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3 **MINUTES OF REGULAR MEETING**

5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 **1776 E. Washington Street**

7 **Urbana, IL 61802**

8
9 **DATE: July 26, 2012**

**PLACE: Lyle Shields Meeting Room
1776 East Washington Street**

10
11 **TIME: 7:00 p.m.**

Urbana, IL 61802

13 **MEMBERS PRESENT:** Catherine Capel, Thomas Courson, Eric Thorsland, Brad Passalacqua, Roger
14 Miller

15
16 **MEMBERS ABSENT :** Paul Palmgren

17
18 **COUNTY BOARD MEMBERS PRESENT:** Pattsy Petrie

19
20 **STAFF PRESENT :** Connie Berry, John Hall, Andrew Kass, Susan Monte (County Planner for
21 RPC)

22
23 **OTHERS PRESENT :** Louis Schwing, Jeff Breen, Maury Busboom, Roger Miller, Norman Stenzel,
24 David Barcus, Dennis Cummins, Ken Judy, Glen D. Judy III, Glen D. Judy II,
25 Dennis Buerkett

26
28 **1. Call to Order**

29
30 The meeting was called to order at 7:00 p.m.

31
32 **2. Roll Call and Declaration of Quorum**

33
34 The roll was called and a quorum declared present with one vacant seat.

35
36 **3. Correspondence**

37
38 None

39
40 **4. Approval of Minutes (June 14, 2012 and June 28, 2012)**

41
42 **Mr. Passalacqua moved, seconded by Mr. Courson to approve the June 14, 2012 and June 28, 2012,**
43 **minutes as submitted. The motion carried by voice vote.**

44
45 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must
46 sign the witness register for that public hearing. He reminded the audience that when they sign the
47 witness register they are signing an oath.
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5. New Public Hearing

Case 721-AM-12 Petitioner: Premier Cooperative Incorporated, with Board members Art Farley, Joseph Kuntz, Richard Wilkin, Kim Jolley, Kenneth Heiser, Stephen Hettinger, Roger Miller, Pat Feeney, Doug Bialeschki, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller, General Manager, Louis Schwing, Assistant General Manager, and James Deters, Chief Financial Officer. Request to amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the B-1 Rural Trade Center Zoning District. Location: A 2.54 acre tract in the Northwest Quarter of the Northeast Quarter of Section 17 of St. Joseph Township and commonly known as the Premier Cooperative-Fulls Siding Site at 1597 CR 1975E, St. Joseph.

Case 726-S-12 Petitioner: Premier Cooperative Incorporated, with Board members Art Farley, Joseph Kuntz, Richard Wilkin, Kim Jolley, Kenneth Heiser, Stephen Hettinger, Roger Miller, Pat Feeney, Doug Bialeschki, Dwight Huffstutler, Maury Busboom and corporate officers Roger Miller, General Manager, Louis Schwing, Assistant General Manager, and James Deters, Chief Financial Officer. Request to authorize the following grain structures over 100 feet in height as a Special Use on property proposed to be rezoned to the B-1 Rural Trade Center District in related Case 721-AM-12: Part A. The replacement of an existing non-conforming grain elevator that is approximately 170 feet in height; and Part B. The replacement of an existing non-conforming grain leg that is approximately 180 feet in height; and Part C. The construction and use of two grain bins approximately 125 feet in height; and Part D. The construction and use of a grain dryer approximately 125 feet in height. Location: A 2.54 acre tract in the Northwest Quarter of the Northeast Quarter of Section 17 of St. Joseph Township and commonly known as the Premier Cooperative-Fulls Siding Site at 1597 CR 1975E, St. Joseph.

Mr. Thorsland called Cases 721-AM-12 and 726-S-12 concurrently.

Mr. Thorsland informed the audience that Case 726-S-12 is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions. He 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. He noted that no new testimony is to be given during the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross examination.

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

Mr. Roger Miller, ZBA member, indicated that he must abstain from Cases 721-AM-12 and 726-S-12 because he currently serves as Director of the Board for Premier Cooperative Incorporated.

Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.

Mr. Jeff Breen, who resides at 308 E. Marshall, Tolono, stated that over a three period their facility has seen an increased average of 785,000 bushels per year which means that 872 semi-loads have to be hauled to other elevator facilities. He said that the additional bushels increases the traffic at the Fulls Siding site during harvest times therefore approval of their request would benefit their patrons with faster service. He said that approval of their request would also benefit the taxing community.

Mr. Thorsland called John Hall, Zoning Administrator.

Mr. John Hall stated that there are no new memorandums for Cases 721-AM-12 or 726-S-12 and both cases are ready for final action. He said that staff has not received any calls from neighbors and frankly he does not know why the property was not designated B-1, Rural Trade Center when the zoning map was established because it would have been appropriate and it is appropriate now. He said that in regards to the special use permit, the first two parts of the special use are merely to allow replacement of the existing structure if the need ever arises. He said that the special use request is really before the Board tonight because of the last two parts, Part C and Part D, because the proposed construction is taller than 100 feet. He said that since the case had to be before the Board anyway it made sense to include the replacement of the existing structures that are over 100 feet.

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

Mr. Courson stated that Mr. Hall stated that the Fulls Siding site had been overlooked in regards to the proper zoning. He asked Mr. Hall if he has investigated any other grain elevators in the rural areas of the County to see if they too have been overlooked.

Mr. Hall stated no.

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1 Mr. Courson asked Mr. Hall if he believes that the rest of the rural elevators in the County are zoned
2 correctly.

3
4 Mr. Hall stated that he does not know but normally when there is an elevator that is in an area surrounded by
5 houses it would be expected that the elevator property would have been zoned AG-1 and an expansion of
6 that elevator would be by a special use only. He said that if there are not a lot of houses around the rural
7 elevator, the County has had the B-1 District from the beginning and elevators are allowed by right. He said
8 that in this location there has always been one house to the northeast but never more than that therefore he
9 does not know why the subject property was not designated B-1. He said that at the time it was probably not
10 critical to add the elevator and perhaps it was never thought that the elevator would require expansion
11 although he would imagine that in the early 70's things were expanding therefore he is at a loss.

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

14
15 Mr. Thorsland called Jeff Breen to testify.

16
17 Mr. Jeff Breen stated that the existing elevator is 175 feet tall and there are grain legs that are also near 175
18 feet tall as well. He said that the proposed grain bin is 119 feet to the peak and there are no plans to go any
19 higher.

20
21 Mr. Thorsland asked the Board if there were any questions for Mr. Breen and there were none.

22
23 Mr. Thorsland asked if staff had any questions for Mr. Breen and there were none.

24
25 Mr. Thorsland asked the audience if anyone desired to cross examine Mr. Breen and there was no one.

26
27 Mr. Thorsland called Louis Schwing to testify.

28
29 Mr. Louis Schwing, Assistant General Manager, declined to testify at this time.

30
31 Mr. Thorsland called Roger Miller to testify.

32
33 Mr. Roger Miller, General Manager, deferred to testify at this time.

34
35 Mr. Thorsland called Dennis Cummins to testify.

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1 Mr. Dennis Cummins declined to testify at this time.

2

3 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
4 regarding these cases and there was no one.

5

6 Mr. Thorsland closed the witness register for both cases.

7

8 Mr. Kass noted that the heights on the agenda and the Finding of Fact for Case 726-S-12 are a little different
9 because when the legal advertisement was written staff did not have the exact heights from the petitioner and
10 only approximations. He said that there are only two heights which are different and the differences are not
11 substantial.

12

13 Mr. Thorsland directed the Board to item 11 on page 7 of 19 of the Draft Finding of Fact regarding LRMP
14 Goals and Policies. He said that the Board will now review those goals and policies.

15

16 Mr. Thorsland read LRMP Goal 1 as follows: Champaign County will attain a system of land resource
17 management planning built on broad involvement that supports effective decision making by the County.
18 He said that it is staff's recommendation that Goal 1 is NOT RELEVANT to the proposed rezoning and the
19 Board agreed with staff's recommendation.

20

21 Mr. Thorsland read LRMP Goal 2 as follows: Champaign County will collaboratively formulate land
22 resource and development policy with other units of government in areas of overlapping land use planning
23 jurisdiction. Mr. Thorsland stated that it is staff's recommendation that Goal 2 is NOT RELEVANT to the
24 proposed rezoning and the Board agreed with staff's recommendation.

25

26 Mr. Thorsland read LRMP Goal 3 as follows: Champaign County will encourage economic growth and
27 development to ensure prosperity for its residents and the region. He said that it is staff's recommendation
28 that Objectives 3.1, 3.2, and 3.3 are NOT DIRECTLY RELEVANT and PARTIALLY ACHIEVE and that
29 the proposed rezoning PARTIALLY ACHIEVES Goal 3 and the Board agreed with staff's recommendation.

