

AS APPROVED MARCH 16, 2017

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61802

DATE: October 13, 2016

PLACE: John Dimit Meeting Room
1776 East Washington Street
Urbana, IL 61802

MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Debra Griest, Marilyn Lee, Brad Passalacqua, Eric Thorsland

MEMBERS ABSENT: Jim Randolph

STAFF PRESENT : Lori Busboom, Susan Chavarria, John Hall

OTHERS PRESENT : Katie Hatfield, Pete Hatfield, Kevin Modglin, Darrell Suits, Bill Morfey, Tom Henkelman, Bonnie McArthur

1. Call to Order

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

2. Roll Call and Declaration of Quorum

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

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.

3. Correspondence

None

4. Approval of Minutes

None

5. Continued Public Hearing

Case 845-AM-16 Petitioner: Kevin Modglin and Jeff Swan and Jeff Dazey, d.b.a. Advantage Trucking, LLC. Request to amend the Zoning Map to change the zoning district designation from the R-4 Multiple Family Residence Zoning District to the B-4 General Business Zoning District in order

1 **to establish and operate the proposed Special Use in related Zoning Case 846-S-16.** Location: A 7.97
2 **acre tract in Rantoul Township that is part of the Southwest Quarter of the Southwest Quarter of**
3 **Section 15 and a part of the Southeast Quarter of the Southeast Quarter of Section 16, Township 21**
4 **North, Range 9 East of the Third Principal Meridian in Rantoul Township and formerly known as**
5 **the Cherry Orchard Apartments property with an address of 1512 CR 2700N, Rantoul.**

6
7 **Case 846-S-16 Petitioner: Kevin Modglin and Jeff Swan and Jeff Dazey, d.b.a. Advantage**
8 **Trucking, LLC. Request: Part A: Authorize multiple principal uses and buildings on the same lot**
9 **consisting of a Truck Terminal, Contractor's Facility with Outdoor Storage and/or Operations, and**
10 **144 Self Storage Warehouse Units as a Special Use on land that is proposed to be rezoned to the B-4**
11 **General Business Zoning District from the current R-4 Multiple Family Residence Zoning District in**
12 **related zoning case 845-AM-16 on the subject property described below and Part B. Authorize the**
13 **following waiver to the standard conditions of the "Truck Terminal" special use as per Section 6.1.3**
14 **of the Zoning Ordinance: A separation distance of 55 feet in lieu of the minimum required 200 feet**
15 **between any Truck Terminal and any adjacent residential district or residential use on the subject**
16 **property described below; and Part C. Authorize the following waiver to the standard conditions of**
17 **the "Truck Terminal" special use as per Section 6.1.3 of the Zoning Ordinance: No wire mesh fence**
18 **surrounding the Truck Terminal in lieu of the minimum required 6 feet tall wire mesh fence on the**
19 **subject property described below. Location: A 7.97 acre tract in Rantoul Township that is part of the**
20 **Southwest Quarter of the Southwest Quarter of Section 15 and a part of the Southeast Quarter of the**
21 **Southeast Quarter of Section 16, Township 21 North, Range 9 East of the Third Principal**
22 **Meridian in Rantoul Township and formerly known as the Cherry Orchard Apartments property**
23 **with an address of 1512 CR 2700 N, Rantoul.**

24
25 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
26 the witness register for that public hearing. He reminded the audience that when they sign the witness
27 register they are signing an oath. He asked the audience if anyone desired to sign the witness register at this
28 time.

29
30 Mr. Thorsland informed the audience that Case 846-S-16 is an Administrative Case and as such, the County
31 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
32 a show of hands for those who would like to cross-examine and each person will be called upon. He
33 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.
34 He said that those who desire to cross-examine are not required to sign the witness register, but are
35 requested to clearly state their name before asking any questions. He noted that no new testimony is to be
36 given during the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA
37 By-Laws are exempt from cross-examination.

38
39 Mr. Thorsland called John Hall to testify.

40
41 Mr. John Hall, Zoning Administrator, distributed a Supplemental Memorandum #3 dated October 13, 2016,

1 to the Board for review. He said that Supplemental Memorandum #3 includes a statement from the concrete
2 crushing contractor regarding operations during the one-time crushing event; and an email received October
3 12, 2016, from Ken Berlatsky, 1429 CR 2700N, Thomasboro, stating his concerns with noise, dust and truck
4 traffic at the subject property.

5
6 Mr. Hall read the statement by BJ Trucking & Excavating, Inc., concrete crushing contractor, as follows:
7 Kevin, this is to verify that during crushing of the material located on your site, we will supply a water
8 tanker and spray the material prior to and during crushing to eliminate dust from our work. This is common
9 practice for dust control when crushing concrete. I would think that with the pile in Thomasboro, that dust
10 should not be an issue with our water tanker keeping the material wet before and during the crushing. I
11 would also estimate that this would take a couple of weeks at the most to complete.
12

13 Mr. Hall stated that the statement from Ken Berlatsky, who resides at 1429 CR 2700N, Rantoul, is as
14 follows: My concerns are noise and dust and truck traffic at that intersection. Mr. Hall stated that the
15 intersection that Mr. Berlatsky is referring to is located a CR 2700N and US Route 45.
16

17 Mr. Hall stated that he distributed a separate handout, which included proposed new Special Condition P for
18 Case 846-S-16. He said that this is something that he and Ms. Chavarria have been debating for a while, and
19 today, he decided to include the special condition and indicate what things could happen less than 200 feet
20 from the nearest residential use. He read proposed Special Condition P as follows:
21

22 **P. Regarding the waiver of the minimum required separation of 200 feet between a
23 truck terminal and the nearest residential use:**

- 24
- 25 **(1) No business activity shall occur less than 75 feet from the nearest residential
26 use existing at the time of Special Use Permit approval other than as may be in
27 conformance with the approved site plan and/or approved special condition;
28 and**
- 29
- 30 **(2) No truck & trailer parking and/or material storage shall occur less than 130 feet
31 from the nearest residential use existing at the time of Special Use Permit
32 approval.**

33 The special condition stated above is necessary to ensure the following:

34

35 **Conformance with a waiver of the minimum required separation of 200 feet
36 between a truck terminal and the nearest residential use.**

37
38 Mr. Hall stated that regarding paragraph (1) of the special condition; according to the most recent site plan,
39 received on October 06, 2016, the only things shown that will be less than 75 feet from the nearest
40 residential use are the planting of vegetative screening, portions of the septic tank installation and
41 construction of the berm. He noted that the site plan does not indicate outdoor storage in that area; therefore,

1 no outdoor storage can occur in that area in the future. He said that the special conditions document into the
2 future; they are rules that even subsequent owners of the property would have to abide by.
3

4 Mr. Hall stated that regarding paragraph (2) of the special condition; no truck/trailer parking and/or material
5 storage shall occur less than 130 feet from northwest corner of the Hatfield property to the northeast corner
6 of the shop space building. He said that the proposed special condition is to document that the Board is
7 aware that truck/trailer parking will occur less than 200 feet, but no closer than 130 from the closest existing
8 residential use, the Hatfield property, at the time of special use permit approval.
9

10 Mr. Hall stated that, prior to today he has not spent a lot of time reviewing accessibility codes, because those
11 codes are required anyway. He said that for the petitioner's benefit, a note should indicate that 5% of the
12 storage units are required to be readily adaptable for accessibility, which equates to eight of the units. He
13 said that it is best to have accessible parking right adjacent to the building, but it could be remote from the
14 building with the installation of an accessible path. He said that the site plan currently shows the accessible
15 parking not being adjacent to the building, but it does not show an accessible path; therefore, this
16 information must be clear on the site plan at the time of permitting. He said that proposed special condition
17 B. already requires accessibility compliance, but he would like to amend it to make it clear that accessibility
18 compliance is required at the time of permit approval and at the time of compliance approval.
19

20 Mr. Hall stated that the biggest item in this case is a site plan that the petitioner has worked very hard on in
21 resolving the issues mentioned during the last public hearing. He said that the site plan is enforceable under
22 the special use permit and the only reason why the special use permit is required in the B-4 Zoning District
23 is due to the multiple principal uses. He said that the B-4 District allows a truck terminal, but depending
24 upon where any outdoor storage is located, a contractor's facility requires a special use permit in B-4. He
25 said that a truck terminal or a contractor's facility is required to have a minimal separation from a nearby
26 residential use. He said that unless the Board includes a special condition with the map amendment, this site
27 plan could only be enforced if there is a requirement for the Special Use Permit. He said that we already
28 know that the petitioner is not planning on any self-storage facilities any time soon. He said there is a gray
29 area in regards to whether the site plan is still enforceable if there are no self-storage facilities. He said that
30 the Board can take care of these issues during the special use, but the map amendment must be burdened
31 with all of the special condition that establish separation distances, controls on concrete crushing, and things
32 like that, otherwise it could leave the neighbors seeing a truck terminal or self-storage facility closer than
33 what the site plan indicates. He said that staff does not normally recommend conditions like this for a map
34 amendment case, but given the facts, he believes it is a warranted recommendation. He said that the only
35 alternative way for the petitioner to do these mixed uses is not to request B-4, but request AG-2, in which
36 each of these uses would require a separate parcel. He said that there is good reason why the petitioner is
37 requesting B-4 for the proposed development and it is incumbent upon the ZBA to make sure that the map
38 amendment includes the necessary conditions. He said that the ZBA must make sure that the ultimate
39 development involving these uses, but perhaps under different ownership at a different time, complies with
40 the required separation distances, and the same care given towards the concrete crushing, etc. He said that
41 staff's recommendation is no small thing, because it suggests that the same special conditions for the special

1 use permit are required for the map amendment. He said that if the Board agrees with staff's
2 recommendation the Board might want to continue the case so that the petitioner will have time to review
3 the proposed special conditions for the map amendment and make sure that they are willing to accept those
4 conditions as part of the map amendment. He said that he is not suggesting that the petitioner has to do
5 anything different than what he has proposed, but as the Board knows, when final action is taken on a case
6 the Board needs to make sure what is approved will work in the future for perhaps multiple owners.
7

8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall.
9

10 Mr. DiNovo stated that concrete crushing is not an accessory use to a truck terminal.
11

12 Mr. Hall stated that, according to testimony, the concrete crushing is to create paving material for the use on
13 the property. He said that to the extent that the concrete crushing would be to create material used for the
14 contractor's facility, this is not the case.
15

16 Mr. DiNovo stated that Mr. Modglin could not indefinitely conduct the concrete crushing.
17

18 Mr. Hall stated that if the mix of uses were different, unless these conditions are included with the map
19 amendment, the limit on 14 days of crushing would not apply. He said that the concrete crushing is to create
20 paving material for the property and part of the construction process and he would not want to try to prove
21 anything different. He said that the special condition regarding crushing only took into account the northern
22 portion of the property, and that is not adequate. He said that the petitioner needs to nail down what
23 northern portion of the property the crushing is going to occur in, but it is his understanding that it will take
24 place on the existing asphalt drive, which is the northern 190 feet of the subject property. He said that a
25 defined area, with dimensions, on the site plan for the concrete crushing is easier to enforce and presents
26 accurate expectations.
27

28 Mr. Thorsland asked the Board if there were any additional questions for Mr. Hall and there were none.
29

30 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony
31 regarding these cases and there was no one.
32

33 Mr. Thorsland called Kevin Modglin to testify.
34

35 Mr. Kevin Modglin, who resides at 425 Glenwood Drive, Rantoul, stated that since the last meeting, the
36 only thing that he has done is to revise the site plan, meeting the concerns of the Board.
37

38 Mr. Thorsland asked Mr. Modglin if he had any questions for the Board or staff.
39

40 Mr. Modglin stated that he did not have questions for the Board or staff at this time. He said that the
41 concrete is stockpiled and the concrete crusher company will set the machine on the west side of the pile and

1 the material will feed into the crusher, dumping the stone on the other side. He said that the machine
2 continues to be moved around the stockpile until all of the concrete is processed. He said that where the
3 concrete is currently stored is where the crushing will take place and is where the stone will be stockpiled
4 until they need to use it on the property in the gravel paving areas.

5
6 Mr. Thorsland clarified that the location that Mr. Modglin is referring to is the existing asphalt drive area
7 and to the north, indicated on the site plan as stockpile storage area. Mr. Thorsland stated that the email
8 from the crushing contractor indicated the procedure for mitigating the dust created by the crushing. Mr.
9 Thorsland asked Mr. Modglin if any new concrete would be brought onto the property for crushing.

10
11 Mr. Modglin stated that no new concrete would be brought onto the property for crushing.

12
13 Mr. Passalacqua stated that from what he has seen, the concrete crushing process produces less dust than
14 harvesting soybeans and corn.

15
16 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Modglin.

17
18 Ms. Kathryn Hatfield, who resides at 1516 CR 2700N, Rantoul, stated that she has some concerns and
19 questions regarding the proposed use. She asked Mr. Modglin where he has material crushed currently.

20
21 Mr. Thorsland asked Mr. Modglin if any crushing is occurring on the property currently or is he having
22 concrete crushed at a different location.

23
24 Mr. Modglin stated that he typically takes concrete material from a job site to one of the recycle yards in
25 Champaign, Urbana or Rantoul, depending on where they are working. He said that those locations are still
26 available, but most of the material on the subject property, not all of it, came from the subject property. He
27 said that because of the amount of material required for the proposed use, he brought in material from a
28 different location. He said that he has to pay the same amount just to have the person come out so he wanted
29 to have the quantity of material that was needed for crushing on the subject property.

