase I Archaeological
34 Survey. He said that this is the only RRO to come after the fact which means that the ground had
35 already been sold and some construction had occurred. He said that it is up to the Board whether or
36 not to require the condition or if at this point and time in this location the condition is not necessary.

37

38 Mr. Thorsland stated the first sentence in C.(3) indicates that the following: Except for structures

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1 and uses that have already been established on the subject property. He said that one could infer that
2 the built up area was a use that has been established and it is being exempt from the Phase I
3 Archaeological Survey.

4
5 Mr. Hall stated that if the Board wants that particular understanding then C.(3) should be revised.
6

7 Mr. Thorsland asked Mr. Miller if he would prefer that language was inserted in the first sentence of
8 C.(3) as follows: Except for structures and uses including the elevated building site that have been
9 established on the subject property.

10
11 Mr. Miller stated yes.

12
13 Mr. Courson stated that he would vote to not require condition C.

14
15 Mr. Palmgren asked Mr. Hall to explain how extensive the Phase I Archaeological Survey is.

16
17 Mr. Hall stated that they go out and walk around on the site and they disturb the surface of the
18 ground enough to see if they find anything. He said that he is not clear as to how much digging is
19 done during Phase I but it is his understanding that they do not really do a lot of digging. He said
20 that the digging is primarily done if they find a high density of artifacts on the ground surface and
21 Phase II would entail excavation at some degree.

22
23 Ms. Capel asked if they are basically looking for arrowheads.

24
25 Mr. Hall stated yes.

26
27 Mr. Palmgren stated that it appears that it is not much of a problem unless they find something and
28 then there may be a problem.

29
30 Mr. Hall stated that Mr. Palmgren is correct but these are professional archaeologists getting paid
31 whatever professional archaeologists get paid because they have to prepare a report. He said that this
32 process is an effort and it is not necessarily cheap.

33
34 Mr. Thorsland stated that Mr. Palmgren is concerned that if the archaeologists find something a
35 Phase II Archaeological Survey will be required.

36
37 Mr. Palmgren stated that he is concerned whether a Phase I survey will trickle into a Phase II survey.
38

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- 1 Mr. Hall stated that people generally chose not to complete a Phase II if there is any way to just live
2 around that area and not disturb it.
3
- 4 Mr. Thorsland stated that there is an RRO near his property and a Phase I Archaeological Survey was
5 completed and there were some places identified. He said that when the RRO was granted the owner
6 was informed that they could not build at those specific locations and no additional digging was
7 completed until the homes were built.
8
- 9 Mr. Palmgren asked if a Phase I survey has been completed in the general area around these lots.
10
- 11 Mr. Hall stated that if this was a rich area the response might have been more in depth than what the
12 petitioners received for these two lots.
13
- 14 Ms. Capel stated that the Board needs to decide whether or not they desire to set precedence that if
15 the property owner has already gotten started with construction they do not have to do an
16 archaeological survey.
17
- 18 Mr. Hall stated that would not be precedent stting as long as the Board makes it clear that they are
19 not making that decision just because the property owner has gotten started with construction.
20
- 21 Ms. Capel asked if the Board is considering this option for just the property related to Case 689-AM-
22 11.
23
- 24 Mr. Thorsland stated that at this point the Board is only discussing the property related to Case 689-
25 AM-11.
26
- 27 Mr. Thorsland asked the petitioner if the Phase I Archaeological Survey was a special condition is it
28 a special condition that they would agree to.
29
- 30 Mr. Singleton stated that he discussed this matter with Mr. Hall previously and Mr. Singleton was
31 ready to have the Phase I Archaeological Survey completed to get everything in order. He said that
32 he recently received an e-mail from Mr. Hall including the proposed special condition and he did
33 review it. He said that at this point he would like to get this case resolved and he would prefer to get
34 this matter taken care of and out of the way so that he is aware of what type of easement they are
35 talking about requiring. He said that his preference would be to not have this special condition
36 imposed but if the Board feels strongly about the special condition then they will accept it.
37
- 38 Mr. Thorsland asked Mr. Singleton if he would be comfortable with the special condition if the

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1 Board revised it so that the Phase I Archaeological Survey had to be completed in some amount of
2 time but would not impede construction on the exempted parts, indicated in C.(3).