30

31 Mr. Thorsland read LRMP Goal 4 as follows: Champaign County will protect the long term viability of
32 agriculture in Champaign County and its land resource base. He said that staff recommends that the
33 proposed rezoning ACHIEVES Objective 4.1. He said that staff recommends that the proposed rezoning
34 ACHIEVES Policy 4.1.1. because the subject property has not been in agricultural production since the
35 1940's doing the business that it currently does now and the Board agreed. He said that staff recommends
36 that the proposed rezoning ACHIEVES Policy 4.1.6. and the Board agreed with staff's recommendation.

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2 Mr. Thorsland read Policy 4.1.7 as follows: To minimize the conversion of *best prime farmland*, the County
3 will require a maximum lot size limit on new lots established as *by right development* on *best prime*
4 *farmland*. He recommended that the proposed rezoning IS CONSISTENT with Policy 4.1.7 because the
5 subject site will not change and the Board agreed with Mr. Thorsland's recommendation.
6
7 Mr. Thorsland stated that regarding Objective 4.2, staff recommends that the proposed rezoning ACHIEVES
8 Policies 4.2.1, 4.2.2, 4.2.3, and 4.2.4 therefore the proposed rezoning ACHIEVES Objective 4.2 and the
9 Board agreed.
10
11 Mr. Thorsland stated that regarding Objective 4.3, staff recommends that the proposed rezoning ACHIEVES
12 Policies 4.3.2, 4.3.3, 4.3.4, and 4.3.5 therefore the proposed rezoning ACHIEVES Objective 4.3 and the
13 entirety of Goal 4 and the Board agreed.
14
15 Ms. Capel asked if agriculture is defined.
16
17 Mr. Hall stated yes, agriculture is defined in the Zoning Ordinance. He said that the Zoning Ordinance
18 would not consider a grain elevator, like this, to be agriculture. He said that the grain elevator serves
19 agriculture but operating the elevator is not agriculture.
20
21 Mr. Thorsland stated that LRMP Goal 5 indicates that Champaign County will encourage urban development
22 that is compact and contiguous to existing cities, villages, and existing unincorporated settlements. He said
23 that staff has recommended that the proposed rezoning is NOT RELEVANT to Goal 5 because the existing
24 use on the subject property is not an urban land use and the Board agreed.
25
26 Mr. Thorsland stated that LRMP Goal 6 indicates that Champaign County will ensure protection of the
27 public health and public safety in land resource management decisions. He said that staff recommends that
28 the proposed rezoning CONFORMS to Objective 6.1 and Policy 6.1.2 therefore the proposed rezoning
29 CONFORMS to Goal 6 in its entirety and the Board agreed.
30
31 Mr. Thorsland stated that LRMP Goal 7 indicates that Champaign County will coordinate land use decisions
32 in the unincorporated area with the existing and planned transportation infrastructure and services. He said
33 that staff recommends that the proposed rezoning CONFORMS to Objective 7.1. He said that testimony was
34 received at tonight's hearing indicating that approval of the request will help reduce seasonal traffic. He said
35 that the proposed rezoning CONFORMS to Policy 7.1.1 and therefore CONFORMS to Goal 7 in its entirety
36 and the Board agreed.

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1
2 Mr. Thorsland stated that staff recommends that the proposed rezoning IS NOT RELEVANT to LRMP Goal
3 8, "Natural Resources" and the Board agreed.
4
5 Mr. Thorsland stated that LRMP Goal 9 indicates that Champaign County will encourage energy
6 conservation, efficiency, and the use of renewable energy sources. He said that staff recommends that the
7 proposed rezoning is NOT RELEVANT to Goal 9 although he would like to amend staff's recommendation
8 to PARTIALLY ACHIEVES because it reduces trips and better streamlines traffic and the Board agreed. He
9 said that LRMP Goal 10 indicates that Champaign County will promote the development and preservation of
10 cultural amenities that contribute to a high quality of life for its citizens. He said that staff recommends that
11 Goal 10 is NOT relevant to the proposed rezoning and the Board agreed.
12
13 Ms. Capel stated that she has some minor corrections to the text of the Finding of Fact and submitted those
14 changes to Mr. Kass.
15
16 Mr. Thorsland noted that if the Board discovers any minor corrections then those corrections should be
17 forwarded to staff but if the corrections are major then they should be noted into the record.
18
19 Mr. Hall stated that Mr. Thorsland indicated that the proposed rezoning PARTIALLY ACHIEVES Goal 9.
20 He said that he would like some additional text indicating why the Board is indicating PARTIALLY
21 ACHIEVES so that it makes sense when it goes to the County Board. He suggested the following text for
22 the Board's approval: The proposed rezoning PARTIALLY ACHIEVES Goal 9 because the proposed
23 elevator improvements will reduce seasonal traffic therefore reducing energy use.
24
25 Mr. Courson asked if the grain is transported by rail because everything that is being trucked in will be
26 trucked out therefore not reducing any traffic.
27
28 Mr. Hall stated that the fewer trucks quod the less energy used while doing the necessary filling and
29 dumping.
30
31 Mr. Louis Schwing, Assistant General Manager, stated that one way that this request will be advantageous to
32 the reduction of energy use is that many times the grain has to be double handled in moving it from one
33 elevator to another. He said that without approval of their request a lot of the grain will be handled twice.
34
35 Mr. Hall stated that an RLA is immediately adjacent to the elevator and it is not a typical situation. He said
36 that the RLA and the elevator have co-existed for a very long time and the elevator is well out of the way of

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1 the approach area of the nonconforming RLA.
2
3 Ms. Capel asked if the RLA is where Mr. Palmgren resides.
4
5 Mr. Hall stated no. He said that the RLA was established after the adoption of zoning but before the
6 County's current requirements and when those were adopted any existing RLA's could register the RLA
7 with the County, which Dale Busboom did, and a special use permit would not be required. He said that he
8 just wanted to make the Board aware of the RLA's existence although they have co-existed for a long time
9 and he does not anticipate any problems.
10
11 Mr. Passalacqua asked Mr. Hall to indicate how close the RLA is from the elevator versus the RLA in Aero
12 Place Subdivision.
13
14 Mr. Hall stated that the landing strip is part of the residential development in Aero Place and butts up to it
15 but the Busboom RLA is not that proximate to the subject property.
16
17 Mr. Thorsland stated that no decision is required from the Board regarding the *LaSalle* and *Sinclair* Factors
18 and there are no proposed special conditions.
19
20 Mr. Hall stated that a new item #13 should be added to the Documents of Record indicating the following:
21 Minor editorial changes to the LRMP Review of Policies submitted by Cathe Capel at the July 26, 2012,
22 public hearing.
23
24 Mr. Thorsland entertained a motion to adopt the Findings of Fact as amended.
25
26 **Mr. Courson moved, seconded by Mr. Passalacqua to adopt the Findings of Fact as amended. The**
27 **motion carried by voice vote.**
28
29 Ms. Capel stated that the e-mails from the Premier Cooperative Incorporated Board members are not
30 indicated in the Documents of Record.
31
32 Mr. Hall stated that staff does not normally include those e-mails as Documents of Record.
33
34 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings
35 of Fact as amended.
36

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1 **Mr. Courson moved, seconded by Mr. Passalacqua to adopt the Summary of Evidence, Documents of**
2 **Record and Findings of Fact as amended. The motion carried by voice vote.**

3
4 Mr. Thorsland entertained a motion to move the Final Determination.

5
6 **Ms. Capel moved, seconded by Mr. Courson to move to the Final Determination. The motion carried**
7 **by voice vote.**

8
9 Mr. Thorsland informed the petitioners that one Board member has abstained from voting, one Board
10 member was absent and one Board seat was vacant therefore it is at their discretion to either continue Case
11 721-AM-12 until a full Board is present or request that the present Board move forward to the Final
12 Determination. He informed the petitioners that four affirmative votes are required for approval.

13
14 The petitioners requested that the present Board move to the Final Determination.

15
16 **Summary Finding of Fact for Case 721-AM-12:**

17
18 From the documents of record and the testimony and exhibits received at the public hearing conducted on
19 July 26, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 20 **1. The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the Land**
21 **Resource Management Plan because:**
22 **A. The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the**
23 **following LRMP goals:**
24 • 3, 4 and 9
25 **B. The proposed Zoning Ordinance map amendment WILL NOT IMPEDE the**
26 **achievement of all other LRMP goals.**
27
28 **2. The proposed Zoning Ordinance map amendment IS consistent with the *LaSalle* and**
29 ***Sinclair* factors.**

30
31 The Board agreed with staff's recommendations for the Summary Finding of Fact.

