

**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street**

**Urbana, IL 61801**

**DATE: June 17, 2021**

**PLACE: ZOOM MEETING**

**Shields-Carter Meeting Room**

**1776 East Washington Street**

**Urbana, IL 61802**

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

**MEMBERS PRESENT:** *Using Zoom in Shields-Carter Meeting Room:* Ryan Elwell, Jim Randol,

Larry Wood

*Remotely via Zoom:* Tom Anderson, Marilyn Lee, Lee Roberts

**MEMBERS ABSENT:** None

**STAFF PRESENT:** *Using Zoom in Putman Meeting Room:* Lori Busboom, Stephanie Berry,

John Hall, Susan Burgstrom

**OTHERS PRESENT:** *Remotely via Zoom:* Kenneth & Laura Hlinka, Austin Tabeling, Jonathan

Thompson, Keegan Hinnners, Saki Kadotani, and Meredith Barnes

**1. Call to Order**

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

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

The roll was called, and a quorum declared present.

Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must identify themselves on Zoom.

**3. Correspondence - None**

**4. Approval of Minutes – May 13, 2021**

Mr. Elwell asked if there was any discussion on the minutes and entertained a motion to approve the minutes of May 13, 2021.

**Ms. Lee moved, seconded by Mr. Roberts, to approve the minutes of May 13, 2021.**

The vote was called as follows:

**Anderson – yes**

**Elwell - yes**

**Randol – yes**

**Roberts – yes**

**Wood - yes**

**Lee - yes**

**The motion carried.**

**5. Continued Public Hearings – None**

1 **6. New Public Hearings**

2  
3 Mr. Elwell asked the Board how they would feel about hearing case 011-V-21 first.

4  
5 **Mr. Randol moved, seconded by Mr. Roberts, to hear case 011-V-21 first.**

6  
7 The vote was called as follows:

8	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
9	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

10  
11 **Case 009-AM-21 & 010-S-21**

12 Petitioner: **Shawn Tabeling, d.b.a. Tabeling Development Company LLC**

13 Request: **Case 009-AM-21**

14 **Amend the Zoning Map to allow for the development of two single family residential lots**  
15 **in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO)**  
16 **Zoning District in conjunction with related County Board Special Use Permit Case 010-**  
17 **S-21.**

18 **Case 010-S-21**

19 **Authorize a Special Use Permit for a Rural Residential Overlay (RRO) Zoning District**  
20 **for two single family residential lots in conjunction with related map amendment Case**  
21 **009- AM-21 that is also required for an RRO.**

22 Location: **A 43.12-acre tract in the West Half of the Southeast Quarter of Section 23, Township 21**  
23 **North, Range 7 East of the Third Principal Meridian in Newcomb Township, and**  
24 **commonly known as the farmland located north and west of the residence with an**  
25 **address of 458 CR 2600N, Mahomet.**

26  
27 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign  
28 the witness register for that public hearing. He reminded the audience that when they sign the witness  
29 register, they are signing an oath.

30  
31 Mr. Elwell informed the audience that Case 010-S-21 is an Administrative Case, and as such, the County  
32 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask  
33 for a show of hands or a verbal indication from those who would like to cross-examine, and each person  
34 will be called upon. He said that those who desire to cross-examine will be asked to clearly state their  
35 name before asking any questions. He noted that no new testimony is to be given during the cross-  
36 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
37 from cross-examination. He asked if the petitioner would like to outline the nature of their request prior  
38 to introducing evidence.

39  
40 Austin Tabeling, Project Manager at Tabeling Development Company LLC, and their real estate broker,  
41 resides at 438 County Road 2600 North, Mahomet. He stated that he is speaking on behalf of his father,  
42 Shawn Tabeling, who is absent. He said they have this area of farmland, and the Zoning Ordinance  
43 required them to split it into three or fewer tracts of land, which they completed back in January 2020. He  
44 said that two were residential lots that already sold, and the third was the remainder farmland. He said  
45 they didn't do anything for a while, because they weren't aware they could appeal at a public hearing to  
46 see if they could have an exception for splitting the remainder farmland. He said that as soon as they  
47 realized this was an option, they filed to add two more lots. He said the two lots they are proposing, Tract  
48 50 being 6.67 acres and Tract 51 being 11.83 acres, are consistent with other lots in the area and across  
49 the street with the same street access. He said they have had success in selling residential tracts in this

1 area; they have sold fast, it's valuable land, and it's not best prime farmland. He said that in their opinion,  
2 all the characteristics of this land, including some infrastructure that they have put in, the value of the land  
3 as residential property, and other factors, make adding these two tracts a no brainer. He said that Jonathan  
4 Thompson is on Zoom; he also works with Tabeling Development Company LLC and is able to answer  
5 any questions as well. He said that hopefully, if the Board has any comments or concerns, they should be  
6 able to handle all of them. He said Shawn is traveling right now, but if he did need to sign onto Zoom, he  
7 could, but it would be from his phone; he is out in the country and it's a little spotty on reception. He said  
8 Shawn would like himself and Jonathan to handle the cases and questions if possible.

9  
10 Mr. Elwell asked if there were any questions from the Board.

11  
12 Ms. Lee asked Mr. Tabeling how long his father has owned the property.

13  
14 Mr. Tabeling said they closed on the property at the beginning of this year. He said that they purchased a  
15 larger property directly to the west, dubbed Hidden Acres Subdivision, at 438 County Road 2600 North,  
16 Mahomet. He said that it was a 200-acre development, and they were able to split off 96 of the 200 acres.  
17 He said that they reached a deal with the Champaign County Forest Preserve and made a donation so that  
18 will be a new forest preserve and the County is working on that now. He said all the other lots sold out  
19 within three months of them acquiring that land in early 2020. He said that when the 55 acres directly east  
20 of the 200-acre property came up for sale, given how fast the tracts sold directly west of that, they decided  
21 to pull the trigger and purchase the 55 acres, then split the first two tracts off and sold them immediately.  
22 He said that the short answer would be they closed on the property the beginning of 2021.

23  
24 Mr. Anderson said that the map in Attachment A, page two through three in the Preliminary Memorandum,  
25 shows the current 43.12-acre tract of land with the two proposed tracts of land. He said he can't determine  
26 if there is a road or right-of-way between the remainder and proposed Tract 50.

27  
28 Mr. Tabeling said that the land is all currently farmland; there is one house currently under construction  
29 on one of the previous two lots that they were able to split off and sell back in January 2021. He said that  
30 road he believes has a driveway or a partial driveway, but there are no other roads from the current 43.12-  
31 acre tract and there are no roads between any of the newly proposed tracts.

32  
33 Ms. Burgstrom said that when you are looking at proposed Tract 50, there is a 20-foot access heading up  
34 to proposed Tract 51 from County Road 2600 North. She asked Mr. Anderson if that is what he was  
35 referring to.

36  
37 Mr. Anderson responded yes.

38  
39 Mr. Tabeling said that proposed Tract 50 has to have frontage on County Road 2600 North, and in real  
40 estate they call that a flag lot, where the lot extends down. He said if they look to the west, there are a  
41 couple of other examples of that as well that have been approved. He said that is kind of a necessary part;  
42 people have to have access to their land; they're not making this into a huge subdivision or anything, it's  
43 just going to be tracts out in the county. He said that they just have to make sure they have frontage on  
44 County Road 2600 North and the 20-foot access width is the minimum allowed for in the Zoning  
45 Ordinance.

46  
47 Mr. Anderson asked what road the driveway or right-of-way was for proposed Tract 51.

48  
49 Ms. Burgstrom said they would access it right off of County Road 2600 North.

1 Mr. Tabeling said that proposed Tract 51 would have the 20-foot-wide flag lot line going down to County  
2 Road 2600 North; proposed Tract 50 will have frontage on County Road 2600 North, so the flag lot is not  
3 needed for that one.

4  
5 Mr. Anderson referred to Attachment H in the Preliminary Memorandum, the Natural Resource Report  
6 from Champaign County Soil and Water Conservation District that they received in an email and noted  
7 that the concerns were the soil is not suitable for sanitary purposes; soil is not suitable for dwellings; it's  
8 not located in a drainage district, which means it floods during heavy rainfall; and endangered species  
9 aren't protected. He asked Mr. Tabeling if those were any of their worries and what they're doing to  
10 support solutions for those concerns.

11  
12 Mr. Tabeling said that they don't have any worries; they have spoken with their site engineer, Mark Miller  
13 from Precision Engineering, who has total confidence that it's going to work out. He said that he hasn't  
14 heard about any endangered species; he is not sure where that report was pulled from. He said that Mr.  
15 Miller did note that if someone built a house on either tract, they would direct the water away from and  
16 around the structures, but Mr. Tabeling would assume the overall drainage patterns wouldn't change. He  
17 said that Mr. Miller didn't see any issues with it, and there wouldn't be any problems as far as they know.

18  
19 Mr. Anderson asked Mr. Tabeling if they are just going to ignore the concerns from the Champaign County  
20 Soil and Water Conservation District.

21  
22 Mr. Tabeling said he hasn't seen the concerns, he hasn't noticed anything there, and he is fairly confident  
23 based on what they have talked about with the site engineer and Shawn Tabeling. He said that he isn't an  
24 expert in endangered species protection on certain lots or anything like that, but he is sure they could get  
25 answers for them.

26  
27 Ms. Burgstrom said the Natural Resources Report was received yesterday and she emailed it to the Zoning  
28 Board Members today; it does reference the Sangamon River as a naturally protected area, but any  
29 property in that area is shown to have that red flag for it. She said that this particular property is quite a  
30 ways away from the actual river, and they don't foresee any issues with affecting endangered species from  
31 this development.

32  
33 Mr. Tabeling said there are homesites in between the proposed tracts of land we are discussing and the  
34 river; they've seen floodplain maps and everything, and they aren't concerned about it. He said Mr. Hall  
35 might be able to add on to this, if there are any specifics that he's aware of. He said this isn't really  
36 anything that they're super concerned about from their experience in the field.

37  
38 Mr. Hall referred to the Soil and Water Conservation District Report and said that in regard to soils not  
39 being suitable, they recommend a consultation with a professional to determine construction strategy. He  
40 said most builders in this area have to build on soils like that, which is related both to building the structure  
41 and putting in the septic system; the report simply says refer to professionals. He said regarding it not  
42 being in a drainage district, that isn't a problem; the report says to contact township officials with questions  
43 or concerns. He said he doesn't view the Natural Resources Report as really saying anything unusual and  
44 certainly nothing that would be problematic. He said you always want to have adequate foundations for a  
45 house and you always want to have a septic system that's been appropriately designed and installed.

46  
47 Mr. Elwell said they've heard testimony tonight from Mr. Tabeling that this ground was "not best prime  
48 farmland," and asked if it is best prime farmland or less than prime farmland.

49

1 Mr. Hall said the average Land Evaluation score cut off is 91 for best prime farmland and the Land  
2 Evaluation for this site is 74, which is a big difference. He said it is still prime farmland; almost all of  
3 Champaign County is prime farmland, and importantly this is not best prime farmland.

4  
5 Ms. Lee asked what the Petitioners plan to do with the remaining proposed 24.62 acres of farmland.

6  
7 Mr. Tabeling said that it will remain for sale as farmland. He said that the whole property is being farmed  
8 at the moment and they have a contract that goes yearly with the farmer. He said they will list it for sale  
9 as farmland so if any other agriculture investors or farmers want to purchase it from them, they can.

10  
11 Mr. Elwell asked Mr. Tabeling what would stop him from doing this same thing again that he is doing  
12 tonight.

