

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: December 30, 2004

PLACE: 1776 East Washington

Street

Meeting Room 1

TIME: 6:30 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Doug Bluhm, Dennis Goldenstein, Debra Griest, Joseph L. Irle, Richard Steeves, Melvin Schroeder, Roger Miller

MEMBERS ABSENT : None

STAFF PRESENT : Jeffrey Roseman, John Hall, Susan Monte

OTHERS PRESENT : Daryl Vinson, Dorothy Vinson, Tim Weller, Susan Vinson, Gary Olson, Virginia Vinson, Christy Schurter, Brian Schurter, Dean Crider, Lois Crider, Robert Malohn, Betty Malohn, Rita McCannon, David Borchers, Lynn Borchers, Russell Chism, Marcia Raab, Dwight Raab, Hal Barnhart, Brad Marsh, Terry Riccolo, Robert Russell

1. Call to Order

The meeting was called to order at 6:35 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes

Mr. Bluhm moved, seconded by Mr. Irle to approve the March 25, 2004 minutes as submitted. The motion carried by voice vote.

Mr. Goldenstein moved, Mr. Bluhm to rearrange the agenda and hear Case 475-AT-04; Case 455-AM-04; Case 473-V-04; Case 456-AM-04; Case 457-AM-04; and Case 458-S-04 prior to Case 445-AM-04. The motion carried by voice vote.

5. Continued Public Hearing

Case 445-AM-04 Petitioner: Crystal Hunt. Request to amend the Zoning Map to allow for the development of 14 single family residential lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District (As Amended on December 15, 2004). Location: An approximately 20 acre tract of land located in the Southwest 1/4 of the Northwest 1/4 of Section 35 of Stanton Township and located in the Northeast corner of the intersection of CR 1850N and CR 2200 E and fronting on the north side of CR 1850N and the east side of CR 2200E.

Mr. Hall distributed a Supplemental Memorandum dated December 30, 2004 and a Revised Draft Summary of Evidence for the Board's review. He said that the memorandum includes a revised Preliminary Plan and the Summary of Evidence includes three special conditions for approval. The three proposed conditions relate to the following: 1) the pond and dry hydrant that was requested by the fire protection district; 2) providing for the results of the Phase I Archaeological Investigation; and 3) concerns related to an existing livestock management facility located west of the property. He said that to assist the Board with their decision a table has been provided indicating considerations related to site suitability and the new Summary of Evidence with the heading "Revised Draft (Revised Plan with Conditions)" has shading on text which has been added since the mailing.

Mr. Robert Russell, Illinois Professional Engineer and Land Surveyor, stated that at a previous hearing he presented a petition for 48 lots on a 74 acre tract but in light of all of the testimony a revised plan including 14 lots has been submitted. The revised plan addresses all of the concerns brought forth by the drainage districts, the Farm Bureau and the local residents. He said that additional information has been included in the attached report for traffic suitability. The drainage which will be coming off of the tract will go into the districts that it previously was directed to. He said that it has been proven by many engineering studies that the runoff from these large developed lots will be less than the runoff from the farmland. He said that there was concern regarding erosion but one of the State requirements is that any project over one acre in size must have an erosion control plan approved before any work can begin. He said that this plan normally consists of silt fencing and special bags placed over catch basins to eliminate the erosion which could occur during construction. He said that two access points have been proposed for entering and exiting the site from the county road. The Stanton Fire Department has requested that a pond and dry-hydrant be constructed which would handle approximately 120,000 gallons. He said that there will not be a problem in constructing the requested pond and dry-hydrant but instead of placing them on the site they would probably be placed where the original detention basin was shown and the dry hydrant would be run to the county road so that the fire department would have adequate access. He said that according to the fire department's request they are not only concerned with the proposed development but also a way to protect the surrounding area and the site. He said that they do have a soil scientist on staff, recognized by Champaign County, and his report indicates that there are three different types of soils involved with this development. The soils which are found in most of Champaign County show up on a soil report as having a high water table which can be taken care of by the installation of a perimeter drain tile. He said that because they do have a soil scientist on staff they perform, at least, five soil inspections per week

and there are no concerns regarding the type of septic systems which can be used. He said that it was mentioned that perhaps mechanical treatment systems will be required to be installed but that is not the case because with the drain tiles the lots will easily accommodate seepage fields. He said that when the final plan is submitted it will indicate the position of the initial seepage fields but a space will be reserved on the lots for a future seepage field, if it is ever required. He said that all of the concerns have been addressed and they feel that this is a reasonable request. He said that the development is located within one mile of a confinement hog operation which is more than the distance required by the Zoning Ordinance. He said that in summary they have addressed all of the engineering concerns although there is not a way to address all of the emotional concerns regarding this request.