3
4 Ms. Capel stated that she would be comfortable with such a revision because it would require that
5 the Phase I Archaeological Survey be completed.

6
7 Mr. Hall stated that generally the Board does not have to require the Phase I Archaeological Survey
8 because the Board is normally just presented with the results. He said that Mr. Singleton is a very
9 easy attorney to work with but somehow the communication between them has become confusing.
10 Mr. Hall stated that he cannot imagine that he said anything other than he is not recommending a
11 Phase I survey and the Board may not require the petitioner to do a Phase I survey at all. He
12 apologized if the communication between himself and Mr. Singleton was not clear because he is very
13 sensitive to the fact that the Phase I survey is not an actual requirement.

14
15 Mr. Singleton stated that he is not placing any blame on Mr. Hall but it would be nice to get this
16 matter cleared up and be done with it.

17
18 Mr. Hall stated that if the areas that are already built up or already built upon are exempted then if
19 the petitioner never goes outside of those areas there will never be a need to complete a Phase I
20 survey.

21
22 Mr. Singleton stated that a special use permit would be required for the petitioner to be able to build
23 on the elevated portions of the property.

24
25 Mr. Hall stated that this would be another alternative. He said that the Board could make it apply if
26 the owner goes outside of those areas but if the owner does not go outside of those areas then it
27 would never have to be done.

28
29 Mr. Thorsland stated that normally the Board would have the Phase I Archaeological Survey results
30 for review before any construction was started but unfortunately construction has already started. He
31 stated that the special condition includes exemptions for the existing structures from the Phase I
32 survey therefore the Phase I survey could be triggered if the property owner decides to do any further
33 construction outside the elevated area.

34
35 Ms. Capel stated that any further construction would require a zoning use permit.

36
37 Mr. Hall stated that a zoning use permit is always required. He said that if the Board is willing to
38 accept the fact that both of the lots have been built up so that it is above the BFE and if the petitioner

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1 never builds outside that area why would a Phase I survey be required.
2
3 Ms. Capel stated that she is interested in treating every RRO fairly and equally regardless if
4 construction has already started on the subject property.
5
6 Mr. Hall stated that most other RRO's are managed by an engineering firm that does this on a daily
7 basis and they just automatically complete the Phase I survey. He said that if there are new streets
8 involved the survey has to be done under State law. He said that in this case there are no State funds
9 being used for anything and there was no engineer involved and perhaps he should have informed the
10 petitioner to go ahead and have the Phase I survey completed but he does not have that authority.
11
12 Mr. Thorsland requested the Board's decision regarding proposed special condition C. He said that
13 there are two Board members who do not believe that the special condition is necessary and the
14 petitioner is on the fence either way.
15
16 Mr. Hall stated that he understands why Mr. Singleton does not like having this issue come up
17 because this may not be a matter of money but a matter of whether or not the property owner can
18 build on the lot or not.
19
20 Mr. Thorsland stated that Mr. Miller indicated that the lot has already been built up therefore if there
21 was something that the Phase I survey would have discovered in the area is now underneath
22 something else.
23
24 Mr. Miller stated that there are also existing structures on the property.
25
26 Mr. Thorsland stated that Case 690-AM-11 does not have existing structures therefore will the
27 petitioner be required to have the Phase I survey completed.
28
29 Mr. Hall stated that the subject property for Case 690-AM-11 also has an elevated pad.
30
31 Mr. Thorsland asked the Board if they desired to impose special condition C for both lots, just one of
32 the lots or not at all.
33
34 Mr. Courson stated that he is not in favor of special condition C. for either of the lots.
35
36 Mr. Thorsland stated he and Ms. Capel appear to be the only two Board members in favor of special
37 condition C. He said that perhaps what the Board should do is work through some of the LRMP
38 items and RRO items and require this special condition for future RRO's. He said that at this time it

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1 appears that the Board will not require special condition C. at this time and it is not because the
2 Board is happy that the lot was built up. He said that the Board is unhappy that they cannot require
3 the special condition at this time.