13  
14 Mr. Tabeling said that if the Board does not approve it, they don't have any plans, but in the future, there  
15 would be nothing to stop them from applying a second time. He said that as developers, they view this  
16 particular lot layout as common sense. He said that in theory, they could petition again, but they don't  
17 have any plans to do so. He said he knows when they originally split off Tracts 40 and 41, the 7-acre  
18 recorded lots, they really didn't know that this was an option to appeal it and go through this process and  
19 get two more tracts. He said that as of now, they don't have a huge interest and as he's looking at the map  
20 on Attachment A, page two through three, in the Preliminary Memorandum, he believes that would not  
21 be very suitable for them, but he technically can't guarantee it because he doesn't know how anything  
22 would change in the future.

23  
24 Mr. Randol asked Mr. Hall about the 20-foot easement of access for proposed Tract 51. He said if someone  
25 would want to purchase the remainder proposed 24.62 acres of farmland and split it off, could they require  
26 some type of improvement for that access road as it exists, or does that remain strictly for the person that  
27 would own proposed Tract 51.

28  
29 Mr. Hall said that once proposed Tract 51 sells to a new owner, they wouldn't be involved in any kind of  
30 approval on the remainder. He said that the development of that remainder is complicated by the fact that  
31 the proposed 24.62 acres of farmland is a flag lot itself; you can't have two flag lots touching like that,  
32 except in a subdivision. He said that there will be a subdivision required for the division of the remainder,  
33 even if it were to be one single lot. He said that the shape of this property does present particular  
34 challenges; they don't know what the future holds, but it is going to be complicated to get another useable  
35 lot out of that.

36  
37 Mr. Randol said as it stands then, one individual couldn't buy that and put a home on it.

38  
39 Mr. Hall said they would have to go through the rezoning and Special Use Permit process.

40  
41 Ms. Lee replied that the Petitioner said that they had developed some other land around the area and asked  
42 what process they had to go through for that, or if they didn't have to go through Zoning. She said that  
43 she doesn't understand why they didn't have to do it on the other property that they just developed recently  
44 since 2020.

45  
46 Mr. Hall said the land to the west was 200 acres that had been divided into 5- and 10-acre wood lots before  
47 1900; those lots are shown in the Tax Atlas, and they have zoning rights associated with them. He said  
48 the only challenge on that was simply to provide the 20-foot access strip for each lot to access from County  
49 Road 2600 North and there was a lot of engineering and surveying done to figure out those 20-foot access

1 strips; P & Z staff spent a lot of time in their office reviewing it. He said he can tell them that all of those  
2 lots meet the Zoning Ordinance requirements, but it goes back to the underlying fact that it had originally  
3 been 200 acres divided into 5- and 10-acre wood lots. He said there were a lot of non-conforming lots  
4 there, and these lots were different combinations of those old woods lots, each one with a 20-foot access  
5 to the road.  
6

7 Mr. Elwell asked Mr. Hall about the two 7 acre lots, recorded in January 2021, just to the west of proposed  
8 Tract 50.  
9

10 Mr. Hall said those are what they call Plat Act lots; they exceed 5 acres, and they can do that because they  
11 are not best prime farmland. He said one of them has a full frontage on County Road 2600 North and one  
12 is a flag lot with a 20-foot access strip, so they are completely fine under the Zoning Ordinance.  
13

14 Mr. Anderson said he knows this is bad news, but he would feel troubled supporting this request. He said  
15 a respected counsel from Champaign County Soil and Water Conservation District said that they had  
16 serious concerns about the sanitary conditions, the building of dwellings in small commercial places and  
17 it being in a tough drainage area. He said he would like to hear the professional's opinions about the  
18 solutions to these concerns and he knows this arrived a day or two ago, but nonetheless, he has trouble  
19 with residency considerations when the Champaign County Soil and Water Conservation District is  
20 concerned and won't support that.  
21

22 Ms. Burgstrom said any proposed new dwelling must have an application for sanitary sewer with the  
23 Champaign County Health Department, and they are professionals who review that application at the time.  
24 She said before anything can be built, and that's often a special condition they make, they must make sure  
25 that they have the appropriate sanitary sewer approval, along with any building permit for new  
26 construction. She said that's the point in which professionals come in to make sure the sanitary sewer is  
27 okay. She said that the other concern regarding the soils not being acceptable for dwellings and small  
28 buildings is something we see with almost every Natural Resources Report. She said when the engineers  
29 are looking at the soil to determine the grading and contours and doing the soil testing and things to put  
30 sanitary sewers in, that's when those concerns are addressed by the professionals.  
31

32 Mr. Elwell asked Mr. Hall, working from west to east on the map in Attachment A, page two through  
33 three, in the Preliminary Memorandum, if they have a normal lot, a flag, a normal, a flag, and a flag.  
34

35 Mr. Hall said that's right, the last flag lot can only be used for farmland, because it's not a part of the  
36 RRO. He said the requirement that he mentioned about not being able to have two adjacent flag poles next  
37 to each other, that doesn't apply in this instance, because they can't make that standard apply to an  
38 agriculture lot. He said this alternating full width lot with a flag lot and another full width lot with a flag  
39 lot is a very common technique. He said that Champaign County has never established a limit for how  
40 long those access strips can be, that's why there's no problem here. He asked Mr. Elwell if that answered  
41 his question.  
42

43 Mr. Elwell replied yes and thank you.  
44

45 Ms. Lee asked if the fact that this farmland isn't in a drainage district doesn't mean that there isn't drainage  
46 tile, and if the fact that there could be drainage tile in there needs to be addressed in this case.  
47

48 Mr. Hall said that would be up to the Board. He said that if she thinks that's an important consideration,  
49 the Board could require conditions. He said that their Storm Water Management Ordinance already has a

1 process if a drainage tile is interrupted; there's a process for how it should be rerouted around that  
2 interruption and kept in good working order. He said they don't know where these two houses are going  
3 to be out of the proposed 18 acres, they have no idea where homeowners are going to want to put the  
4 houses, and until you know where you want to put the house, you don't know whether it's worthwhile to  
5 even search for a tile. He said if the Board wants special conditions, they can try to develop some special  
6 conditions, but they don't have any at this point.

7  
8 Mr. Wood said the Petitioner indicated that they would route anything around any structure that they have  
9 there, but not disturb the standard there. He said that he thinks it wouldn't hurt to put that in writing, which  
10 would mean putting it into a special condition, just to insure that happens.

11  
12 Mr. Elwell asked Mr. Hall to remind him when proposed Tract 51 is sold, does the special condition stick  
13 with the property itself or does it go away.

14  
15 Mr. Hall said any special condition that this Board puts on these lots will go with the land.

16  
17 Mr. Hall said that, going back to Mr. Wood's comment about a special condition, he just wants to make  
18 sure the Board understands that their Storm Water Management and Erosion Control Ordinance already  
19 has requirements in case a tile is interrupted during construction. He said that he doesn't know if that is  
20 adequate in Mr. Wood's consideration.

21  
22 Mr. Wood replied that if Mr. Hall feels that concurs with that concern, then he is fine. He said the proof  
23 in the pudding will be when they find out if their basement is full of water.

24  
25 Mr. Randol said the homeowner needs to pay attention to their contractor when that's being done.

26  
27 Mr. Elwell asked Mr. Hall when he described the Land Evaluation score for this site being a 74, compared  
28 to the cutoff score of 91 for the rating of best prime farmland, it sounded to him like this soil is  
29 exponentially less than best prime farmland; he asked how the ratings go, what is the difference between  
30 a score of 70 and 90 or a score of 75 and 95.

31  
32 Mr. Hall said in his mind it's exponential, it's a huge difference; in the county where he is from, the soils  
33 on this property would be very good soils, but for Champaign County they're not considered good at all.  
34 He said there is pretty good surface drainage, there's a lot of topography on this site, it's not steep, but it  
35 does have surface drainage. He said he agrees with what Mr. Tabeling said in the beginning; this land is  
36 probably more valuable for these large rural lots than for farming, and he hopes he can find someone to  
37 continue farming the remainder farmland. He said among Champaign County soils, this is really pretty  
38 bad.

39  
40 Mr. Tabeling said he wanted to add on that he had a note from the farmer, who mentioned that the soil  
41 productivity index is 110, which was very low. He said that it is timber soils, and their corn made 170  
42 bushel per acre last year and the farm average throughout the county is 210 bushel per acre. He said that  
43 their farmer has told them over and over again that this farmland isn't great compared to what they were  
44 used to; their cash rent they have with the farmer is much lower than most of his other lands that he farms.  
45 He said that the farmer had said he would continue to farm it and that he could still make money on it, but  
46 that it's not good farmland.

47  
48 Mr. Wood said the only thing that he heard that was really a concern was the fact that it's just very poor  
49 soil for any type of septic system. He said that he doesn't know about an aeration system, because that

1 doesn't really rely on percolation to speak, but that's what was in the report, that was the only one down  
2 at the bottom of the list. He said that only requires that they do more work or it's more expensive to put  
3 in a good septic system to ensure it works properly. He said that he thinks that's the only real issue there  
4 and shouldn't be a problem. He asked, just out of curiosity, if the alternative would be to put in a  
5 subdivision if they wanted to have two extra lots on the remainder 24.62 acres of farmland.  
6

7 Mr. Hall replied yes.  
8

9 Mr. Tabeling said that in theory, that's what they would go through, but the process is long, and they don't  
10 view it as worth it. He said he can't speak for what would happen in the future, things change all the time,  
11 but this is not ideal land for a subdivision from their development standpoint and it's not really ideal for  
12 what they look for when they scout out future developments.  
13

14 Mr. Wood asked if it was correct that the big expense would be that they have to put in a paved road.  
15

16 Mr. Tabeling replied yes, pretty much, there are also a lot of utility extensions, and there is a lot more  
17 permitting that goes into it all. He said that he hasn't personally ever dealt with it, but Shawn had kind of  
18 mentioned, over and over again, how they like doing larger five plus acre tracts that fit; going through the  
19 subdivision process out here doesn't make sense to them as developers.  
20

21 Mr. Wood said so four large lots wouldn't make sense to them economically is what he is saying.  
22

23 Mr. Tabeling replied yes, just from the process they have to go through, they don't think it would be  
24 necessarily worth it.  
25

26 Mr. Elwell told Mr. Hall that one last thing that iced the cake for him was, if they are there to protect best  
27 prime farmland, this is the best place to put an 11.83- and a 6.67-acre tract, which would be twice the size  
28 that the current Zoning Ordinance allows, correct.  
29

30 Mr. Hall said he is not quite sure he understands the question.  
31

32 Mr. Elwell responded that if they had to have two of these types of tracts, it would be better to put them  
33 here, rather than in other places in the county, due to the poor crop production; in a sense that is protecting  
34 best prime farmland, correct.  
35

36 Mr. Hall said in a sense yes, they're allowing some small amount of residential development that takes  
37 pressure off the best prime farmland.  
38

39 Mr. Wood said that everything up along that ridge coming out of Champaign, which is part of Yankee  
40 Ridge, is mostly timber soil up on the top, which doesn't produce nearly as well as the ground they're  
41 going to find south of Interstate 74. He said on down through the river basins that run south, that's going  
42 to be much better ground, same as the place where he lives is all timber soil up there. He said that being  
43 that close to the river, a lot of the topsoil has eroded over time, particularly being farmland, so a lot of it  
44 has washed into the river anyway.  
45

46 Mr. Elwell asked Ms. Lee if she had any comments or concerns.  
47

48 Ms. Lee said that in other cases where they had been concerned that the lot size couldn't be over the  
49 maximum 3 acres for residential, and asked Mr. Hall why does this case not have that exception also.

1 Mr. Hall replied they're not dealing with best prime farmland on this land, they're dealing with very much  
2 less productive land. He said it is still prime farmland; again, it's hard to not be on prime farmland in  
3 Champaign County, but this is not best prime farmland.