Mr. Miller requested that a more specific explanation be given regarding the inlets and outlets of the perimeter drainage tile.

Mr. Russell stated that there is an inlet located along the county highway and the outlet would possibly go to the other drainage ditch but until the final engineering plans are completed it is hard to say what the best route will be. He said that this ground does have so much fall that it will be easily drained to the road ditches.

Mr. Hall stated that Don Wauthier, engineer with Berns, Clancy and Associates indicated in his December 20, 2004 letter that it might be advisable to check the site for tiles going in and out of the property and perhaps investigate where those tiles drain. Mr. Hall said that during his discussions with Mr. Wauthier he admitted that given that this is a county highway and those tiles were placed for this road and therefore he would not expect any ponding on this site and would suspect that these tiles would be large enough for the proposed perimeter tiles to be connected to but it should be investigated.

Mr. Russell stated that we are mainly discussing sub-surface drainage which is gradual flow which would increase the flow of the existing tiles but it would be a relative small amount.

Mr. Bluhm questioned if the proposed road would drain without a catch basin.

Mr. Russell stated yes. He said that they will drain with the way that they are designed currently but they may find that during the final design that a catch basin may be necessary. He noted that there is approximately eight feet of fall on this property.

Mr. Miller stated that the comment was made that no problems are anticipated with the existing hog operation and questioned Mr. Russell if he had ever lived down wind from a livestock facility.

Mr. Russell stated that he owns property which is northeast of a livestock facility and there is no question that there are days when the odor is prominent. He said that they have tried to look at all of the aspects which would affect the neighbors and have consulted with the Soil and Water Department as to what types of trees should be planted which would not cause issues with the adjacent farmland.

Mr. Bluhm stated that one of his concerns was the trees which are proposed to be planted within the 20 foot easement and the affect that it will have on the adjacent landowner.

Mr. Russell stated that Mr. Bluhm is correct and it is virtually impossible to address every dispute which will arise and the only way to control who your neighbors are is to purchase all of the ground around you.

Mr. Hall stated that Item 22.A(2) of the Revised Draft (Revised Plan with Conditions) dated December 30, 2004, indicates that a livestock management facility is located one mile to the west of the subject property. Residential development is not compatible with livestock management facilities especially those that are located upwind from the development in the direction of prevailing wind. Table 67 in the Champaign County Statistical Abstract indicates that the average annual wind direction is from the south but is from the west for the month of January.

Mr. Schroeder stated that chemical application will also be an issue raised with the proposed development.

Mr. Russell stated that Champaign County does have a Farmer Protection Ordinance which many other counties do not have. He said that short of not doing any development there is no way to control disputes between neighbors.

Mr. Bluhm stated that Mr. Charles Hunt's letter states that there is an acute shortage of building lots in the St. Joseph area. Mr. Bluhm stated that St. Joseph is preparing to open up approximately 260 acres of residential development lots which will be connected to city water and sewer with another 160 acres which are planned for the same type of development.

Mr. Russell stated that he cannot speak for Mr. Hunt but perhaps when he wrote the letter St. Joseph was only in the planning stages of that development.

Mr. Bluhm stated that farmland preservation is a big concern.

Mr. Brian Schurter, who resides at 404 Moraine Dr, Rantoul stated that he is an attorney and represents many of the landowners in the area and is also the attorney for Stanton Township. He said that the emotional concerns raised at these hearings should not be set aside in by the Board in making this decision. He said that part of what this is about is determining not only the suitability but the compatibility with local agriculture and the people that he represent are the surrounding agriculture. There are always disputes between neighbors but the disputes which are being contemplated in regard to chemical application do not only effect where the fence line is located but the landowner's livelihood and their ability to put food on the table for their family. He said that in reviewing the engineering concerns, if those are the only standards, there is probably not a piece of land in Champaign County that we shouldn't develop. He said that frankly if all that is to be reviewed is the engineering standards then now-a-days we can drain just about anything. Many years ago our forefathers discovered how to drain a swamp so that it could farmed and with the advanced technology that is available today we could even find a way to place a home in that same swamp. He said that all of the concerns have not been addressed because the approval of this development would be taking "best-prime" farmland out of production for no apparent reason. He said that he spoke with the mayor of St. Joseph and there are approximately 50 to 60 vacant lots within St. Joseph which are available for homes and it is anticipated that another 40 lots will be available next year and there are 260 acres which will be annexed into the village creating another 500 lots. Mr. Schurter said that in his opinion the statement that there is a shortage of lots within