32
33 **Final Determination for Case 721-AM-12:**

34
35 **Mr. Passalacqua moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2**
36 **of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**

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1 **determines that the Zoning Ordinance Amendment requested in Case 721-AM-12 should BE**
2 **ENACTED by the County Board in the form attached hereto.**

3

4 The roll was called:

5

6	Courson-yes	Miller-abstained	Passalacqua-yes
7	Palmgren-absent	Capel-yes	Thorsland-yes

8

9 Mr. Hall informed the petitioners that they have received an approval of the map amendment case and will
10 be forwarded to the County Board Committee of the Whole meeting in August.

11

12 Mr. Thorsland stated that the Board will now move forward to Case 726-S-12.

13

14 Mr. Hall stated that the heights are correct on the Preliminary Memorandum dated July 20, 2012, and there
15 are no proposed special conditions. He said that for consistency the same item #13 should be added to the
16 Documents of Record that was added to the Documents of Record for Case 721-AM-12.

17

18 Mr. Thorsland asked the Board if they would like to have any of the witnesses come to the witness
19 microphone to address any questions and the Board indicated no.

20

21 Mr. Hall stated that Findings #1 and #2 on a special use permit required more verbal text than most other
22 findings and in controversial special use permits staff would like using the Power Point projector so that the
23 Board can view the finding on the screen and note that the Board is comfortable with the finding at that time.
24 He said that this case is not controversial but it would give staff and the Board a dry run with this new
25 process.

26

27 Ms. Capel stated that the last sentence in 8.K(1)(f) should be stricken.

28

29 Mr. Thorsland entertained a motion to adopt the Summary of Evidence as amended.

30

31 **Mr. Courson moved, seconded by Ms. Capel to adopt the Summary of Evidence as amended. The**
32 **motion carried by voice vote.**

33

34 **Findings of Fact for Case 726-S-12:**

35

36 From the documents of record and the testimony and exhibits received at the public hearing for zoning case

1 726-S-12 held on July 26, 2012, the Zoning Board of Appeals of Champaign County finds that:

- 2
3 **1. The requested Special Use Permit IS necessary for the public convenience at this**
4 **location.**

5
6 Mr. Passalacqua stated that the requested Special Use Permit IS necessary for the public convenience at this
7 location because it improves the efficiency of the location.

8
9 Mr. Thorsland stated that special use permit would enable a major improvement of a facility that has been in
10 operation for the past 70 years and it would better serve its current and future customer base at the current
11 site.

- 12
13 **2. The requested Special Use Permit is so designed, located, and proposed to be operated**
14 **so that it WILL NOT be injurious to the district in which it shall be located or**
15 **otherwise detrimental to the public health, safety, and welfare.**

- 16
17 **a. The street has ADEQUATE traffic capacity and the entrance location has**
18 **ADEQUATE visibility.**

19
20 Ms. Capel stated that the street has ADEQUATE traffic capacity and the entrance location has
21 ADEQUATE visibility.

- 22
23 **b. Emergency services availability is ADEQUATE.**

24
25 Mr. Courson stated that emergency services availability is ADEQUATE.

- 26
27 **c. The Special Use WILL be compatible with adjacent uses.**

28
29 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses.

- 30
31 **d. Surface and subsurface drainage will be ADEQUATE.**

32
33 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE.

- 34
35 **e. Public safety will be ADEQUATE.**
36

1 Ms. Capel stated that public safety will be ADEQUATE.

2
3 **f. The provisions for parking will be ADEQUATE.**

4
5 Ms. Capel stated that the provisions for parking will be ADEQUATE.

6
7 Ms. Capel stated that the requested Special Use Permit is so designed, located, and proposed to be operated
8 so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the
9 public health, safety, and welfare.

10
11 **3a. The requested Special Use Permit DOES conform to the applicable regulations and**
12 **standards of the DISTRICT in which it is located.**

13
14 Ms. Capel stated that the requested Special Use Permit DOES conform to the applicable regulations and
15 standards of the DISTRICT in which it is located.

16
17 **3b. The requested Special Use Permit DOES preserve the essential character of the**
18 **DISTRICT in which it is located.**

19
20 **a. The Special Use will be designed to CONFORM to all relevant County**
21 **Ordinances and codes.**

22
23 Ms. Capel stated that the Special Use will be designed to CONFORM to all relevant County Ordinances
24 and Codes.

25
26 **b. The Special Use WILL be compatible with adjacent uses.**

27
28 Mr. Passalacqua stated that the Special Use WILL be compatible with adjacent uses.

29
30 **c. Public safety will be ADEQUATE.**

31
32 Mr. Passalacqua stated that public safety will be ADEQUATE.

33
34 Ms. Capel stated that the requested Special Use Permit DOES preserve the essential character of the
35 DISTRICT in which it is located.

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1 **4. The requested Special Use Permit IS in harmony with the general purpose and intent of**
2 **the Ordinance.**

3
4 **a. The Special Use is authorized in the District.**

5
6 **b. The requested Special Use IS necessary for the public convenience at this**
7 **location.**

8
9 Ms. Capel stated that the requested Special Use IS necessary for the public convenience at this location.

10
11 **c. The requested Special Use Permit is so designed, located and proposed to be**
12 **operated so that it WILL NOT be injurious to the district in which it shall be**
13 **located or otherwise detrimental to the public health, safety and welfare.**

14
15 Mr. Passalacqua stated that the requested Special Use Permit is so designed, located and proposed to be
16 operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise
17 detrimental to the public health, safety, and welfare.

18
19 **d. The requested Special Use Permit DOES preserve the essential character of the**
20 **DISTRICT in which it is located.**

21
22 Mr. Passalacqua stated that the requested Special Use Permit DOES preserve the essential character of the
23 DISTRICT in which it is located.

24
25 **5. The requested Special Use Permit IS an existing nonconforming use and the requested**
26 **Special Use Permit WILL make the existing use conform to the Zoning Ordinance.**

27
28 Ms. Capel stated that she has a problem as to how finding #5 in the original text of the draft Finding of
29 Fact is written. She said that the Special Use will not make the use any more compatible with it's
30 surroundings because it is what it is.

31
32 Mr. Hall stated that the mere fact that it conforms to the Zoning Ordinance makes it more compatible.

33
34 Ms. Capel stated that the Special Use Permit makes it more compatible to the Zoning Ordinance and not it's
35 surroundings because it is not going to change the physical characteristics of the area.

36

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1 Mr. Hall stated that in this instance it will not but there are instances where there were special conditions
2 that would make it more compatible. He said that all that the Zoning Ordinance requires for finding #5 is a
3 determination of IS or IS NOT.

4

5 Ms. Capel stated that this is just a standard statement.

6

7 Mr. Hall stated that the first part of finding #5 is a standard statement and the Board has to indicate whether
8 it IS or IS NOT and then the Board can strike the rest of the finding.

9

10 Ms. Capel stated that the requested Special Use Permit IS an existing nonconforming use and the requested
11 Special Use Permit WILL make the existing use conform to the Zoning Ordinance.

12

13 Mr. Hall stated that in the past there have been elevators in locations where there were many special
14 conditions required.

15

16 **6. No special conditions are hereby imposed.**

17

18 Mr. Thorsland stated that no special conditions are hereby imposed.

19

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

22

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

25

26 Mr. Thorsland informed the petitioners that one Board member has abstained from voting, one Board
27 member was absent and one Board seat was vacant therefore it is at their discretion to either continue Case
28 726-S-12 until a full Board is present or request that the present Board move forward to the Final
29 Determination. He informed the petitioners that four affirmative votes are required for approval.

30

31 The petitioners requested that the present Board move to the Final Determination.

32

33 Mr. Thorsland entertained a motion to move to the Final Determination for Case 726-S-12.

34

35 **Mr. Courson moved, seconded by Mr. Passalacqua to move to the Final Determination for Case 726-S-**
36 **12. The motion carried by voice vote.**

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Final Determination for Case 726-S-12:

Mr. Passalacqua moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that the Special Use requested in Case 726-S-12 is hereby GRANTED to the applicant Premier Cooperative Incorporated to authorize the following:

- Part A. The replacement of an existing non-conforming grain elevator that is approximately 175 feet in height.
- Part B. The replacement of an existing non-conforming grain leg that is approximately 175 feet in height.
- Part C. The construction and use of two grain bins approximately 130 feet in height.
- Part D. The construction and use of a grain dryer approximately 125 feet in height.