4  
5 Mr. Wood said if this ground is only going to have four houses on it and the rest of it is going to be  
6 farmland, he would suspect that a lot of it is going to be left fallow and grow trees, bushes, or whatever.  
7 He said that would probably be healthier for the land than what it's being used for right now.

8  
9 Mr. Randol said there is a lot of property owners that have 7 to 10 acres, and what they don't use for their  
10 lawn they put into agriculture for hay and things like that, which is a pretty big demand out of this county.  
11 He said there are still farm possibilities there, it just depends on the individual homeowner.

12  
13 Mr. Wood responded that it could be pasture, more horses, and things like that.

14  
15 Mr. Elwell asked if the same thing couldn't be said about best prime farmland.

16  
17 Mr. Randol said what Mr. Wood and he classify in this area where they're living is best prime farmland.  
18 He said that anybody that's raising hay as a crop, most of it is on little tracts like they just talked about or  
19 they have it on a rotating basis, where they rotate their crops from year to year.

20  
21 Mr. Wood replied that they're probably not going to find hay on best prime farmland. He said they'll cut  
22 all the waterways and things that run through it.

23  
24 Mr. Elwell asked if there were any other questions from the Board and P & Z staff. Seeing none, he  
25 informed the public that anyone wanting to cross-examine the witness should raise their hand via Zoom  
26 at this time.

27  
28 Ms. Burgstrom said she saw two hands raised via zoom, Saki and Keegan Hinnners, who are neighbors to  
29 the proposed tracts, and she also saw the Barnes family had their hand raised, so they'll start with the  
30 Hinnners.

31  
32 Mr. Elwell stated that when they ask their questions, please do not provide testimony; if they do have  
33 testimony, they will be given the opportunity to testify afterwards.

34  
35 Ms. Saki Kadotani stated she is with Keegan Hinnners, and they live at 1205 Grant Place, Urbana. She said  
36 that when they purchased Tract 41, which is south of proposed Tract 51, Mr. Tabeling said that they were  
37 not allowed to divide the remainder of the 43.12 acres and asked how that plays into their decision.

38  
39 Mr. Elwell informed Ms. Kadotani that she was providing testimony at this point. He said that they will  
40 give her time to provide testimony, but at this point they will need to ask questions about the testimony  
41 that they had already heard from Mr. Tabeling. He asked if Ms. Kadotani had any questions or if they  
42 should come back to her.

43  
44 Ms. Kadotani said they should just come back to her.

45  
46 Mr. Elwell asked Ms. Burgstrom if the Barnes family was next on the list.

47  
48 Ms. Burgstrom said correct.

1 Mr. Elwell asked the Barnes family if they could please state their full name instead of Barnes family.  
2  
3 Ms. Barnes stated that they live at 2633 County Road 500 East, Mahomet, east of the proposed tracts. She  
4 said her question was for proposed Tract 50, which is the 6.67 acres, what are the dimensions of the lot  
5 and how much road frontage they have. She said she didn't see the measurement in feet, only how many  
6 acres the tract was, but she could have not missed it completely.  
7  
8 Ms. Burgstrom said that it is 200 feet by 1,453 feet.  
9  
10 Mr. Elwell asked Ms. Barnes if that answered her question.  
11  
12 Ms. Barnes said yes, thank you very much.  
13  
14 Mr. Elwell asked if anyone else would like to cross-examine Mr. Tabeling. He asked if there were no other  
15 questions from the Board and Staff. Seeing none, he thanked Mr. Tabeling for his testimony and said that  
16 he would move on to testimony from Saki and Keagan Hinners.  
17  
18 Ms. Kadotani stated that when they first purchased Tract 41, they were told that the remainder of the tract  
19 could not be divided.  
20  
21 Mr. Elwell asked if he could stop Ms. Kadotani for a moment, Tract 41 is not listed on their map, can she  
22 describe where that is.  
23  
24 Ms. Kadotani said that is south of proposed Tract 51, is it a flag lot.  
25  
26 Mr. Elwell asked if that was the 7-acre lot recorded January 2021.  
27  
28 Ms. Kadotani said yes, correct.  
29  
30 Ms. Burgstrom said they can refer to Attachment B, page one of one, in the Preliminary Memorandum,  
31 which shows the site plan and those different tracts in kind of a different font than the main proposed  
32 tracts.  
33  
34 Mr. Elwell said he was on the right page now.  
35  
36 Ms. Kadotani said that they were told before they purchased Tract 41 that the remainder of the 43.12 acres  
37 could not be divided due to the Zoning Ordinance. She said that was one of the reasons why they  
38 specifically chose that lot was that they were told that the remainder of the lot could not be divided into  
39 more tracts. She said they would have more space and that it would not be divided into subdivisions; that  
40 was the promise that was made by the Tabeling Development Company. She said when they purchased  
41 Tract 41, they were given the option to decide where they wanted Tract 41 to be located. She said that  
42 they have email exchanges saying that behind the remaining 12.3 acres that is north of Tract 41 would be  
43 merged with the larger tract and the splitting of properties wouldn't be allowed; that's why they  
44 specifically chose the Tract 41 location. She said they were under the impression when they bought the  
45 tract that they would not have neighbors to the east and north of their lot and not by their driveway, which  
46 is the flag lot; it would be in between Tract 40 and proposed Tract 50. She said this is not what they had  
47 hoped for and that they were frustrated there is now a new map amendment, when they were told that the  
48 remainder of the tract could not be divided.  
49

1 Mr. Elwell thanked Ms. Kadotani and asked if there were any questions from the Board.  
2  
3 Mr. Anderson asked Ms. Kadotani who had told them this from the Tabelaing Development Company.  
4  
5 Ms. Kadotani said that Austin Tabelaing had; they have the email exchanges that stated the remainder of  
6 the 12.3-acre tract could not be divided into properties due to the Zoning Ordinance.  
7  
8 Mr. Anderson asked how long ago that was.  
9  
10 Mr. Hinnners stated it was back in December 2020.  
11  
12 Ms. Kadotani replied that it was back in November 2017 before they closed on the tract; this was before  
13 they had bought it. She said they had put in the earnest money at that point and were already moving  
14 forward on purchasing the 7-acre lot.  
15  
16 Mr. Elwell stated to Mr. Hinnners that when he speaks, that he will need to state his full name.  
17  
18 Mr. Anderson said he wonders why Mr. Tabelaing changed his statement.  
19  
20 Mr. Tabelaing asked if he was allowed to speak or does he have to wait.  
21  
22 Mr. Elwell said he will need to wait and told Mr. Anderson to continue.  
23  
24 Mr. Anderson said that all he wondered was why Mr. Tabelaing changed his statement.  
25  
26 Mr. Elwell said the Board could ask Mr. Tabelaing after the cross-examination of the current witness to  
27 answer that question. He asked if there were any other questions from the Board.  
28  
29 Mr. Hinnners said he just wanted to add that going off what Mr. Tabelaing said earlier that they didn't think  
30 that it would be possible, because the process would be long. He said that ultimately their concern is that  
31 the property value of their lot should have decreased knowing that there would be an adjacent lot behind  
32 them and next to them. He said they already purchased their lot knowing that there wouldn't be anyone  
33 there and their lot value has now decreased, because they have more neighbors. He said they were moving  
34 out to the country for a reason and were trying to get out of town; they are inside Urbana right now and  
35 were hoping for a quieter spot. He said he knows it's not a full neighborhood or subdivision, but again  
36 their driveway is going to go right in between two houses now that normally would be a house right in  
37 front and behind them.  
38  
39 Ms. Kadotani said there is also a concern that the remainder of the 24.62-acre farmland could potentially  
40 be sold as a subdivision, which they were told would not happen. She said they could go back on their  
41 words and change their mind and put more houses around their lot that they purchased to have more space.  
42  
43 Mr. Elwell asked if there were any other questions from the Board or Staff.  
44  
45 Ms. Burgstrom responded that she had received an email from another neighbor that she would like to  
46 read as being another witness for testimony.  
47  
48 Mr. Elwell asked Ms. Burgstrom if she would be willing to include that to the Documents of Record.  
49

1 Ms. Burgstrom said yes.

2  
3 Mr. Elwell said he did not see any more questions from the Board or Staff. He said he would like to open  
4 up for cross-examination questioning. He asked if anyone wishes to cross-examine this witness to please  
5 raised their hand via Zoom.

6  
7 Ms. Burgstrom said she saw Mr. Tabeling raise his hand via Zoom.

8  
9 Mr. Elwell told Mr. Tabeling to go ahead.

10  
11 Mr. Tabeling stated that first he would like to point out he is a real estate professional in the area.

12  
13 Mr. Elwell asked Mr. Tabeling if he could he ask questions and not state facts.

14  
15 Mr. Tabeling replied no.

16  
17 Ms. Burgstrom said they could come back to Mr. Tabeling after the cross-examine.

18  
19 Mr. Elwell told Ms. Burgstrom that he did not see anyone else wanting to ask questions. He thanked Ms.  
20 Kadotani and Mr. Hinnars for their testimony and asked if anyone else would like to testify in this case.

21  
22 Ms. Burgstrom said she wants to make sure she reads this email, because Mr. Tabeling did not receive it  
23 since staff just received it today.

24  
25 Mr. Elwell said he thought this would be a good time as well.

26  
27 Ms. Burgstrom said this email is from Jim Demos, who has a house under construction on Tract 40, just  
28 south of Ms. Kadotani and Mr. Hinnars. He said, "Hi - I will keep this short but wanted to express my  
29 objection to the map amendment. We purchased (and improved) property under the assumptions of the  
30 map presented. Now only a few months later we are faced with drastic changes directly adjacent to our  
31 home. We purchased this property under the assumption that houses weren't going to be packed in and  
32 now that's exactly what is being presented. Thank you."

33  
34 Mr. Elwell thanked Ms. Burgstrom and asked Ms. Barnes to state her testimony and full name at this time.

35  
36 Ms. Meredith Barnes stated that she lives at 2633 County Road 500 East, Mahomet. She stated that the  
37 Dunlap Farms was split about three or four years ago and there was 25 acres on the corner of County Road  
38 2600 North and 500 East that were sold, and then the remaining parcel was sold to Tabeling Development  
39 Company. She said she wants to give them a little bit of history from living out there; Tabeling  
40 Development Company bought the other part of Dunlap Farms and they split it.

41  
42 Mr. Elwell asked Ms. Barnes if they could take one step back, and asked if Dunlap Farms was this  
43 complete section.

44  
45 Ms. Barnes said yes, there is a flagpole lot off of County Road 2600 North that has been there for a long  
46 time, and Dunlap Farms owned both sides of that flagpole lot. She said that if they look on the map, there  
47 is 5.25 acres that is the remaining original Dunlap Farmstead.

48  
49 Mr. Elwell asked Ms. Burgstrom if that would be in the southeast portion of the map.