30
31 Mr. Thorsland stated that Ms. Hatfield's question is whether the crushing could be done somewhere other
32 than the subject property.

33
34 Ms. Hatfield asked Mr. Modglin if the Urbana facility crushes material.

35
36 Mr. Modglin stated no.

37
38 Mr. Thorsland stated that picking up all of the material from the subject property, delivering it to a different
39 location for crushing, and then unloading the finished material on the subject property would create a larger
40 nuisance. He said that approach would take more time, create additional truck traffic and there is still the
41 operation of moving the material in and out of the trucks. He said that the approach that Mr. Modglin is

1 taking might be more efficient for the neighbors, because the crushing would occur over a limited amount of
2 time and would occur on site rather than all of the trucks and equipment removing and delivering the
3 material on-site and off-site. He said that the Board has proposed a time limit for the crushing and the Board
4 will hold Mr. Modglin to the time limit. He said that the time limit would be enforced and when the time
5 limit is up the crushing should be complete and should not occur on the property again.
6

7 Mr. Thorsland asked Ms. Hatfield if she feels better knowing that there is a time limit for the crushing of the
8 material and a dust mitigation plan is in place.
9

10 Ms. Hatfield stated that she does not feel better about the crushing at all. She said it is her understanding
11 that the water runoff from the subject property is hazardous waste. She asked if wastewater would be
12 allowed to flow to the nearby field or would it be collected.
13

14 Mr. Modglin stated that the wastewater would not make it to the field.
15

16 Ms. Hatfield asked Mr. Modglin to explain what he really wants to do on the property.
17

18 Mr. Thorsland stated that Ms. Hatfield should indicate her questions and concerns, and Mr. Modglin can
19 respond.
20

21 Ms. Hatfield stated that she is concerned that once the crushing is complete, Mr. Modglin will continue to
22 crush other material on the property. She asked Mr. Modglin to indicate why the crushing has to be at this
23 location, because there are three local crushers and it might be cheaper to have one of those three to handle
24 the crushing in lieu of bringing all of their equipment to the subject property. She said she is concerned
25 about the amount of fuel that will be stored on the subject property for the proposed use. She said that
26 trucks are hard on the township road in front of her property and the road is currently busy with farm
27 equipment. She said that the road between the subject property and US45 is damaged and she is concerned
28 about the damage's relationship to the new owners of the subject property. She feels that the proposed use
29 will lower the value of her property.
30

31 Ms. Hatfield stated that there are warehouses located at Thomasboro, which is one-mile south of the subject
32 property and at Rantoul, which is one-mile north of the subject property, and those facilities are not fully
33 occupied. She said that the proposed location for the warehouses could be put to a better use other than
34 unused warehouses. She said that if the warehouses were not kept up, they would only become another
35 eyesore for the neighbors.
36

37 Ms. Hatfield stated that she is concerned about the waiver for the required 200 feet separation distance
38 between her property and the truck terminal. She said that there is 45 feet between her garage and the
39 subject property and Mr. Modglin is taking 55 feet. She thought that she was allowed a 200 feet separation
40 between their home and the intended use.
41

1 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Hatfield.
2

3 Mr. Hall stated that a truck terminal is the only thing that the Zoning Ordinance has for an established
4 minimum separation, 200 feet, and that only applies when it is under a Special Use Permit. He said that if a
5 truck terminal is located in the B-4 District, and the truck terminal is the only use on the property, the
6 Ordinance does not require a minimum 200 feet separation.

7
8 Mr. Thorsland stated that if the truck terminal was the only use, it would be by right and would not have a
9 separation requirement, and the other two uses do not have a separation distance at all.

10
11 Mr. Hall stated that Mr. Thorsland is correct. He said that other uses are generally allowed by right and no
12 public hearing would be required. He asked if Ms. Hatfield is concerned that if this is approved and
13 concrete crushing occurs for 14 days, time will pass and concrete crushing may begin again.

14
15 Ms. Hatfield stated that she would like to know what Mr. Modglin would do with the concrete after it is
16 crushed.

17
18 Mr. Thorsland stated that Mr. Modglin is crushing the concrete to use as material for the parking surface.
19 He said that the material is part of the old apartments and the intent is to crush the concrete for use on the
20 subject property. He said that what Mr. Modglin is proposing is probably the best way to dispose of the
21 concrete material and effectively use it for something on the subject property and not dragging it all over the
22 County.

23
24 Mr. Hall stated that Ms. Hatfield has had a rocky relationship with County enforcement, but there is a
25 Special Condition regarding the concrete crushing. He informed Ms. Hatfield that if concrete crushing
26 begins again after the 14-day time limit, she should contact him and he will personally go to the property
27 and the crushing will cease to occur. He said that there is no guarantee that this will resolve Ms. Hatfield's
28 concerns, but there is a special condition, which makes the time limit on the crushing very clear. He said
29 that the crushing has a 14-day limit and it can only occur one time.

30
31 Ms. Griest asked if there is no provision in the map amendment or the special use that permits the petitioner
32 to subsequently apply for a permit to open a concrete crushing facility under what is proposed tonight?

33
34 Mr. Hall stated that the petitioner would have to come back before the Board for a new public hearing.

35
36 Ms. Griest stated that the petitioner would have to come back before this Board for a new Special Use
37 Permit public hearing to be able to change the operation to include an ongoing concrete crushing operation.

38
39
40 Mr. Passalacqua stated that he has taken small amounts of concrete to the recycling center at no charge. He
41 asked Mr. Modglin to indicate what the cost would be to take tandem load of concrete to the recycling

1 center.

2 Mr. Modglin stated that there would be no charge at the Champaign, Urbana or Rantoul recycling centers.

3

4 Mr. Passalacqua asked if there is a charge for the rental of the concrete crusher for a 14-day period.

5

6 Mr. Modglin stated that the estimated cost to rent the concrete crusher for a 14-day period is \$20,000.

7

8 Mr. Passalacqua stated that it might be in Mr. Modglin's best interest, economically and as a good neighbor,

9 to take future concrete material to the recycling center.

10

11 Mr. Modglin stated yes.

12

13 Mr. Thorsland stated that visually, Ms. Hatfield had a very hard time with the property when the apartments

14 existed next door.

15

16 Ms. Hatfield stated that when the apartments were on the property, they were located on the Route 45 side

17 and to the north, and she could not see the apartments from her property.

18

19 Mr. Thorsland stated that Ms. Hatfield did see the apartment buildings as they existed prior to Mr. Modglin

20 removing them from the property.

21

22 Ms. Hatfield stated that she did see the apartment buildings as they existed prior to Mr. Modglin removing

23 them from the property, and she is glad that he did what he did.

24

25 Mr. Thorsland stated that Ms. Hatfield discussed her concern regarding the possibility of a reduction in her

26 property value due to the proposed use, and the individual aspects of the proposed use. He said that the new

27 site plan indicates planting of more vegetation and an earth berm. He said that the backside or quiet side of

28 the building will face the Hatfield property and there will be no windows, signs, laundry, etc. He said that

29 the plan is a good plan and there are conditions to ensure compliance. He said that the Board hears about

30 property values all of the time and it is a quantifiable thing. He said that there have been a lot of studies

31 regarding property values, but it is almost impossible to link the activities occurring on an adjacent property

32 to a residence and the reduction of its property value. He said that many arguments regarding increased and

33 decreased property values due to the adjacent property could be discussed, but the only thing that this Board

34 can do is to do their very best to ensure that the proposed use complies with the special conditions of

35 approval. He said that adjacent neighbors can call staff with any concerns that they may have regarding the

36 proposed use and staff will respond accordingly.

37

38 Mr. Thorsland stated that use of the road by agricultural equipment was mentioned and the concern

39 regarding truck use by the proposed use. He said that the proposed use will only occupy a small distance of

40 the road between the subject property entrance and US Route 45, which is a good thing and no additional

1 traffic should go past the Hatfield property.
2

3 Mr. Thorsland stated that it is up to Mr. Modglin as to how to make his business model work and it is not
4 this Board's purview to tell him how to do that. He said that Ms. Hatfield should have no concerns
5 regarding hazardous waste, because Mr. Modglin would only crush concrete materials and not house
6 materials. He said that Ms. Hatfield indicated her concern regarding fuel storage on the subject property, but
7 there is no more fuel storage on the subject property than what most farm operations store. He said that fuel
8 tanks are maintained by the fuel vendor or the property owner, because fuel is too expensive to allow it to
9 escape from the tanks. He said that if Ms. Hatfield smells fuel odor or sees fuel on the ground she should
10 immediately contact staff and perhaps the Environmental Protection Agency as well.

11
12 Ms. Hatfield asked Mr. Thorsland if there would be fuel tanks on the subject property. She said that she has
13 reviewed the revised site plan and it appears to be a much better plan. She said that they will now have a
14 berm, green area, that Mr. Modglin will take care of which will be better than looking at the back of the
15 buildings.

16
17 Mr. Thorsland stated that the berm should take care of noise and assist with drainage, and the vegetation on
18 the berm will provide a green separation between the subject property and the Hatfield property. He said
19 that he assumes that the buildings will be insulated, which will assist with noise from the inside of the
20 buildings. He asked Ms. Hatfield if she had any additional questions for Mr. Modglin.

21
22 Ms. Hatfield asked if Mr. Modglin would keep the Urbana facility when this facility is completed.

23
24 Mr. Thorsland stated that the Urbana facility is not part of the case for the subject property. He said that the
25 way that Mr. Modglin does his business is not the Board's business.

26
27 Mr. Thorsland asked the audience if anyone desired to cross-examine Ms. Hatfield and there was no one.

28
29 Mr. Thorsland asked the Board and staff if there were any questions for Ms. Hatfield and there were none.

30
31 Mr. Thorsland asked Mr. Modglin if large fuel tanks would exist on the subject property.

32
33 Mr. Modglin stated that he has not thought about fuel tanks yet. He said that he would probably have an off-
34 road tank, but on-road trucks would purchase fuel at a fueling station.

35
36 Mr. Thorsland asked Mr. Modglin if only a smaller volume tank would exist on the subject property.

37
38 Mr. Modglin stated yes.

39
40 Ms. Griest stated that Mr. Modglin would need to add the fuel tank to the site plan.

1 Mr. Hall stated that he assumes that the off-road tank would be a tank that is on wheels and is mobile.

2
3 Mr. Modglin stated that the off-road tank would not be on wheels and would be set in a location on the
4 subject property and would be used to fill vehicles on the subject property.

5
6 Mr. Modglin stated that the off-road tank would hold dyed diesel fuel for the onsite equipment, and on-road
7 fuel is generally purchased from a commercial diesel station.

8
9 Mr. Hall stated that the site plan should include any fuel tanks that will exist on the subject property. He
10 said that the exact location is not so important, but an indication of a fuel tank should be on the site plan.

11
12 Mr. Modglin stated that the fuel tank would be no larger than what a typical agricultural fuel tank would be
13 on a farmer's property.

14
15 Mr. Thorsland asked Mr. Modglin if he had an idea of the fuel tank's location.

16
17 Mr. Modglin stated that the fuel tank would probably be south of the aggregate bins so that it is out of the
18 way and will not be located in an area where it could be damaged.

19
20 Mr. Hall stated that the south aggregate bin is at the 200 feet arc from the nearest residential property.

21
22 Mr. Thorsland stated that he is not comfortable indicating that Mr. Modglin could not have an agricultural
23 type fuel tank for the onsite equipment.

24
25 Mr. Hall stated that his only point is that, the fuel tank will be part of the truck terminal and it needs to be
26 located more than 200 feet from the nearest residential property. He said that the site plan should call out
27 the size of the tank and its location.

28
29 Mr. Thorsland asked Mr. Hall if the fuel tank is not used for the truck terminal and only for maintenance
30 equipment on the subject property, does it still have to maintain the 200 feet separation requirement? He
31 said that the use of dyed fuel in a vehicle is illegal. He asked Mr. Modglin to indicate the use of the fuel
32 stored in the tank.

33
34 Mr. Modglin stated that the fuel from the tank would be used for the mower, end loader, and other
35 equipment used on the subject property.

36
37 Ms. Griest stated that she would like to have the tank indicated on the site plan.

38
39 Mr. DiNovo stated that the fuel tank is not a structure and it is customary to have a fuel supply as part of a
40 contractor's business. He said that if the issue had not come up tonight it would not have occurred to
41 anyone to think that the placement of a fuel tank would have been a violation. He asked Mr. Hall if

1 placement of the fuel tank would constitute a violation of the Special Use Permit? He said that this is small
2 potatoes and if it had not been brought up tonight, in any context of a business like this, a portable fuel tank
3 would not have been an issue.