4
5 Mr. Thorsland stated that the separate handout included new item #25 for Case 689-AM-11 and item
6 #26 for Case 690-AM-11 and should be added to the Summary of Evidence.

7
8 **Ms. Capel moved, seconded by Mr. Courson to approve the special conditions. The motion**
9 **carried by voice vote.**

10
11 Mr. Hall stated that a new item #4 should be added to the Documents of Record for Case 689-AM-11
12 as follows: 4. Handout with a new evidentiary item #13 (#25) on November 10, 2011. He said that a
13 new Document of Record #5 should be added indicating the following: Champaign County Right to
14 Farm Resolution No. 3425.

15
16 Mr. Thorsland closed the witness register for Case 689-AM-11.

17
18 **Finding of Fact for Case 689-AM-11:**

19
20 From the Documents of Record and testimony and exhibits received at the public hearing conducted
21 on June 16, 2011, August 11, 2011 and November 10, 2011, the Zoning Board of Appeals of
22 Champaign County finds that:

23
24 **1. The Proposed Site IS SUITED for the development of 1 residence despite the**
25 **subject property is located in the flood area.**

26
27
28 Mr. Palmgren stated that the Proposed Site IS SUITED for the development of 1 residence because
29 five existing homes are in the same general area. He said that the roads are adequate and convenient
30 and the land is not considered best prime farmland. He said that there is adequate well capacity for
31 fresh water and the soil is suitable for a waste water system despite the subject property is located in
32 the flood area.

33
34 **2. Development of the Proposed Site under the proposed Rural Residential**
35 **Overlay development WILL BE COMPATIBLE with surrounding agriculture.**

36
37 Ms. Capel stated that development of the Proposed Site under the proposed Rural Residential
38 Overlay development WILL BE COMPATIBLE with surrounding agriculture because of special

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1 condition imposed regarding the Right to Farm Resolution No. 3425.

2
3 **3. The proposed Zoning Ordinance map amendment will help achieve the Land**
4 **Resource Management Plan because:**

5 **A. The proposed Zoning Ordinance map amendment IS NOT**
6 **NECESSARY to ACHIEVE any LRMP goal.**

7 **B. The proposed Zoning Ordinance map amendment will NOT HELP**
8 **ACHIEVE any LRMP goal(s).**

9 **C. The proposed Zoning Ordinance map amendment WILL NOT IMPEDE**
10 **the achievement of the other LRMP goal(s).**
11

12 Mr. Thorsland asked if Finding of Fact item #3 was new.

13
14 Mr. Hall stated that this is a new thing. He said that the Board needs to summarize the conformance
15 with the LRMP and obviously the Board does not need any given RRO to achieve the LRMP
16 therefore the Board could strike 3.A. He said that 3.B. asks if the map amendment will at least help
17 achieve any LRMP goals. He said that as an RRO it does help achieve Goal 4 because the Board
18 found that it does conform to all of Goal 4 or the Board could simply indicate that the map
19 amendment will not impede any of the goals. He said that if this not refined enough the Board could
20 leave it out of this RRO and it will be something that the Board can do a better job on next time.

21
22 Mr. Thorsland proposed that 3.A. and 3.B be stricken to keep it simple.

23
24 Ms. Capel agreed.