The roll was called:

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

Mr. Thorsland stated that the Board will take a five minute recess.

The Board recessed at 7:47 p.m.

The Board resumed at 7:52 p.m.

Case 723-AM-12 Petitioner: The Estate of John Buerkett with executors Thomas Fiedler and Dennis Buerkett. Request to amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District. Location: A 1.5 acre tract in the West Half of the Southeast Quarter of the Northeast Quarter of Section 33 of Somer Township and commonly known as the building at 3515 North Cunningham Avenue, Urbana.

Mr. Thorsland informed the audience that Case 723-AM-12 is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of hands for those who would like to cross examine and each person will be called upon. He requested that anyone called to cross examine go to the cross examination microphone to ask any questions.

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1 He said that those who desire to cross examine are not required to sign the witness register but are requested
2 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
3 the cross examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
4 exempt from cross examination.

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

9
10 Mr. Thorsland asked if the petitioner would like to make a statement outlining the nature of their request.

11
12 Mr. Dennis Buerkett stated that he is a co-executor of the Estate of Jon Buerkett, his brother. He said that
13 the subject property which is located 3515 North Cunningham Avenue was previously a bar and the property
14 is zoned B-3. He said that he has a potential buyer for the subject property and the buyer's intended use of
15 the property requires B-4 zoning.

16
17 Mr. Thorsland called John Hall to testify.

18
19 Mr. John Hall, Zoning Administrator, stated that there is no new information regarding this case and he
20 wishes that he could say that there are no special conditions. He said that the uses allowed in B-4 are very
21 similar to the uses allowed in B-3 and the use that the building previously had probably has as high a septic
22 load as any other use that could happen under B-4. He said that staff has proposed a special condition which
23 is simply the following:

24 **No Zoning Use Permit for expansion of building area or parking area and no Change of Use**
25 **permit authorizing a different use with a greater wastewater load shall be approved without**
26 **documentation that the Champaign County Health Department has determined the existing or**
27 **proposed septic system will be adequate for that proposed use.** The special condition is required
28 to ensure **that the existing septic system is adequate and to prevent wastewater runoff onto**
29 **neighboring properties.**

30 He said that for the use that is proposed there will be no problems if the rezoning is approved but we do not
31 want an increase in parking area or something similar to harm the existing septic system because septic
32 system rules are only becoming more difficult and we want to make sure that the existing septic system
33 continues working. He said that if, in the future, a new use is proposed on the subject property which
34 requires a higher septic load the applicant will have to make sure that they can get an approved septic
35 system. He said that the special condition should be no problem for the proposed use and it is there for the
36 long term.

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1
2 Mr. Hall stated that the proposed rezoning achieves all of the relevant policies, and in some instances merely
3 conforms. He said that when the petitioner first came to staff they were directed to contact the City of
4 Urbana and as far as staff knows the petitioner has done so but no comments have been received from the
5 City of Urbana's staff. Mr. Hall said that the City of Urbana's Comprehensive Plan is not as clear as he
6 would have hoped but it is possible that the City of Urbana would have no concerns regarding the proposed
7 rezoning. He asked Mr. Buerkett if the City of Urbana has indicated any concerns.

8
9 Mr. Buerkett stated no.

10
11 Mr. Hall stated that staff will be contacting the City of Urbana's staff to make sure that they understand that
12 if the ZBA takes action on this case tonight the case will be forwarded to the August County Board meeting.
13 He said that he hopes that the City of Urbana's staff has taken this into account and has scheduled review of
14 the proposed rezoning into their meeting schedule.

15
16 Ms. Capel asked how close the subject property was to the annexation line for the City of Urbana.

17
18 Mr. Hall stated that the subject property is not adjacent to the City of Urbana's boundary and no one is
19 contemplating annexation. He said that the Urbana-Champaign Sanitary District map indicates the area in
20 which a property will be annexed if necessary in order to be connected to sanitary sewer but the subject
21 property is too far away from the nearest sewer connection.

22
23 Mr. Hall stated that there have been previous rezoning cases in the area and the old veterinary facility which
24 is located on U.S. 45 was rezoned to B-4. He said that staff went back and checked all of the previous B-3 to
25 B-4 rezonings and there were no issues with any of those rezonings. He said that it is too bad that staff
26 cannot take the time to rezone everything in that area from B-3 to B-4 therefore it will be done on a piece
27 meal basis.

28
29 Mr. Courson asked if the rezonings could be combined into one case.

30
31 Mr. Hall stated that it could but staff has found out in the past that proposing a rezoning when no one has
32 asked for it is generally a recipe for trouble.

33
34 Mr. Thorsland asked the Board if there were any questions for Mr. Buerkett and there were none.

35
36 Mr. Thorsland asked if staff had any questions for Mr. Buerkett and there were none.

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1
2 Mr. Thorsland called Glen Judy II to testify.
3
4 Mr. Glen Judy II declined to testify.
5
6 Mr. Thorsland called Ken Judy to testify.
7
8 Mr. Ken Judy declined to testify at this time.
9
10 Mr. Thorsland called Glen Judy III to testify.
11
12 Mr. Glen Judy III declined to testify.
13
14 Mr. Ken Judy requested the opportunity to address the Board.
15
16 Mr. Thorsland called Ken Judy to testify.
17
18 Mr. Ken Judy, whose address is 1401 W. Green St., Champaign, stated that the proposed business is a
19 merchandise outlet store which will house customer return products and scratch and dent items from
20 retailers. He said that the proposed use will generate less traffic than the previous bar and less load on the
21 septic system.
22
23 Mr. Thorsland asked Mr. Judy if he agreed to the proposed special condition.
24
25 Mr. Judy stated that he does agree to the special condition.
26
27 Mr. Thorsland asked the Board if there were any questions for Mr. Judy.
28
29 Mr. Passalacqua asked if there were any requirements for a loading berth.
30
31 Mr. Hall stated no.
32
33 Mr. Courson stated that it appears that there is sufficient room for a loading berth if required. He asked Mr.
34 Judy if he anticipated constructing a loading berth.
35
36 Mr. Judy stated that they will be a small retail facility and they have no plans for a loading berth because the

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1 merchandise is not hauled in by semi-trucks but by trucks and trailers.

2

3 Mr. Thorsland asked if staff had any questions for Mr. Judy.

4

5 Mr. Hall stated that he would like to add the following sentence to item 6.A. of the Finding of Fact
6 describing the proposed use: The proposed use is a merchandise outlet store for returned items.

7

8 Mr. Judy stated that a lot of the merchandise is brand new stuff that was never claimed. He said that they
9 receive items from Walmart and Sam's Club which were in liquidation, delivered damaged, etc.

10

11 Mr. Hall stated that item 6.A. should be revised as follows: The propose use is a merchandise outlet store.

12

13 Mr. Thorsland asked the Board if there were any additional questions for Mr. Judy.

14

15 Ms. Capel asked Mr. Judy if he intended to use the building as it is currently and only modifying the interior.

16

17 Mr. Judy stated yes. He said that the interior is mainly all open other than a cooler which works out perfectly
18 for their needs. He said that they intend to use the bar area for their counter and the kitchen equipment will
19 be removed.

20

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

23

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

25

26 Mr. Thorsland stated that it is his opinion that there are no areas in the Finding, regarding the LRMP Goals,
27 Objectives and Policies, which require revision and the Board agreed with Mr. Thorsland.

28

29 Mr. Thorsland asked the Board if any revisions were required regarding the *LaSalle* and *Sinclair* Factors and
30 the Board indicated that there were none.