the St. Joseph area is inaccurate and the lots which are proposed will have city services. He said that the concerns regarding farmland preservation and impacts on surrounding agriculture are still the same and if the surrounding landowners were consulted they would tell you they do not believe that all of the engineering studies will fix all the problems.

Ms. Christine Schurter, who resides at 404 Moraine Dr, Rantoul stated that her parents, Dale and Dorothy Vinson, own farmland directly across the road and to the west of the proposed development. She said that the Land Evaluation Score is 95 which would be considered "best-prime" farmland and the LESA score is between 245 to 249 which is a very high rating for protection. She said that the report indicates that for comparison purposes, development on prime farmland soils but in close proximity to built up areas and urban services typically has scores between 180 and 200 therefore the subject site is not compatible for development.

Ms. Susan Vinson, who resides at 1879 CR 2200E, St. Joseph stated that she lives directly across the road from the proposed subdivision. She said that she opposes the proposed development because it will cause of loss of valuable farmland and once it is converted to housing it is gone for good. She said that there are plenty of lots available within the St. Joseph area and requested that the Board assist in the preservation of this valuable farm ground.

Ms. Dorothy Vinson, who resides at 1828 CR 2200E, St. Joseph stated that they own the farm which is across the road and drainage has always been an issue during heavy rains. She said that trash and refuge accumulates along the culverts and blocks the drainage flow. She questioned if zoning would allow the petitioner to keep coming back and requesting more and more lots for development until all of the farmland is used up.

Ms. Rita McCannon, who resides at 2267 Homer Lake Rd, St. Joseph stated that her parents own the farmland east of the proposed development. She said that they are opposed to the development. The land in question is very productive farm ground which is being requested to be taken out of production. She said that her family has always farmed in the St. Joseph area and she dislikes seeing all of these subdivisions popping up in the rural areas. She said that they are concerned with the drainage issues because every time a house, concrete and asphalt is placed on property the flow of the water is being changed in some sort of aspect. This subdivision is not contiguous to St. Joseph and should not be allowed to be placed in the middle of a farming area. She said that many of the new lot owners will not be farm oriented and will not understand how the farming process works, for example, chemical application. She said that the farming families which surround the proposed development will also be affected by litter generated by the development and additional road traffic. She questioned if this proposal is approved then what will keep other developments of this type from being proposed on other prime farmland. She hopes to inherit her family's farm some day and she and her family will have to live with the choice that this Board will make regarding this proposed development.

Terry Riccolo, agent for the Hunt Family stated that he had no comment at this time.

Mr. Hal Barnhart, Co-Chairman of the Farm Bureau Land Use Committee stated that a letter dated July, 2004 was submitted to the Board for opposition of the original Case 445-AM-04 and the Farm Bureau still opposes the current proposal. He said that the proposal before the Board involves rezoning 20.65 acres into a 14 lot RRO. He said that from the Farm Bureau Policy prospective