1 Ms. Burgstrom responded if they look at Attachment B in the Preliminary Memorandum, they will see  
2 down on the south end and southeast corner, just below the remainder lot, the existing farmstead that is  
3 Dunlap's remaining land. She said north and west of that is what staff called the west tract of the Dunlap  
4 Farm, and that was including the two seven acre lots; and the proposed acreage that they are talking about  
5 today. She said just to the east or to the right of the existing farmstead there was a bigger tract as well and  
6 they called that the east Dunlap Farms tract; she believes the Dunlap Farm was in the 80- to 90-acre range  
7 as a total property.  
8

9 Ms. Barnes said that Tabeling Development Company bought the west Dunlap Farm and they split that  
10 into Tracts 40 and 41, and the remaining parcel. She said that they are putting up two houses right now  
11 and have heard that they have been sold. She said that now they want to come back and split proposed  
12 Tracts 50 and 51 and then the remainder 24.62-acre farmland; their concern is that they're going to keep  
13 doing this and it's already been split three times in the last four years. She said that she is a farmer, and  
14 she hates that even though it's not Best Prime Farmland, it's still Prime Farmland; she really feels very  
15 strongly about giving up farmland. She said in Champaign County, that's one of its huge assets, as the  
16 Board already knows. She said that her property is probably not on Prime Farmland, but they are still  
17 farming. She said yes, it's not ideal and the soil could be better, but there could be better soil anywhere.  
18 She said they took and changed their farm to look kind of outside the box; they are growing lavender, and  
19 it's pretty awesome. She said the other thing that she wanted to talk about was the drainage; just from  
20 driving by when it rains heavy seems to be an issue in that farm field with surface run off. She said that it  
21 runs off into a little, what she would call creek, and it all drains to the west.  
22

23 Mr. Elwell asked for Ms. Barnes to describe on which tracts.  
24

25 Ms. Barnes replied it's on Tracts 40 and 41 on the west side of their property; there's a gully/creek and  
26 there's always deer down there. She said it's right where the property meets the next property on the west  
27 side of Tracts 40 and 41. She said the drainage goes through that farm field and you can see it running off  
28 when there is a heavy rain.  
29

30 Mr. Elwell thanked Ms. Barnes.  
31

32 Ms. Barnes said you're welcome, she knows the Board is here to protect farmland; she is just concerned  
33 as a citizen and she thanked them for their time.  
34

35 Mr. Elwell thanked Ms. Barnes and asked if there were any questions from Board or Staff.  
36

37 Mr. Elwell said he did not see anyone, and he asked if anyone would like to cross-examine this witness.  
38

39 Mr. Elwell said he did not see any and he asked if anyone else would like to testify in this case. He told  
40 Mr. Tabeling to go ahead.  
41

42 Mr. Tabeling stated that he wanted to point out a few things based on what he's heard. He said that one of  
43 the landowners mentioned that the value of their lot had decreased; he would want to see some hard  
44 evidence as to why they think that's the case. He said that as a real estate professional in the area, their lot  
45 is more than likely worth more than what they purchased it at. He said that in theory, they would be able  
46 to take this full 43.12 acres and go through the subdivision process and add a bunch of houses, but that's  
47 not what they're doing. He said someone had mentioned that they're packing in a bunch of houses and  
48 they're talking about four houses over quite a bit of acreage. He said he doesn't know what the definition  
49 of packing is, and homeowners are pretty upset about most new developments that are new to their

1 properties. He said this is really consistent with the area and they're not going to go through any  
2 subdivision process with the remaining 24.62 acres of farmland; this is kind of standard development and  
3 they think this is a good addition to the community. He referred to Ms. Barnes's comment that mentioned  
4 this was Prime Farmland, which it is, but it's not Best Prime Farmland. He said he would be happy to  
5 answer any other questions they might have.  
6

7 Mr. Elwell asked Mr. Tabeling if he would agree that in Champaign County, having a lot this size and not  
8 having anyone behind you, would that be sold at a premium price, especially in Champaign County.  
9

10 Mr. Tabeling said that for just farmland behind verses a 12-acre tract behind your 7-acre tract, he wouldn't  
11 consider that factual unless they got an updated appraisal and all of these lots have been appraised at  
12 similar value per acre. He said that he doesn't think that there is any decrease in any of the values for these  
13 lots, given the way the real estate market has been over the past few months with inflated prices. He said  
14 that building on all of these lots is a good investment, which includes Tracts 40, 41, 50, and 51.  
15

16 Mr. Elwell asked if he had comments about any communication between him and the owners about "no  
17 there's going to be no one behind you." He said that's his biggest thing with this, and the owners being  
18 sold the property saying there's not going to be anyone behind them.  
19

20 Mr. Tabeling responded that makes sense and it is a valid reason. He said that he doesn't know for sure if  
21 he said that, but that's something he would have said in that moment when they weren't aware they would  
22 be able to go through this process and meet with the Board. He said that they saw in an old tax map atlas  
23 from the eighties that they're only allowed to split this property into three lots and they kind of thought  
24 that was a rule in this case until they learned additional information that changed the entire development  
25 from their eyes. He said that they think adding these two lots wouldn't take any value away from the other  
26 two properties. He said it is possible that he said that back in November or December 2020. He said they  
27 learned this new information several months later and that changed things, but the value of the property  
28 going down is not really one of those things that had changed.  
29

30 Mr. Elwell asked if he would have advertised it differently.  
31

32 Mr. Tabeling said no, not at all.  
33

34 Mr. Elwell said prior to knowing this information.  
35

36 Mr. Tabeling said that the one thing he would have done differently is he wouldn't have told perspective  
37 buyers that there would be nobody behind them if he knew they could apply for this. He said when it  
38 comes to marketing, how they listed it and how they showed it would remain the same. He said they plan  
39 on showing Tracts 50 and 51 the same way, because they have all of the same selling points. He said they  
40 have brought a bunch of infrastructure to the area and are going to market them exactly the same as they  
41 did Tracts 40 and 41 since they view them as similar properties.  
42

43 Mr. Elwell thanked Mr. Tabeling and asked if there were any other questions from the Board.  
44

45 Mr. Anderson said that Mr. Tabeling changed his tune based on money and the value of things. He asked  
46 how the Board was to believe him tonight and that he won't change his mind tomorrow.  
47

48 Mr. Tabeling said he doesn't really see how that is a question, how he changed his tune. He asked if he  
49 was suggesting that they would try to develop the remaining 24.62 acres of farmland.

- 1 Mr. Anderson said he changed his tune from when he mentioned it to Ms. Kadotani in the process of her  
2 buying Tract 41.  
3
- 4 Mr. Tabeling asked how is that relevant exactly.  
5
- 6 Mr. Anderson said he has built all kinds of housing around, and there was a strong concern from the  
7 Champaign County Soil and Water Conservation District about the land.  
8
- 9 Mr. Tabeling said they've gotten the approval from an engineer that it's not going to be a problem, and  
10 this is very common in the area. He said he doesn't see how any of this is relevant to what they are trying  
11 to accomplish.  
12
- 13 Mr. Anderson said he speaks the truth and that is very important to the Board.  
14
- 15 Mr. Tabeling said he appreciates that and all their concerns going forward; they want to make sure that  
16 this development is something that works for everyone. He said they're not going to build on these lots if  
17 these lots are unbuildable, and they think that this is a positive addition to the county. He said like Mr.  
18 Elwell had mentioned earlier, they aren't taking any prime farmland and that's a very notable thing in this  
19 county; they think that this is in line with the area, and they think that this is a positive development for  
20 the area.  
21
- 22 Mr. Anderson said that's good for the county.  
23
- 24 Mr. Tabeling said that he believes it is and as a real estate developer, he believes adding large residential  
25 tracts with high value is good for the area.  
26
- 27 Mr. Elwell asked if there were any other questions from the Board or Staff.  
28
- 29 Mr. Randol said that he is very familiar with this area and there's a minimum of four square miles that is  
30 all developing just like this. He said that it is good farmland, but if you compare it to Scott, Colfax, and  
31 Champaign Township in the rural area, that's not what they call Best Prime Farmland. He said he would  
32 rather see residential development be done with this rather than to have some of the farmland in the past  
33 the Board has approved to have solar farms on. He said that was Best Prime Farmland and this is a better  
34 use of this type of land.  
35
- 36 Mr. Wood said in the past 20 years that area all along County Road 2600 North and all along the river  
37 developed. He said when he moved out there 25 years ago, there weren't any houses there at all and it's  
38 all developed into 5- and 10- acre lots with residential houses on it and the whole place is filling up with  
39 that. He said most of that ground out there is like that, it's not Best Prime Farmland, it's just Prime  
40 Farmland. He said it's really good farm ground, but in terms of where you would place a house that would  
41 probably be the better location.  
42
- 43 Mr. Elwell asked if there were any questions or comments from the Board or Staff. He asked Ms.  
44 Burgstrom to let him know if she sees anyone raising their hands via Zoom for cross-examination.  
45
- 46 Mr. Elwell said he didn't see anyone and thanked Mr. Tabeling. He asked if anyone else would like to  
47 testify in this case and if so, please identify by raising their hand via Zoom. He said he did not see anyone.  
48
- 49 Mr. Elwell told Mr. Tabeling that he too is a real estate professional in the area, and they all know that

1 being upfront, and being able to sell real estate, they hold themselves to a high standard. He said that if he  
2 was purchasing Tracts 40 and 41 with a statement that “there was no one behind them,” he would pay  
3 more for that lot. He said that Mr. Wood had said there’s houses popping up all over the area, just due to  
4 the fact that this is not Best Prime Farmland. He said he feels like the landowners were sold something  
5 that six months later turned out not to be true. He said that Tabeling Development Company was able to  
6 come back through the zoning process with potentially a second bite at that apple on being able to now  
7 get two more lots that they’re now going to be able to sell; and then sell the 24.62 acres of farmland. He  
8 said it kind of rubs him the wrong way knowing that the landowners were sold something that six months  
9 later may or may not be true.

10  
11 Mr. Tabeling said certainly, and this is really common in land development; when new facts arise, things  
12 change. He said he knows he told them that at the time, and the reality is they would have been able to  
13 sell the remaining 43.12 acres to anyone else. He said they could have gone through the subdivision  
14 process and added a bunch of houses behind the landowner. He said the land is private property and if  
15 they don’t want anything back there, they can buy it. He said from their standpoint this makes too much  
16 sense for them and it makes sense for the community with the extra tax dollars coming in from those new  
17 properties. He said the only real way to control land that is not theirs is to buy it and he understands where  
18 they are coming from. He said he did tell them something and later facts changed that, but the fact is he  
19 doesn’t think they paid more for that property due to that. He said if they had that property now, they  
20 would still list it at the same price, and he doesn’t think that any value has been taken away. He said unless  
21 he saw an appraisal saying that the value would be lowered on that lot, he doesn’t see any backing to that  
22 statement.

23  
24 Mr. Randol asked if he would be interested in buying the land back from them.

25  
26 Mr. Tabeling replied that he is not at a point in the company where he makes those decisions.

27  
28 Mr. Hall said to Mr. Tabeling that they have some Board members concerned about things that could  
29 easily be documented with engineering reports. He said regarding this concern about proposed Tract 51,  
30 is there a logic that led their company to divide this property so that Tract 51 is where it’s at rather than  
31 Tract 51 being down closer to the existing farmstead, and the remainder farmland being up on the northern  
32 part of the property. He said as the county planner he looks at how long the access strip is to Tract 51, and  
33 he doesn’t like long access strips, but there’s no rule against it. He said if Tract 51 was relocated down  
34 near the existing farmstead, they would have one less 1,500-foot-long driveway. He said this is a good  
35 thing and there would still be farmland north of Tract 41, but is there a logic that led them to divide the  
36 land this way rather than keeping both lots close to County Road 2600 North.

37  
38 Mr. Tabeling responded yes, in this case, the western border of the proposed Tract 51 has a tree line that  
39 runs along there, and they think that adds a bit of value. He said they have had a couple of interested  
40 parties in the past that mention that they were interested in a 12-acre lot, and this layout would work well  
41 for potential future clients; but nothing is under contract yet. He said he doesn’t know for sure if that is  
42 going to happen or not, but they looked at a few different layouts, and they determined this would be the  
43 best marketable option for them based on those two factors.

44  
45 Mr. Hall said thank you.

46  
47 Mr. Elwell asked if there was anyone else that would like to testify in this case or would like to cross-  
48 exam the last dialog from Mr. Tabeling.