4
5 Mr. Thorsland stated that this is an ordinary thing and he would have not thought that placement of a fuel
6 tank for equipment on site would have constituted a violation of the Special Use Permit. He said that he
7 would like assurance that Mr. Modglin does not intend to turn the subject property into a fuel depot and if he
8 did, Ms. Hatfield would be calling staff immediately.
9

10 Mr. DiNovo stated that the Board could not possibly anticipate every possible change that will occur on the
11 subject property in regards to the business. He said that there is a threshold that has to be crossed before the
12 Board can try to nail everything down in a condition. He said that there would be things that might or might
13 not come up during a public hearing that the Board had not thought about, and he is not sure that the tank
14 crosses that threshold.
15

16 Ms. Griest stated that she completely disagrees with Mr. DiNovo. She said that if the Board were not going
17 to require that the fuel tank be indicated on the site plan, she would like a limitation on the quantity of fuel
18 that will be allowed on site. She said that a 200-gallon fuel tank is not a lot of fuel, but a 1,000-gallon fuel
19 tank poses a greater risk to the surrounding property owners. She said that it behooves this Board to require
20 the size and location of the fuel tank on the site plan as an effort to address the adjacent landowner's fears
21 and protect their concerns. She said that she does not believe that Mr. Modglin will have an objection
22 indicating the fuel tank's size and location on the site plan. She said that these fuel tanks are not portable
23 and it does require heavy equipment to move them and they are not moved frequently. She said that Mr.
24 Modglin might want to have an electrical fuel pump on the tank, which could dictate the tank's location.
25 She said that her bottom line is that she wants this information indicated on the site plan.
26

27 Mr. Thorsland stated that Mr. Modglin could indicate a proposed location of a certain size of tank on the site
28 plan, but he does not feel that this indication warrants another meeting for the Board to see that information.
29 He said that there are probably 10,000 existing fuel tanks in Champaign County located on private property
30 and farms.
31

32 Ms. Griest stated that the agricultural fuel tanks are outside of this Board's purview and this is not.
33

34 Mr. Thorsland stated that he understands that the agricultural fuel tanks are outside of this Board's purview,
35 but he is looking at it as a risk assessment thing.
36

37 Ms. Griest stated that she and Mr. Thorsland are going to have to agree to disagree regarding this subject.
38

39 Mr. Thorsland stated that the Board has spent more than enough time on this subject and if the petitioner is
40 willing to pencil in the size and location of the fuel tank on the site plan, then he is good with that and ready
41 to move forward. He said that if the petitioner is only considering having a fuel tank on the subject

1 property, he should be mindful of the size and location of the fuel tank and to be mindful of the 200 feet
2 separation from the nearest residence.

3
4 Mr. Modglin asked the Board if he did not include a fuel tank on the site plan at this time, but within one-
5 year, he decides to install a fuel tank, would he be in violation of the Special Use Permit.

6
7 Mr. Hall stated that staff receives calls all of the time regarding things that were not considered during the
8 public hearing process; therefore, he will always require that any physical object that may or may not be on
9 the subject property be indicated on the site plan.

10
11 Mr. Modglin stated that he could indicate the location of the fuel tank to be at the northwest corner of the
12 building.

13
14 Mr. Hall stated that the fuel tanks location at the northwest corner of the building would be a perfect
15 location, because it is beyond the 200 feet separation distance from the nearest residence.

16
17 Ms. Lee stated that it appears that the truck terminal parking is too close to the nearest residence.

18
19 Mr. Hall stated that the distance is 130 feet.

20
21 Ms. Griest stated that the only residential property, which is adjacent to the truck terminal, is on the very
22 first parcel and not the properties indicated as Tract 1 and Tract 2.

23
24 Mr. Hall stated that Ms. Griest is correct and that there are no residences on Tract 1 or Tract 2.

25
26 Mr. Thorsland asked the Board and staff if there were additional questions for Mr. Modglin and there were
27 none.

28
29 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Modglin, and there was no one.

30
31 Mr. Thorsland called Tom Henkelman to testify.

32
33 Mr. Tom Henkelman declined to testify at this time.

34
35 Mr. Thorsland asked the audience if anyone desired to sign the witness register to present testimony
36 regarding these cases, and there was no one.

37
38 Mr. Thorsland closed the witness register.

39
40 Mr. Thorsland stated that the Board should review the special conditions of approval and decide if any or all
41 of those conditions will apply to the map amendment.

1
2 Ms. Griest stated that she had one more question for Mr. Modglin. She asked Mr. Modglin to indicate what
3 happened to the debris, excluding the concrete material which is to be crushed, that was previously on the
4 property during the apartment building's demolition. She asked Mr. Modglin if he buried any of the
5 material at the site.

6
7 Mr. Modglin stated that the debris was taken to Urbana to a waste transfer facility, and no, he did not bury
8 any of the material.
9

10 Mr. Thorsland stated that the Board would review the proposed special conditions of approval at this time.
11 He guided the Board to page 28 of 42 of the Supplemental Memorandum dated October 13, 2016. He said
12 that Mr. Modglin will need to accept the conditions as read or revised.
13

14 Mr. Thorsland read proposed Special Condition A. as follows:
15

16 **A. A Change of Use Permit shall be applied for within 30 days of the approval
17 of Case 845-AM-16 by the County Board.**

18 The above special condition is required to ensure the following:

19 **The establishment of the proposed use shall be properly documented
20 as required by the Zoning Ordinance.**

22 Mr. Thorsland asked Mr. Modglin if he agreed with Special Condition A.
23

24 Mr. Modglin stated that he thought he had already submitted the Change of Use Permit paperwork.
25

26 Mr. Hall stated that Mr. Modglin has not submitted the Change of Use Permit paperwork yet. He said that
27 this does not actually require any construction and could simply be submitting a Change of Use to document
28 that this is now whatever it is approved to be. He said that this could also wait until Mr. Modglin is ready to
29 do construction and that would be just as fine, but technically staff likes to have the Change of Use on
30 record so that it is not overlooked in the future.
31

32 Mr. Modglin stated that he agreed with Special Condition A.
33

34 Mr. Thorsland read proposed Special Condition B. as follows:
35

36 **B. The Zoning Administrator shall not issue a Zoning Compliance Certificate for
37 the proposed Truck Terminal, Contractor's Facility with Outdoor Storage and/or
38 Operations, and 144 Self-Storage Warehouse Units without heat and utilities to
39 individual units, until the petitioner has demonstrated that the proposed Special Use
40 complies with the Illinois Accessibility Code.**

41 The special condition stated above is necessary to ensure the following:

1 **That the proposed Special Use meets applicable state requirements for
2 accessibility.**

3
4 Mr. Thorsland stated that the accessible parking spots are indicated on the site plan, and Mr. Hall has
5 indicated that typically 5% of the units, or eight of the units, are required to be readily accessible and the
6 parking is attached to that by a concrete path. He said that there is an accessible parking spot for the
7 warehouse to the north and an accessible parking spot for the southernmost warehouse near the berm and he
8 assumes that the parking area for the remaining warehouse units will have a gravel surface.
9

10 Mr. Modglin stated that the intent is to have a gravel surface.
11

12 Mr. Thorsland reminded Mr. Modglin that accessible parking spots and the path to the eight accessible units
13 are required to have a paved surface. He said that it might be a good idea for Mr. Modglin to indicate on the
14 site plan which eight units will be accessible, and where the accessible path will be located.
15

16 Mr. Modglin stated that the southernmost building would be the first building to be constructed. He said
17 that the south side of the building would have a paved surface.
18

19 Mr. Thorsland stated that if it is more economical to have the first building include all of the accessible
20 units, then the site plan should indicate the accessible units and the paved path.
21

22 Mr. Hall stated that in regards to the accessibility for the self-storage units, if this project is to have
23 incremental growth, it is important for the Board to document that it has to meet the requirement and not
24 worry about the site plan accurately indicating accessibility, because this is the requirement and this Board
25 has no flexibility. He said that even if the accessibility is not indicated on the site plan, it still has to be met.
26

27 Mr. Thorsland stated that according to the site plan, the shop has a sidewalk.
28

29 Mr. Modglin stated yes.
30

31 Mr. Thorsland stated that the Board has no ability to waive the accessibility requirements, but the Board is
32 not an enforcement agency for accessibility either.
33

34 Mr. Thorsland asked Mr. Modglin if he agreed with Special Condition B.
35

36 Mr. Hall stated that this project would be constructed incrementally; therefore, the accessibility
37 requirements could be met incrementally.
38

39 Mr. Thorsland asked Mr. Modglin if he has contacted the Capitol Development Board regarding his project
40 and accessibility.
41

1 Mr. Modglin stated no.
2

3 Mr. Passalacqua stated that it is his understanding that Mr. Modglin is willing to meet the accessibility
4 requirements for the entire project during the first phase; therefore, he would meet the requirements
5 incrementally ahead of time.
6

7 Mr. DiNovo stated that Mr. Modglin has provided the required amount of accessible self-storage warehouse
8 units during the first phase and he could provide more during the construction for the second building.
9

10 Mr. Hall stated that he would imagine that by the time Mr. Modglin incrementally constructs the last
11 building, he will have already met the accessibility requirements. Mr. Hall stated that he would like to
12 revise the Special Condition so that no matter how Mr. Modglin goes about this, or whatever phase he does,
13 both at the Zoning Use Permit when he constructs, and for the Zoning Compliance Certificate, he will be
14 asked about compliance for accessibility. Mr. Hall stated that the special condition informs Mr. Modglin
15 what he has to do at the beginning of construction for a phase, and at the end of that construction phase, staff
16 will document that he met the requirements with the Illinois Accessibility Code. Mr. Hall read revised
17 Special Condition B. as follows:
18

19 **B. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning Compliance
20 Certificate for the proposed Truck Terminal, and/or Contractor's Facility with
21 Outdoor Storage and/or Operations, and/or 144 Self-Storage Warehouse Units without
22 heat and utilities to individual units, until the petitioner has demonstrated that the
23 proposed Special Use complies with the Illinois Accessibility Code.**

24 The special condition stated above is necessary to ensure the following:

25 **That the proposed Special Use meets applicable state requirements for
26 accessibility.**

27
28 Mr. Hall stated that the special condition does not totally capture the detail, but when it indicates that the
29 Zoning Administrator will not issue a Zoning Use Permit or a Zoning Compliance Certificate, it means that
30 anytime Mr. Modglin will be doing construction, he needs a Zoning Use Permit. He said that any phase of
31 construction will be reviewed by staff for accessibility, and before that phase can be used, staff will inspect
32 the phase for compliance with the Illinois Accessibility Code.
33

34 Mr. Modglin stated that he agreed with revised Special Condition B.
35

36 Mr. Thorsland read proposed Special Condition C. as follows:
37

38 **C. Certification from the County Health Department that the septic system on the subject
39 property has sufficient capacity for the proposed uses is a requirement for approval of
40 the Zoning Use Permit.**

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

1 **That the solid waste system conforms to the requirements of the Zoning
2 Ordinance and any applicable health regulations.**

3
4 Mr. DiNovo stated that Special Condition C. discusses approval of the Zoning Use Permit, but to be clear,
5 the Zoning Use Permit is only for the truck terminal.
6

7 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition C.
8

9 Mr. Modglin agreed to Special Condition C.
10

11 Mr. Thorsland read proposed Special Condition D. as follows:
12

13 D. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate for the
14 proposed development until the petitioner has demonstrated that a 6 feet tall wire mesh
15 fence has been installed around the outdoor storage and operations area for the Truck
16 Terminal.**

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

18 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**
19

20 Mr. Thorsland stated that the “ensure portion” of the special condition obviously requires editing.
21

22 Mr. DiNovo asked staff why Special Condition D. was necessary.
23

24 Mr. Thorsland agreed with Mr. DiNovo, because there is a waiver for the fence under Part C. of the special
25 use case.
26

27 Ms. Chavarria stated that the waiver for Part C. is for doing the 6 feet tall wire mesh fence on the subject
28 property versus the need to have the outdoor storage and operations area, which is a small part of the subject
29 property, surrounded by the 6 feet tall wire mesh fence.
30

31 Ms. Griest stated that at the last meeting the Board eliminated that requirement.
32

33 Mr. Hall stated that due to the concerns of the neighbors, staff was not clear if the Board wanted to
34 completely eliminate the fencing requirement. He said that if the Board is willing to waive the requirement
35 completely, then no special condition regarding fencing is necessary.
36

37 Mr. Passalacqua asked Mr. Modglin what he understood regarding the fence requirement.
38

39 Mr. Modglin stated that he thought that the Board decided that they would not require a fence.
40

41 Mr. Passalacqua stated that he had the same impression as Mr. Modglin.

1 Mr. Hall stated that this is the first time that the Board has discussed the special conditions in detail.
2
3

4 Mr. Thorsland entertained a motion to strike proposed Special Condition D. as related to fencing
5 requirements.
6

7 **Mr. DiNovo moved, seconded by Mr. Passalacqua, to strike proposed Special Condition D., as related**
8 **to fencing requirements. The motion carried by voice vote.**
9

10 Mr. Thorsland stated that the remaining proposed special conditions would need to be renumbered.
11

12 Mr. Hall stated that there is no proposed special condition regarding the lighting requirements of Section
13 6.1.2.
14

15 Mr. Thorsland stated that the lighting requirement was stricken in the memorandum.
16

17 Mr. Hall stated that he does not understand the reasoning for eliminating the special condition for the
18 lighting requirements.
19

20 Ms. Chavarria stated that she eliminated the proposed special condition regarding the lighting requirements
21 in Section 6.1.2., due to the evidence that Mr. Modglin provided indicating that the proposed lighting would
22 be in compliance.
23

24 Mr. Thorsland stated that the proposed special condition is always included regardless of the evidence
25 provided by the petitioner indicating compliance.
26

27 Ms. Griest stated that inclusion of the special condition regarding the lighting requirements binds any future
28 owners who may want to change any of the existing lighting.
29

30 Mr. Thorsland asked the Board if they would like to reinstate the special condition regarding the lighting
31 requirements in Section 6.1.2. and the Board agreed.
32

33 Mr. Thorsland read reinstated special condition C., as new proposed special condition D. as follows:
34

35 **D. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until**
36 **the petitioner has demonstrated that any new or proposed exterior lighting on the**
37 **subject property will comply with the lighting requirements of Section 6.1.2.**

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

39 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**

40
41 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition D.