they oppose any type of development with an LE score of 85 or above which is considered in Champaign County as “best-prime” farmland. He said that Land Use Regulatory Policy 1.1 states, “commercial agriculture is the highest and best use of land in areas of Champaign County by virtue of topography, soil and drainage, suited to its pursuit.” He said that this site definitely meets the criteria in LURP 1.1 with an LE score of 95. Land Use Regulatory Policy 1.2 states, “the standards for site suitability, adequacy of infrastructure and compatibility with agriculture will be higher for development on the best prime farmland than for less productive land.” He said that the Section 22.02a report by the Soil and Water Conservation District identifies several suitability concerns, one of which deals with the soil characteristics for on-site septic systems and a mixture of agriculture and suburban uses that are incompatible. He said that there has been testimony received regarding dust, odor, noise, chemicals, trespassing, trees located in buffer strips, and slow moving vehicles are all issues for incompatibility. Section 1.5.2 states, “on the best prime farmland, development will not be permitted unless the site is well suited, overall, for the proposed land use.” He said that 1.5.2 continues to state that it may be unsuited overall but if it is clearly inadequate in one respect even if it is acceptable in other respects. The total LESA score between 245 and 249 clearly reflects a high rating for agricultural protection and it does not meet the necessary requirements for conversion to this proposed use. He said that if we just based land use planning on engineering we would all be in trouble. He said that in the mid-1980's there was a proposed landfill in Champaign County and the engineer at that time stated that we could put a landfill in the middle of Lake Michigan, and maybe from an engineering standpoint it could be done but the Land Use Plan is about a lot more than that. He referred to the report “Locational Considerations for Rural Residential Development in Champaign County” and explained that is where a lot of the terms such as “typical” and “better than typical” originated. He said that many times we tend to see that if it states “better than typical” or “better than the common condition” that tends to be equated to “good” conditions and maybe under certain circumstances in this county just because the conditions are “better than typical” it doesn't make it good.

Mr. Brad Marsh, who resides at 1703 CR 2350 E, St. Joseph stated that he farms the Vinson farm which is located on the west side of the road and to the south of the subdivision. He said that he is also the Drainage Commissioner for Union Drainage District No. 7 of the Towns of St. Joseph and Ogden. Mr. Marsh explained that the land that he farms drains to the Stanton Special Drainage Ditch. He said that there are culverts under 2200E and that 24 acres will have water come across it and the water removes the soil. He said that he does not believe that the drainage problems have been addressed at all because there has always been a drainage problem in this area. He said that the majority of the water flows to the southwest and the drainage concerns have not been met only concentrated into one area which will dump through the culverts and onto his farmland.

Mr. Hall questioned Mr. Marsh what depth of rainfall would cause overland flow onto his farmland.

Mr. Marsh stated that it depends on how fast the rain comes and how much the ground is already saturated.

Mr. Hall questioned Mr. Marsh if the drainage has always been an issue.

Mr. Marsh stated that the drainage has been an issue every since he started farming this land. He said that he lives one and one-half miles from the subject property and has always farmed this

ground. He said that the water flow across the 24 acres is so fast that it moves the soil. There are two culverts which go under the road and dump out at his field which heads over to the Stanton Ditch.

Mr. Bluhm requested that Mr. Hall read LURP 1.5.2.

Mr. Hall read LURP 1.5.2 in its entirety.

Mr. Bluhm stated that LURP 1.5.2 should be added as an item in the Summary of Evidence.

Mr. Hall agreed that LURP 1.5.2 should be included in the Summary of Evidence and also the narrative for the policy. He said that an Item #19.A.4 should be added indicating: Mr. Russell testified at the December 30, 2005, public hearing that the Petitioner agrees to provide a dry hydrant and pond and the necessary access at the southern end of the property near the Stanton Special Drainage Ditch with details to be refined during subdivision design.

Ms. Griest stated that the land is in common ownership but the Board is not taking action on the area where the dry hydrant is proposed. She said that in the previous RRO the Board was taking action on the ground for which the dry hydrant was proposed and she wondered how the Board can consider this factor as a piece of evidence when it is not proposed to be within the subject parcel.

Mr. Hall stated that he agreed and it is not clear on how this can be included but as long as there is a condition then that condition must be fulfilled.

Ms. Griest questioned Mr. Hall if he was comfortable that a condition would legally meet that stipulation that if this was approved that it would require compliance.

Mr. Hall stated that he is comfortable that the Board can establish a condition but he is not sure how that condition can be fulfilled. He said that in the previous RRO the dry hydrant was adjacent to the RRO and there were certain things in the list of public improvements that the Petitioner had to post a bond for during construction. He said that in this case, if there is a subdivision at the north end of the property he was unsure how it could be tied to the improvements at the south end of the property.

Mr. Russell stated that as a condition it would be bonded with the entire subdivision. He said that with the dry hydrant not being contiguous the ordinance allows a pond in the AG District and does not have to be under the RRO.

Mr. Bluhm stated that there is a limitation for a pond in the AG District of one acre.

Mr. Russell stated that either way it would require posting a bond, which is no problem.