49

- 1 Mr. Wood said if they move proposed Tract 51 down like Mr. Hall was talking about, they will still have  
2 to have access to get to the farmland, but he doesn't know if they can get to it from the north or not.  
3 Mr. Tabeling said yes, with the frontage requirements and everything it would be a little tricky. He said  
4 they did have a couple of other layouts that they looked into, but from their experience in selling tracts  
5 they determined that this was the best option for the overall property.  
6 Mr. Elwell asked how the Board would like to proceed.  
7  
8 **Mr. Randol moved to accept the Preliminary Draft and Documents of Record, including Ms.**  
9 **Burgstrom's email in the Documents of Record.**  
10  
11 Ms. Burgstrom said they also need to make sure that the Natural Resource Report is included as Document  
12 of Record.  
13  
14 Mr. Ewell asked Ms. Burgstrom what the email documents were again.  
15  
16 Ms. Burgstrom referred to the Jim Demos email from June 17, 2021.  
17  
18 Mr. Wood said they have some Special Conditions to review.  
19  
20 Ms. Burgstrom stated that they had a motion on the table from Mr. Randol.  
21  
22 Mr. Elwell asked if they had a second.  
23  
24 **Mr. Wood stated he would second the motion.**  
25  
26 Mr. Hall asked Mr. Randol what the actual motion was for again.  
27  
28 Mr. Randol said to accept the Preliminary Draft, Documents of Record, and move to the Findings of Fact.  
29  
30 Mr. Elwell asked Ms. Burgstrom for Case 009-AM-21, what page do the Findings of Fact start on.  
31  
32 Ms. Burgstrom replied pages 32 of 40 in the Preliminary Draft.  
33  
34 Ms. Burgstrom asked if she heard a second from Mr. Wood or not; they still have Mr. Randol's motion.  
35  
36 Mr. Wood said he did second it, but at the same time they do have one Special Condition.  
37  
38 Ms. Burgstrom said for the amendment and for the Special Use Permit in Case 010-S-21, they usually go  
39 over those before they get to the findings.  
40  
41 Mr. Wood asked if they should do that first before they go on and continue with the motion.  
42  
43 Mr. Randol said yes, they should.  
44  
45 Mr. Elwell asked Mr. Randol if he retracts his motion.  
46  
47 **Mr. Randol stated he would retract his motion.**  
48  
49 Mr. Elwell told Mr. Tabeling that he would be reading the Special Conditions for Case 009-AM-21 from

1 Attachment L, pages 29 of 40, in the Preliminary Draft. He said if he is in agreement with this Special  
2 Condition to acknowledge in the affirmative.

3  
4 Mr. Elwell read proposed Special Condition item 43. as follows:

5  
6 43. Proposed Special Conditions of Approval for Case 009-AM-21:

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

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

12 **Conformance with Policy 4.2.3 of the Land Resource Management**  
13 **Plan.**

14  
15 Mr. Elwell asked Mr. Tabeling if he was in agreement with that.

16  
17 Mr. Tabeling stated affirmative.

18  
19 Mr. Elwell read proposed Special Condition item 44. A. as follows:

20  
21 44. Proposed Special Conditions of Approval for Case 010-S-21:

22 **A. The Special Use is subject to the approval of Case 009-AM-21.**

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

25 **That the Special Use is consistent with the intent of the Zoning**  
26 **Ordinance and ZBA recommendations.**

27  
28 Mr. Elwell asked Mr. Tabeling if he was in agreement with that.

29  
30 Mr. Tabeling stated affirmative.

31  
32 Mr. Elwell read proposed Special Condition item 44. B. as follows:

33  
34 **B. The Zoning Administrator shall not authorize a Zoning Use Permit**  
35 **Application or issue a Zoning Compliance Certificate on the subject property**  
36 **until the lighting specifications in Paragraph 6.1.2.A. of the Zoning**  
37 **Ordinance have been met.**

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

40 **That any future exterior lighting installations meet the requirements**  
41 **established for Special Uses in the Zoning Ordinance.**

42  
43 Mr. Elwell asked Mr. Tabeling if he was in agreement with that.

44  
45 Mr. Tabeling stated affirmative.

46  
47 Mr. Elwell asked Mr. Randol if he would like to make his motion once again.

48  
49 **Mr. Randol moved to accept the Preliminary Draft, Documents of Record, and that they move**

1 forward to the Findings of Fact.

2  
3 Mr. Elwell thanked Mr. Randol and he said they had a motion to adopt the Summary of Evidence,  
4 Documents of Record, including the email that was sent June 17, 2021, and move to the Findings of Fact  
5 as amended. He asked if he had a second.

6  
7 **Mr. Wood seconded the motion.**

8  
9 Mr. Elwell requested a roll call vote.

10  
11 The vote was called as follows:

12	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
13	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

14  
15 **The motion carried.**

16  
17 Mr. Elwell referred to Attachment L, pages 32 of 40, in the Preliminary Draft.

18  
19 Mr. Elwell stated he wanted to open this up to conversation from the Board for any questions or comments.

20  
21 Ms. Burgstrom said she wanted to note that every recommendation in the Finding of Fact, that Staff had  
22 nothing they were asking for on decision points. She said if any Board member wants to make a change  
23 to something within the summary, that’s where they’re open for discussion.

24  
25 Mr. Elwell said he did not see any comments or questions from the Board. He asked if it would be  
26 appropriate to have a roll call vote to adopt the Finding of Fact for Case 009-AM-21.

27  
28 Ms. Burgstrom said they could go onto Case 010-S-21 and then do an overall vote.

29  
30 **Mr. Randol moved, seconded by Mr. Roberts, to move to Case 010-S-21 for the Findings of Fact**  
31 **and then combine both of them for their final determination.**

32  
33 Mr. Elwell requested a roll call vote.

34  
35 The vote was called as follows:

36	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
37	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

38  
39 **The motion carried.**

40  
41 Mr. Elwell stated that he would be reading Attachment L, pages 37 of 40, in the Preliminary Draft, as  
42 follows:

43  
44 **FINDINGS OF FACT FOR RRO SPECIAL USE PERMIT CASE 010-S-21**

45 From the documents of record and the testimony and exhibits received at the public hearing for zoning  
46 Case **010-S-21** held on **June 17, 2021**, the Zoning Board of Appeals of Champaign County finds that:

- 47
- 48 **1. The requested Special Use Permit IS or IS NOT necessary for the public convenience at**
- 49 **this location because:**

1 Mr. Wood stated the requested Special Use Permit IS necessary for the public convenience at this location  
2 because: there is increasing demand in this area for residential lots.

3  
4 Mr. Elwell asked Mr. Wood if he could say that for all of Champaign County.

5  
6 Mr. Wood said yes, he could say that for more than Champaign County.

7  
8 Mr. Elwell asked how this is for the public convenience at this location.

9  
10 Mr. Wood said that this is land that is more suitable for residential development in Champaign County  
11 than on Best Prime Farmland in Champaign County, and if there was going to be development, that they  
12 would want to develop on the poorest soils as opposed to the best soils that were out there.

13  
14 Mr. Hall replied to Mr. Wood if he was proposing to include that last statement as part of the reason that  
15 it is necessary for public convenience at this location.

16  
17 Mr. Wood said yes.

18  
19 Mr. Elwell asked Mr. Hall if the Petitioner believing that there is a demand would be supporting evidence  
20 for it being necessary for the public convenience.

21  
22 Mr. Hall said that the Board had accepted the Petitioner’s statements to that affect in other cases, and the  
23 Board wasn’t obligated to accept that; but it depends in each instance what the Board was thinking.

24  
25 Ms. Burgstrom asked Mr. Wood if he wanted to include the phrase “the Petitioner believes,” because he  
26 didn’t say that before, so she wants to clarify.

27  
28 Mr. Wood said that he doesn’t think that is necessary.

29  
30 Mr. Randol said that he thought Mr. Elwell led Mr. Wood into it by asking him.

31  
32 Mr. Elwell asked for him to say that one more time.

33  
34 Mr. Randol said that he thought he led him into answering that question the way that he did when he asked  
35 him.

36  
37 Mr. Elwell said that is what Mr. Wood said, “the Petitioner believes,” then his question was “is that  
38 supporting evidence for it being necessary for the public convenience.” He said he doesn’t think it was a  
39 misleading question, and he was asking if it is enough supporting evidence. He said he is having issues  
40 with the Petitioner statement of “there’s increasing demand.”

41  
42 Mr. Wood said that he is sure the Petitioner has that opinion and considering the developments that are on  
43 an ongoing basis, that is a fact.

44  
45 **2. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
46 **IMPOSED HEREIN is so designed, located, and proposed to be operated so that it WILL**  
47 **NOT or WILL be injurious to the district in which it shall be located or otherwise**  
48 **detrimental to the public health, safety, and welfare because:**

49

1 a. The street has ADEQUATE or INADEQUATE traffic capacity and the entrance  
2 location has ADEQUATE or INADEQUATE visibility.

3  
4 Mr. Wood said that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE  
5 visibility.

6  
7 b. Emergency services availability is ADEQUATE or INADEQUATE because:

8 Mr. Wood said that the emergency services availability is ADEQUATE because: the subject property is  
9 located approximately 5.7 road miles from the Cornbelt Fire Protection District station in Mahomet.

10  
11 c. The Special Use WILL or WILL NOT be compatible with adjacent uses because:

12  
13 Mr. Wood said that the Special Use WILL be compatible with adjacent uses because: there are many other  
14 large-lot residential properties in the surrounding several square miles.

15  
16 d. Surface and subsurface drainage will be ADEQUATE or INADEQUATE because:

17  
18 Mr. Randol said that the surface and subsurface drainage will be ADEQUATE because: Note 4 of the Site  
19 Plan received May 5, 2021 states, "Surface drainage patterns shall not be altered by any construction."

20  
21 e. Public safety will be ADEQUATE or INADEQUATE because:

22  
23 Mr. Randol said that the public safety will be ADEQUATE because: there is sufficient capacity on the  
24 adjacent roadway for two additional residential lots.

25  
26 f. The provisions for parking will be ADEQUATE or INADEQUATE.

27  
28 Mr. Wood said that the provisions for parking will be ADEQUATE.

29  
30 Mr. Wood said therefore, the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
31 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
32 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
33 and welfare.

34  
35 3a. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS  
36 IMPOSED HEREIN, DOES or DOES NOT conform to the applicable regulations and  
37 standards of the DISTRICT in which it is located.

38  
39 Mr. Randol said that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
40 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in  
41 which it is located.

42  
43 3b. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS  
44 IMPOSED HEREIN, DOES or DOES NOT preserve the essential character of the  
45 DISTRICT in which it is located because:

46  
47 a. The Special Use will be designed to CONFORM or NOT CONFORM to all relevant  
48 County ordinances and codes.

49

1 Mr. Wood said that the Special Use will be designed to CONFORM to all relevant county Ordinances and  
2 codes.

3  
4 **b. The Special Use WILL or WILL NOT be compatible with adjacent uses.**

5  
6 Mr. Wood said that the Special Use WILL be compatible with adjacent uses.

7  
8 **c. Public safety will be ADEQUATE or INADEQUATE.**

9  
10 Mr. Wood said that the public safety will be ADEQUATE.

11  
12 Mr. Wood said therefore, the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
13 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

14  
15 **4. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
16 **IMPOSED HEREIN, IS or IS NOT in harmony with the general purpose and intent of the**  
17 **Ordinance because:**

18  
19 Mr. Randol said that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
20 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

21  
22 **a. The Special Use is authorized in the District.**

23  
24 **b. The requested Special Use Permit IS or IS NOT necessary for the public**  
25 **convenience at this location.**

26  
27 Mr. Randol said that the requested Special Use Permit IS necessary for the public convenience at this  
28 location.