25
26 Mr. Thorsland read finding #3 as follows:
27

28 **The proposed Zoning Ordinance map amendment will help achieve the Land**
29 **Resource Management Plan because the proposed Zoning Ordinance map**
30 **amendment WILL NOT IMPEDE the achievement of the other LRMP goal(s).**
31

32 Mr. Hall stated that Finding of Fact #4 is another new item because theoretically every map
33 amendment is supposed to be correcting an error in the zoning map and he believes that this is a
34 good way to look at RRO's. He said that one of the justifications for adopting the RRO's was that
35 staff could not go around every square mile of the County and review every possible building site
36 therefore as the Board is presented with suitable sites for an RRO one way to think about that is that
37 it is correcting an error in the Ordinance. He said that this is the first time that staff has every
38 proposed Finding #4 and the Board is not obligated to include it in their finding.

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Mr. Thorsland read Finding #4 as follows:

- 4. The proposed map amendment WILL/WILL NOT correct an error in the present Ordinance due to: The proposed site will have good access to a County Highway, there will be little to no impact on agriculture, the land is not best prime farmland, there are good soils for septic systems on the site but the proposed site is completely within the flood plain.**

Mr. Thorsland stated that given Mr. Hall’s comments and the Board’s findings thus far WILL probably would be an appropriate answer.

Ms. Capel stated that Finding #4 should be stricken because the flood plain is not an error.

Mr. Courson agreed with Ms. Capel.

Mr. Thorsland stated that he also agreed with Ms. Capel. He said that if “but” was changed to “despite” then perhaps it would work better.

Mr. Hall stated that the Board is free to change the wording but he hopes this is consistent with the two findings.

Ms. Capel agreed with Mr. Thorsland.

Mr. Thorsland read Finding #4 as follows:

- 4. The proposed map amendment WILL correct an error in the present Ordinance due to: The proposed site will have good access to a County Highway, there will be little to no impact on agriculture, the land is not best prime farmland, there are good soils for septic systems on the site despite that the proposed site is completely within the flood plain.**

Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding of Fact as amended.

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

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1 Mr. Thorsland entertained a motion to move to the Final Determination for Case 689-AM-11.

2
3 **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination for Case 689-**
4 **AM-11. The motion carried by voice vote.**

5
6 Mr. Thorsland informed the petitioner that a full Board is not present at tonight’s meeting therefore it
7 is at the petitioner’s discretion whether to request that the present Board move to the Final
8 Determination or request a continuance until a full Board is present.

9
10 The petitioner requested that the present Board move to the Final Determination.

11
12 **Final Determination for Case 689-AM-11:**

13
14 **Mr. Courson moved, seconded by Ms. Capel that the pursuant to the authority granted in**
15 **Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
16 **Champaign County determines that the Map Amendment requested in Case 689-AM-11**
17 **should BE ENACTED by the County Board subject to the following special conditions:**

- 18
- 19 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
- 20 **comply with the requirements of the County Engineer for any required**
- 21 **driveway entrance.**
- 22 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
- 23 **documentation of the County Engineer’s approval of the proposed driveway**
- 24 **entrance.**
- 25 **3. Construction related traffic shall not track mud onto the County Highway at**
- 26 **any time.**
- 27 **4. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
- 28 **without documentation of the County Engineer’s approval of the constructed**
- 29 **driveway entrance including any necessary as-built engineering drawings.**
- 30
- 31 **B. The owners of the subject property hereby recognize and provide for the right**
- 32 **to agricultural activities to continue on adjacent land consistent with the Right**
- 33 **to Farm Resolution 3425.**
- 34

35
36 The roll was called:

37
38 **Capel-yes Courson-yes Miller-yes**

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1	Palmgren-yes	Schroeder-yes	Thorsland-yes
2	Passalacqua-absent		

3
4 Mr. Hall informed the petitioner that Case 689-AM-11 will be forwarded to the December 6, 2011,
5 County Board Committee of the Whole meeting.