1 Mr. Modglin stated that he agreed to Special Condition D.
2
3

4 Mr. Hall recommended that Special Condition D. be revised as follows:
5

6 **D. The Zoning Administrator shall not authorize a Zoning Use Permit or a Zoning**
7 **Compliance Certificate until the petitioner has demonstrated that any new or proposed**
8 **exterior lighting on the subject property will comply with the lighting requirements of**
9 **Section 6.1.2.**

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

11 **That any proposed exterior lighting is in compliance with the Zoning Ordinance.**

12
13 Mr. Thorsland asked Mr. Modglin if he agreed to revised Special Condition D.
14

15 Mr. Modglin stated that he agreed to revised Special Condition D.
16

17 Mr. Thorsland read proposed Special Condition E. as follows:
18

19 **E. The petitioners must plant evergreen screening along the east lot line to screen the**
20 **proposed uses from adjacent residential properties, as indicated on the approved Site**
21 **Plan. As per standard Department practice, a Norway spruce vegetative screen must**
22 **be four to six feet high at the time of planting and will be planted in staggered rows and**
23 **must be planted within one year of the approval of Zoning Case 845-AM-16.**

24 The above special condition is required to ensure the following:

25 **To promote public health, safety, and general welfare that is a purpose of the**
26 **Zoning Ordinance.**

27
28 Ms. Griest stated that the site plan does not indicate the screening planted in staggered rows.
29

30 Mr. DiNovo asked why the screening was required, because it will not be screening anything, but the wall.
31

32 Mr. Thorsland stated that the petitioner presented testimony regarding existing vegetation on the subject
33 property.
34

35 Mr. Modglin stated that there is existing vegetation along the Hatfield's property line. He said that the site
36 plan indicates "EX" which is an existing hedgerow on the subject property. He said that currently there is
37 no screening north of the Hatfield's property line. He said that to help, he is willing to add vegetative
38 screening along with the Hatfield's screening.
39

40 Mr. Hall stated that staff prepares the special conditions based upon experience with previous cases. He
41 said that if the Board does not believe that screening is necessary then the Board should not require it, and it

1 is that simple.

2
3 Mr. Thorsland stated that the petitioner is willing to install the screening. He asked the Board if they wanted
4 to extend the existing screening to the earth berm to the north along the property line, or not require
5 screening at all.

6
7 Mr. DiNovo stated that the site plan should indicate all vegetative screening, existing and proposed.

8
9 Mr. Hall stated that the Board normally requires the screening to be fully in place by year four or something
10 like that.

11 Mr. Thorsland stated that this means that you should not be able to see through it.

12 Ms. Griest asked Mr. Hall if the Board should tweak the special condition, because technically, the east lot
13 line extends beyond where the proposed screening is going to exist; therefore, the Board could add a clause
14 indicating, exclusive to where the berm is located.

15 Mr. Thorsland stated that the special condition could indicate that the new vegetative screening is required
16 from the existing screening to the berm.

17 Ms. Griest stated that currently the special condition indicates that the petitioners must plant evergreen
18 screening along the east lot line.

19 Mr. Thorsland asked Mr. Modglin if everything indicated in light green on the site plan is new screening,
20 because the other screening is on the Hatfield property.

21 Mr. Modglin stated yes.

22 Mr. Thorsland asked Mr. Modglin if the other screening is on the Hatfield property.

23 Mr. Modglin stated yes. He said that the property has sat idle for so long and trees have been allowed to
24 grow along the property line.

25 Mr. Thorsland asked Mr. Modglin if he is comfortable with a special condition indicating that he must plant
26 evergreen screening along the east lot line south of the berm.

27 Mr. Modglin stated yes.

28 Mr. Hall stated that Special Condition E. could be revised as follows:

29
30
31
32
33
34
35
36
37
38
39
40
41 **E. The petitioners must plant evergreen screening along the east lot line south of the berm**

1 **to screen the proposed uses from adjacent residential properties, as indicated on the**
2 **approved Site Plan. As per standard Department practice, a Norway spruce vegetative**
3 **screen must be four to six feet high at the time of planting and will be planted in**
4 **staggered rows and must be planted within one year of the approval of Zoning Case**
5 **845-AM-16.**

6
7 Mr. Hall stated that regarding the timing of the planting should be included with the permit for the truck
8 terminal building and not a function of approval of the map amendment. He said that Special Condition E.
9 could read as follows:

10
11 **E. The petitioners must plant evergreen screening along the east lot line south of the berm**
12 **to screen the proposed uses from adjacent residential properties, as indicated on the**
13 **approved Site Plan. As per standard Department practice, a Norway spruce vegetative**
14 **screen must be four to six feet high at the time of planting and will be planted in**
15 **staggered rows and must be planted as part of the Zoning Use Permit authorizing**
16 **construction of the shop building.**

17
18 Mr. Thorsland asked Mr. Modglin if he agreed with the final version of Special Condition E.

19
20 Mr. Modglin stated that he agreed with the final version of Special Condition E.

21
22 Mr. Thorsland read proposed Special Condition F. as follows:

23
24 **F. Two loading berths meeting Zoning Ordinance requirements will be constructed on**
25 **the property prior to the Zoning Administrator authorizing a Zoning Compliance**
26 **Certificate.**

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

28 **That off-street parking is in compliance with the Zoning Ordinance.**

29
30 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition F.

31
32 Mr. Modglin stated that he agreed to Special Condition F.

33
34 Mr. Thorsland read proposed Special Condition G. as follows:

35
36 **G. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
37 **authorizing occupancy of the proposed buildings until the Zoning Administrator has**
38 **received a certification of inspection from an Illinois Licensed Architect or other**
39 **qualified inspector certifying that the new buildings comply with the following codes:**
40 **(A) the 2006 or later edition of the International Building Code; (B) the 2008 or later**
41 **edition of the National Electrical Code NFPA 70; and (c) the Illinois Plumbing Code.**

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

2 **New buildings shall be in conformance with Public Act 96-704.**

4 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition G.

6 Mr. Modglin stated that he agreed to Special Condition G.

8 Mr. Thorsland read proposed Special Condition H. as follows:

10 **H. A complete Stormwater Drainage Plan that conforms to the requirements of the
11 Stormwater Management and Erosion Control Ordinance shall be submitted and
12 approved as part of the Zoning Use Permit application for construction, and all
13 required certifications shall be submitted after construction prior to issuance of the
14 Zoning Compliance Certificate.**

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

16 **That the drainage improvements conform to the requirements of the
17 Stormwater Management and Erosion Control Ordinance.**

19 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition H.

21 Mr. Modglin stated that he agreed to Special Condition H.

23 Mr. Thorsland read proposed Special Condition I. as follows:

25 **I. The Special Use is subject to the approval of Case 845-AM-16.**

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

27 **That it is consistent with the intent of the ordinance and the ZBA
28 recommendation for Special Use.**

30 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition I.

32 Mr. Modglin stated that he agreed to Special Condition I.

34 Mr. Thorsland read proposed Special Condition J. as follows:

36 **J. Outdoor operations may involve nothing louder than loading and unloading earth,
37 sand, rock, and gravel, and any noise must comply with the Champaign County
38 Nuisance Ordinance.**

39 The special condition stated above is necessary to ensure the following:

40 **That operations promote the public health, safety, and general welfare.**

1 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition J.
2

3 Mr. Modglin stated that he agreed to Special Condition J.
4

5 Mr. Thorsland read proposed Special Condition K. as follows:
6

7 **K. Fugitive dust from the subject property is prohibited during loading and unloading,
8 and also while earth is being stored.**

9 The special condition stated above is necessary to ensure the following:

10 **That operations promote the public health, safety, and general welfare.**

11
12 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition K.
13

14 Mr. Modglin stated that he agreed to Special Condition K.
15

16 Mr. Thorsland read proposed Special Condition L. as follows:
17

18 **L. No business operations in the self-storage area can include anything other than simple
19 storage.**

20 The special condition stated above is necessary to ensure the following:

21 **That no additional uses are established on the subject property.**

22
23 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition L.
24

25 Mr. Modglin stated that he agreed to Special Condition L.
26

27 Mr. DiNovo stated that this would allow a business to store inventory and is not intended to eliminate the
28 self-storage warehouses for personal storage.
29

30 Mr. Thorsland read proposed Special Condition M. as follows:
31

32 **M. The one-time concrete crushing event will occur on the north end of the subject
33 property and may not exceed 15 working days, during which time dust that is
34 generated will be minimized.**

35 The special condition stated above is necessary to ensure the following:

36 **That negative impacts on public safety, comfort and general welfare are
37 minimized.**

38
39 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition M.
40

41 Mr. Modglin stated that he agreed to Special Condition M.

1
2 Mr. Hall recommended the following revision to Special Condition M.:
3

4 **M. The one-time concrete crushing event shall occur on the northern 190 feet of the**
5 **subject property and may not exceed 15 working days, during which time dust**
6 **that is generated shall be minimized, as described in the letter from BJTE**
7 **Concrete Crushers LLC, received on October 7, 2016.**

8 The special condition stated above is necessary to ensure the following:

9 **That negative impacts on public safety, comfort and general welfare are**
10 **minimized.**

12 Mr. Thorsland asked Mr. Modglin if he agreed to revised Special Condition M.
13

14 Mr. Modglin stated that he agreed to revised Special Condition M.
15

16 Mr. Thorsland read proposed Special Condition N. as follows:
17

18 **N. Within 200 feet of the nearest adjacent residential property, any vegetation other than**
19 **trees and/or bushes that are used for screening must be kept no taller than 8 inches.**
20 The special condition stated above is necessary to ensure the following:

21 **That neighborhood concerns regarding maintenance of the special use are**
22 **addressed.**

24 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition N.
25

26 Mr. Modglin stated that he agreed to Special Condition N.
27

28 Mr. DiNovo noted that the Special Condition is limiting the other vegetation, other than the screening, to be
29 no taller than 8 inches. He said that if there are no complaints the height of the other vegetation should not
30 be an issue.
31

32 Mr. Thorsland read proposed Special Condition O. as follows:
33

34 **O. The Site Plan received on <DATE> is the official site plan for the approval in Cases**
35 **845-AM-16 and 846-S-16.**

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

37 **That it is clear which version of the Site Plan submitted by the petitioners is**
38 **the approved Site Plan.**

40 Mr. Hall recommended the following revision to Special Condition O.
41

- 1 **O. The Site Plan received on October 6, 2016, as amended by the ZBA on October 13,**
2 **2016, plus the site lighting plan received on September 30, 2016, is the official site plan**
3 **for the approval in Case 846-S-16.**

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

- 5 **That it is clear which version of the Site Plan submitted by the petitioners is**
6 **the approved Site Plan.**

7
8 Mr. Thorsland asked Mr. Modglin if he agreed to revised Special Condition O.
9

10 Mr. Modglin stated that he agreed to revised Special Condition O.
11

12 Mr. Thorsland read proposed new Special Condition P. as follows:
13

- 14 **P. Regarding the waiver of the minimum required separation of 200 feet between a truck**
15 **terminal and the nearest residential use:**

- 16 **(1) No business activity shall occur less than 75 feet from the nearest residential**
17 **use existing at the time of the Special Use Permit approval other than as may be**
18 **in conformance with the approved site plan and/or any approved special**
19 **condition; and**
- 20 **(2) No truck & trailer parking and/or material storage shall occur less than 130 feet**
21 **from the nearest residential use existing at the time of the Special Use Permit**
22 **approval.**

23 The special condition stated above is necessary to ensure the following:

- 24 **Conformance with the waiver of the minimum required separation of 200 feet**
25 **between a truck terminal and the nearest residential use.**

26
27 Mr. Thorsland asked Mr. Modglin if he agreed to new Special Condition P.
28

29 Mr. Modglin stated that he agreed to new Special Condition P.
30

31 Mr. Thorsland stated that Mr. Modglin has agreed to all of the Special Conditions for Case 846-S-16.
32

33 Mr. Thorsland read the proposed Special Conditions for Case 845-AM-16 as follows:
34

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

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

- 39 **Conformance with Land Resource Management Plan Policy 4.2.3.**

40
41 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition A.