29  
30 **c. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
31 **IMPOSED HEREIN is so designed, located, and proposed to be operated so that it**  
32 **WILL or WILL NOT be injurious to the district in which it shall be located or**  
33 **otherwise detrimental to the public health, safety, and welfare.**

34  
35 Mr. Randol said that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
36 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
37 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
38 and welfare.

39  
40 **d. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
41 **IMPOSED HEREIN, DOES or DOES NOT preserve the essential character of the**  
42 **DISTRICT in which it is located.**

43  
44 Mr. Randol said that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
45 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

46  
47 **5. The requested Special Use IS NOT an existing nonconforming use.**  
48

1 **6. NO SPECIAL CONDITIONS ARE HEREBY IMPOSED, THE SPECIAL CONDITIONS**  
2 **IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE**  
3 **CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES**  
4 **DESCRIBED BELOW:**

5  
6 **A. The Special Use is subject to the approval of Case 009-AM-21.**

7  
8 **The special condition stated above is required to ensure the following:**

9 **That the Special Use is consistent with the intent of the Zoning Ordinance**  
10 **and ZBA recommendations.**

11 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**  
12 **issue a Zoning Compliance Certificate on the subject property until the lighting**  
13 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

14  
15 **The special condition stated above is required to ensure the following:**

16 **That any future exterior lighting installations meet the requirements**  
17 **established for Special Uses in the Zoning Ordinance.**

18  
19 Mr. Elwell entertained a motion to adopt the Summary of Evidence, Documents of Record, and the  
20 Findings of Fact as amended for both cases 009-AM-21 and 010-S-21.

21  
22 **Mr. Wood moved, seconded by Mr. Roberts, to adopt the Summary of Evidence, Documents of**  
23 **Record, and the Findings of Fact as amended for both cases 009-AM-21 and 010-S-21.**

24  
25 Mr. Elwell requested a roll call vote.

26  
27 Mr. Hall said he doesn't know if this is helpful, but he just wants to remind the Board that there were  
28 several issues of concern discussed previously that were not relevant to the Findings, and they were not  
29 discussed during the Findings. He said the Findings that they have right now and are getting ready to vote  
30 on are all affirmative findings. He said he hopes that is the intent of the Board is to have affirmative  
31 findings.

32  
33 Ms. Lee said she doesn't agree with the first Finding, "1. The requested Special Use Permit IS necessary  
34 for the public convenience at this location." She said she didn't express how she felt when they were  
35 reading the Findings.

36  
37 Mr. Elwell asked Mr. Hall if the final vote would be for the overall opinion of each Board member.

38  
39 Mr. Hall responded yes.

40  
41 Mr. Elwell requested a roll call vote.

42  
43 The vote was called as follows:

44 <b>Anderson – no</b>	44 <b>Elwell - no</b>	44 <b>Randol – yes</b>
45 <b>Roberts – yes</b>	45 <b>Wood - yes</b>	45 <b>Lee - no</b>

46  
47 **The motion failed.**

48  
49 Ms. Burgstrom asked Mr. Hall at this point don't they have to ask the reverse of that motion.

1 Mr. Hall said the Board must adopt the Findings before they can take final action in the case and that vote  
2 did not adopt Findings.

3  
4 Mr. Elwell asked why this is for the public convenience at this location, and he is not going to support that  
5 the surrounding area is growing or that the Petitioner said this is a great idea.

6  
7 Mr. Hall said all he can say is the Board is not consistent on that finding and sometimes they have to trust  
8 the judgement of the Petitioner. He said even when the Petitioner has a market study, they don't require  
9 the submission of the market study. He said frankly that is the most problematic finding, but it is a  
10 requirement of the Zoning Ordinance. He said he agrees with what Mr. Wood said, that there is no end to  
11 the demands for lots like this in Champaign County and elsewhere; there is no reason to doubt it. He said  
12 if they want evidence, they are entitled to ask for it.

13  
14 Mr. Elwell asked if the landowners of Tracts 40 and 41 are not the public as well, and hypothetically  
15 speaking, if a member of the public was told "there's nothing going to be behind them but farmland," and  
16 then six months later the Petitioner comes back, "sorry, now we're able to do this," is that at the benefit  
17 of Tracts 40 and 41.

18  
19 Mr. Hall said the finding is for the public overall and he doesn't think that Tracts 40 and 41 outweigh the  
20 public overall.

21  
22 Mr. Elwell said that they're the ones that have the most to lose and he understands what Mr. Hall is saying  
23 about the overall preservation of Best Prime Farmland, which is something that is very much at the core  
24 of this Board. He said that the landowners are a part of the public as well, and it's not at their convenience  
25 to have these lots there. He said that he feels that if these properties had the diligence that they were able  
26 to do this in the future, or if there was any type of information that told them in Champaign County there's  
27 always an opportunity for this to happen, or if a member of the public was specifically told that they were  
28 not going to have anything other lots beside them, or had been told that this was not allowed by a  
29 governmental body, then he doesn't believe that this is at their convenience. He said that he does  
30 understand what Mr. Hall is saying and that there is an overall public convenience that they need to  
31 address. He said that he would boil that down a little bit to because they're a part of the public as well and  
32 they're being hurt by this. He said that he feels like the Board gave a lot of information and time for the  
33 PV Solar Farms and they had given an ample amount of time and consideration to the public that were  
34 located around the PV Solar Farms. He said that the public around the PV Solar Farms had purchased  
35 their properties several months or years ago on the thought that their land was going to be a farm field for  
36 soybeans or corn. He said he feels very strongly on this and that is why he voted no.

37  
38 Mr. Wood asked Mr. Elwell what it would take to make it right. He said that when they look at it from the  
39 perspective of the buyer, it's always buyer beware. He said that Mr. Elwell knows that and if the  
40 landowners feel like they have a legal issue there, that is outside of the Board. He said that the landowners  
41 do have legal recourse and they can attempt that if that is the route they choose. He said that they should  
42 always seek a legal counsel before they decide on purchasing, because that's important and sometimes it  
43 gets missed. He said there are a lot of other landowners that are only separated by 5 acres and are all living  
44 together; it's probably not quite what they expected to have, but it's better than living in Urbana.

45  
46 Mr. Elwell said that he feels there is potential for monetary hurt here.

47  
48 Mr. Tabelaing asked if he could add on or was this Board only discussion.

1 Mr. Elwell replied at this point, this is Board only.  
2

3 Ms. Lee said that when the Board and Staff have these cases come before them, there is always a notice  
4 given to the neighbors, because they're the most affected people. She said they are a part of the public,  
5 because why would they give the neighbors notice if it wasn't for a specific purpose.  
6

7 Mr. Wood said that there could be situations where it is a serious issue that the neighbors are facing if  
8 something would change. He said he doesn't know if that is true in this case that a neighbor having another  
9 12 acres to the north of landowners, which could be over 100 feet away from anything that they build, and  
10 that's if they build in the center of their property. He said that in five to ten years with a lot of trees growing  
11 they would never see them.  
12

13 Mr. Randol asked if they were voting on the Findings of Fact, and what the Board was saying then is a  
14 part of them agree with Findings of Fact and part of them don't. He said he thought that the yes or no vote  
15 would primarily come in the Final Determination, and he was puzzled as to why they had a question in  
16 the Findings of Fact, when that's what's presented.  
17

18 Mr. Elwell responded that he doesn't agree with number one in the Findings of Fact for Case 010-S-21,  
19 that this is at the public's convenience.  
20

21 Ms. Lee replied that she already said that she didn't agree that it was at the public's convenience, that  
22 makes two of them.  
23

24 Mr. Anderson said three of them.  
25

26 Mr. Elwell asked Mr. Hall and Ms. Burgstrom that at this point, where do they go from there then.  
27

28 Mr. Hall said that Mr. Randol brings up a good point and the reason he made the comment earlier was  
29 sometimes he had seen the Board move to a final decision when it ended up it was denied. He said there  
30 had been no previous discussion about there being a special condition that could be imposed and would  
31 help them move from a denial to an approval. He said for this issue on the public convenience, he can't  
32 imagine any special condition that is going to make it better.  
33

34 Mr. Elwell said that's the reason why he didn't speak up.  
35

36 Mr. Hall said that maybe it's better to move to a Final Determination. He said that at this point if they  
37 adopt Findings, even though they are opposed to them, and then they end up with a Final Determination  
38 that is a three-to-three vote, that is a denial. He said that at least then, it could move to the County Board;  
39 but they have to adopt Findings in order to pass a denial to the County Board.  
40

41 Mr. Randol said that is exactly why he had voted the way that he had on some other controversial issues.  
42 He said they can agree on the evidence that is being put in front of them, that is what the Findings are; but  
43 they don't have to agree that the Final Determination is in the best interest.  
44

45 Mr. Elwell asked Mr. Anderson and Ms. Lee if they would agree that by accepting the Findings of Fact,  
46 that they could move to the Final Determination where they could do an up or down vote; would they  
47 agree to that.  
48

49 Ms. Lee said she doesn't really like that procedure.

1 Mr. Randol asked Ms. Lee if she is disagreeing with the Findings of Fact that the Board had been presented  
2 with tonight.

3

4 Ms. Lee responded yes.

5

6 Mr. Elwell said that in order for them to move to Final Determination to give the up or down vote, they  
7 need to approve the Findings of Fact.

8

9 Mr. Randol asked Mr. Elwell if he could ask the same question to Ms. Lee and Mr. Anderson and if they  
10 would agree to accept the Findings and move on to a Final Determination.

11

12 Mr. Elwell said that he did that and in Ms. Lee's last comment she said no.

13

14 Mr. Randol said that he was asking Mr. Elwell, not Ms. Lee. He said he asked Ms. Lee and Mr. Anderson  
15 if they would, but he didn't say he would accept the Findings and move to the Final Determination. He  
16 said now he's asking Mr. Elwell if he would be willing to do that.

17

18 Mr. Elwell said that he could not say yes to this being in the public convenience; it doesn't matter if he  
19 said no now or if he said no at the Final Determination. He said he doesn't see much of a difference  
20 between them, because how can he say yes to the Findings of Fact knowing that he is going to say no in  
21 the Final Determination.

22

23 Ms. Burgstrom asked if it would be feasible to revise the first Findings of Fact for the Special Use Permit  
24 in case 10-S-21 for it to say that the permit is necessary for the public convenience of the Petitioner,  
25 because there is demand for this kind of residential lot in the area, and then say that the required Special  
26 Use Permit is not necessary for the public convenience, because the neighbors object to having the lots  
27 created behind and around them. She said so they're showing that they have both sides of a story for that  
28 finding.

29

30 Mr. Elwell replied is that a positive finding even though it's negative.

31

32 Ms. Burgstrom said that it's positive and negative in some regard, and because there is a positive to it,  
33 they don't have to deny their vote in the Final Determination. She said if they have a negative finding then  
34 they have to recommend denial in Special Use cases. She asked if they have both a positive and negative,  
35 can they proceed, and not necessarily deny it overall.

36

37 Mr. Hall said that he doesn't see how a finding like that, when they don't know what it is, because is it  
38 affirmative or is it negative.

39

40 Mr. Randol said that it's both.

41

42 Ms. Burgstrom replied it is both, but it's demonstrating the complexity of the opinion here.

43

44 Ms. Lee said that she thought in one of the prior cases that they couldn't proceed if they had a negative  
45 finding, so that is in contradiction to what Ms. Burgstrom just proposed.