Mr. Hall stated that he would like to summarize Mr. Marsh's testimony in regard to drainage. He said that the following text should be added to new Item#16.E.4: In testimony at the December 20, 2004 hearing, Mr. Brad Marsh testified that surface runoff quite often flows under CR 2200E through the twin culverts and causes erosion in the field on the west side. He said that by placing this text in the Summary of Evidence does nothing more than establishes that the Board is aware

of this issue at this time. He said that there is no evidence of how often this situation happens or what causes it.

Mr. Griest questioned if it would be reasonable to add that Mr. Marsh's testimony included the assessment that the current drainage is inadequate to properly detour the runoff on the undeveloped ground.

Mr. Hall stated that text could be added to Item #16.E.4 as follows: The proposed development does not address the existing drainage problem.

Ms. Griest questioned Mr. Hall if Mr. Barnhart's comments were included in the Summary Evidence reiterating the Farm Bureau's objection the revised site plan.

Mr. Hall stated a blanket addition could be made everywhere in the Summary of Evidence where there was previous testimony by Mr. Barnhart. He said that the text could read as follows: In testimony at the December 30, 2004 public hearing Hal Barnhart, Co-Chairman of the Land Use Committee of the Champaign County Farm Bureau testified that the Farm Bureau position was unchanged with the revised plan dated December 15, 2004. He noted that in the Summary of Evidence where previous testimony was no longer relevant he removed Mr. Barnhart's previous comments and most of that text was in regard to the flood plain and Mr. Barnhart agreed to that revision.

Mr. Bluhm stated that Mr. Schurter testified that he spoke to the St. Joseph mayor whom indicated that approximately 50 lots are currently vacant and 40 more are proposed next year and an additional 260 acres is planned to become annexed into the Village creating more than 500 lots for development.

Ms. Griest questioned Mr. Schurter if he received any statistical facts in writing from the mayor of St. Joseph which could be added as evidence.

Mr. Schurter stated that he did not receive this information in writing but he would presume that the mayor would accommodate such a request.

Mr. Bluhm stated that this is relevant information and should be obtained for evidence.

Mr. Hall stated that the only way to add this item of evidence would be to continue the case. He said that everyone who has given testimony at tonight's hearing has indicated that their previous concerns apply to the revised plan as well. He said that text should be added to Mr. Schurter, Ms. Schurter and Ms. Vinson's testimony indicating that at the December 30, 2004 public hearing they testified that their concerns had not changed given the revised plan. He said that new Items #15K; 23H; 25D; should be added indicating that Rita McCannon, who resides at 2267 Homer Lake Rd, St. Joseph, IL testified at the December 30, 2004 public hearing that she was concerned about traffic and the loss of prime farmland. He said that Ms. Vinson's testimony should also be treated like Ms. McCannon's and placed where relevant in the Summary of Evidence. He said that an Item #23.C.3 could be added to the Summary of Evidence indicating that Mr. Charles Hunt's letter which was undated indicated that his family considers there to be acute shortage of building lots in the St. Joseph area and claims the University is acquiring a great deal of land in the direction.

Mr. Steeves moved, seconded by Mr. Goldenstein to recess the public hearing for a 15 minute break. The motion carried by voice vote.

The Board recessed at 8:07 p.m.

The Board resumed at 8:25 p.m.

Mr. Bluhm said that he was concerned about the pond and dry hydrant being on other property and one of his concerns was how to keep that land from being sold to someone else. Mr. Goldenstein agreed.

Mr. Russell explained that the pond could be protected by an easement that would protect the pond no matter who owned the land. Mr. Russell also offered that the pond could be constructed at the southeast corner of the RRO District but in his opinion a location near the drainage ditch would be easier to maintain.

Mr. Miller said he was concerned that if the pond was not in the proposed RRO subdivision the burden of maintaining the pond will fall back onto the township and not just the subdivision residents. Mr. Bluhm explained that the new street has to be dedicated to the township for maintenance and he assumed that if the fire protection district wrote the letter requesting the pond they are prepared to accept maintenance of the pond.

Ms. Griest read Item #28.B of the Summary of Evidence and questioned if the Board needs to make it clear that these protests still apply to the revised plan or do they apply to the revised plan.

Mr. Hall stated that it could be made crystal clear by stating that all frontage protests were received prior to the revised plan and will remain in effect until retracted by the landowners.