1 Mr. Modglin stated that he agreed to Special Condition A.
2
3

4 Mr. Thorsland read proposed Special Condition B. as follows:
5

6 **B. The Site Plan received on October 6, 2016, as amended by the ZBA on October 13,**
7 **2016, plus the site lighting plan received on September 30, 2016, is the official site plan**
8 **for approval in Cases 845-AM-16 and 846-S-16.**

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

10 **That it is clear which version of the Site Plan submitted by the petitioners is the**
11 **approved Site Plan.**

12 Mr. Thorsland asked Mr. Modglin if he agreed to Special Condition B.
13
14

15 Mr. Modglin stated that he agreed to Special Condition B.
16

17 Mr. DiNovo stated that he is deeply confused by Special Condition B. He said that the site plan is only
18 applicable to the Special Use Permit. He said that if these cases were approved, and the property changes
19 hands, someone could build anything that is permitted in the B-4 Zoning District by right without any
20 reference to the site plan. He said that the only way for this condition to make sense, it would have to say
21 the following:

22 Any truck terminal or contractor's facility with outdoor storage established on this property must be
23 constructed in conformance with the approved site plan. He said that unless this change is made the
24 special condition does not do anything.

25
26 Mr. Hall agreed. He said that making Mr. DiNovo's recommended change does not address the separations,
27 concrete crushing and all the other things specific to individual elements. He said that making the change
28 only limits a truck terminal and/or contractor's facility and/or self-storage warehouse but there are many
29 other things that could happen on the subject property by right. He said that the truck terminal, contractor's
30 facility, and self-storage warehouse, that have been discussed during this public hearing, truck terminal,
31 contractor's facility, and self-storage warehouse, the intent is to make sure that if these things show up on
32 the property, in whatever order, they must be consistent with the approved site plan. He said that someone
33 could purchase the property, create a greater amount of truck terminal, and not have the self-storage
34 warehouse. He said that the difficult thing for him is determining where these uses begin and end, because
35 he sees both things going on and to him that says that a Special Use Permit applies either way in that
36 instance. He said that there does not necessarily have to be a self-storage warehouse constructed on the
37 property, or someone could purchase the property and only have self-storage warehouses and they could do
38 that by right. He said that if that the only thing that is on the property is a self-storage warehouse, then the
39 Special Use Permit no longer applies.

40
41 Mr. DiNovo stated that the neighbors will clearly be better off if the special condition is attached that

1 requires separation by screening for any use on the property.
2

3 Mr. Hall stated that a general condition like that would be better for the map amendment, but it would have
4 to be crafted to provide all of the separation that the Board finds necessary for the Special Use Permit. He
5 asked Mr. DiNovo if the separations would apply to any business use, or just the three types of business uses
6 that have been discussed during this hearing.

7
8 Mr. DiNovo stated that it would only apply for the three uses that are being discussed during this public
9 hearing. He said that the Board is only protecting the neighbors from the uses that the petitioner indicated
10 that they plan to do on the subject property, and if someone else buys the property, all bets are off. He said
11 that he is not necessarily convinced yet, suppose this was just a speculative rezoning. He said that the Board
12 should clear their heads for a minute and imagine if there were no specific proposals for this property and
13 someone just came to the office indicating that they believed that commercial use would be the best use of
14 the property. He asked how the Board would evaluate it, would the Board contemplate imposing special
15 conditions. He said that imposing special conditions on a rezoning would require extraordinary
16 circumstances and he is not sure that this rezoning has any extraordinary circumstances. He said that he is
17 not sure that Special Condition B. is necessary, but unless the Board does something the special conditions
18 are only operative to the special use.

19
20 Mr. Thorsland stated that if Mr. Modglin decides not to move forward with the intended uses for the map
21 amendment and the special uses, a different owner could come in and conduct any business on the subject
22 property that is allowed by right, with no special conditions. He said that if the new owner wanted to
23 conduct the same uses as proposed by Mr. Modglin under the Special Use Permit, the special conditions of
24 approval would apply.

25
26 Mr. Hall stated that the Zoning Ordinance is set up along the lines of districts, but what about the lines
27 between the districts. He said that the lines were established very carefully during the design of the zoning
28 map. He said that this is a different thing, because there is existing residential and we are removing the
29 residential and adding business zoning against existing residential, which is a pretty extreme circumstance.

30
31 Mr. Thorsland asked if all of the special conditions for the Special Use Permit should be imposed on the
32 map amendment.

33
34 Mr. Hall stated that some of the special conditions for the Special Use Permit that are either part of state law
35 or the Zoning Ordinance, such as the night lighting, apply anyway so those do not need to be part of the map
36 amendment. He said that the special conditions regarding separations should apply to the map amendment
37 in regards to the uses that are being discussed, but it is a tough call.

38
39 Mr. Thorsland stated that the Board used to hear the map amendment and special use permit cases separately
40 and discussion would occur regarding how the two cases tie together.

41

1 Mr. Passalacqua stated that if the special conditions for the Special Use Permit are included with the Map
2 Amendment, there would be more stringent enforcement on this petitioner than other petitioners in the past.
3

4 Mr. Thorsland stated that the special use permit is restricted by the special conditions, but if the map
5 amendment is approved and the intended uses do not occur, all of the existing by right uses could still occur
6 under the B-4 Zoning District. He said that if a new use is outside of the by right uses, a Special Use Permit
7 would be required. He said that if only one of the intended uses occurs, then it would be by right.
8

9 Ms. Griest stated that this is a very unique situation and parcel, because we are taking a parcel that was
10 multi-family residential, adjacent to single family residential, and moving it to a completely different
11 classification, which moves the discussion to a different level. She said that if the map amendment was for a
12 bare piece of ground that was being rezoned from B-2 to B-4 or I-1 to B-4 it would be a very different
13 situation than a blighted property that is being redeveloped under difficult circumstances to bring it up to
14 today's standard and get rid of something that was clearly in disrepair and dysfunctional. She said that we
15 are talking about the type of change to a zoning classification. She said that if this were an AG-2 parcel next
16 to the residential, the Board would probably not approve a rezoning of B-4 for that parcel, but maybe the
17 Board would because it is along the commercial corridor along US Route 45, but maybe not and the Board
18 would be having a very different discussion. She said that there are some unique circumstances which
19 warrant protection of the residential properties that are adjacent to the subject property, because when the
20 owners of the nearest residential property purchased their home they were purchasing next to a residential
21 property.
22

23 Mr. Passalacqua disagreed with Ms. Griest. He said that an apartment building is very different from single
24 family residential. He said that the proposed use is consistent with the use that is occurring on the property
25 to the south of the subject property. He said that he does not believe that the proposed map amendment is a
26 radical change due to the existing use to the south and he would argue that multi-family residential with all
27 outdoor parking is definitely not the same as single family residential. He said that the daily trips and noise
28 created by the previous multi-family residential use were probably more of a drain on nearby property
29 values than the intended use will ever be.
30

31 Mr. Thorsland stated that he does not want this discussion to be about the use that existed previously. He
32 said that the subject property no longer has the multi-family residential use and the Village of Rantoul's
33 Comprehensive Plan indicates this area as commercial use. He said that the Village of Rantoul has already
34 determined that the best future use for the subject property is commercial.
35

36 Mr. Hall stated that if the Board could imagine a smaller lot next to the residential which is zoned AG-2. He
37 said that most of the property could be B-4 with an intervening AG-2 to buffer the residential. He said that
38 any of the uses could happen in AG-2 with a Special Use Permit, but the rest of the subject property would
39 be B-4 and the concerns that exist on this plan would not exist on the new plan because the buffering is
40 provided by the AG-2. He said that this would require a different proposal and an approved Plat of
41 Subdivision with the Village of Rantoul, but it would not have to look much different than this.

1
2 Mr. DiNovo stated that the bottom line is that the Board should not recommend approval of the rezoning
3 unless the Board believes that it is appropriate to rezone the property. He said that if the Board believes that
4 it is not appropriate to rezone the property to B-4, then it should not happen. He said that if it is appropriate
5 to rezone the property to B-4, then the Board should recommend that and move forward to the Special Use
6 Permit. He said that the Board has to deal with the Zoning Ordinance as it is written and it would be helpful
7 to set aside the petitioner's proposal and decide if the property is appropriate for rezoning to B-4.

8
9 Mr. Thorsland asked the Board if they wanted to keep Special Condition B. and include the special
10 conditions included in the special use.

11
12 Ms. Capel stated that the map amendment is fundamentally different than the special use permit and
13 bringing over the special conditions for the special use will only conflate the two and does not allow them to
14 operate like they are supposed to within the Ordinance. She said that we could attach a condition, which
15 creates a boundary, which in this case would be with setback and screening, with the intent of minimizing
16 the impact of activities on B-4 and the existing residential property. She said that the boundary could be
17 specified in a general condition rather than a specific condition that applies specifically to the special use,
18 because this is a question that the County Board may ask.

19
20 Mr. Hall stated that this case will be referred to the County Board right when the County Board is changing.
21 He said that if this Board were to be able to take action tonight, the case would be referred to the
22 Environment and Land Use Committee (ELUC) in November, which is right before the election, and ELUC
23 would recommend the case to the County Board, which will be right after the election.

24
25 Ms. Griest stated that the existing County Board will still serve in November and the newly elected County
26 Board members will join the trained County Board members in December.

27
28 Mr. Hall stated that if this case does not go to ELUC in November, then this case would not be seen by the
29 County Board until January.

30
31 Mr. Thorsland stated that he does not believe that it is appropriate for the Board to tie the recommendation
32 of this case to the County Board election.

33
34 Mr. Hall stated that he merely wanted the petitioner prepared for the change in the County Board.

35
36 Mr. Thorsland stated that the Board should decide if they want to bring the special conditions for the special
37 use permit over to the map amendment or prepare a modified condition. He said that the site plan indicates
38 all of the setbacks that have been discussed, including the buffer region and the petitioner has agreed to
39 Special Condition B. for the map amendment case.

40
41 Mr. Hall stated that if someone comes to the office to ask if land that borders existing residential could be

1 rezoned to B-4, staff would not encourage them to think that such a rezoning would succeed. He said that
2 this case was not presented to him by the petitioner as just rezoning the property to B-4, but was presented
3 to him by the petitioner indicating that he would like to have a contractor's facility and truck terminal and
4 then construct some self-storage warehouses, when all of the crappy buildings that litter the landscape are
5 removed and the property is cleaned up. He said that this case works when you think about the uses, but
6 when you just think about B-4 zoning, staff would never recommend anyone to come to this Board with that
7 proposal, but it is the petitioner's choice. He said that staff might have been in error in suggesting that the
8 petitioner request B-4, but when someone comes to the counter asking the question it is easy to do. He said
9 to staff, it is an outrageous idea to think that someone could obtain commercial zoning next to residential.
10

11 Mr. Thorsland stated that staff recommended that the petitioner request B-4 zoning near a residential
12 district.
13

14 Mr. Hall stated yes.
15

16 Mr. DiNovo stated that special conditions should not be attached to a map amendment unless there are
17 extraordinary conditions and he will suggest that there are extraordinary conditions so that the Board can get
18 beyond this. He said that this is redevelopment of a blighted property that the County is advantaged by
19 facilitating. He said that, on that basis, any outstanding concerns that the Board may have regarding
20 compatibility should be addressed in order to facilitate redevelopment of the property. He said that he
21 would bring in the screening and separation requirements as a general condition for any use on the property
22 and scrap Special Condition B. He said that the question is how the Board will phrase that general
23 condition.
24

25 Mr. Thorsland stated that Special Condition C. refers to the lighting.
26

27 Mr. Hall stated that the lighting applies anyway.
28

29 Mr. DiNovo stated that the Board could use Special Condition P. and not reference the special use.
30

31 Mr. Thorsland stated that the Board would include Special Conditions E. and P. from the Special Use Permit
32 and make them Special Conditions B. and C.
33

34 Mr. Hall asked if the Board wanted to include Special Condition M. regarding the concrete crushing.
35

36 Ms. Griest stated if they do not proceed with the special use and just have a contractor's facility, they could
37 crush the concrete onsite or apply for a permit to do it permanently. She said that she does believe that there
38 is a uniqueness that should be addressed and include Special Condition M.
39

40 Mr. Thorsland stated that the petitioner has good intent to go forward with the special use and have the
41 concrete crushing done as quickly as possible.

1 Ms. Griest stated that she is reluctant to comment on the petitioner's intent for any case.
2

3
4 Mr. Thorsland stated that the Board has decided to bring over three special conditions from the special use
5 case to the map amendment case. He said that Special Conditions E, M, and P, from the Special Use would
6 become new Special Conditions B, C, and D for the map amendment.

7
8 Ms. Capel stated that perhaps one general condition could be created under Special Condition B.
9

10 Mr. Thorsland stated that the concrete crushing is going to be a one-time thing and it will be done. He said
11 that he does not believe that someone will ever seek a map amendment to continuously crush concrete on the
12 property.

13
14 Mr. DiNovo stated that there is a difference between a special condition for concrete crushing only
15 occurring for two weeks and a special condition allowing concrete crushing anytime under a Zoning Use
16 Permit. He said that given the economical factor of bringing the concrete crushing equipment, it would only
17 occur during a two-week period sometime during the year. He said that it isn't like the concrete crusher will
18 come to the property during two-day intervals, but will come to the property for a two-week period once a
19 year. He said that he does not believe that the special condition regarding crushing is necessary.

20
21 Mr. Thorsland stated that staff was courteous in allowing 15 working days for the crushing, so that the job
22 can be completed.

23
24 Ms. Griest stated that the special condition prevents the County Board from vetoing the map amendment
25 when someone comes forward and protests the map amendment on the basis that there is misinformation
26 regarding how and when the concrete crushing will occur.