31

32 Mr. Thorsland read the special condition as follows:

33 **No Zoning Use Permit for expansion of building area or parking area and no Change of Use**
34 **permit authorizing a different use with a greater wastewater load shall be approved without**
35 **documentation that the Champaign County Health Department has determined the existing or**
36 **proposed septic system will be adequate for that proposed use.** The special condition is required

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1 to ensure **that the existing septic system is adequate and to prevent wastewater runoff onto**
2 **neighboring properties.**

3
4 Mr. Thorsland stated that the petitioner has previously agreed to the special condition therefore he would
5 entertain a motion to approve the special condition as read.
6

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

10 **Summary Finding of Fact:**
11

12 From the Documents of Record and the testimony and exhibits received at the public hearing conducted on
13 July 26, 2012, the Zoning Board of Appeals of Champaign County finds that:
14

- 15 **1. The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the Land**
16 **Resource Management Plan because:**
17 **A. The proposed Zoning Ordinance map amendment WILL HELP ACHIEVE the**
18 **following LRMP goals:**
19 **• 3, 5, and 6**
20 **B. The proposed Zoning Ordinance map amendment WILL NOT IMPEDE the**
21 **achievement of all other LRMP goals.**
22
23 **2. The proposed Zoning Ordinance map amendment IS consistent with the *LaSalle* and**
24 ***Sinclair* factors.**
25

26 Mr. Thorsland entertained a motion to approve the Summary Finding of Fact, Documents of Record and
27 Finding of Fact as amended.
28

29 **Mr. Courson moved, seconded by Mr. Passalacqua to approve the Summary Finding of Fact,**
30 **Documents of Record and Finding of Fact as amended. The motion carried by voice vote.**
31

32 Mr. Thorsland entertained a motion to move to the Final Determination for Case 723-AM-12.
33

34 **Mr. Miller moved, seconded by Mr. Courson to move the Final Determination for Case 723-AM-12.**
35 **The motion carried by voice vote.**
36

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1 Mr. Thorsland informed the petitioners that one Board member was absent and one Board seat was vacant
2 therefore it is at their discretion to either continue Case 723-AM-12 until a full Board is present or request
3 that the present Board move forward to the Final Determination. He informed the petitioners that four
4 affirmative votes are required for approval.

5
6 The petitioners requested that the present Board move to the Final Determination.

7
8 **Final Determination for Case 723-AM-12:**

9
10 **Ms. Capel moved, seconded by Mr. Courson that pursuant to the authority granted by Section 9.2 of**
11 **the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County**
12 **determines that the Zoning Ordinance Amendment requested in Case 723-AM-12 should BE**
13 **ENACTED by the County Board in the form attached hereto, subject to the following special**
14 **condition:**

- 15
16 **A. No Zoning Use Permit for expansion of building area or parking area and no Change of**
17 **Use permit authorizing a different use with a greater wastewater load shall be**
18 **approved without documentation that the Champaign County Health Department has**
19 **determined the existing or proposed septic system will be adequate for that proposed**
20 **use. The special condition is required to ensure that the existing septic system is adequate**
21 **and to prevent wastewater runoff onto neighboring properties.**

22
23 The roll was called:

24 **Passalacqua-yes Miller-yes Capel-yes**
25 **Courson-yes Thorsland-yes Palmgren-absent**

26
27 **6. Continued Public Hearing**

28
29 **Case 710-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
30 **Ordinance by amending the Champaign County Land Evaluation and Site Assessment (LESA)**
31 **System that is referred to in Section 3; and Footnote 13 in Section 5.3; and subsection 5.4 as follows:**
32 **Part A. Revise the Land Evaluation (LE) part as follows: 1. Revise all soil information to match the**
33 **corresponding information in the *Soil Survey of Champaign County, Illinois* 2003 edition. 2. Revise all**
34 **existing soil productivity information and replace with information from *Bulletin 811 Optimum Crop***
35 ***Productivity Rating for Illinois Soils* published August 2000 by the University of Illinois College of**
36 **Agricultural, Consumer and Environmental Sciences Office of Research. 3. Delete the 9 existing**

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1 **Agriculture Value Groups and existing Relative Values ranging from 100 to 0 and add 18 Agriculture**
 2 **Value Groups with Relative LE ranging from 100 to 0. Part B. Revise the Site Assessment (SA) part**
 3 **as follows: 1. Add definitions for “agriculture”; “agricultural production”; “animal units”; “best**
 4 **prime farmland”; “farm dwelling”; “livestock management facility”; “non-farm dwelling”; “principal**
 5 **use”; and “subject site”.; and 2. Delete SA Factors A.2.; A,3.; B.2.; B.3.; C.2.; D.2.; E.1.; E.2.; E.3.;**
 6 **E.4.; F.1.; F.2.; F.3.; F.4.; and F.5.; and 3. Revise SA Factor A.1. to be new Factor 8; Factor B.1. to be**
 7 **new Factor 7; Factor C.1. to be new Factor 5; Factor D.1. to be new Factor 1; and revise scoring**
 8 **guidance for each revised Factor, as described in the legal advertisement; and 4. Add new SA Factors**
 9 **2a.; 2b.; 2c.; 3.; 4.; 6.; 9.; 10.; and scoring guidance for each new Factor, as described in the legal**
 10 **advertisement. Part C. Revise the Rating for Protection as described in the legal advertisement. Part**
 11 **D. Revise the general text and reformat.**

12
 13 **Case 711-AT-12 Petitioner: Zoning Administrator Request to amend the Champaign County Zoning**
 14 **Ordinance as follows: Part A. In Section 3, revise the definition of “best prime farmland” as follows:**
 15 **a) delete “Relative Value of 85” and “Land Evaluation rating of 85” and replace with “average Land**
 16 **Evaluation rating of 91 or higher”; and b) add “prime farmland soils and under optimum**
 17 **management have 91% to 100% of the highest soil productivities in Champaign County, on average,**
 18 **as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*”; and c) add “soils**
 19 **identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County Land Evaluation**
 20 **and Site Assessment (LESA) System”; and d) add “Any development site that includes a significant**
 21 **amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3**
 22 **and/or 4 soils:. Part B. Revise Footnote 13 of Section 5.3 to strike references to “has a Land Score**
 23 **greater than or equal to 85 on the County’s Land Evaluation and Site Assessment System” and**
 24 **replace with “is made up of soils that are BEST PRIME FARMLAND” Part C. Revise paragraph**
 25 **5.4.4 to strike references to “has a Land Evaluation score greater than or equal to 85 on the County’s**
 26 **Land Evaluation and Site Assessment System” and replace with “is made up of soils that are BEST**
 27 **PRIME FARMLAND”**

28
 29 Mr. Thorsland called Cases 710-AT-12 and 711-AT-12 concurrently.

30
 31 Mr. Thorsland called John Hall, Zoning Administrator to testify.

32
 33 Mr. John Hall distributed a new Supplemental Memorandum for Case 710-AT-12 dated July 26, 2012, for
 34 the Board’s review. He said that he has not drafted all of the evidence for the Site Assessment Factors but he
 35 wanted to get this memorandum to the Board tonight so that the Board had plenty of time to critique it
 36 before the Board is close to a decision. He said that the new memorandum lists all of the minutes of the

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1 LESA Update Committee Meetings and all of the versions of the Draft Updated LESA that have been made
2 available. He said that Attachment A. Case Description from Legal Advertisement is what was used for
3 publication purposes and Attachment B. Additional Draft Evidence Regarding the Draft Site Assessment
4 Factors is the beginning of the Summary of Evidence. He said that he did not include the Land Evaluation
5 Factors as evidence but it is apparent as to where that information will be included in the Summary of
6 Evidence. He said that Land Evaluation is much easier to view and understand than the Site Assessment
7 Factors. He said that Item #2 of Attachment B reviews the proposed ten factors that are recommended and
8 indicates if they are similar or not to an existing factor and explaining the scoring and how the points might
9 change and mentioning whether or not it was recommended in the LESA Guide Book or included in any or
10 all of the other Illinois counties that have a LESA. He said that in the memo he mentions whether or not it
11 was recommended in the 2011 proposal submitted by Brad Uken of the Champaign County Farm Bureau and
12 anything else that he could think of that would be relevant to the site assessment factors because no matter
13 what you have in a Summary of Evidence and Finding of Fact anyone down the road can interpret it as they
14 desire in the future. He said that he would like this to be as clear as possible for the County Board and while
15 this is a lot of data it could certainly be read by any County Board member and they should have as good of
16 an understanding of what occurred at the LESA Update Committee as any of the members of the Committee
17 and maybe even better. He said that he does not have evidence for site assessment factors 7, 8, 9 or 10
18 indicated yet but that evidence will be easy to add.