46

47 Mr. Hall responded that you could proceed but they can't approve if there is just one negative finding.

48

1 Ms. Burgstrom said when it comes to the vote and what she was hearing is that potentially three Board  
2 members are going to vote to recommend denial. She said they are going to have the same outcome  
3 anyway, but at least the finding will demonstrate that they have three that agree with public convenience,  
4 because of a certain thing, and they have three that are against public convenience for another certain  
5 thing. She said so at least they are getting on the record the reasons for this dissent.  
6

7 Mr. Hall said at least they're able to move ahead to a Final Determination and maybe that's the best they  
8 can do. He asked if the movers would want to accept an amendment to that finding.  
9

10 Mr. Wood said he would be happy to accept the amendment to the finding, but it must be in the words of  
11 those who object to that particular item.  
12

13 Mr. Elwell asked if they were able to satisfy the three people that voted for denial with an agreed upon  
14 language.  
15

16 Mr. Wood said to create the agreed upon language that demonstrates that they had a discrepancy on the  
17 public convenience in the first finding and then have another vote to see if it passes.  
18

19 Ms. Burgstrom asked if they are going back to the public convenience finding to add findings.  
20

21 Mr. Hall replied that they only need four votes to adopt Findings, either four negative or four positive, and  
22 it doesn't have to be anonymous, but they only need four.  
23

24 Mr. Elwell asked if he could have a motion to recast their vote for the motion to adopt the Summary of  
25 Evidence, Documents of Record, and the Findings of Fact as amended by cases 009-AM-21 and 010-S-  
26 21 unamended; he was asking to vote again.  
27

28 Ms. Burgstrom said so you're moving to reconsider a finding.  
29

30 Mr. Elwell said he was asking for them to revote on what they just voted upon.  
31

32 Ms. Burgstrom said is he asking if they want to change their vote so they can go back and discuss things  
33 further then.  
34

35 Mr. Elwell said no, Mr. Hall had said that four affirmative votes move them on to Final Determination.  
36 He said he is willing to change his vote with what they had discussed and move to Final Determination,  
37 and that is why he had asked for a roll call vote.  
38

39 **Mr. Wood moved, seconded by Mr. Roberts, to recast their vote for the motion to adopt the**  
40 **Summary of Evidence, Documents of Record, and the Findings of Fact as amended by cases 009-**  
41 **AM-21 and 010-S-21.**  
42

43 Ms. Lee asked if they were revoting to say that they had an affirmative finding and a negative finding  
44 for the public convenience finding.  
45

46 Mr. Elwell said no, what they are voting on is exactly what they voted on the first time.  
47

1 Ms. Burgstrom said they are adopting the Summary of Evidence, Documents of Record, and the Findings  
2 of Fact as amended by Cases 009-AM-21 and 010-S-21, but not changing the discussion of the public  
3 convenience.

4  
5 Mr. Elwell said correct.

6  
7 Ms. Burgstrom said that the previous vote was three to three.

8  
9 Mr. Anderson said he is having trouble voting on the whole thing, because number two, letter d., in the  
10 Findings for Case 010-S-21 says: the surface and subsurface drainage will be ADEQUATE, and that was  
11 a concern of the Champaign County Soil and Water Conservation District. He said one of the witnesses  
12 tonight said that the drainage was poor when it rained heavy and there was surface run off on the farmland.  
13 He said he can't see that the surface or subsurface will be ADEQUATE because: Note 4 of the Site Plan  
14 received May 5, 2021 states, "Surface drainage patterns shall not be altered by any construction," it's up  
15 to the professionals to give them the facts.

16  
17 Mr. Elwell told Mr. Anderson that he wanted to validate what he was saying, and he thinks in the interest  
18 of time that his feelings of if he would support that or not would be better for the casted vote in the Final  
19 Determination, and not for the Findings of Fact.

20  
21 Ms. Burgstrom said she can verify that when she creates the memo that's going to go to the Environmental  
22 Land Use Committee, she will note in that memo where they have conflicts in terms of certain members  
23 having concerns about drainage in the finding, and about the public convenience.

24  
25 Mr. Elwell requested a roll call vote:

26  
27 The vote was called as follows:

28	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
29	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - no</b>

30  
31 **The motion carried.**

32  
33 Mr. Elwell stated he would be reading from Attachment L, pages 39 of 40, in the Preliminary Memo as  
34 follows:

35  
36 **FINAL DETERMINATION FOR RRO REZONING CASE 009-AM-21**

37 Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the  
38 Zoning Board of Appeals of Champaign County recommends that:

39  
40 **The Map Amendment for a Rural Residential Overlay (RRO) requested in Case 009-AM-**  
41 **21 should BE ENACTED or NOT BE ENACTED by the County Board in the form**  
42 **attached hereto.**

43  
44 **SUBJECT TO THE FOLLOWING SPECIAL CONDITION:**

45  
46 **A. The owners of the subject property hereby recognize and provide for the right of**  
47 **agricultural activities to continue on adjacent land consistent with the Right to Farm**  
48 **Resolution 3425.**

1 Mr. Randol moved, seconded by Mr. Wood, that the Map Amendment for a Rural Residential  
2 Overlay (RRO) requested in Case 009-AM-21 should BE ENACTED by the County Board in the  
3 form attached hereto.

4  
5 Mr. Elwell requested a roll call vote:

6  
7 The vote was called as follows:

8	<b>Anderson – no</b>	<b>Elwell - no</b>	<b>Randol – yes</b>
9	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - no</b>

10 **The motion failed.**

11  
12 Mr. Hall stated that would be a recommendation for denial.

13  
14 Mr. Elwell stated that is correct, and he asked if he had a motion to move to the Final Determination for  
15 Case 010-S-21.

16  
17 **Mr. Wood moved, seconded by Mr. Randol to move to the Final Determination for Case 010-S-21.**

18  
19 Mr. Elwell requested a roll call vote:

20  
21 Mr. Anderson asked what this vote was for.

22  
23 Mr. Elwell said that it is to move to the Final Determination for Case 010-S-21.

24  
25 Mr. Randol said Attachment L, pages 40 of 40, in the Preliminary Memorandum.

26  
27 Mr. Anderson responded okay.

28  
29 The vote was called as follows:

30	<b>Anderson – no</b>	<b>Elwell -</b>	<b>Randol –</b>
31	<b>Roberts –</b>	<b>Wood -</b>	<b>Lee -</b>

32  
33 Ms. Burgstrom stated this motion is for moving to the Final Determination, that this is not the vote for the  
34 actual Final Determination. She asked for Ms. Berry to start the roll call again.

35  
36 The vote was called as follows:

37	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
38	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - no</b>

39  
40 Ms. Burgstrom stated she had a clarification to make, she missed the statement, because they are doing a  
41 County Board Use Permit and not just a Special Use Permit that they are talking about recommending to  
42 grant with Special Conditions or deny, but not approving it straight out.

43  
44 Mr. Elwell stated he would be reading from Attachment L, page 40 of 40, in the Preliminary  
45 Memorandum, as follows:

46  
47 **FINAL DETERMINATION FOR RRO SPECIAL USE PERMIT CASE 010-S-21**

48 The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and  
49 other evidence received in this case, the requirements of Section 9.1.11B. for approval **HAVE or HAVE**

1 NOT been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning  
2 Ordinance, recommends that:

3  
4 **The Special Use requested in Case 010-S-21 be GRANTED / GRANTED WITH SPECIAL**  
5 **CONDITIONS or DENIED to the applicant, Shawn Tabeling, d.b.a. Tabeling Development**  
6 **Co LLC, to authorize the following as a Special Use Permit:**

7  
8 **Authorize a Rural Residential Overlay (RRO) Zoning District in conjunction with**  
9 **related map amendment Case 009-AM-21 that is also required for an RRO.**

10  
11 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

12  
13 **A. The Special Use is subject to the approval of Case 009-AM-21.**

14  
15 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**  
16 **issue a Zoning Compliance Certificate on the subject property until the lighting**  
17 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

18 **Mr. Randol moved that it should be GRANTED WITH SPECIAL CONDITIONS listed.**

19  
20 Mr. Elwell asked Mr. Randol if he meant, HAVE been met and is recommended to be GRANTED WITH  
21 SPECIAL CONDITIONS.

22  
23 Mr. Randol said that is correct.

24  
25 Mr. Wood said it's subject to the approval of Case 009-AM-21 and they haven't approved that.

26  
27 Mr. Randol said Mr. Wood is right.

28  
29 Mr. Hall said in his view that just means subject to whatever the County Board decides.

30  
31 **Mr. Wood said he would second it.**

32  
33 Mr. Elwell requested a roll call vote:

34  
35 The vote was called as follows:

36 <b>Anderson – no</b>	36 <b>Elwell - no</b>	36 <b>Randol – yes</b>
37 <b>Roberts – yes</b>	37 <b>Wood - yes</b>	37 <b>Lee - no</b>

38  
39 **The motion failed.**

40  
41 Mr. Hall said that Staff would be in touch with Mr. Tabeling. He said that there is no committee meeting  
42 in July 2021, so this will go to the August 4, 2021 Environment and Land Use Committee with a  
43 recommendation to the County Board on August 18, 2021.

44  
45 **Case 011-V-21**

46 **Petitioners: Kenneth and Laura Hlinka**

47 **Request: Authorize a variance for an existing detached shed with a side yard of 2.5 feet and a rear**  
48 **yard of 3.5 feet in lieu of the minimum required 5 feet side and rear yards for detached**

1 structures in the R-3 Two-Family Zoning District, per Section 7.2.2 of the Zoning  
2 Ordinance.

3 Location: Lot 18 of O'Neil's First Street Subdivision in Urbana Township, and commonly known  
4 as the residence with an address of 3104 South First Street, Champaign.  
5

6 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign  
7 the witness register for that public hearing. He reminded the audience that when they sign the witness  
8 register, they are signing an oath.  
9

10 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows  
11 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a  
12 show of hands or a verbal indication from those who would like to cross-examine, and each person will  
13 be called upon. He said that those who desire to cross-examine will be asked to clearly state their name  
14 before asking any questions. He noted that no new testimony is to be given during the cross-examination.  
15 He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-  
16 examination. He asked if the petitioner would like to outline the nature of their request prior to introducing  
17 evidence.  
18

19 Mr. Hlinka stated that he and his wife currently live at 3104 South First Street in Champaign and have  
20 lived at the property for over 30 years. He said they had moved the shed around 2007, and when they  
21 moved it to the southeast part of the property, they did not realize there was a five-foot minimum setback  
22 from the shed to both the south and east property lines. He said they are hoping to rectify that by getting  
23 a Variance from the Board. He said the neighbor hasn't had any issues with the placement of the shed  
24 since they moved it.  
25

26 Mr. Elwell asked the Board and Staff if they had any questions.  
27

28 Mr. Elwell said the shed was moved in 2007 and he asked if they poured a concrete pad or anything like  
29 that.  
30

31 Mr. Hlinka said that the shed was sitting on cinder blocks.  
32

33 Mr. Elwell asked how much trouble it would cause to move it over the two and half feet.  
34

35 Mr. Hlinka said that it would take a substantial amount of time and effort. He said that it has crushed rock  
36 inside and it's a steel shed; it is approximately 12 feet tall and 15 feet by 15 feet in diameter. He said  
37 moving it would take some effort and they would like to avoid that if possible.  
38

39 Mr. Randol asked if moving it would require a new foundation.  
40

41 Ms. Hlinka said kind of, with all that rock.  
42

43 Mr. Hlinka said kind of, because it's sitting on cinder blocks and you could call that a foundation.  
44

45 Mr. Randol said sure, thank you.  
46

47 Mr. Elwell asked if there were any other questions from the Board or P & Z Staff.  
48

1 Mr. Elwell asked Ms. Burgstrom to help assist him with seeing anyone via Zoom with their hands raised  
2 for the cross-examination.