27
28 Mr. Thorsland asked the Board if they agree to attach Special Conditions E, M, and P, from the special use,
29 to the map amendment. He noted that Mr. Modglin has agreed to the conditions. Mr. Thorsland explained
30 that Special Condition E is related to the screening, Special Condition M is related to the concrete crushing,
31 and Special Condition P is related to the required separations.

32
33 Mr. Thorsland asked Mr. Modglin if he agreed to the attachment of Special Conditions E, M, and P, from
34 the special use, to the map amendment.

35
36 Mr. Modglin agreed.

37
38 Mr. Hall asked the Board if it is their intent to make these special conditions apply to any use, and if so he
39 recommended the following revision to Special Condition P. as follows:

40
41 **P. Regarding the minimum required separation between business activities on**

1 **the subject property and the nearest residential use at the time of Map Amendment
2 approval:**

- 3 a. **No business activity shall occur less than 75 feet from the nearest
4 residential use existing at the time of Map Amendment approval; and**
5 b. **No truck and trailer parking or material storage shall occur less than
6 130 feet from the nearest residential use existing at the time of Map Amendment
7 approval.**

8

9 Mr. Hall stated that the Board has to specify the residential use that exists now, regardless of what happens
10 in the future along the east business line.

11

12 Mr. DiNovo stated that the nearest residential use is only to the east of the subject property.

13

14 Mr. Hall stated that to address Mr. DiNovo's concern, Special Condition P. could be revised as follows:

15

16 P. **Regarding the minimum required separation between business activities on
17 the subject property and the nearest residential use on the east property line at the time
18 of Map Amendment approval:**

- 19 a. **No business activity shall occur less than 75 feet from the nearest
20 residential use existing at the time of Map Amendment approval; and**
21 b. **No truck and trailer parking or material storage shall occur less than
22 130 feet from the nearest residential use existing at the time of Map Amendment
23 approval.**

24

25 Mr. DiNovo stated that the separation should apply to all residential uses to the east of the subject property's
26 boundary.

27

28 Mr. Hall stated that there is only one residential use at this location.

29

30 Mr. Thorsland requested Mr. Hall to read Special Condition P without referring to the eastern property line.

31

32 Mr. Hall read Special Condition P as follows:

33

34 P. **Regarding the minimum required separation between business activities on
35 the subject property and the nearest residential use at the time of Map
36 Amendment approval:**

- 37 a. **No business activity shall occur less than 75 feet from the nearest
38 residential use existing at the time of Map Amendment approval; and**
39 b. **No truck and trailer parking or outdoor material storage shall occur less
40 than 130 feet from the nearest residential use existing at the time of Map
41 Amendment approval.**

1
2 Mr. Hall stated that cars could be parked there, because there are screening requirements for cars and there
3 are screening requirements for truck and trailer parking.

4
5 Mr. Thorsland asked Mr. Modglin if he agreed to the proposed special conditions for the map amendment.

6
7 Mr. Modglin agreed.

8
9 Mr. Thorsland entertained a motion to approve Special Conditions A and B for Case 845-AM-16, as
10 amended.

11
12 **Ms. Capel moved, seconded by Ms. Lee, to approve Special Conditions A and B for Case 845-AM-16,
13 as amended. The motion carried by voice vote.**

14
15 Mr. Thorsland entertained a motion to approve Special Conditions A through P for Case 846-S-16, as
16 amended.

17
18 **Ms. Griest moved, seconded by Ms. Capel, to approve Special Conditions A through P for Case 846-S-
19 16, as amended. The motion carried by voice vote.**

20
21 Mr. Thorsland asked staff if there were any new Documents of Record.

22
23 Ms. Chavarria stated that a new Item #17 should be added to the Documents of Record as follows:
24 Supplemental Memorandum #3 dated October 13, 2016, with attachments: A and B. She said that a new
25 Item #18 should be added to the Documents of Record as follows: Handout of draft Special Condition P
26 distributed by staff at the October 13, 2016, Zoning Board of Appeals meeting.

27
28 Mr. Hall noted that when a map amendment is forwarded to the County Board, staff always tries to
29 document an adequate summary of the public comments in the Finding of Fact. He said that Ms. Chavarria
30 has done an excellent job including those comments in the current Finding of Fact, but new comments have
31 been received from Ms. Hatfield and those comments should be included. He said that the email, including
32 Mr. Berlatsky's comments, is not mentioned in the Finding of Fact either. He said that Item #22 of the
33 Finding of Fact includes public comments received at the public hearings. He said that at a minimum he
34 would revised Item #22 to indicate the following: Public Comments at the September 15, 2016, public
35 hearing.

36
37 Mr. Thorsland stated that the Board would now review the Summary Finding of Fact for Case 845-AM-16
38 as follows:

39
40 **SUMMARY FINDING OF FACT FOR CASE 845-AM-16:**

1 From the documents of record and the testimony and exhibits received at the public hearing conducted on
2 **September 15, 2016, and October 13, 2016**, the Zoning Board of Appeals of Champaign County finds
3 that:

4
5 1. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource
6 Management Plan because:

7 A. Regarding Goal 3:

8 (1) Although the proposed rezoning is **NOT DIRECTLY RELEVANT** to any of the
9 Goal 3 objectives, the proposed rezoning will allow the petitioners to establish a
10 mixed use business that could benefit Champaign County's economic base.

11 (2) Based on achievement of the above and because it will either not impede or is not
12 relevant to the other Objectives and Policies under this goal, the proposed map
13 amendment **WILL HELP ACHIEVE** Goal 3 Prosperity.

14 B. Regarding Goal 4:

15 (1) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the
16 fragmentation of farmland, conservation of farmland, and stringent development
17 standards on best prime farmland because of the following:

18 a. Policy 4.1.1, which states that commercial agriculture is the highest and
19 best use of land in the areas of Champaign County that are by virtue of
20 topography, soil and drainage, suited to its pursuit. The County will not
21 accommodate other land uses except under very restricted conditions or in
22 areas of less productive soils (see Item 13.C.(2)).

23 b. Policy 4.1.6 requiring that the use, design, site and location are consistent
24 with policies regarding suitability, adequacy of infrastructure and public
25 services, conflict with agriculture, conversion of farmland, and
26 disturbance of natural areas (see Item 13.C.(3)).

27 c. Policy 4.1.8 requiring that the County consider the LESA rating for
28 farmland protection when making land use decisions regarding a
29 discretionary development (see Item 13.C.(4)).

30 (2) It will **HELP ACHIEVE** Objective 4.2 requiring discretionary development to
31 not interfere with agriculture because of the following:

32 a. Policy 4.2.1 requiring a proposed business in a rural area to support
33 agriculture or provide a service that is better provided in the rural area (see
34 Item 13.B.(1)).

- 1 b. Policy 4.2.2 requiring discretionary development in a rural area to not
2 interfere with agriculture or negatively affect rural infrastructure (see Item
3 13.B.(2)).
4
5 c. Policy 4.2.3 requiring that each proposed *discretionary development*
6 explicitly recognize and provide for the right of agricultural activities to
7 continue on adjacent land (see Item 13.B.(3)).
8
9 d. Policy 4.2.4 requiring that all discretionary review consider whether a
10 buffer between existing agricultural operations and the proposed
11 development is necessary (see Item 13.B.(4)).
12
13 (3) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development
14 to be on a suitable site because of the following:
15 a. Policy 4.3.2 requiring a discretionary development on best prime farmland
16 to be well-suited overall (see Item 13.A.(2)).
17
18 b. Policy 4.3.3 requiring existing public services be adequate to support the
19 proposed development effectively and safely without undue public
20 expense (see Item 13.A.(3)).
21
22 c. Policy 4.3.4 requiring existing public infrastructure be adequate to support
23 the proposed development effectively and safely without undue
24 expense (see Item 13.A.(4)).
25
26 d. Policy 4.3.5 requiring that a business or non-residential use establish on
27 best prime farmland only if it serves surrounding agriculture or is
28 appropriate in a rural area (see Item 13.A.(5)).
29
30 (4) Based on achievement of the above Objectives and Policies, the proposed map
31 amendment will **HELP ACHIEVE** Goal 4 Agriculture.
32
33 C. The proposed amendment will **NOT IMPEDE** the following LRMP goal(s):
34
 - Goal 1 Planning and Public Involvement
 - Goal 2 Governmental Coordination
 - Goal 5 Urban Land Use
 - Goal 6 Public Health and Public Safety
 - Goal 7 Transportation
 - Goal 8 Natural Resources
 - Goal 9 Energy Conservation
 - Goal 10 Cultural Amenities

- 1
2 D. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource
3 Management Plan.
- 4
5 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair*
6 factors because of the following:
7 A. This area has a mix of commercial, warehouse, and single family residential uses. The
8 subject property was multi-family residential until its demolition by the petitioners in
9 2016.
- 10 B. It is impossible to establish property values without a formal real estate appraisal which
11 has not been requested nor provided and so any discussion of values is necessarily
12 general.
- 13 C. The gain to the public of the proposed rezoning is positive because it will develop a
14 vacant property, which will be more desirable than the previous dilapidated multi-family
15 housing and the existing vacant lot.
- 16 D. The former Cherry Orchard Apartment Complex buildings have been vacant since 2011
17 and were demolished by the petitioners in 2016.
- 18 E. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** Policy
19 4.2.1 regarding whether the proposed use is a service better provided in a rural area.
- 20 F. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** the
21 Champaign County Land Resource Management Plan.
- 22 3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the
23 Zoning Ordinance because:
24 A. Establishing the B-4 District at this location **WILL** help classify, regulate, and restrict
25 the location of the uses authorized in the B-4 District (Purpose 2.0 (i), see Item 21.G.).
26 B. Establishing the AG-2 District in this location **WILL** help protect the most productive
27 agricultural lands from haphazard and unplanned intrusions of urban uses (Purpose 2.0
28 (n) Item 21.I.).
29 C. The proposed rezoning and proposed Special Use **WILL NOT** hinder the development
30 of renewable energy sources (Purpose 2.0(r), see Item 21.M).
- 31 4. The proposed Zoning Ordinance map amendment is subject to the following special condition:

- 1 A. LRMP Policy 4.2.3 requires discretionary development and urban development to
2 explicitly recognize and provide for the right of agricultural activities to continue on
3 adjacent land. The following condition is intended to provide for that:

4 **The owners of the subject property hereby recognize and provide for the right of**
5 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
6 **Resolution 3425 (see attached).**

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

8 **Conformance with Land Resource Management Plan Policy 4.2.3.**

- 9 B. The imposition of the following conditions, to mitigate impacts on adjacent residential
10 property, is justified by the public benefit derived from the redevelopment of a blighted
11 property.

12 (1) **The petitioners must plant evergreen screening along the east lot line south**
13 **of the berm to screen the proposed uses from adjacent residential properties,**
14 **as indicated on the approved Site Plan. As per standard Department**
15 **practice, a Norway Spruce vegetative screen must be four to six feet high at**
16 **the time of planting and will be planted in staggered rows and must be**
17 **planted as part of the Zoning Use Permit authorizing construction of the**
18 **shop building.**

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

20 **To promote public health, safety, and general welfare that is a**
21 **purpose of the Zoning Ordinance.**

22 (2) **The one-time concrete crushing event shall occur on the northern 190 feet of**
23 **the subject property and may not exceed 15 working days, during which time**
24 **dust that is generated will be minimized, as described in the letter from**
25 **BJTE Concrete Crushers LLC received October 7, 2016.**

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

27 **That negative impacts on public safety, comfort and general welfare**
28 **are minimized.**

29 (3) **Regarding the minimum required separation between business activities on**
30 **the subject property and the nearest residential use at the time of Map**
31 **Amendment approval:**

32 a. **No business activity shall occur less than 75 feet from the nearest**
33 **residential use existing at the time of Map Amendment approval; and**

- 1 **b. No truck and trailer parking or material storage shall occur less than**
2 **130 feet from the nearest residential use existing at the time of Map**
3 **Amendment approval.**

5 The special condition stated above is necessary to ensure the following:

6 **Conformance with the waiver of the minimum required separation of**
7 **200 feet between a truck terminal and the nearest residential use.**

9 Mr. Thorsland asked the Board if they were comfortable with staff's recommendations for the Summary
10 Finding of Fact for Case 845-AM-16.

12 The Board indicated that they were comfortable with staff's recommendations for the Summary Finding
13 of Fact for Case 845-AM-16.

15 Mr. Thorsland entertained a motion to adopt the Findings of Fact, Documents of Record, and Summary
16 Finding of Fact for Case 845-AM-16, as amended.

18 **Ms. Griest moved, seconded by Mr. Passalacqua, to adopt the Findings of Fact, Documents of**
19 **Record, and the Summary Finding of Fact for Case 845-AM-16, as amended. The motion carried**
20 **by voice vote.**

22 Mr. Thorsland entertained a motion to move to the Final Determination for Case 845-AM-16.

24 **Ms. Griest moved, seconded by Ms. Capel, to move to the Final Determination for Case 845-AM-**
25 **16. The motion carried by voice vote.**

27 Mr. Thorsland informed the petitioner that currently the Board has one member absent; therefore, it is at
28 his discretion to either continue Case 845-AM-16 until a full Board is present or request that the present
29 Board move to the Final Determination. He informed the petitioner that four affirmative votes are required
30 for approval.