6
7 **Case 690-AM-11 Petitioner: Benjamin Shadwick and Jennifer Shadwick Request to amend**
8 **the Zoning Map to allow for the establishment and use of 1 single family residential lot in the**
9 **CR Conservation-Recreation Zoning District by adding the Rural Residential Overlay (RRO)**
10 **Zoning District. Location: An approximately 5.3 acre tract of land that is located in the West**
11 **Half of the North Half of the Northeast Quarter of Section 27 of Crittenden Township and that**
12 **is located approximately 2,000 feet west of the intersection of County Highway 16 and Illinois**
13 **Route 130 and located on the south side of County Highway 16 (CR200N).**

14
15 Mr. Thorsland informed the audience that anyone who desires to present testimony must sign the
16 witness register. He reminded the audience that when they sign the witness register they are
17 signing an oath.

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

21
22 Mr. Alan Singleton, attorney for the petitioner, stated that the only difference between this case and
23 the previous case is that there are no buildings on the property for this case.

24
25 Mr. Hall concurred with Mr. Singleton’s comments.

26
27 Mr. Thorsland stated that the Board will review the Summary of Evidence for this case. He said that
28 item #12 on Page 15 of the Revised Draft Summary of Evidence is in regard to LRMP Goal 4
29 Agriculture. He said that Goal 4 states, “Champaign County will protect the long term viability of
30 agriculture in Champaign County and its land resource base.”

31
32 Mr. Thorsland asked the Board to indicate if the proposed rezoning ACHIEVES/DOES NOT
33 ACHIEVE Goal 4.

34
35 Mr. Courson stated that proposed rezoning ACHIEVES Goal 4.

36
37 The Board agreed with Mr. Courson’s recommendation that the proposed rezoning ACHIEVES Goal
38 4.

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2 Mr. Thorsland asked the Board if there was any disagreement with staff's recommendation that the
3 proposed rezoning ACHIEVES Objective 4.1 and Policy 4.1.1 and that Policy 4.1.1 DOES NOT
4 APPEAR TO BE RELEVANT to any specific Rural Residential Overlay map amendment.
5
6 The Board agreed with staff's recommendation that the proposed rezoning ACHIEVES Objective 4.1
7 and Policy 4.1.1 and that Policy 4.1.1 DOES NOT APPEAR TO BE RELEVANT to any specific
8 Rural Residential Overlay map amendment.
9
10 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.1.6
11 and Policy 4.1.8.
12
13 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
14 4.1.6 and Policy 4.1.8.
15
16 Mr. Thorsland stated that Objective 4.2 is entitled, "Development Conflicts with Agricultural
17 Operations." He asked the Board if the proposed rezoning ACHIEVES/DOES NOT ACHIEVE
18 Objective 4.2.
19
20 Mr. Courson stated that the proposed rezoning ACHIEVES Objective 4.2.
21
22 The Board agreed with Mr. Courson's recommendation that the proposed rezoning ACHIEVES
23 Objective 4.2.
24
25 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.2.
26
27 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
28 4.2.2.
29
30 Mr. Thorsland stated that staff recommends that the proposed rezoning CONFORMS to Policy 4.2.3.
31
32 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
33 4.2.3.
34
35 Mr. Thorsland stated staff recommends that the proposed rezoning CONFORMS to Policy 4.2.4.
36
37 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
38 4.2.3.

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2 Mr. Thorsland stated that Objective 4.3 is entitled, "Site Suitability for Discretionary Review
3 Development" and states, "Champaign County will require that each discretionary review
4 development is located on a suitable site." Mr. Thorsland asked the Board if the proposed rezoning
5 DOES/DOES NOT achieve Objective 4.3.

6
7 Mr. Courson stated that the subject property is SUITED for residential development and that the
8 proposed rezoning CONFORMS to Policy 4.3.1 and therefore it DOES achieve Objective 4.3.