19
20 Mr. Hall stated that the last page of the January 25, 2012, handout from the LESA Update Committee is
21 relevant to the protection ratings. He said that the handout attempts to show that depending on where a
22 hypothetical large non-CUGA best prime farmland site is located we have a good idea of what these 10
23 factors would end up rating it. He said that several of the factors are determined once you know that the site
24 is large, 25 acres or more, and it is not located in the CUGA therefore all of the other factors apply and its
25 best prime farmland by and large tells us all we need to know for factors 1, 2A, 2B. He said that since the
26 site is not in the CUGA answers factor 4, he said that since this is a hypothetical site we know what the
27 answer is going to be in regards to the factor regarding the distance from a municipality. He said that we are
28 not including livestock management facilities therefore we are not depending on having livestock
29 management facilities for these scores. He said that the table demonstrates that, in general, any large non-
30 CUGA best prime farmland site that is either closer to one mile from a municipality should end up getting a
31 score between 214 and 250. He said that there could still be sites which are within one and one-half mile of
32 a municipality, large best prime farmland, and still end up with a high rating of protection at 250. He said
33 that the table indicates that the ratings for protection should provide adequate protection for best prime
34 farmland sites and should give the Board some degree of confidence. He said that small best prime farmland
35 sites could easily have more non-agricultural uses on one or more sides and there could be less of it in
36 production and all of the scores could change drastically and there is no way to estimate what those scores

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1 may be. He said that for a large site where adjacent uses are not going to take up much of the perimeter and
2 where there can't be that many non-farm dwellings adjacent, unless they are not adjacent, there will be at
3 least 12 points awarded for factor 9. He said that for a large best prime farmland site not in the CUGA the
4 ten factors will always be 250 or above, even within an ETJ area. He said that this may be evidence for
5 some people may say that these factors are more restrictive than the current LESA and that would be an
6 accurate statement. He said that these factors match what he would expect to happen but he does not know
7 if it's what a majority of the County Board wants to have happen in LESA assessments but this is what the
8 LESA Update Committee recommended. He said that the table is not on the LESA Update Committee
9 website but it was handed out at the meeting and they discussed it. He said that the protection ratings are
10 Part C and the evidence that is included in this memo is the Supplemental Memorandum for Case 710-AT-
11 12 dated July 26, 2012, really is the additional evidence for the site assessment factors Part B and the Board
12 has seen previous evidence for those when he distributed the comparison of the scores therefore that
13 evidence would be relevant to have in the Summary of Evidence. He said that if the Board finds information
14 that could be stricken then they should indicate such so that only the essential evidence is presented to the
15 County Board.

16

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

18

19 Mr. Passalacqua asked Mr. Thorsland if he has scored his own property and if so, could he indicate the score.

20

21 Mr. Thorsland stated that he did attempt to score his own property and it scored poorly in both the new and
22 old LESA systems therefore in his opinion both LESA systems are incorrect in regards to his property.

23

24 Mr. Hall asked Mr. Thorsland to share the parameters of his property so that the Board can make their own
25 determination.

26

27 Mr. Thorsland stated that he intends to walk through his scoring process. He said that when he purchased
28 his property his soils were extremely poor with only a small piece of Drummer and the rest with Xenia soils.
29 He said that for the original seven acre piece, which is the best soil that is on the farm, was below 85. He
30 said that he completed the SA factors briefly describing his property which currently consists of an oddly
31 shaped 38 acres therefore he has a big perimeter. He said that his acreage encompasses five homes and is
32 adjacent to three homes to the east and across the road. He said that his acreage started out as seven acres
33 and was not considered agriculture because it was just a house and a hay field. He said there has been an
34 addition of 10 acres, which is currently in production, and then later 20 acres which is also in production and
35 has new waterways installed. He said that his site is an odd piece of poor soil which has had a lot of
36 improvements made to it and it is all certified organic except for ten acres which will happen in a year. He

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1 said that his site supplies vegetable and fruit production and a little bit of row crop. He said that his product
2 literally goes from the field to someone's plate. He said that he has a CSA that works off of the farm and
3 people purchase shares of vegetables from the farm therefore for 25 weeks they receive food and the rest of
4 the food is sold at the Farmer's Market by which it goes directly to the consumer. He said that most of his
5 grain stays on the farm by which it is turned into manure by way of the livestock that consumes and
6 processes the grain and that manure is used on the farm. He said that his farm would not have been
7 considered a unique farm 50 years ago but it is certainly a unique farm now and there are several farms like
8 his. He asked Ms. Capel if she had scored her property.
9

10 Ms. Capel stated that she had not scored her property yet.
11

12 Mr. Thorsland requested that Ms. Capel score her property and submit those results at the next public
13 hearing.
14

15 Ms. Capel stated that she will attempt to accommodate Mr. Thorsland's request.
16

17 Mr. Thorsland stated that he made an attempt to go through the SA portion. He said that he has more than
18 25 acres now, which is a recent addition within the last three years, therefore he received a score of 10. If he
19 had scored it with his previous acreage he would have only received a score of 6 because his parcel was less
20 than 20 acres. He said that in regards to best prime farmland he indicated that not one inch of his parcel is
21 considered best prime farmland therefore he skipped factor 2.B and moved to 2.C by which he received a
22 score of 10. He said that his parcel is not located in the CUGA. He said that he received an 8 on the
23 parameter but that was just a sort of off-the-cuff guess because his borders are odd shaped to the north and
24 east that border AG-1 and everything else is CR. He said that it is within the ETJ of Mahomet but he is not
25 positive that he is more or less than a mile from the corporate limits of Mahomet therefore his parcel
26 received a score of 5. He said that in regards to agricultural production he received the full score of 15
27 because the only part of his property that he does not produce crops on is the 20 feet around his house. He
28 said that he received 9 points in regards to everything around him being zoned AG-1, AG-2 or CR. He said
29 that he received a score of 10 on factor 8 and a zero if he counts the houses across the road.
30

31 Mr. Hall asked Mr. Thorsland if he does not have 10 houses that front his property.
32

33 Mr. Thorsland stated that he is pretty sure that he has 9 but he may have 10 houses which border his
34 property. He said that his final score on the Site Assessment was a 107. He said that on the next part he also
35 received a zero because he does have animal units on his farm but the animal units are basically chickens.
36

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1 Mr. Hall stated that his final score for the Site Assessment was 108.

2
3 Mr. Thorsland stated that he received an LE score of 80 therefore the overall score was 187.

4
5 Mr. Hall stated that he would imagine that Mr. Thorsland's LE score would be over 83 due to the Xenia
6 soils.

7
8 Mr. Thorsland stated that his property would receive a score somewhere between 187 and 190. He said that
9 his property was purchased to grow food for a customer base located nearby. He said that currently the
10 property has in-ground irrigation, drainage that is improved upon every year by the addition of new
11 waterways. He said that for a customer base of Champaign-Urbana his property fell just within 10 miles
12 from Wright Street. He said that he did not use Norman Stenzel's LESA system to score his property but he
13 would like to later. He said that in going through all of this and knowing other small producers who have
14 small acreages, the LESA, as it is currently structured, is doing a good and appropriate job for large tracts of
15 best prime farmland which produce corn, soybeans, etc. and keeping those tracts protected but it does a poor
16 job in protecting small agricultural tracts which happen to be close to a town. He said that the LESA gives
17 these small agricultural tracts a very low score therefore not giving them added protection that they deserve
18 and the LESA does not give these tracts any credit for agricultural improvements such as irrigation,
19 waterway or drainage way improvements and takes away points for things not in the control of the person
20 running the agricultural operation. He said that he had no control over having five houses built on 40 acres
21 next to his property and that is a factor which is out of his purview but it took away from the score. He said
22 that to have Mahomet's ETJ creep up closer and closer to his property is another thing that doesn't happen
23 because he requested it to do so but it took away from his overall score. He said that he would like, if
24 possible, discussion about whether prime or not even prime farmland with improvements could receive a
25 bonus in the LE to recognize that even though the soils are poor it has been substantially improved by the
26 current owner. He said that if the owner can prove that they have made an effort to turn the tract into a place
27 which produces any kind of crop or food product they should receive some sort of bonus and he believes that
28 as time moves on and the population expands these pockets of small tracts for food production which are
29 close to town and who produce food for the consumer will become more common.

30
31
32 Mr. Passalacqua asked how a low score directly affects Mr. Thorsland's food production on his land.

33
34 Mr. Thorsland stated that his land is in a trust for ten years after his death and at some point his land may or
35 may not be available for sale. He said that his parcel is a working farm with improvements.