Ms. Griest read Item 29.A of the proposed special conditions.

Mr. Hall stated that a portion of Item #29.A should be revised as follows: A letter dated August 12, 2004, was received from Chief Russell Chism, St. Joseph-Stanton Fire Protection District, that stated that the St. Joseph-Stanton Fire Protection District requests that the proposed RRO District include a dry hydrant system to serve the fire protection needs of the entire rural area surrounding the proposed subdivision and established minimum criteria regarding water availability and road access. The Revised Plan does not indicate where the dry-hydrant system will be accommodated but Mr. Robert Russell testified at the December 30, 2004 public hearing that the dry-hydrant system could be provided adjacent to the Stanton Special Drainage Ditch or adjacent to the southeast corner of the proposed RRO District. The following special condition will be to ensure that a dry-hydrant system is provided as requested by the St. Joseph-Stanton Fire Protection District. Any subdivision development shall include a dry-hydrant system meeting the requirements of the St. Joseph-Stanton Fire Protection District as outlined generally in a letter dated August 12, 2004, and the number of lots shall be reduced if necessary to provide the necessary access to the system to ensure that any burdens placed on the fire protection district by this rural subdivision are mitigated by this improvement.

Ms. Griest read Item #29.B(1); Item #29.B; and Item # 30 of the proposed Special Conditions.

Mr. Bluhm stated that he understands Item #30.A to read is that the proposed RRO will affect the livestock facility if it were to expand to house more than 17,500 hogs therefore not allowing the livestock facility to expand.

Mr. Hall stated that the proposed RRO will impose additional restrictions on the expansion and growth of the livestock facility above 17,500 hogs, as detailed in Livestock Management Facilities Act 510/ILCS77.

Mr. Goldenstein moved, seconded by Mr. Schroeder to approve the proposed conditions as amended. The motion carried by voice vote.

Mr. Hall noted that the State's Attorney's Office has not had an opportunity to review these conditions therefore there may be questions at a later date. He said that he does not have any particular concerns but at times the State's Attorney's office may have a concern where the Associate Planner did not realize that there was one.

Finding of Fact:

From the Documents of Record and testimony and exhibits received at the public hearing conducted on June 17, 2004, August 12, 2004 and December 30, 2004, the Zoning Board of Appeals of Champaign County finds that:

1. The Proposed Site is not well suited for the development of 14 residences and is not used in the most efficient way.

Mr. Goldenstein stated that the site is not well suited for development of 14 residences due to the extremely high LESA score and the proximity to the existing livestock facility. He said that it is also not suited for the proposed development due to the slope and the water runoff.

Mr. Irle stated that in general the site is not well suited for the development of 14 residences because the request is in direct contrast with portions of LURP 1.1, 1.3.3 and 1.4.2. which together and separately seek to minimize the conversion of best prime farmland and best use of farmland. He said that specifically this tract is rated by the Soil and Water Conservation District as 79% "best-prime" farmland and testimony indicates that there are more suitable locations available for development. The Land Use Policies seek to minimize the conflict with agriculture and as stated by LURP 1.4.2, land uses will not be permitted if they would interfere with farm operations. Testimony has been received indicating that the development may infringe on nearby landowners ability or right to farm and despite the fact that Champaign County has a "right to farm" act that act does not prevent private lawsuits.

Mr. Goldenstein stated that in regard to LURP 1.4.2, testimony was received from the farmer to the west of the subject property indicating that there is definite negative impact on the operation of agricultural drainage systems when soil erosion is occurring due to the flow of water and

inadequate drainage tile exists.

Mr. Bluhm stated that LURP 1.5.2 states that a site may be unsuited overall if it is clearly inadequate in one respect even if it is acceptable in other aspects.

Ms. Griest stated that the archeological possibilities should be addressed. She said that the property has a high probability of significant archeological resources. She said that in the despite category text should indicate that the subject property is not in a limited groundwater availability area and there is no evidence to suspect an impact on neighboring wells. The soil suitability for septic has a moderate potential for leach fields and that no portion of the proposed RRO is located in the Special Flood Hazard Area.

Mr. Bluhm stated that in regard to the despite category the subject property has an average or above acceptability for emergency services especially with the addition of the proposed dry-hydrant.