9
10 Mr. Thorsland stated that staff recommends that the rezoning CONFORMS to Policy 4.3.3 because
11 the existing public services are adequate and should not create an undue public expense.

12
13 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
14 4.3.3.

15
16 Mr. Thorsland stated that staff recommends that the rezoning CONFORMS to Policy 4.3.4. because
17 the road fronting the property is adequate to serve the needs of the proposed use and the amount of
18 traffic generated from the proposed use is minimal.

19
20 The Board agreed with staff's recommendation that the proposed rezoning CONFORMS to Policy
21 4.3.4.

22
23 Mr. Thorsland read the special conditions of approval as follows:

- 24
25 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
26 **comply with the requirements of the County Engineer for any required**
27 **driveway entrance.**
28 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
29 **documentation of the County Engineer's approval of the proposed driveway**
30 **entrance.**
31 **3. Construction related traffic shall not track mud onto the County Highway at**
32 **any time.**
33 **4. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
34 **without documentation of the County Engineer's approval of the constructed**
35 **driveway entrance including any necessary as-built engineering drawings.**

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37 To ensure that **any driveway entrance complies with the County Engineer's**
38 **requirements.**

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B. The owners of the subject property hereby recognize and provide for the right to agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.

To ensure **conformance with policies 4.2.3 and 5.1.5.**

Mr. Thorsland asked the petitioner if they agreed to the proposed special conditions.

Mr. Singleton stated yes.

Mr. Thorsland asked the Board if they desired to require the Phase I Archaeological Survey indicated in proposed special condition C.

The Board indicated that they do not desire to require the Phase I Archaeological Survey indicated in proposed special condition C.

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

Mr. Courson moved, seconded by Mr. Palmgren to approve the special conditions. The motion carried by voice vote.

Mr. Thorsland that the new separate handout including new item #14 (#26) should be added to the Summary of Evidence. He said that new item #14 (#26) reads as follows: The petitioner must file a Notice of Intent with the Illinois Environmental Protection Agency and prepare and maintain onsite a Stormwater Pollution Prevention Plan (SWPPP) that conforms to the National Pollutant Discharge Elimination System (NPDES) requirements for construction sites, during any construction or regrading that disturbs an acre or more of land.

Mr. Hall stated that a new item #6 should be added to the Documents of Record for Case 690-AM-11 as follows: 6. Handout with a new evidentiary item #13 (#26) on November 10, 2011. He said that a new Document of Record #7 should be added indicating the following: Champaign County Right to Farm Resolution No. 3425.

Finding of Fact for Case 690-AM-11:

From the Documents of Record and the testimony and exhibits received at the public hearing conducted on June 16, 2011, August 11, 2011, and November 10, 2011, the Zoning Board of

11/10/11

1 Appeals of Champaign County finds that:

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- 1. **The Proposed Site IS SUITED for the development of 1 residence despite the subject property is located in the flood area.**

Mr. Palmgren stated that the Proposed Site IS SUITED for the development of 1 residence because five existing homes are in the same general area. He said that the roads are adequate and convenient and the land is not considered best prime farmland. He said that there is adequate well capacity for fresh water and the soil is suitable for a waste water system despite the subject property is located in the flood area.

- 2. **Development of the Proposed Site under the proposed Rural Residential Overlay development WILL BE COMPATIBLE with surrounding agriculture.**

Mr. Courson stated that development of the Proposed Site under the proposed Rural Residential Overlay development WILL BE COMPATIBLE with surrounding agriculture because of special condition imposed regarding the Right to Farm Resolution 3425.

- 3. **The proposed Zoning Ordinance map amendment will help achieve the Land Resource Management Plan because the proposed Zoning Ordinance map amendment WILL NOT IMPEDE the achievement of the other LRMP goal(s).**

Mr. Thorsland stated that the proposed Zoning Ordinance map amendment will help achieve the Land Resource Management Plan because the proposed Zoning Ordinance map amendment WILL NOT IMPEDE the achievement of the other LRMP goal(s).