36

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- 1 Mr. Passalacqua stated that during Mr. Thorsland's life time a low score will not affect his land but it could
2 in the future because the land may not be protected from development.
3
- 4 Ms. Capel stated that the concern is not necessarily whether or not the land is protected but the basis of this
5 discussion is the value of the land.
6
- 7 Mr. Passalacqua stated that a low score has no negative effects to Mr. Thorsland's day to day operations.
8
- 9 Mr. Hall stated that he believes that the LESA scored Mr. Thorsland's property too high and that his property
10 should be scored very low.
11
- 12 Mr. Thorsland stated that he believes that the LESA did score his property low.
13
- 14 Mr. Hall stated that the LESA scored his property very moderately.
15
- 16 Mr. Thorsland asked Mr. Hall why he would score his property very low.
17
- 18 Mr. Hall stated that he would score Mr. Thorsland's property low because it is within Mahomet's ETJ, it is
19 bordered by 10 adjacent non-farm dwellings, it is not best prime farmland and is only prime farmland and
20 only 30% of the perimeter is in agricultural use. He said that the LESA is for people who want to develop
21 their land and the County can step in and say that the land is too good to be rezoned and he cannot imagine
22 that the County would say that about Mr. Thorsland's land.
23
- 24 Mr. Thorsland stated exactly and that is his point. He said that there may be many people who would find
25 his parcel an ideal location for what he is currently doing and the LESA score should reflect that his parcel is
26 a true production area.
27
- 28 Mr. Courson stated that if someone else came in and wanted to own an organic farm then the LESA would
29 have nothing to do with the value.
30
- 31 Mr. Thorsland stated that if his parcel is a low scoring property then the person who wants to develop it for
32 houses would want to step in and purchase it as soon as possible and not someone who wants to continue an
33 organic operation. He said that part of the SA and LE is to protect agriculture and not developers and the
34 way that it is set up now it leans much too heavily to forcing any small production parcel that is close to an
35 ETJ, through no fault on their own, out of production. He said that his argument is that his parcel is not a
36 poor piece of land to grow food upon.

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Mr. Courson stated that there are a lot of pieces of property in Champaign County which would be more productive to grow food upon.

Mr. Thorsland stated that he disagrees because those parcels produce corn and soybeans and the owners will not take those tracts out of production to grow local food. He said that you do not need a big tract to grow food for the public and he would argue that he makes more food per acre per person than what Mr. Miller's ground produces.

Mr. Hall stated that LESA is only about one thing and that is the importance of agriculture and Mr. Thorsland is discussing more than that. He said that the LESA has to be approved by the State of Illinois and if this LESA is not approved by the State of Illinois then we do not get to use it.

Mr. Thorsland stated that he understands the procedure and he is only voicing his opinion.

Mr. Hall stated that he does not want to see the Board waste a lot of time talking about stuff that is not relevant to LESA. He said that the Board can take a small amount of time to discuss these things but he would not want the Board to waste a lot of time trying to bring in things that do not relate to LESA.

Ms. Capel stated that LESA is one of 12 factors that would be considered for discretionary review of a rezoning.

Mr. Hall stated that is only for the RRO.

Ms. Capel asked if the LESA is used for anything other than the RRO.

Mr. Hall stated that the LESA is considered any time there is a rezoning from an AG or CR district to something else provided that it is taking land out of production. He said that the Soil and Water Conservation District doesn't give an LE if there is no land in production of the land that is being rezoned because it is a waste of their time.

Ms. Capel asked Mr. Hall what other factors are reviewed during a discretionary review.

Mr. Hall stated adequacy and safety of roads, affects on nearby farmland and farm operations, affects of nearby farm operations on the proposed development, the LESA score, affects on drainage both upstream and downstream, suitability for septic systems, availability of water, availability of public services, flood

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1 hazard status, disturbance to wetlands, historic or archaeological sites, natural or scenic areas or wildlife
2 habitat, presence of nearby natural or man-made hazards, and the amount of land to be converted versus the
3 number of dwelling units to be accommodated.

4
5 Ms. Capel stated that one of the things that occurred to her is that the LESA only addresses production
6 agriculture and she does not see how the Board could address production agriculture and food production in
7 the same LESA.

8
9 Mr. Hall stated that if someone has land where they have achieved an organic status which is worse to have
10 along the border production agriculture with all of its inputs or neighbors who actually put more inputs in to
11 their sod and if it ends up that residential lots are worse than production agriculture then that would be a
12 factor that could be incorporated into LESA for organic.

13
14 Ms. Capel stated that this would be fine for organic producers but her parcel will never be organic. She said
15 that she has 20 acres that are sustainable for organic practices but she will never have it certified as organic.

16
17 Mr. Hall asked if there is some other way that development, authorized near her property, is worse than
18 agriculture as a neighbor. He said that if this is true then that is a valid thing to take into consideration in
19 LESA.

20
21 Mr. Thorsland stated that despite the fact his organic ground existed prior to the development of the five lots
22 to the west of his property the first owner of the property which borders his property to the west purchased
23 and built upon the property because it was next to a farm parcel and then approximately six years later
24 decided that being next to an organic farm was indeed a detriment. He said that the LESA score wouldn't
25 reflect urban stress on his farm operation but he could certainly tell the Board that it is a fact. He said that
26 bordering houses with a potential for more should give someone a higher score for protection, if you are not
27 just organic. He said that his point is that he and his certifier would rather have row crop production next to
28 his parcel than houses because there is a good argument that inputs on a good green lawn are more
29 detrimental to organic production than commercial agriculture. He said that in order for his farm to be
30 certified he has to have a buffer therefore he takes acreage out of production.

31
32 Mr. Hall stated that if a factor is proposed based on organic agriculture the LESA would be criticized for
33 taking points away from regular production agriculture and leaving those points on the table if there isn't
34 organic agriculture.

35
36 Ms. Capel stated that perhaps there could be some arbitrary key that indicates the score will go one direction

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1 for local food production protection and another direction for agricultural production protection. She said
2 that in doing like this the LESA would not be taking anything away from anyone because there would be two
3 separate factors.

4

5 Mr. Hall stated that it sounds like Ms. Capel is talking about land use policies.

6

7 Mr. Passalacqua stated that the LESA is a quantitative review of best prime farmland.

8

9 Mr. Thorsland stated that the practices that he is performing on his property can be performed on any piece
10 of dirt in Champaign County. He said that the current and proposed scoring system allows outside factors to
11 take too much away and are looking at large pieces of row crop agriculture which is a giant economic engine
12 in the County and is very acceptable to the State.

13

14 Mr. Passalacqua stated that perhaps the LESA is not the proper instrument to score an organic operation.

15

16 Mr. Thorsland stated that he would argue that his operation is agriculture.

17

18 Mr. Passalacqua stated that the LESA is specific to row crop agriculture.

19

20 Mr. Hall stated that the LESA is not specific to row crop agriculture. He asked Mr. Passalacqua to indicate
21 one factor that is specific to row crop farming.

22

23 Mr. Passalacqua stated that it appears that the LESA is more in tune to the larger parcel that is more
24 conventional in agriculture than organic in poor soil.

25

26 Mr. Thorsland stated that his piece of land, organic or not, has been developed to grow food which is
27 agriculture in its purest form and what he does now compared to 50 years ago was the norm. He said that the
28 LESA is geared towards large tracts with very good soil, which are conventionally farmed, and scores those
29 tracts well, and it should, but it scores smaller tracts that are within an ETJ and has adjacent homes too low.

30

31 Mr. Passalacqua stated that the LESA assumes growth and sprawl and determines which acreage should be
32 protected. He said that he does not know how the LESA can protect an oddly shaped parcel like Mr.
33 Thorsland's and also protect 240 acres of best prime farmland.

34

35 Mr. Thorsland stated that he is not proposing that the LESA look at the two parcels in the same way but he is
36 proposing that there are better ways to reflect the different scales of farming and food production.

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2 Mr. Passalacqua asked Mr. Thorsland if the LESA was working correctly what would be his ideal score.
3
4 Mr. Thorsland stated that he is not sure what his score would be.
5
6 Ms. Capel stated that under the goals for agriculture, locally grown foods are included. She said that one of
7 the biggest barriers for local food production is that people who are willing to do it cannot access appropriate
8 land because it has to be close enough to their market so that they can sell their produce in town. She said
9 that these people generally produce upon small parcels and it doesn't matter if it is Xenia, Drummer or
10 Flanagan soils but what you can afford. She said that the affordability of a small tract of land that is close
11 enough to town to be able to effectively address the market is a big issue. She said you cannot address both
12 things with one instrument. She said that an instrument could be created with a whole set of factors that
13 have to do with local food production and not every small tract of land will be protected. She said that the
14 other thing that could be created is a 13th factor for discretionary review regarding suitability of the property
15 for local food production.
16
17 Mr. Hall stated that he can imagine the County Board adopting a policy that would make that policy relevant
18 in any rezoning which is a lot easier to do and makes more sense than trying to come up with a LESA
19 system. He said that we are legally constrained on what we can do in LESA. He said that LESA is scientific
20 and that is how you stand up against legal challenges. He said that local foods cannot be based on science
21 and all that it can be based upon is that the County Board decided that it was important.
22
23 Mr. Thorsland stated that you can give a score to a known drainage system or whether or not irrigation is
24 available. He said that when he first stepped upon his property he would have anticipated that it would have
25 scored poorly and he anticipated that it would be ideal for his purposes but there are now known
26 improvements to the property and those improvements are quantifiable. He said that the improvements that
27 he has made to his property are scientifically measurable such as drainage documentation, irrigation
28 documentation, etc. He said that when he purchased his property he would have expected a LESA score of 4
29 out of a possible score of 250 but he would expect a higher score now.
30
31 Ms. Capel stated that the issue is that Mr. Thorsland wants to protect his farmland so that another farmer can
32 purchase it.
33
34 Mr. Hall stated that this discussion is not the purpose of LESA.
35
36 Mr. Thorsland stated that it is not the purpose of LESA but it is a factor.