Ms. Griest added to the despite category that the subject property is not near any manmade hazards. She said that the proposed RRO will have access from a state maintained street with no deficiencies. She said that only 66% to 75% of the site has wet soils compared to the typical condition which is 90% of a site has wet soils.

2. Development of the Proposed Site under the proposed Rural Residential Overlay development will not be compatible.

Mr. Bluhm stated that the development of the Proposed Site under the proposed Rural Residential Overlay development will not be compatible because with agriculture on three sides of the RRO will cause problems for the farmers because of chemical applications and nuisance issues related to the RRO subdivision. He said that any future expansion of the existing livestock facility over 17,500 animals will be regulated differently if the proposed RRO is approved. The RRO District will have a 200% greater impact on farm operations than allowable development without the RRO.

Mr. Irle stated that in regard to the despite category, the petition for revision includes a twenty foot border around the proposed RRO and includes efforts to inform potential buyers of the nearby livestock facility.

Mr. Miller stated that in regard to the despite category, the petitioner has indicated that a perimeter tile will be placed around the proposed RRO to assist with drainage.

Mr. Bluhm stated that a significant portion of the proposed RRO does have soils that will require drainage improvements.

Ms. Griest stated that the LESA score of 245-249 for the property is a very high rating for protection.

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

Mr. Bluhm moved, seconded by Mr. Miller to close the public hearing for Case 445-AM-04,

Crystal Hunt. The motion carried by voice vote.

Determination:

Mr. Irle moved, seconded by Mr. Bluhm that pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that the Map Amendment requested in Case 445-AM-04 should not be enacted by the County Board.

The roll was called:

Bluhm-yes	Goldenstein-yes	Irle-yes
Miller-yes	Shroeder-yes	Steeves-yes
Griest-yes		

Mr. Hall clarified that the Zoning Board of Appeals does not recommend that the map amendment be enacted. He said that this case will be forwarded to the Environment and Land Use Committee for their January 10, 2005 meeting. He said that everyone who signed the attendance record in relation to this case will receive a notice and packet for the ELUC meeting.

Mr. Irle moved, seconded by Mr. Goldenstein to extend the Zoning Board of Appeals meeting to 9:45 p.m. The motion carried by voice vote.

Case 455-AM-04 Petitioner: David and Lynn Borchers. Request to amend the Zoning Map to change the zoning district designation from AG-2, Agriculture to B-4, General Business. Location: A 26,524 square feet tract in the Southeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 8 of Champaign Township that abuts the west side of Staley Road and is located approximately 1/4 mile north of the intersection of Staley Road and Illinois Route 10 and that is commonly known as a house at 205 South Staley Road, Champaign.

Case 473-V-04 Petitioner: David and Lynn Borchers. Request to authorize the separate use of a nonconforming lot that is in commonly ownership with all adjacent land and that is without either a connected public sanitary sewer system or a connected public water supply system and with an area of 26,524 square feet instead of the required 30,000 square feet in the AG-1, Agriculture District. Location: (See Case 455-AM-04)

Case 456-AM-04 Petitioner: David and Lynn Borchers. Request to amend the zoning map to change the zoning district designation from AG-2, Agriculture to I-1, Light Industry. Location: Lot 3 of the James W. Townley Subdivision that is commonly known as a house at 203 Staley Road, Champaign.

Case 457-AM-04 Petitioner: David and Lynn Borchers. Request to amend the zoning map to change the zoning designation from AG-2, Agriculture to B-4, General Business. Location: Lots 1 and 2 of the James W. Townley Subdivision that are commonly known as two vacant lots at 211 & 215 South Staley Road, Champaign.

Case 458-S-04 Petitioner: David and Lynn Borchers. Request to authorize the establishment and use of more than two principal structures. Location: (See Case 457-AM-04)

Ms. Griest called Case 455-AM-04; Case 473-V-04; Case 456-AM-04; Case 457-AM-04; and Case 458-S-04 concurrently.