32 Mr. Modglin requested that the present Board move to the Final Determination.

34 Mr. DiNovo stated that, before the Board makes its Final Determination for Case 845-AM-16, he would like
35 to propose that if the Board is going to recommend special conditions on a rezoning, that the Board makes a
36 reference to the justification why the Board should use conditional zoning for this case, which is, the public
37 advantage in facilitating the redevelopment of a blighted property in the County. He said that there are four
38 conditions and he would insert this statement prior to the four special conditions indicating the following:
39 The imposition of these conditions are justified because it is necessary to facilitate the redevelopment of the
40 blighted property. He said that the Board must justify why special conditions are attached to the map
41 amendment.

1
2 Mr. Hall stated that Mr. DiNovo's recommendation only applies to the three new special conditions of
3 approval. He asked Mr. DiNovo to restate his recommended text.

4
5 Mr. DiNovo stated that the imposition of the following conditions is justified by the public benefit
6 derived from the necessity to facilitate the redevelopment of a blighted property.

7
8 Mr. Hall stated that the special conditions are there to mitigate the impact of the redevelopment of the
9 blighted property.

10
11 Mr. DiNovo stated that mitigating impact needs to be something that is really unique about the property.

12
13
14 Mr. Hall stated that if the Board wanted to facilitate redevelopment, there would not be any special
15 conditions at all, and the Board would make it as easy and simple as possible.

16
17 Mr. DiNovo stated that if the Board is going to protect the neighboring residential properties from
18 inappropriate impacts of commercial development, the Board would deny the rezoning. He said that the
19 Board is approving the rezoning with conditions, because the Board wants to facilitate the
20 redevelopment of the property. He said that redevelopment of the property is the justification, otherwise
21 the Board would deny the rezoning.

22
23 Mr. Hall stated that if the Board is happy with Mr. DiNovo's recommendation, then so be it, but the
24 County Board should not expect Mr. Hall to explain it, because he can't.

25
26 Mr. Thorsland stated that he does not want the Board to have to justify the Board's decisions beyond
27 what the Board already arguably goes through.

28
29 Mr. DiNovo stated that mitigating impacts as justification for rezoning means that the Board could place
30 conditions on any rezoning. He said that the rezoning is either okay or not okay, unless there is some
31 extraordinary justification. He said that if the B-4 zoning isn't appropriate because it has unacceptable
32 impacts on the neighboring residential property, then the request should be denied. He said that the only
33 way to justify this is to tie it something that doesn't have anything to do with the impacts of the use and
34 the zoning of neighboring properties. He asked when it would ever be unreasonable to impose a
35 condition to mitigate impacts. He said that this would open up the opportunity to impose conditions on
36 any rezoning, because there are always going to be impacts related to drainage, visibility, etc.

37
38 Mr. Thorsland stated that Mr. DiNovo wants to simply explain why the special conditions are being
39 imposed on the map amendment.

1 Mr. DiNovo stated that he wants to explain why the Board is applying special conditions to the rezoning
2 rather than denying it.

3
4 Mr. Thorsland stated that the special conditions are imposed on the map amendment to facilitate the
5 redevelopment of a blighted property.

6
7 Mr. Hall stated that a County Board member could indicate that they believe that it would be more
8 facilitating to eliminate the special conditions.

9
10 Ms. Griest stated that the County Board could eliminate the special conditions regardless of the Zoning
11 Board of Appeals recommendations.

12
13 Ms. Chavarria proposed the following text: The imposition of the following conditions, to mitigate
14 impacts on adjacent residential property, is justified by the public benefit derived from the
15 redevelopment of a blighted property.

16
17 The Board agreed with Ms. Chavarria's text and indicated that it should be added prior to special
18 conditions a, b, and c.

19
20 **FINAL DETERMINATION FOR CASE 845-AM-16:**

21
22 Ms. Griest moved, seconded by Ms. Capel, that pursuant to the authority granted by Section 9.2
23 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County
24 determines that:

25
26 **The Zoning Ordinance Amendment requested in Case 845-AM-16 should BE ENACTED**
27 **by the County Board SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 28
29 A. **The owners of the subject property hereby recognize and provide for the right of**
30 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
31 **Resolution 3425 (see attached).**
- 32
33 B. **The imposition of the following conditions, to mitigate impacts on adjacent**
34 **residential property, is justified by the public benefit derived from the**
35 **redevelopment of a blighted property.**
- 36 (1) **The petitioners must plant evergreen screening along the east lot line south**
37 **of the berm to screen the proposed uses from adjacent residential properties,**
38 **as indicated on the approved Site Plan. As per standard Department**
39 **practice, a Norway Spruce vegetative screen must be four to six feet high at**
40 **the time of planting and will be planted in staggered rows and must be**
41 **planted as part of the Zoning Use Permit authorizing construction of the**
42 **shop building.**

- (2) The one-time concrete crushing event shall occur on the northern 190 feet of the subject property and may not exceed 15 working days, during which time dust that is generated will be minimized, as described in the letter from BJTE Concrete Crushers LLC received October 7, 2016.

(3) Regarding the minimum required separation between business activities on the subject property and the nearest residential use at the time of Map Amendment approval:

 - a. No business activity shall occur less than 75 feet from the nearest residential use existing at the time of Map Amendment approval; and
 - b. No truck and trailer parking or material storage shall occur less than 130 feet from the nearest residential use existing at the time of Map Amendment approval.

Mr. Thorsland requested a roll call vote.

The roll was called as follows:

DiNovo – yes **Griest** – yes **Lee** – yes
Passalacqua – yes **Randol** – absent **Capel** – yes
Thorsland – yes

Mr. Hall informed the petitioner that he has received a recommendation of approval for the map amendment.

Mr. Thorsland called for five minute recess.

**The Board recessed at 9:30 p.m.
The Board resumed at 9:35 p.m.**

Findings of Fact for Case 846-S-16:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 846-S-16 held on September 15, 2016 and October 13, 2016, the Zoning Board of Appeals of Champaign County finds that:

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

39 Ms. Capel stated that the requested Special Use Permit IS necessary for the public convenience at this
40 location because a blighted property is being redeveloped.

1 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
2 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL**
3 **NOT be injurious to the district in which it shall be located or otherwise detrimental to the**
4 **public health, safety, and welfare because:**

5
6 **a. The street has ADEQUATE traffic capacity and the entrance location has**
7 **ADEQUATE visibility.**

8
9 Ms. Griest stated that the street has ADEQUATE traffic capacity and the entrance location has
10 ADEQUATE visibility.

11
12 **b. Emergency services availability is ADEQUATE.**

13
14 Ms. Capel stated that emergency services availability is ADEQUATE.

15 **c. The Special Use WILL be compatible with adjacent uses.**

16
17 Ms. Capel stated that the Special Use WILL be compatible with adjacent uses because of the special
18 conditions.

19 Mr. DiNovo stated that there is existing commercial use to the south.

20
21 **d. Surface and subsurface drainage will be ADEQUATE.**

22 Mr. Passalacqua stated that surface and subsurface drainage will be ADEQUATE and improved by the
23 petitioner.

24
25 **e. Public safety will be ADEQUATE.**

26
27 Ms. Griest stated that public safety will be ADEQUATE.

28
29 **f. The provisions for parking will be ADEQUATE.**

30
31 Ms. Capel stated the provisions for parking will be ADEQUATE.

32
33 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**

34
35 Ms. Capel stated that the property IS WELL SUITED OVERALL for the proposed improvements.

1 Mr. DiNovo stated that the property abuts a major highway, it makes use of a previously developed
2 property and does not take any best prime farmland out of production.

3

4 **h. Existing public services ARE available to support the proposed SPECIAL USE**
5 **without undue public expense.**

6

7 Mr. Thorsland stated that existing public services ARE available to support the proposed SPECIAL
8 USE without undue public expense.

9

10 **i. Existing public infrastructure together with the proposed development IS adequate**
11 **to support the proposed development effectively and safely without undue public**
12 **expense.**

13 Mr. DiNovo stated that existing public infrastructure together with the proposed development IS
14 adequate to support the proposed development effectively and safely without undue public expense
15 because the proposed use on the property does not require sanitary sewer or public water supply.

16

17 Mr. Thorsland stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL
18 CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it
19 WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public
20 health, safety, and welfare.

21

22 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
23 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
24 **DISTRICT in which it is located.**

25

26 Mr. Passalacqua stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL
27 CONDITIONS IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the
28 DISTRICT in which it is located.

29

30 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
31 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
32 **is located because:**

33 **a. The Special Use will be designed to CONFORM to all relevant County ordinances**
34 **and codes.**

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

37

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

39

40 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

1 **c. Public safety will be ADEQUATE .**

2 Mr. Thorsland stated that public safety will be ADEQUATE.

3 The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN,
4 DOES preserve the essential character of the DISTRICT in which it is located

5 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
6 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance
7 because:**

8 **a. The Special Use is authorized in the District.**

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

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

13 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
14 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it
15 WILL NOT be injurious to the district in which it shall be located or otherwise
16 detrimental to the public health, safety, and welfare.**

17 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
18 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
19 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
20 and welfare.

21 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
22 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in
23 which it is located.**

24 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
25 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

26 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
27 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

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

29 Ms. Griest stated that the requested Special Use IS NOT an existing nonconforming use.

1 **6. SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:**

4 **A. A waiver requiring a separation distance of 55 feet in lieu of the required 200 feet**
5 **between any Truck Terminal and any adjacent residential district or use.**

7 Ms. Lee asked Mr. Hall if the separation distance in Finding of Fact 6.A. should be 75 feet and not 55
8 feet.

10 Mr. Thorsland stated that the variance was advertised for a separation distance of 55 feet. He said that
11 the Board could change it to 75 feet.

13 Mr. Hall recommended that the Board maintain the 55 feet separation distance because that is what was
14 advertised.

16 **(1) The waiver IS in accordance with the general purpose and intent of the**
17 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
18 **the public health, safety, and welfare.**

20 Ms. Capel stated that the waiver IS in accordance with the general purpose and intent of the Zoning
21 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.

23 Mr. DiNovo stated that it is a very small truck terminal.

25 Mr. Thorsland stated that the Board provided for screening and a berm to shield adjacent properties
26 from operations.

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

32 Ms. Capel stated that special conditions and circumstances DO exist which are peculiar to the land or
33 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
34 the same district because it is redevelopment of a blighted property with a neighboring residential use.

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

40 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
41 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or

1 structure or construction because the site plan takes into account the existing conditions of the property
2 including paved areas.

3
4 Mr. Thorsland stated that it would not allow adequate space for the truck terminal.
5

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

8
9 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
10 result from actions of the applicant because this is redevelopment of a blighted property.
11

12 **(5) The requested waiver SUBJECT TO THE PROPOSED SPECIAL**
13 **CONDITIONS IS the minimum variation that will make possible the**
14 **reasonable use of the land/structure.**

15
16 Ms. Griest stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITIONS,
17 IS the minimum variation that will make possible the reasonable use of the land/structure.
18
19

20 **B. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning**
21 **Ordinance: that requires a 6 feet tall wire mesh fence surrounding the Truck**
22 **Terminal:**

23
24 **(1) The waiver IS in accordance with the general purpose and intent of the**
25 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
26 **the public health, safety, and welfare.**

27
28 Ms. Griest stated that the waiver IS in accordance with the general purpose and intent of the Zoning
29 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare
30 because a berm and screening have been utilized in lieu of fencing.
31

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

35
36 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or
37 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
38 the same district because it is redevelopment of a blighted property with a neighboring residential use.
39

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

4
5 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
6 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
7 structure or construction because it is redevelopment of a blighted property with a neighboring
8 residential use.
9

- 10 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**
11 **NOT result from actions of the applicant.**

12
13 Ms. Griest stated the special conditions, circumstances, hardships, or practical difficulties DO NOT
14 result from actions of the applicant because it is redevelopment of a blighted property with a
15 neighboring residential use.
16

- 17 **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**
18 **CONDITIONS IS the minimum variation that will make possible the**
19 **reasonable use of the land/structure.**

20
21 Mr. Thorsland stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL
22 CONDITIONS, IS the minimum variation that will make possible the reasonable use of the
23 land/structure.
24

25
26 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**
27 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**
28 **PARTICULAR PURPOSES DESCRIBED BELOW:**

- 29
30 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case**
31 **845-AM-16 by the County Board.**

32
33 The above special condition is required to ensure the following:
34

35 **The establishment of the proposed use shall be properly documented as**
36 **required by the Zoning Ordinance.**

- 37
38 **B. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning**
39 **Compliance Certificate for the proposed Truck Terminal, and/or Contractor's**
40 **Facility with Outdoor Storage and/or Operations, and/or 144 Self-Storage Warehouse**
41 **Units without heat and utilities to individual units, until the petitioner has**
42 **demonstrated that the proposed Special Use complies with the Illinois Accessibility**
43 **Code.**

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

2 **That the proposed Special Use meets applicable state requirements for**
3 **accessibility.**

- 4
- 5 **C. Certification from the County Health Department that the septic system on the**
6 **subject property has sufficient capacity for the proposed uses is a requirement for**
7 **approval of the Zoning Use Permit.**

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

9

10 **That the solid waste system conforms to the requirements of the Zoning**
11 **Ordinance and any applicable health regulations.**

- 12
- 13 **D. The Zoning Administrator shall not authorize a Zoning Use Permit or a Zoning**
14 **Compliance Certificate until the petitioner has demonstrated that any new or**
15 **proposed exterior lighting on the subject property will comply with the lighting**
16 **requirements of Section 6.1.2.**