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Mr. Thorsland called Norman Stenzel to testify.

Mr. Norman Stenzel, who resides at 545A CR 1900N, Champaign stated that he attended the Local Foods Council meeting last night and heard some of the same discussion about the problems with LESA and how it is not compatible with local food production. He said that in his efforts to clarify for himself as to what LESA can and cannot do he worked on a branched version of LESA. He said that if land is suitable for small vegetable farms or fruit farms and is surrounded by 10 houses it could still be considered under a LESA program if there are items which are appropriate or could be a branch of LESA. He said that there could be a branch of LESA for the conditions mentioned by Mr. Thorsland and there could be a branch of LESA that deals with CUGA as well. He said that if there is a possibility of creating these branches then perhaps it should be investigated and he would suggest that it is a possibility because other states have unique systems which encourage different approaches as to what is in LESA. He said that the County should not be afraid of trying to meet the conditions of Champaign County and meet the ambitions of local foods in Champaign County and it can be part of the LESA.

Mr. Stenzel stated that he heard comments regarding poor soils, which is still prime soil, and if you review the federal basis for LESA it is prime soil that they discuss. He said that other counties in the State also discuss prime soil and not super prime soil and according to Mr. Hall the only place that super prime soil exists is in Champaign County. Mr. Stenzel stated that the Board must decide if this is a barrier of a constructive LESA which serves both local foods and row crop, and he believes that it is and Mr. Thorsland would probably agree. He said that it would be wise to reconsider the concept of super prime and instead of bumping it up we need to include more land rated under a LESA system. He said that he is disturbed by some of the comments that he has heard at this meeting and it appears that the Board is a long way from a wise decision on the future of Champaign County.

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

Ms. Capel asked Mr. Stenzel if he had the branched version of the LESA available for review.

Mr. Stenzel stated that he only has one of the six pages of the instrument that he was working on but it was based on compact and contiguous and what justifies conversion of land. He said that whether the land has water and sewer would be a justification of the conversion of land and if it does not then it may not be justifiable to convert it.

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

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2 Mr. Thorsland asked if staff had any questions for Mr. Stenzel and there were none.
3
4 Mr. Thorsland stated that in regards to a 13th factor Mr. Hall stated that it would be easier for the County
5 Board to consider some filter as to whether or not a particular piece of land, which is proposed for
6 development, has a benefit of remaining agriculture rather than being developed. He said that in regards to
7 the Site Assessment Factors that Kevin Donoho recommended that it be a simple and straight forward and a
8 system that could be almost standardized. Mr. Thorsland stated that the Land Evaluation is fairly straight
9 forward and you need to know what soil you have for the most part and is the only part where “organic” or
10 “time in agriculture” should have anything to do with changing the LE part. He said that he takes a sample
11 of the dirt that is currently on his property to ASM (Agricultural Soil Management) and compares it to the
12 records of the dirt that he had tested when he first purchased his property he finds a very different soil.
13
14 Ms. Capel stated that Mr. Thorsland’s soil, whether improved or not, is still Xenia soil and it receives a low
15 score.
16
17 Mr. Thorsland stated that the only thing in the LE part that he would argue is that during the LE score there
18 needs to be more about what has occurred on the property in the last five years and what is occurring
19 currently and it should be a significant change in the overall score because the soil is the same. He said that
20 there is very different approach when you do what a small, sustainable organic farm does as opposed to a
21 conventional farmer. He said that he has very good farmers near his farm and very poor farmers near his
22 farm and the very poor farmers disc their land and spray everything they can to grow a good crop but you can
23 go out and pick up the rocks in your hands because there is nothing else there.
24
25 Mr. Passalacqua asked Mr. Thorsland if there was no distinction between prime and best prime would his
26 land receive a higher score.
27
28 Mr. Thorsland stated yes.
29
30 Ms. Capel stated that all of the soil in Champaign County is prime.
31
32 Mr. Passalacqua stated that Champaign County is the only county in the State of Illinois who makes the
33 distinction between prime and best prime farmland.
34
35 Ms. Capel stated yes.
36

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1 Mr. Hall stated that at one time the distinction mattered but now we are told that all of the soils are the same
2 therefore why worry about that distinction because Xenia and Drummer are both prime with no difference,
3 except in Champaign County.

4

5 Mr. Thorsland asked Mr. Hall why the distinction was made.

6

7 Mr. Hall stated that this staff had to tell people who had Drummer-Flannigan soil that they could not
8 subdivide their land because the County Board will never approve it and the only way that would make sense
9 is if the County Board called that land something different than just prime farmland and that is why this staff
10 invented best prime farmland.

11

12 Ms. Capel stated that she understands that staff cannot tell every farmer that they cannot build upon their
13 property because they have prime farmland.

14

15 Mr. Hall stated correct because the farmers know the truth about their land and that Xenia soils are much
16 different than Drummer-Flanagan soil. He said that the County Board could do away with best prime
17 farmland or there could be fewer points given for best prime so that more can be given for prime.

18

19 Mr. Passalacqua stated that in doing so we would be forsaking protecting what we now call best prime so
20 that we could better protect soil like Mr. Thorsland's.

21

22 Mr. Hall stated that he could even imagine doing away with Site Assessment Factor #1 all together. He said
23 that SAF #1 is worth 10 points which is not that critical and people are offended any time that you talk about
24 more land being better therefore those 10 points could be put towards prime.

25

26 Mr. Thorsland stated that he has read a lot of things about agriculture and one of the things that he read was
27 from Japan. He said that Japan does not have large pieces of land and a gentleman in the article indicated
28 that he farmed 900 small pieces of land around a village or city. Mr. Thorsland stated that the gentleman in
29 the article also stated that in a foundation it is the little stones that keep the big stones from moving which is
30 a very profound statement.

31

32 Mr. Passalacqua stated that the gentleman probably doesn't farm a large piece of ground because he doesn't
33 have one.

34

35 Mr. Thorsland stated that large pieces of ground are not available. He stated that the Board has had a good
36 discussion tonight and staff has distributed a handout which includes very useful information regarding these

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1 cases. He encouraged the Board to continue to read their information and continue their discussion although
2 he understands that there is some urgency in getting these cases completed before harvest although that may
3 not be possible. He said that the Board should not feel rushed or obligated to have this important issue
4 completed in a time certain.

5

6 7. Staff Report

7

8 None

9

10 8. Other Business

11 A. Review of ZBA Docket

12 Mr. Thorsland stated that the two cases which were approved tonight will not require additional docket
13 space, which is encouraging.

14

15 B. Meeting Time for August 16, 2012

16

17 Mr. Thorsland stated that he would recommend that the August 16th meeting begin at 6:00 p.m.

18

19 Mr. Miller asked if the cases will follow the agenda.

20

21 Mr. Thorsland stated yes.

22

23 Mr. Miller requested that the minutes, including the findings, for Case 699-AM-11 will be available for the
24 Board's review.

25

26 Mr. Thorsland stated yes.

27

28 Mr. Passalacqua asked Mr. Hall if any new information has been received regarding the Jones' cases.

29

30 Mr. Hall stated that when the Jones' cases come back before this Board they will have not been advertised
31 because staff did not receive any response.

32

33 Mr. Passalacqua asked if there was any reason why those cases should be on the docket.

34

35 Mr. Hall stated that something has to be done and it can only be done when the cases are on the agenda. He
36 said that the cases cannot be heard and the Board can only request that they indicate a status of the cases. He

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1 said that the Board has discretion regarding the two cases for Jones.

2

3 The Board agreed to begin the August 16th meeting at 6:00 p.m.

4

5 C. June 2012 Monthly Report

6

7 None

8

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

10

11 None

12

13 10. Adjournment

14

15 **Mr. Courson moved, seconded by Mr. Passalacqua to adjourn the meeting. The motion carried by**
16 **voice vote.**

17

18 **The meeting adjourned at 9:17 p.m.**

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Respectfully submitted

Secretary of Zoning Board of Appeals

ZBA

DRAFT

SUBJECT TO APPROVAL

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SUBJECT TO APPROVAL

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