3  
4 Mr. Elwell informed the public that anyone wanting to cross-examine the witness should raise their hand  
5 via Zoom at this time.  
6

7 Seeing no one, Mr. Elwell asked if anyone would like to testify in this case.  
8

9 Seeing no one, Mr. Elwell asked the Board how they would like to proceed.  
10

11 **Mr. Randol moved, seconded by Mr. Roberts, to accept the Preliminary Draft, Documents of**  
12 **Record, and move to the Findings of Fact.**

13  
14 Mr. Elwell requested a roll call vote.

15  
16 The vote was called as follows:

17	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
18	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

19  
20 **The motion carried.**

21  
22 Mr. Elwell stated that he would be reading from Attachment E, pages eight of nine, in the Preliminary  
23 Draft, as follows:

24  
25 **FINDINGS OF FACT FOR CASE 011-V-21**

26 From the documents of record and the testimony and exhibits received at the public hearing for zoning case  
27 **011-V-21** held on **June 17, 2021**, the Zoning Board of Appeals of Champaign County finds that:

- 28
- 29 **1. Special conditions and circumstances DO or DO NOT exist which are peculiar to the land**
- 30 **or structure involved, which are not applicable to other similarly situated land and**
- 31 **structures elsewhere in the same district because:**
- 32

33 Mr. Wood said the Special conditions and circumstances DO exist which are peculiar to the land or  
34 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
35 the same district because: the Petitioner was unaware of the Ordinance at the time they moved it. He  
36 asked Mr. Hall if it was considered a temporary building on cinder blocks or a permanent structure.  
37

38 Mr. Hall said the Zoning Ordinance doesn't distinguish the type of foundation a structure has, because it  
39 is considered a permanent structure.  
40

- 41 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
- 42 **sought to be varied WILL or WILL NOT prevent reasonable or otherwise permitted use of**
- 43 **the land or structure or construction because:**
- 44

45 Mr. Wood said the practical difficulties or hardships created by carrying out the strict letter of the  
46 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
47 structure or construction because: the proposed Variance would eliminate them from being able to use the  
48 property for putting in the pool that they are requesting at this point in time. He said it would be expensive

1 to take that detached shed and actually move it in order to meet the guidelines in the Zoning Ordinance,  
2 so it WILL prevent reasonable use of the land.

3  
4 Mr. Elwell asked Mr. Wood if he thought it would be prudent to add that there were no negative comments  
5 from the neighbors.

6  
7 Mr. Wood replied yes.

8  
9 **3. The special conditions, circumstances, hardships, or practical difficulties DO or DO NOT**  
10 **result from actions of the applicant because:**

11 **a. The detached shed was moved sometime between 2005 and 2008; the petitioner**  
12 **purchased the property on December 12, 2009.**

13  
14 Mr. Randol said the special conditions, circumstances, hardships, or practical difficulties DO NOT result  
15 from actions of the applicant because: the shed was moved prior to the petitioner purchasing the property  
16 in 2009.

17  
18 Mr. Elwell said didn't they hear evidence tonight that the Petitioners had lived there for 30 years.

19  
20 Mr. Hlinka said yes.

21  
22 Ms. Hlinka said Mr. Elwell is correct, they purchased in the property in 1989.

23  
24 Mr. Hlinka said he doesn't know how that information got in the Preliminary Draft.

25  
26 Ms. Hlinka said December 12 isn't even a significant date for them, let alone 2009.

27  
28 Mr. Elwell said that December 12, 2009 is incorrect, so they purchased the property in 1989.

29  
30 Mr. Hlinka said yes.

31  
32 Mr. Elwell said thank you for the clarification.

33  
34 **4. The requested variance IS or IS NOT in harmony with the general purpose and intent of**  
35 **the Ordinance because:**

36  
37 Ms. Burgstrom told Mr. Elwell that they needed to go back up to number three, because she is not sure  
38 where the 2009 came from, other than she thought she seen that in a recorded document. She said changing  
39 that to 1989 doesn't provide a statement that proves that the actions of the applicants were not at fault.  
40 She said can they add something along the lines of saying that the shed would be too difficult to move,  
41 but saying that they owned it, and they just chose to move it; that's not going along with what the findings  
42 said.

43  
44 Mr. Randol said the special conditions, circumstances, hardships, or practical difficulties DO NOT result  
45 from actions of the applicant because: it would be difficult to relocate the shed when the applicants were  
46 unaware of the fact that there were setbacks required.

47  
48 Ms. Burgstrom said thank you.

49

1 Mr. Elwell asked Ms. Burgstrom if being unaware was a good enough reason.

2  
3 Ms. Burgstrom said they have accepted that before.

4  
5 Mr. Elwell asked Mr. Hall if he was in concurrence with that.

6  
7 Mr. Hall said yes.

8  
9 Mr. Elwell said thank you and asked Ms. Burgstrom if she was happy with that.

10 Ms. Burgstrom said yes.

11  
12 **4. The requested variance IS or IS NOT in harmony with the general purpose and intent of**  
13 **the Ordinance because:**

14  
15 Mr. Wood said the requested variance IS in harmony with the general purpose and intent of the Ordinance  
16 because: the Variance is on either side and the two and half feet is only a 50 percent difference from the  
17 minimum required setback, and the three and half feet is approximately 70 percent of the minimum  
18 required setback for a Variance of only 30 percent. He said there is plenty of air and light around the shed.  
19 He said that no one had complained about the location of that shed since it was moved.

20  
21 **5. The requested variance WILL or WILL NOT be injurious to the neighborhood or**  
22 **otherwise detrimental to the public health, safety, or welfare because:**

23  
24 Mr. Wood said the requested variance WILL NOT be injurious to the neighborhood or otherwise  
25 detrimental to the public health, safety, or welfare because: relevant jurisdictions had been notified of this  
26 Variance and no comments have been received from them, and again going back to number four, no  
27 neighbors had complained about it.

28  
29 **6. The requested variance IS or IS NOT the minimum variation that will make possible the**  
30 **reasonable use of the land/structure because:**

31  
32 Mr. Wood said the requested variance IS the minimum variation that will make possible the reasonable  
33 use of the land/structure.

34  
35 Mr. Elwell asked if he had a motion to adopt the Summary of Evidence, Documents of Record, and the  
36 Finding of Facts as amended.

37  
38 **Ms. Lee moved, seconded by Mr. Randol, to adopt the Summary of Evidence, Documents of Record,**  
39 **and Findings of Fact as amended.**

40  
41 Mr. Elwell requested a roll call vote.

42  
43 Mr. Hlinka said they had a question.

44  
45 Ms. Hlinka said if they go back to number five in the Findings of Fact, was that worded correctly, the  
46 requested Variance WILL be injurious to the neighborhood or otherwise detrimental to the public health,  
47 safety, or welfare.

48  
49 Ms. Burgstrom said it should be WILL NOT.

1 Mr. Randol replied that is what they said.

2  
3 Ms. Burgstrom said that was a mistake on her part to accidentally underline the wrong one, and said thank  
4 you.

5  
6 Mr. Elwell requested a roll call vote.

7  
8 The vote was called as follows:

9	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
10	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

11  
12 **The motion carried.**

13  
14 Mr. Elwell said to Mr. and Ms. Hlinka that they did have a full Board tonight and asked if he had a motion  
15 to move to the Final Determination.

16  
17 **Mr. Randol moved, seconded by Ms. Lee, to move to the Final Determination.**

18  
19 Mr. Elwell requested a roll call vote.

20  
21 The vote was called as follows:

22	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
23	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

24  
25 **The motion carried.**

26  
27 Mr. Elwell stated that he would be reading from Attachment E, pages nine of nine, in the Preliminary  
28 Draft, as follows:

29  
30 **FINAL DETERMINATION FOR CASE 011-V-21**

31 The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and  
32 other evidence received in this case, that the requirements for approval in Section 9.1.9.C **HAVE or**  
33 **HAVE NOT** been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign  
34 County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

35  
36 **The Variance requested in Case 011-V-21 is hereby GRANTED / GRANTED WITH**  
37 **CONDITIONS or DENIED to the petitioners, Kenneth and Laura Hlinka, to authorize the**  
38 **following:**

39  
40 **Authorize a variance for an existing detached shed with a side yard of 2.5 feet and a rear**  
41 **yard of 3.5 feet in lieu of the minimum required 5 feet side and rear yards for detached**  
42 **structures in the R-3 Two-Family Zoning District, per Section 7.2.2 of the Zoning**  
43 **Ordinance.**

44  
45 **Mr. Randol said the Variance requested in Case 011-V-21 should be GRANTED to the petitioners**  
46 **and there are no special conditions. He said the Variance would be for the existing shed with a two**  
47 **and one-half foot side yard and a three and one-half foot rear yard.**

48  
49 Mr. Elwell asked Mr. Randol if they HAVE been met and it should be GRANTED.

1 Mr. Randol said that is correct.

2  
3 Mr. Elwell said thank you, and he asked if he could have a second.

4  
5 **Ms. Lee seconded the motion.**

6  
7 Mr. Elwell requested a roll call vote.

8  
9 The vote was called as follows:

10	<b>Anderson – yes</b>	<b>Elwell - yes</b>	<b>Randol – yes</b>
11	<b>Roberts – yes</b>	<b>Wood - yes</b>	<b>Lee - yes</b>

12  
13 **The motioned carried.**

14  
15 Mr. Elwell told Mr. and Ms. Hlinka congratulations, and that P & Z staff would be reaching out.

16  
17 Mr. and Ms. Hlinka thanked the Board for their time.

18  
19 **7. Staff Report**

20  
21 Mr. Hall said he had none.

22  
23 Ms. Burgstrom said she thinks it’s worth mentioning what the intent is for Zoom and in-person meetings  
24 coming up soon.

25  
26 Mr. Hall said his understanding is that in July 2021, all meetings will be in person.

27  
28 Ms. Burgstrom said all Board members will be expected to be back in the meeting room.

29  
30 **8. Other Business**

31  
32 **A. Review of Docket**

33  
34 No one reported absences.

35  
36 Ms. Lee asked if the Block case, where the Board denied it and it went to the States Attorney, would be  
37 coming up on the agenda in the near future.

38  
39 Mr. Elwell asked if that was the concrete crushing case.

40  
41 Ms. Lee and Mr. Wood said yes.

42  
43 Mr. Hall said that petitioner has until mid-August 2021 to clean that property up, and at that point they  
44 can either reapply with changed conditions or they’re going to refer it to the States Attorney; he hasn’t  
45 heard about it coming back to the Board.

46  
47 Ms. Burgstrom said she hasn’t either.

48  
49 Mr. Hall said they will get that referred and they will do that as soon as possible, but they have to wait

1 until mid-August 2021.

2  
3 **9. Audience participation with respect to matters other than cases pending before the Board**

4  
5 None

6  
7 **10. Adjournment**

8  
9 Mr. Elwell entertained a motion to adjourn the meeting.

10  
11 Mr. Wood said that there isn't a meeting until July 15, 2021.

12  
13 Ms. Burgstrom said that's correct.

14  
15 **Mr. Roberts moved, seconded by Mr. Wood, to adjourn the meeting.**

16  
17 Mr. Elwell requested a roll call vote.

18  
19 The vote was called as follows:

20	<b>Lee- yes</b>	<b>Randol- yes</b>	<b>Roberts – yes</b>
21	<b>Anderson- yes</b>	<b>Elwell - no</b>	<b>Wood - yes</b>

22  
23 **The motion carried.**

24  
25 The meeting adjourned at 9:10 p.m.

26  
27 Respectfully submitted,

28  
29 Secretary of Zoning Board of Appeals

30  
31  
32  
33  
34  
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41  
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