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

18 **That the proposed uses are in compliance with the Zoning Ordinance.**

- 19
- 20 **E. The petitioners must plant evergreen screening along the east lot line south of the**
21 **berm to screen the proposed uses from adjacent residential properties, as indicated**
22 **on the approved Site Plan. As per standard Department practice, a Norway Spruce**
23 **vegetative screen must be four to six feet high at the time of planting and will be**
24 **planted in staggered rows and must be planted as part of the Zoning Use Permit**
25 **authorizing construction of the shop building.**

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

27

28 **To promote public health, safety, and general welfare that is a purpose of the**
29 **Zoning Ordinance.**

- 30
- 31 **F. Two loading berths meeting Zoning Ordinance requirements will be constructed on**
32 **the property prior to the Zoning Administrator authorizing a Zoning Compliance**
33 **Certificate.**

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

35 **That off-street parking is in compliance with the Zoning Ordinance.**

- 36
- 37 **G. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
38 **authorizing occupancy of the proposed buildings until the Zoning Administrator**
39 **has received a certification of inspection from an Illinois Licensed Architect or other**
40 **qualified inspector certifying that the new buildings comply with the following**
41 **codes: (A) the 2006 or later edition of the International Building Code; (B) the 2008**

1 **or later edition of the National Electrical Code NFPA 70; and (C) the Illinois**
2 **Plumbing Code.**

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

4 **New buildings shall be in conformance with Public Act 96-704.**

- 5
- 6 **H. A complete Stormwater Drainage Plan that conforms to the requirements of the**
7 **Stormwater Management and Erosion Control Ordinance shall be submitted and**
8 **approved as part of the Zoning Use Permit application for construction and all**
9 **required certifications shall be submitted after construction prior to issuance of the**
10 **Zoning Compliance Certificate.**

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

12 **That the drainage improvements conform to the requirements of the**
13 **Stormwater Management and Erosion Control Ordinance.**

- 14
- 15 **I. The Special Use is subject to the approval of Case 845-AM-16.**

16 The special condition stated above is necessary to ensure the following:

17 **That it is consistent with the intent of the ordinance and the ZBA**
18 **recommendation for Special Use.**

- 19
- 20 **J. Outdoor operations may involve nothing louder than loading and unloading earth,**
21 **sand, rock, and gravel, and any noise must comply with the Champaign County**
22 **Nuisance Ordinance.**

23 The special condition stated above is necessary to ensure the following:

24 **That operations promote the public health, safety, and general welfare.**

- 25
- 26 **K. Fugitive dust from the subject property is prohibited during loading and unloading,**
27 **and also while earth it is being stored.**

28 The special condition stated above is necessary to ensure the following:

29 **That operations promote the public health, safety, and general welfare.**

- 30
- 31 **L. No business operations in the self-storage area can include anything other than simple**
32 **storage.**

33 The special condition stated above is necessary to ensure the following:

34 **That no additional uses are established on the subject property.**

- 35
- 36 **M. The one-time concrete crushing event shall occur on the northern 190 feet of the**
37 **subject property and may not exceed 15 working days, during which time dust that is**
38 **generated will be minimized, as described in the letter from BJTE Concrete Crushers**
 LLC received October 7, 2016.

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

2 **That negative impacts on public safety, comfort and general welfare are**
3 **minimized.**

- 4
- 5 N. **Within 200 feet of the nearest adjacent residential property, any vegetation other**
6 **than trees and/or bushes that are used for screening must be kept no taller than 8**
7 **inches.**

8 The special condition stated above is necessary to ensure the following:

9

10 **That neighborhood concerns regarding maintenance of the special use are**
11 **addressed.**

- 12
- 13 O. **The Site Plan received on October 6, 2016, as amended by the ZBA on October 13,**
14 **2016, plus the site lighting plan received on September 30, 2016, is the official site**
15 **plan for approval in Case 846-S-16.**

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

17 **That it is clear which version of the Site Plan submitted by the petitioners is**
18 **the approved Site Plan.**

- 19
- 20 P. **Regarding the waiver of the minimum required separation of 200 feet between a**
21 **truck terminal and the nearest residential use:**
- 22 (1) **No business activity shall occur less than 75 feet from the nearest residential**
23 **use existing at the time of Special Use Permit approval other than as may be**
24 **in conformance with the approved site plan and/or any approved special**
25 **condition; and**
- 26
- 27 (2) **No truck & trailer parking and/or material storage shall occur less than 130**
28 **feet from the nearest residential use existing at the time of Special Use**
29 **Permit approval.**

30 The special condition stated above is necessary to ensure the following:

31 **Conformance with the waiver of the minimum required separation of 200**
32 **feet between a truck terminal and the nearest residential use.**

33

34 Mr. Thorsland entertained a motion to adopt the Documents of Record, Findings of Fact and Summary
35 of Evidence for Case 846-S-16.

36

37 **Ms. Griest moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of**
38 **Record, and Findings of Fact, as amended, for Case 846-S-16. The motion carried by voice vote.**

39

40 Mr. Thorsland entertained a motion to move to the Final Determination for Case 846-S-16.

1
2 **Ms. Griest moved, seconded by Ms. Capel to move to the Final Determination for Case 846-S-16.**
3 **The motion carried by voice vote.**

4
5 Mr. Thorsland informed the petitioner that currently the Board has one member absent; therefore, it is at
6 the petitioner's discretion to either continue Case 846-S-16 until a full Board is present or request that the
7 present Board move to the Final Determination. He informed the petitioner that four affirmative votes are
8 required for approval.

9
10 Mr. Modglin requested that the present Board move to the Final Determination.
11
12

13 **FINAL DETERMINATION FOR CASE 846-S-16:**
14

15 **Mr. Passalacqua moved, seconded by Ms. Griest, that the Champaign County Zoning Board of**
16 **Appeals finds that, based upon the application, testimony, and other evidence received in this case, the**
17 **requirements of Section 9.1.11B. for approval HAVE been met, and pursuant to the authority granted**
18 **by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

19 **The Special Use requested in Case 846-S-16 is hereby GRANTED WITH SPECIAL**
20 **CONDITIONS to the applicants Kevin Modglin, Jeff Swan, and Jeff Dazey, d.b.a.**
21 **Advantage Trucking, LLC, to authorize the following as a Special Use on land that is**
22 **proposed to be rezoned to the B-4 General Business Zoning District from the current R-4**
23 **Multi Family Residential Zoning District in related Zoning Case 845-AM-16:**

25 **Part A: Authorize multiple principal uses and buildings on the same lot consisting of a**
26 **Truck Terminal, Contractor's Facility with Outdoor Storage and/or Operations, and**
27 **144 Self-Storage Warehouse Units without heat and utilities to individual units, as a**
28 **Special Use on land that is proposed to be rezoned to the B-4 General Business Zoning**
29 **District from the current R-4 Multiple Family Residence Zoning District in related**
30 **zoning case 845-AM-16 on the subject property described below.**

32 **SUBJECT TO THE FOLLOWING WAIVERS OF STANDARD CONDITIONS:**
33

34 **Part B: Authorize the following waiver to the standard conditions of the "Truck**
35 **Terminal" special use as per Section 6.1.3 of the Zoning Ordinance: A separation**
36 **distance of 55 feet in lieu of the minimum required 200 feet between any Truck**
37 **Terminal and any adjacent residential district or residential use on the subject property**
38 **described below.**

40 **Part C: Authorize the following waiver to the standard conditions of the "Truck**
41 **Terminal" special use as per Section 6.1.3 of the Zoning Ordinance: No wire mesh fence**

1 surrounding the Truck Terminal in lieu of the minimum required 6 feet tall wire mesh
2 fence on the subject property described below.
3

4 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**
5

- 6 A. A Change of Use Permit shall be applied for within 30 days of the approval of Case
7 845-AM-16 by the County Board.
8
- 9 B. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning
10 Compliance Certificate for the proposed Truck Terminal, and/or Contractor's
11 Facility with Outdoor Storage and/or Operations, and/or 144 Self-Storage Warehouse
12 Units without heat and utilities to individual units, until the petitioner has
13 demonstrated that the proposed Special Use complies with the Illinois Accessibility
14 Code.
15
- 16 C. Certification from the County Health Department that the septic system on the
17 subject property has sufficient capacity for the proposed uses is a requirement for
18 approval of the Zoning Use Permit.
19
- 20 D. The Zoning Administrator shall not authorize a Zoning Use Permit or a Zoning
21 Compliance Certificate until the petitioner has demonstrated that any new or
22 proposed exterior lighting on the subject property will comply with the lighting
23 requirements of Section 6.1.2.
24
- 25 E. The petitioners must plant evergreen screening along the east lot line south of the
26 berm to screen the proposed uses from adjacent residential properties, as indicated
27 on the approved Site Plan. As per standard Department practice, a Norway Spruce
28 vegetative screen must be four to six feet high at the time of planting and will be
29 planted in staggered rows and must be planted as part of the Zoning Use Permit
30 authorizing construction of the shop building.
31
- 32 F. Two loading berths meeting Zoning Ordinance requirements will be constructed on
33 the property prior to the Zoning Administrator authorizing a Zoning Compliance
34 Certificate.
35
- 36 G. The Zoning Administrator shall not authorize a Zoning Compliance Certificate
37 authorizing occupancy of the proposed buildings until the Zoning Administrator
38 has received a certification of inspection from an Illinois Licensed Architect or other
39 qualified inspector certifying that the new buildings comply with the following
40 codes: (A) the 2006 or later edition of the International Building Code; (B) the 2008
41 or later edition of the National Electrical Code NFPA 70; and (C) the Illinois
42 Plumbing Code.

- 1 **H.** A complete Stormwater Drainage Plan that conforms to the requirements of the
2 Stormwater Management and Erosion Control Ordinance shall be submitted and
3 approved as part of the Zoning Use Permit application for construction and all
4 required certifications shall be submitted after construction prior to issuance of the
5 Zoning Compliance Certificate.
- 6 **I.** The Special Use is subject to the approval of Case 845-AM-16.
- 7 **J.** Outdoor operations may involve nothing louder than loading and unloading earth,
8 sand, rock, and gravel, and any noise must comply with the Champaign County
9 Nuisance Ordinance.
- 10 **K.** Fugitive dust from the subject property is prohibited during loading and unloading,
11 and also while earth it is being stored.
- 12 **L.** No business operations in the self-storage area can include anything other than simple
13 storage.
- 14 **M.** The one-time concrete crushing event shall occur on the northern 190 feet of the
15 subject property and may not exceed 15 working days, during which time dust that is
16 generated will be minimized, as described in the letter from BJTE Concrete Crushers
17 LLC received October 7, 2016.
- 18 **N.** Within 200 feet of the nearest adjacent residential property, any vegetation other
19 than trees and/or bushes that are used for screening must be kept no taller than 8
20 inches.
- 21 **O.** The Site Plan received on October 6, 2016, as amended by the ZBA on October 13,
22 2016, plus the site lighting plan received on September 30, 2016, is the official site
23 plan for approval in Case 846-S-16.
- 24 **P.** Regarding the waiver of the minimum required separation of 200 feet between a
25 truck terminal and the nearest residential use:
26 (1) No business activity shall occur less than 75 feet from the nearest residential
27 use existing at the time of Special Use Permit approval other than as may be
28 in conformance with the approved site plan and/or any approved special
29 condition; and
30 (2) No truck & trailer parking and/or material storage shall occur less than 130
31 feet from the nearest residential use existing at the time of Special Use
32 Permit approval.
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1 Mr. Thorsland requested a roll call vote.
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3 The roll was called as follows:
4

5 DiNovo - yes	6 Griest -yes	7 Lee – yes
Passalacqua –yes	Capel – yes	Randol – absent
Thorsland – yes		

8
9 Mr. Hall informed the petitioner that he has received an approval for Case 846-S-16. He said that Case
10 845-AM-16 will be forwarded to the Environment and Land Use Committee at their November 3, 2016,
11 meeting.

12
13 **6. New Public Hearings**

14 None
15

16
17 **7. Staff Report**

18 None
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21 **8. Other Business**

22 A. Review of Docket

23 Mr. Thorsland stated that he will tentatively be absent from the December 22, 2016, meeting.

24
25 Mr. Hall stated that the October 27th agenda would include an item under Other Business regarding possible
26 cancellation of the December 22, 2016, meeting.

27
28 Mr. Hall stated that Cases 830-AM-16 and 831-S-16 would be on the October 27th agenda, but the
29 petitioners are unable to attend; therefore, the Board will need to continue those cases to a later meeting.

30
31 Mr. Thorsland requested a full Board for the October 27th meeting.

32
33 **9. Audience Participation with respect to matters other than cases pending before the Board**

34 None
35

36
37 **10. Adjournment**

38
39 Mr. Thorsland entertained a motion to adjourn the meeting.

40
41 **Ms. Griest moved, seconded by Ms. Lee, to adjourn the meeting. The motion carried by voice vote.**

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2 The meeting adjourned at 9:56 p.m.
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6 Respectfully submitted
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11 Secretary of Zoning Board of Appeals
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DRAFT SUBJECT TO APPROVAL DRAFT

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DRAFT SUBJECT TO APPROVAL DRAFT

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