- 4. **The proposed map amendment WILL correct an error in the present Ordinance due to: The proposed site will have good access to a County Highway, there will be little to no impact on agriculture, the land is not best prime farmland, there are good soils for septic systems on the site despite that the proposed site is completely within the flood plain.**

Mr. Thorsland stated that the proposed map amendment WILL correct an error in the present Ordinance due to: The proposed site will have good access to a County Highway, there will be little to no impact on agriculture, the land is not best prime farmland, there are good soils for septic systems on the site despite that the proposed site is completely within the flood plain.

Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and

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1 Finding of Fact as amended.

2
3 **Mr. Capel moved, seconded by Mr. Palmgren to adopt the Summary of Evidence, Documents**
4 **of Record and Finding of Fact as amended. The motion carried by voice vote.**

5
6 Mr. Thorsland entertained a motion to move to the Final Determination for Case 689-AM-11.

7
8 **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination for Case 690-**
9 **AM-11. The motion carried by voice vote.**

10
11 Mr. Thorsland informed the petitioner that a full Board is not present at tonight’s meeting therefore it
12 is at the petitioner’s discretion whether to request that the present Board move to the Final
13 Determination or request a continuance until a full Board is present.

14
15 The petitioner requested that the present Board move to the Final Determination.

16
17 **Final Determination for Case 690-AM-11:**

18
19 **Mr. Capel moved, seconded by Ms. Courson that the pursuant to the authority granted in**
20 **Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of**
21 **Champaign County determines that the Map Amendment requested in Case 689-AM-11**
22 **should BE ENACTED by the County Board subject to the following special conditions:**

- 23
- 24 **A. 1. The petitioner shall apply for a driveway permit from the County Engineer and**
- 25 **comply with the requirements of the County Engineer for any required**
- 26 **driveway entrance.**
- 27 **2. The Zoning Administrator shall not approve a Zoning Use Permit without**
- 28 **documentation of the County Engineer’s approval of the proposed driveway**
- 29 **entrance.**
- 30 **3. Construction related traffic shall not track mud onto the County Highway at**
- 31 **any time.**
- 32 **4. The Zoning Administrator shall not issue a Zoning Compliance Certificate**
- 33 **without documentation of the County Engineer’s approval of the constructed**
- 34 **driveway entrance including any necessary as-built engineering drawings.**
- 35
- 36 **B. The owners of the subject property hereby recognize and provide for the right**
- 37 **to agricultural activities to continue on adjacent land consistent with the Right**
- 38 **to Farm Resolution 3425.**

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The roll was called:

Courson-yes	Miller-yes	Palmgren-yes
Schroeder-yes	Capel-yes	Thorsland-yes
Passalacqua-absent		

Mr. Hall informed the petitioner that Case 689-AM-11 will also be forwarded to the December 6, 2011, County Board Committee of the Whole meeting.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Thorsland briefly reviewed the docket with the Board.

B. October, 2011 Monthly Report

Mr. Hall stated that the October, 2011 Monthly Report is not available for the Board’s review at this time.

Mr. Thorsland stated that tonight’s meeting is Mr. Melvin Schroeder’s last official meeting as a member of the Zoning Board of Appeals.

Mr. Courson stated that at the last meeting he made an error in his vote for the wind farm. He said that he erroneously voted that the wind farm was an existing nonconforming use and he would like to correct his vote by indicating that the wind farm IS NOT an existing nonconforming use.

Mr. Hall stated that Mr. Courson’s correction is on record in tonight’s minutes.

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

11/10/11

1 None

2

3 **10. Adjournment**

4

5 **Mr. Courson moved, seconded by Mr. Schroeder to adjourn the meeting. The motion carried**
6 **by voice vote.**

7

8 The meeting adjourned at 7:45 p.m.

9

10 Respectfully submitted

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15 Secretary of Zoning Board of Appeals

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