Mr. Hall stated that no new information has been received. He said that the City of Champaign has protested all of the mentioned cases. The Petitioner is most interested in Case 456-AM-04, which is the large lot, and requires authorization for a contractor's facility upon the site and rather than pursue the map amendment he has requested that the Board authorize an amendment to his petition. He said that the amendment to the petition would no longer make the petition a map amendment but would make it into a special use for a contractor's facility. Mr. Hall said that this amendment to the petition would receive a new case number, a new legal advertisement, and a new notice would be sent to all adjacent landowners. He said that if this request to amend the petition is denied the Petitioner could submit a new application for an entirely new case for a special use permit. He had advised the Petitioner that Cases 457-AM-04 and Case 458-S-04 are related to Case 456-AM-04 because they share site plan features and that the Petitioners might want to see how the special use case for the contractor's facility proceeds before they determine whether to proceed with Case 457-AM-04 and Case 458-S-04. Mr. Hall stated that it would seem reasonable to do the same with Case 455-AM-04 and Case 473-V-04 although those cases do not seem to have the significance that Case 457-AM-04 and Case 458-S-04 have. The Petitioner needs to proceed with obtaining authorization for a contractor's facility and amending Case 456-AM-04 would be the most expedient way to do that.

Mr. Bluhm asked if the City of Champaign had protested all of the rezoning cases and whether Case 456-AM-04 would require re-advertisement with a new case number and if the City's protest would stand against cases 455-AM-4 and Case 457-AM-04.

Mr. Hall stated yes.

Ms. Griest asked if this would allow the Petitioner to do what is allowed under the current Zoning Ordinance as a special use and basically waive an additional fee.

Mr. Hall stated that Ms. Griest was correct. He said that the Petitioner will be required to submit the re-advertisement fee.

Mr. David Borchers stated that he would like to obtain a special use and abandon Case 455-AM-04 and Case 473-V-04 and proceed with Case 457-AM-04 at a later date.

Ms. Griest questioned Mr. Borchers if he is requesting the Board to allow him to change Case 456-AM-04 to a special use and defer any final decision on the other cases at tonight's hearing.

Mr. Borchers stated that Ms. Griest was correct.

Mr. Goldenstein questioned if when the other cases are brought forward if the City of Champaign

will file a protest.

Mr. Borchers stated that it is a chance that he must take. He said that the City of Champaign can comment on the portion of his request that he requires but does not have the right to protest. He said that the City of Champaign recently annexed three buildings across the street from the subject property and those buildings are all operating on a private septic system.

Mr. Bluhm moved, seconded by Mr. Irle to allow the Petitioner to change Case 456-AM-04 to a new special use case. The motion carried by voice vote.

Mr. Irle moved, seconded by Mr. Goldenstein to continue Case 455-AM-04; Case 473-V-04; Case 457-AM-04; 458-S-04 to March 17, 2005. The motion carried by voice vote.

Case 475-AT-04 Petitioner: Zoning Administrator. Request to modify Paragraph 9.1.5(B) to expand the power and duty of a Hearing Officer to the extent allowed by Illinois Statute.

Ms. Monte gave a brief overview of Case 475-AT-04 and requested a continuance to January 13, 2005.

Mr. Goldenstein moved, seconded by Mr. Bluhm to continue Case 475-AT-04 to January 13, 2005. The motion carried by voice vote.

6. New Public Hearings

None

7. Staff Report

None

8. Other Business

A. 2005 Planning and Zoning Calendar

Mr. Hall distributed the 2005 Planning and Zoning Calendar. He said that staff did investigate the availability of Meeting Room One for February 3, 2005 and was informed that the room was available. It was requested at the last ZBA meeting that the January 27, 2005 meeting would be held on February 3rd and the calendar reflects that request. Staff was informed that Meeting Room One would not be available for November 17, 2005 due to the rescheduling of the County Board meeting. Staff tentatively scheduled the meeting room for November 22, 2005. The Board requested that Staff investigate the availability of Meeting Room One for November 10, 2005 or November 08, 2005 as a backup.

The consensus of the Board was to approve the calendar as submitted and directed staff to investigate the availability of Meeting Room One for November 10, 2005.

B. Amendment of ZBA By-Laws Article 5, Meetings: Section 5.1: Reduce number of regular meetings to one per month during months that township hearings occur in conjunction with the Comprehensive Zoning Review; Section 5.6 & 5.9: Provide clarification regarding the receipt of testimony; and Section 5.11: Designate time parameters for special meetings.

Mr. Hall stated that this item is on the agenda to give the Board notice that this subject will be brought forward at the next Zoning Board of Appeals meeting.

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

None

10. Adjournment

The meeting adjourned at 9:40 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals