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1 use of a “Restricted Landing Area” for use by airplanes consistent with Illinois Department of  
2 Transportation regulations and helicopter use for public safety assistance as needed and with limited  
3 helicopter use for personal use, as a Special Use on land that is proposed to be rezoned to the AG-1  
4 Agriculture Zoning District from the current CR Conservation Recreation Zoning District in related  
5 zoning case 687-AM-11; and with a waiver of a Special Use standard condition required by Section 6.1  
6 that requires compliance with Footnote 11 of Section 5.3. Location: An approximately 14 acre tract of  
7 land that is located in the North Half of the South Half of the Northeast Quarter of Section 27 of  
8 Crittenden Township and located on the west side of Illinois Route 130 (CR1600E) and 1,328 feet  
9 south of the intersection of Illinois Route 130 and CR 200N and County Highway 16 and commonly  
10 known as the property at 175N CR 1600E, Villa Grove.

11  
12 Mr. Thorsland informed the audience that this is an Administrative Case and as such the County allows  
13 anyone the opportunity to cross examine any witness. He said that at the proper time he will ask for a show  
14 of hands for those who would like to cross examine and each person will be called upon. He requested that  
15 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that  
16 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
17 state their name before asking any questions. He noted that no new testimony is to be given during the cross  
18 examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt  
19 from cross examination.

20  
21 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must  
22 sign the witness register for that public hearing. He reminded the audience that when they sign the  
23 witness register they are signing an oath.

24  
25 Mr. Thorsland asked the petitioners if they desired to make a statement outlining the nature of their request.

26  
27 Mr. Alan Singleton, attorney for the petitioners, stated that a lot of testimony has already been given and it is  
28 his impression that no new testimony will be taken tonight. He said that at the last public hearing evidence  
29 was presented by Wayne Ward indicating that only .30 acres of brush and small trees would be located in the  
30 proposed RLA area, if the entire RLA area was cleared. Mr. Singleton stated that he previously proposed a  
31 special condition indicating that any tree which was 10 inches in diameter or greater that would be removed  
32 would be replaced with 2 trees that are 4 inches or greater in diameter that are hardwood species. He said  
33 that his clients would also request that a special condition be added indicating that at least one acre be  
34 involved in reforestation and establishment of natural habitat. He said that the pictures which Mr. Ward  
35 presented indicated Autumn Olive at the base of the trees. He said that Autumn Olive is a species that was  
36 originally introduced from overseas and was meant to establish habitat but it eventually overtakes the area  
37 and will wipeout the native habitat. He said that when he runs through the Lake of the Woods area he has  
38 noticed that the County Forest Preserve has gone through and removed the Autumn Olive because it is an

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1 invasive species and will take over the forest. He asked the Board to consider the following: Dr. Jones will  
2 establish a one acre area that would involve planting at least twice as many trees, 4 inches in diameter or  
3 greater, that is Northern Red Oak and additionally establishing native habitat in consultation with an  
4 environmental consultant selected in conjunction with Planning and Zoning staff and John Hall.  
5

6 Mr. Singleton stated that there would be two trees planted for every one tree removed and one acre versus  
7 .30 acre of invasive Autumn Olive and giant thorny Locust trees. He said that he has planted more than 400  
8 Red Oak trees on his property and not all of them have survived but the ones that did were only one and one-  
9 half foot tall and are now 20 inches in diameter and are beautiful. He said that Red Oak trees are fast  
10 growing and they provide acorns for the squirrel, deer and other wildlife.  
11

12 Mr. Singleton stated that the petitioner is sincere in his desire to accomplish environmental objectives and  
13 has planted over 1000 trees, consisting of hardwood and soft pines, and he plans to establish the one acre  
14 nature preserve to replace the .30 acre area of thorny Locust and Autumn Olive.  
15

16 Mr. Thorsland explained that the petitioner is allowed to make an opening statement during the public  
17 hearing and the witness register has been opened for public testimony. He requested that only new evidence  
18 be presented during brief testimony. He said that the Board intends to review the Findings at tonight's  
19 hearing therefore the Board would appreciate everyone's cooperation.  
20

21 Mr. Thorsland asked Mr. Singleton if the petitioner is requesting that Case 687-AM-11 be forwarded to  
22 ELUC on May 9<sup>th</sup>.  
23

24 Mr. Singleton stated that he spoke to Mr. Hall about this issue.  
25

26 Mr. Hall stated that he spoke with the State's Attorney about this case and by the time that he realized the  
27 situation we had missed the 48 hour deadline for the *Open Meetings Act* and the State's Attorney was not  
28 going to allow Case 687-AM-11 to be heard tonight if it was not on the agenda. He said that he never had  
29 the opportunity to ask the State's Attorney if the 48 hour deadline had been met could the case have been  
30 heard.  
31

32 Mr. Singleton stated that from the petitioner's perspective it cannot be emphasized enough how serious he is  
33 regarding environmental issues and what he has done with the property and in hindsight he wished that he  
34 had hired a photographer to visit the property. He said that if the Board would visit the property they would  
35 discover that the property is a nice place that has a lot of neat things. He said that if the Board can reconsider  
36 this case then he would like the proposed special condition to be considered as well and as part of the record.  
37 He said that the petitioner cares about the environment and he has done a lot of things to enhance and  
38 improve it.

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

Mr. Courson asked Mr. Singleton how the planting of trees would help with the requirements of a Special Use Permit because he does not see the relevancy. He said that there is a list of criteria that must be met for a Special Use Permit and there is nothing about planting trees or how good of an environmentalist someone is therefore he does not see how it would apply to this case.

Mr. Singleton stated that the subject property is zoned CR currently.

Mr. Courson stated that since the property is zoned CR currently the petitioner can plant all the trees that he desires and clear as much of the CR area without a Special Use Permit.

Mr. Singleton stated that significant testimony and concerns have been expressed regarding the trees and whether or not any of them would be harmed. He said that Wayne Ward submitted testimony indicating that there will be nothing harmed at the end of the runway and concern was raised in relation to where the hangar would be constructed. He said that since these concerns have been expressed he is trying to address those concerns by leaving things better than we found them by eliminating invasive species of Autumn Olive and the thorny Locust trees and replacing them with Red Oak trees thereby restoring the area with a well designed conservation area with native habitat.

Mr. Courson stated that he still does not believe that the planting of trees is relevant to the criteria for the Special Use Permit. He said that the Board is more concerned about the safety of the runway and the existence of trees at the end of the runway.

Mr. Singleton asked Mr. Courson if his primary concern is safety.

Mr. Courson stated that he would like Mr. Singleton to tell the Board, who is bound by the requirements in the Ordinance, why the RLA is needed based on the criteria for the Special Use Permit.

Mr. Singleton asked how everyone would feel if a small child died from exposure because he was not found in time during a cold Champaign County winter and how will we feel if a parent with Alzheimer's gets lost and dies during a cold winter. He said that if someone is on the run with a gun how will we find them. He said that time matters during these types of matters therefore public safety is an important issue that has not been talked about enough and the public will be served by having the helicopter closer to Dr. Jones so that he can assist law enforcement agencies with their requests.

Mr. Courson stated that public safety is one of many items of criteria for the Special Use Permit. He said

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1 that he is trying to determine how the trees, which Mr. Singleton continues to discuss, plays into that criteria.

2  
3 Mr. Hall stated that he does not know what Mr. Singleton is thinking but he does know what he can read in  
4 the Finding that the Board completed last week. He said that there were two goals of the Land Resource  
5 Management Plan that the map amendment did not help achieve and one of those goals had to do with  
6 natural resources. He said that the entire discussion for this goal hinged on the habitat impact in cutting the  
7 habitat where the hangar is proposed and to some degree the habitat impacts across the river, although there  
8 was a condition for no cutting. He said that while he believes that the condition that Mr. Singleton outlined  
9 is necessarily very complicated, as a staff person, he can tell the Board that they will lose .30 acres of  
10 woodland but he does not know what that means to the ZBA. He said that a .30 acre loss of woodland  
11 maybe small enough that it is insignificant and is not a big deal in light of the planting of 1,000 trees already  
12 or it could be not a big deal in light of planting 1,000 trees already plus establishing a new acre where there  
13 is no woodland with a certain density of trees and planting more trees to improve the remaining habitat. He  
14 said that there is 11 acres of woodland on the side of the river which Dr. Jones owns and that is more than  
15 twice as many acres of woodland that would be impacted on the west side therefore it is very complicated  
16 and the Board has never gone into that much detail for a case but all of this information is very relevant to  
17 habitat issues.

18  
19 Mr. Singleton asked if the Board's main concern is public safety and the proximity to the adjacent residence.

20  
21 Mr. Courson stated no. He said that the Board has questions that must be answered during review of the  
22 Finding of Fact and the Board's answers to those questions must be based on evidence. He said that a lot of  
23 testimony has been given about things that have nothing to do with the criteria for the special use but the  
24 Board listens to everyone.

25  
26 Mr. Singleton stated that Mr. Hall just mentioned some items which are troubling.

27  
28 Mr. Courson stated that those items are more relevant to the map amendment but the special use case is  
29 being addressed tonight.

30  
31 Mr. Hall stated that it remains to be seen how relevant these items are to the special use because the Board  
32 has not discussed that yet but it is certainly relevant to whether or not the special use would be injurious to  
33 the district. He said that habitat is not the only issue but it should play as big of a role in the special use as it  
34 did in the map amendment but it is clearly not everything. He said that the proposed condition is  
35 complicated and the Board must decide whether or not it is interested in such a complicated condition.

36  
37 Mr. Passalacqua stated in the application for the Special Use Permit Dr. Jones indicated that he required the  
38 RLA for his agricultural operation. Mr. Passalacqua stated that he has not heard testimony regarding this

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1 need during the hearings.

2  
3 Mr. Singleton stated that Dr. Jones has indicated that he does harvest some hay from the runway and that he  
4 does survey his other cropland by aircraft so that he can catch problems, such as infestation, early and  
5 address it before it becomes a problem throughout the field. He said that the agricultural aspect of utilizing  
6 the aircraft is relevant and the agricultural aspect of having switch grass planted on the runway safety area is  
7 relevant to agriculture. He said that with the present corn ethanol issues a lot of experimentation has been  
8 found that an alternative to corn ethanol is switch grass. He said that there is an area of native grass on the  
9 property and the effect of conservation of the farmland by the planting of grasses is real because the soil  
10 stays in place much better when it is planted in grass crops. He said that there is a reason why the  
11 government offers programs to landowners for certain lands to be planted in grass versus row crops and that  
12 is so that the land will be available later.

13  
14 Mr. Passalacqua asked if the farmland that Dr. Jones would survey by aircraft is mainly located in Douglas  
15 County.

16  
17 Mr. Singleton stated that he believes that Dr. Jones has farmland in Champaign County as well but  
18 regardless of where it is located the use of the aircraft is still agriculturally related.

19  
20 Mr. Courson stated that the crops and grasses are still allowed in the CR District therefore why change the  
21 zoning.

22  
23 Mr. Singleton stated that the petitioner will not be allowed to take off in his airplane or helicopter from his  
24 desired location to survey his crops for infestation which is in comparison to a farmer not being able to store  
25 his tractor on his property to maintain his crops. He said that it is obvious that the Board disagrees but he is  
26 trying to paint the other side.

27  
28 Mr. Courson asked if the special use conditions regarding the amount of take-offs and landings affect the  
29 crop surveillance that Dr. Jones performs. He asked Mr. Singleton how often Dr. Jones surveys his crops  
30 from the air. He said that there is an airport which is not fifteen minutes away from Dr. Jones' residence that  
31 he could easily drive to so that he can utilize his aircraft to inspect his crops.

32  
33 Mr. Singleton stated that he does not know how often but he does know that Dr. Jones does survey his crops  
34 from the air. He said that the number of uses has been compromised because they proposed something  
35 slightly different but the conditions that were finally determined are sufficient to allow Dr. Jones to do his  
36 crop inspections.

37  
38 Mr. Thorsland asked the Board and staff if there were any further questions for Mr. Singleton and there were

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1 none.

2

3 Mr. Thorsland read the petitioner's statement from his Special Use Permit Application, as to why this use is  
4 necessary for the public convenience at this location, as follows: "As applicant is engaged in a number of  
5 agricultural activities the special use permit should be granted because uses can and should be  
6 accommodated in rural areas if they compliment agriculture or supplement farm income, (1.6 Land Use  
7 Regulatory Policies). Applicant owns 130 acres farmed in corn and beans, grows sunflowers, soybeans,  
8 sugar beets, alfalfa, etc., and uses the helicopter to pollinate; provides crop tours for farmers from the U.S.  
9 and abroad; has a contract with a seed dealer. In addition, public convenience would be served by the  
10 special use because the applicant has offered to provide and has provided law enforcement and public safety  
11 assistance free of cost to the Champaign and Douglas County Sheriff's Office and Emergency Management  
12 (see the attached letters). The applicant has provided such assistance free of cost using both the helicopter  
13 and aircraft.

14

15 Mr. Thorsland stated that Page 15 of the Revised Draft Summary of Evidence discusses the effects to the  
16 habitat and wildlife and is a decision point which the Board must make tonight. He said that there is some  
17 relevance to the offering of it but it is more relevant to the map amendment but there is some relevance as  
18 well to the special use. Mr. Thorsland stated that there is still some question about the map amendment and  
19 there are some technicalities involving the other case so perhaps the petitioner would rather wait to figure  
20 out the outcome of that.

21

22 Mr. Singleton stated that it doesn't make sense to go to the next level until both cases are completed because  
23 he could see himself attending random hearings and incurring more costs to the petitioner. He said that his  
24 preference would be to complete both cases before moving forward to the next level.

25

26 Mr. Thorsland reminded the audience that the Board only needs to hear absolutely new and relevant  
27 testimony regarding the Special Use Permit case because the Map Amendment case has been tentatively  
28 ruled upon.

29

30 Mr. Thorsland called William J. Jones to testify.

31

32 Dr. William J. Jones, who resides at 1210 N. Route 130, Villa Grove, stated that he has the following  
33 question that he would like the Board to clarify: If, the decision that was made regarding the map  
34 amendment stands true then this public hearing is a moot point.

35

36 Mr. Thorsland stated no. He said that the map amendment will be forwarded to the Environment and Land  
37 Use Committee and both the map amendment and the special use will go to the County Board.

38

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1 Mr. Hall clarified that only the map amendment will be forwarded to the County Board for a final decision.  
2 He said that the Zoning Board of Appeals makes the final determination for the Special Use Permit.

3  
4 Mr. Thorsland stated that Mr. Hall was correct. He said that the ZBA's determination regarding the map  
5 amendment can be overruled by the County Board, which he would imagine would bring the special use  
6 back to the ZBA.

7  
8 Dr. William Jones stated that he is not clear on why various members of the Board are voting against the  
9 requests because no explanations have been given as to whether the Board believes things are suitable, not  
10 suitable, advantageous or not advantageous. He said that perhaps there are no means to be clear on these  
11 matters but it is a little confusing when there is no mention as to why something is acceptable or not  
12 acceptable.

13  
14 Mr. Thorsland asked the Board if there were any questions for Dr. Jones and there were none.

15  
16 Mr. Thorsland asked if staff had any questions for Dr. Jones.

17  
18 Mr. Hall asked Dr. Jones if he has received and reviewed a copy of the 51 page Finding of Fact for the map  
19 amendment case.

20  
21 Dr. Jones stated yes.

22  
23 Mr. Hall stated that if the map amendment goes to court the Finding of Fact is the primary document that  
24 would be reviewed in terms of what the ZBA based their opinion upon. He asked Dr. Jones if he felt that the  
25 Finding of Fact correlated to the Board's vote.

26  
27 Dr. Jones stated no.

28  
29 Mr. Hall stated that tonight the Board is dealing with a different set of facts with the 46 page Summary of  
30 Evidence for the special use. He asked Dr. Jones if he has reviewed the Summary of Evidence for the  
31 special use.

32  
33 Dr. Jones stated yes.

34  
35 Mr. Hall stated that even he does not know what the Board is thinking until they make a motion and vote and  
36 sometimes it is a surprise. He informed Dr. Jones that if he feels that the Summary of Evidence is not even  
37 handed then he is sure that the Board would like to know that. He said that by saying even handed he means  
38 that Mr. Singleton has spent a lot of time producing evidence and it is obvious that 46 pages did not capture

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1 all of that evidence. He said that at a staff level we make a draft of what was most impressive to staff and it  
2 is incumbent upon the Board to add in evidence that staff did not include and he has hardly ever seen the  
3 Board add evidence to a Summary of Evidence. He said that staff's Summaries of Evidence are infamous  
4 for the amount of evidence that is there but if Dr. Jones believes that there is important evidence that has  
5 been presented in this public hearing that is not included in the Summary then he would appreciate it if Dr.  
6 Jones would bring that evidence to the Board's attention.

7  
8 Dr. Jones thanked Mr. Hall for giving him the opportunity to voice his concerns but he wanted to express his  
9 confusion as to how the Board makes their decisions.

10  
11 Mr. Thorsland asked Dr. Jones if there was a particular example that he would like to use.

12  
13 Dr. Jones asked how the Board finds whether or not something is acceptable or not acceptable when they are  
14 going through their list of questions.

15  
16 Mr. Thorsland stated that the Board bases their decision upon testimony from the petitioner and witnesses,  
17 the Findings of Fact and the volumes of evidence received. He said that there was a lot of discussion during  
18 the last case and that meeting lasted for almost four hours and when the Board finally had the opportunity to  
19 review those questions the Board spent a large amount of time on each one. He said that often times the  
20 Board is not in total agreement therefore each question is voted upon. He said that he is not sure what  
21 particular decision point Dr. William Jones is questioning.

22  
23 Dr. William Jones stated that he will review the evidence and submit his concerns at a future time. He said  
24 that the Board has already voted upon the map amendment and the special use will be voted upon tonight  
25 therefore he assumes that the Board has their decision in mind already. He thanked the Board for the  
26 opportunity to express his concerns.

27  
28 Mr. Passalacqua asked staff if Dr. William Jones had been provided a copy of the LRMP.

29  
30 Mr. Hall stated that a copy of the Goals and Policies was provided to everyone.

31  
32 Mr. Passalacqua stated that it is almost impossible for this to be a personal decision because the Board has so  
33 much guidance and the true sensitivity of the CR District is one of the main reasons why this case is so  
34 difficult. He said that he agrees that what Dr. Jones and his wife have done on the property is fantastic and it  
35 is exactly what the Board hopes for in the CR but it is not consistent with a residential landing strip. He said  
36 that this is not a personal decision and as with every case people will address the Board as to how wonderful  
37 the petitioner is and honestly while this is good information it is not information that can be used during the  
38 final decision. He said that he understands that it would be wonderful and convenient to have a personal

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1 airplane at your residence but it becomes difficult when you live next to CR and the County has a special  
2 provision in its LRMP to protect that CR District. He said that no one is ignoring testimony and the Board  
3 has an Ordinance, Conservation Policy and long range plans for the County which must be followed and this  
4 would have been much easier if the subject property was already located in the AG-1 District and not the CR  
5 District. He said that when we are talking about 1% of the County being in CR and the Board must follow  
6 the long range plan for protection of that 1%. He said that what Dr. Jones is doing is on CR and it is highly  
7 regarded and respected but unfortunately the Ordinance does not allow an RLA in the CR District. He said  
8 that if the Ordinance prevents Dr. William Jones and Dr. Phillip Jones from doing this project then perhaps  
9 the next case would be to attempt to amend the Ordinance but the Board has current guidelines that must be  
10 followed not personal guidelines.

11

12 Dr. William Jones thanked Mr. Passalacqua for his comments.

13

14 Mr. Passalacqua stated that it is too much to ask whether or not Dr. William Jones has reviewed all of the  
15 evidence included in the Summary of Evidence because he has read the Summaries for both cases and it is  
16 difficult and he cannot remember everything. He said yes, the Board has heard a lot of testimony from Dr.  
17 Jones and Mr. Singleton but the Board has also heard testimony from other people and at the last meeting  
18 Mr. Palmgren put it in perfect words indicating that no one is going to win in this case. He said that he  
19 cannot state enough that this is not a personal decision but pages of Ordinance and long range goals.

20

21 Dr. William Jones thanked Mr. Passalacqua again for his comments.

22

23 Mr. Thorsland asked the audience if anyone desired to cross examine Dr. Jones and there was no one.

24

25 Mr. Thorsland called Mark Fisher to testify.

26

27 Mr. Thorsland informed the audience that only new information relevant to the special use case should be  
28 presented as testimony tonight.

29

30 Mr. Fisher declined to testify at this time.

31

32 Mr. Thorsland called Jean Fisher to testify.

33

34 Ms. Jean Fisher, who resides at 195 CR 1600E, Villa Grove, stated that she wanted to address Mr.  
35 Singleton's comments regarding the nuisance trees on the property and how clearing out those nuisance trees  
36 would make the habitat better. She said that during her four years in high school and FFA she took classes  
37 regarding ornamental horticulture, forestry, landscape and design, etc, one of the things that she learned  
38 about was that forested areas were protected areas. She said when you are speaking about a conservation

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1 area, and in their area the river runs through it, the conservation area is not just the river and what is  
2 contained in the river but what holds the soil and prevents erosion. She said that it is the canopy of the trees  
3 and one of things is that larger trees will.

4  
5 Mr. Thorsland interrupted Ms. Fisher and requested that her testimony only apply to the special use permit.

6  
7 Ms. Fisher stated that the Osage orange trees have seed balls which provide food for birds and various  
8 animals. She said that Dr. Jones previously stated that one man's weed is another man's bird food. She said  
9 that to address Dr. Jones' comment she would say that Osage orange trees are not necessarily a nuisance.  
10 She said that the Osage orange trees will filter the water and maintain the soil from erosion therefore when  
11 you begin chopping the trees out of the area you are disturbing the environment and the land. She said that it  
12 is great that Dr. Jones has indicated that he will plant some trees somewhere but will the trees be planted in  
13 this State or in this County.

14  
15 Ms. Thorsland noted that the Board is only interested in testimony regarding the special use and not the map  
16 amendment.

17  
18 Ms. Fisher stated that some of things that were previously mentioned were about how the trees along the  
19 back tree line would grow up into the take-off and landing space. She said that the article written by Darren  
20 Mildoon, The Impact of Airport Noise on Residential Property Values: A Case Study of the Portland-  
21 Hillsboro Airport, June 2003, mentions that the noise impact of aircraft range from .06% to more than 1%.  
22 She said that the article is specifically talking about property values and the decrease in property value per 1  
23 decibel of increase in noise level. She said although Mr. Singleton had mentioned that Mr. and Mrs. Hall  
24 purchased a property where cars and semi-trucks could run into their house that there was very little chance  
25 that a plane would do the same. She said that currently there is not an RLA next to the Hall's house  
26 therefore putting one there would increase the percentage that there would be an accident that could  
27 encompass the Hall's home and the neighborhood.

28  
29 Ms. Fisher requested that the Board oppose the Special Use Permit.

30  
31 Mr. Thorsland asked the Board if there were any questions for Ms. Fisher and there were none.

32  
33 Mr. Thorsland asked if staff had any questions for Ms. Fisher and there were none.

34  
35 Mr. Thorsland asked the audience if anyone desired to cross examine Ms. Fisher and there was no one.

36  
37 Mr. Thorsland asked the audience if anyone else desired to sign the witness register to present testimony  
38 regarding Case 688-S-11 and there was no one.

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Mr. Thorsland closed the witness register.

Mr. John Hall, Zoning Administrator, distributed a new Supplemental Memorandum dated May 1, 2013, to the Board for review. He said that the memorandum lists the new Documents of Record that were received at the April 25, 2013, public hearing. He said that the memorandum also includes the approved Summary Finding of Fact for Case 687-AM-11. He noted that on page B-3, item #3 discusses whether or not the proposed map amendment will achieve the purpose of the Zoning Ordinance, and somehow the Board did not make an overall determination of item #3. He said that an overall determination of item #3 is not required under the Zoning Ordinance or statutorily and he has asked the State's Attorney if this should be remanded so that the ZBA can complete that finding or not and it is his view that it all depends on how much legal risk is created by that remaining undecided item. He said that in a case as controversial as these cases have been, his goal is to have as perfect of a finding as possible therefore this is very conspicuous as being part of the final determination. He said that a determination of the finding is not an absolute requirement and the State's Attorney may not see much damage done by it therefore he would not go to the Committee to request a remand to the ZBA. He said that the ultimate decision is up to the Environment and Land Use Committee and based upon the guidance that has been received this evening if this case receives a final determination tonight the map amendment will be forwarded to ELUC for their meeting next Thursday. He said that if for some reason, this case is not completed tonight he will arrange to pull it off the agenda because he has already included it.

Mr. Hall stated that the way that the Board will handle a remanded case for the public is that staff does not re-advertise but will send out notice of the remand to everyone. He said that the remand will be placed on a meeting date as soon as possible because cases that are remanded require a quick turn-around. He said that the public will find out whether or not Case 687-AM-11 is remanded or not and if next Thursday comes and goes without any notice from our office the public should feel free to call at any time for an update. He said that staff has not introduced any new evidence tonight and would like the Board to base their decision on the evidence that the Board had before them at last Thursday's meeting when the Board took action on Case 687-AM-11.

Mr. Palmgren requested a clarification on what the Board did not complete on the map amendment case.

Mr. Thorsland stated that the Board failed to make an overall determination for Item #3 on page B-3. He said that the Board goes through many decision points and is then required to return to the first paragraph of the finding of an overall determination. He said that it is probably his fault for not completing this finding because he is supposed to remember to return to the overall determination but if the Board recalls the Board took action on many, many items that night and he just forgot to return to the top for the overall determination. He said that the third bullet which indicates DOES/DOES NOT received a tie vote therefore

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1 no determination was rendered. He said that the preponderance of Item #3 is DOES NOT therefore it is  
2 inferred but it is incomplete. He said that if Case 687-AM-11 is remanded then the Board must make sure  
3 that things are tidied up and an overall determination is made for Item #3.

4  
5 Mr. Hall noted that the Board has the same decision tonight with the special use therefore if nothing else it  
6 will presumably be settled for the special use.

7  
8 Mr. Thorsland asked the Board if there were any questions for Mr. Hall and there were none.

9  
10 Mr. Thorsland asked the Board if there were any items which require discussion prior to proceeding and  
11 there were none.

12  
13 Mr. Thorsland stated that staff has pointed out that there is nothing new to add to the Summary of Evidence  
14 dated March 14, 2013. He said that there are some staff recommendations as the Board works through the  
15 Summary of Evidence and there are also some decisions points for the Board. He said that the Board has  
16 read a lot of this and heard a lot of it over the course of two years so there should not be a lot of questions  
17 from the Board. He said that Item 8.T. on page 15 contains the first decision point for the Board and there is  
18 some new underscored evidence which coordinates with evidence regarding Policy 4.3 in related Case 687-  
19 AM-11 (item 14.C.). Regarding concerns due to impacts on the remaining natural and scenic areas in the  
20 surrounding CR District, the subject site IS/IS NOT suitable for the proposed RLA. He said that the Board  
21 was presented with a proposed condition or offer tonight about trees which is sort of a modification of what  
22 was presented at the last meeting. He said that his notes indicate a replanting of two trees for every one tree  
23 removed from the subject property. He said that it was also discussed that rather than what we have here to  
24 plant an entire acre of new trees, two trees which are four inches or larger for every one tree that is removed.  
25 He said that the petitioner proposed planting Northern Red Oak to establish some native habitat and the  
26 petitioner would do this planting in consultation with an expert recommended by staff. He said that none of  
27 this is a condition but an offer from the petitioner that the Board should consider as the Board decides  
28 whether or not the RLA IS/IS NOT suitable in the CR.

29  
30 Mr. John Hall stated that subparagraph 8.T.(1)(b) references the Plan and Profile of Landing Area and the  
31 date 11/19/12 should be revised to indicate 3/12/13. He said that Item 8.T. poses the question whether or not  
32 the subject site IS/IS NOT suitable for the proposed RLA. He said that this is under item 8 which is the  
33 criteria regarding whether the Special Use is designed to be located and operated so that it will not be  
34 injurious to the District or otherwise injurious to the public welfare. He said that the Board should think  
35 about whether or not suitable is the proper word or if it should be injurious. He said that if the Board does  
36 not have an opinion then it should be left as written but he wanted to flag it for the Board's consideration.  
37 He said that in one respect, if something is not a suitable location it is because it has injurious impacts but  
38 the goal is to make sure that this finding is as clear as possible. He said that everywhere that staff has

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1 referred to the Plan and Profile of Landing Area received on 11/19/12 should be revised to 3/12/13 and he  
2 will attempt to bring all of the areas to the Board's attention tonight.

3  
4 Mr. Thorsland stated that Mr. Hall pointed out that the word "suitable" is included in Item 8.T. and if the  
5 Board would change "suitable" to "injurious" it would change the nature of the IS/IS NOT entirely. He said  
6 it is the Board's decision as to what word should be included in Item 8.T.

7  
8 Mr. Palmgren suggested that the Board leave the word "suitable" in Item 8.T. and that the Board take a vote  
9 upon this decision.

10  
11 Mr. Thorsland concurred with Mr. Palmgren's decision.

12  
13 Mr. Courson agreed.

14  
15 Ms. Capel stated that it would clearer if the Board added the following: The subject site is IS/IS NOT  
16 suitable for the proposed RLA because it DOES/DOES NOT have an injurious impact on the surrounding  
17 area.

18  
19 Mr. Thorsland asked the Board if they agreed or disagreed with Ms. Capel.

20  
21 Mr. Palmgren stated that it appears to be repetitive.

22  
23 Mr. Hall stated that he appreciates Mr. Palmgren's concern but this goes to the heart of the concerns voiced  
24 by Dr. William Jones. He said that saving everything up for that one golden finding at the end of 50 pages of  
25 evidence may be bad. He said that in some of the difficult cases staff and the Board has embedded findings  
26 in the evidence so that the Board makes its decision right there at the point closest to the evidence. He said  
27 that there will never be a perfect finding but he would always hope that the Board does make sure that people  
28 who come to every hearing and review everything that is handed out there should be question at the end why  
29 the Board makes whatever recommendation that it does.

30  
31 Mr. Thorsland stated that considering the nature and complexity of this case and the length of time that it has  
32 taken it is better to have as many statements as possible in one manner or the other so that when it is  
33 reviewed it is very clear that the ZBA did hear Dr. William Jones' concerns. He said that he agrees with Ms.  
34 Capel's amendment to Item 8.T. because it gives the Board two points to decide upon but the Board has time  
35 to do so.

36  
37 Mr. Passalacqua stated that Ms. Capel's amendment to Item 8.T. does make it more clear and is consistent  
38 with what the Board reviewed in Case 687-AM-11.

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Mr. Palmgren agreed.

Mr. Thorsland read revised Item 8.T. as follows: Regarding concerns due to impacts on the remaining natural and scenic areas in the surrounding CR District the subject site is IS/IS NOT suitable for the proposed RLA because it DOES/DOES NOT have injurious impacts on the surrounding area.

**Mr. Palmgren moved that the subject site IS suitable for the proposed RLA because it DOES NOT have injurious impacts on the surrounding area.**

Mr. Thorsland stated that a “yes” vote would agree with Mr. Palmgren’s motion and a “no” vote would be disagreement with Mr. Palmgren’s motion therefore the determination would be IS NOT suitable for the proposed RLA because it DOES have injurious impacts on the surrounding area.

**Mr. Courson seconded the motion.**

Mr. Thorsland requested a roll call vote.

<b>Capel-no</b>	<b>Courson-no</b>	<b>Miller-absent</b>
<b>Palmgren-yes</b>	<b>Passalacqua-no</b>	<b>Thorsland-no</b>

Mr. Thorsland stated that the determination for Item 8.T. is as follows:

**Regarding concerns due to impacts on the remaining natural and scenic areas in the surrounding CR the subject site is IS NOT suitable for the proposed RLA because it DOES have injurious impacts on the surrounding area.**

Mr. Hall noted that the Board is required to make a determination for Item 8.S. on page 12.

Mr. Thorsland apologized for missing Item 8.S. on page 12. He said that this item needs to be coordinated with evidence regarding Policy 4.3 in related Case 687-AM-11 (item 14.C.) He read the following: Regarding concerns about safety, noise, preserving the essential character of the District, and land use compatibility due to the proximity of the nearest adjacent dwelling under separate ownership and the proposed RLA, the subject site IS/IS NOT suitable for the proposed RLA. He said that the evidence included in Item 8.S. reflects the many months of testimony.

Mr. Hall stated that subparagraphs (1) and (2) the date of 11/19/12 should be revised to indicate 3/12/13. He said that in subparagraph (2) should be revised as follows: The Plan and Profile of Landing Area (revised site plan for the proposed RLA) received on 3/12/13 indicates that the proposed hangar is proposed to be

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1 located approximately 64 feet north of the existing north property line which makes the proposed RLA  
2 runway 185 feet south of the proposed hangar. Thus, the petitioner's proposed hangar is proposed to be 43  
3 feet further from the proposed RLA runway than is the nearest dwelling under different ownership. He said  
4 that all of the revisions are in line with the plan that was received on 3/12/13.

5  
6 Mr. Palmgren asked if anyone knows why the proposed hangar will be located further away from the home  
7 site in question by 43 feet because that is still within the safety zone. He said that he is guessing that the  
8 reason why the hangar has been moved back a bit was to provide a pad for the helicopter.

9  
10 Mr. Thorsland asked Mr. Palmgren if he would like to question the petitioner's representative.

11  
12 Mr. Palmgren asked Mr. Singleton why the hangar location has been located further from the runway.

13  
14 Mr. Singleton stated that they tried to put it back in the spot of the clearing so that they would not have to cut  
15 down as many trees.

16  
17 Mr. Palmgren asked if the current location is the final spot for the hangar or is there flexibility for the hangar  
18 to be moved some.

19  
20 Mr. Singleton stated that the current site plan indicates the location of the hangar therefore if the case is  
21 approved then that is the location where the hangar will be constructed. He said that they tried to put the  
22 hangar in a spot that made sense overall and fit into the tree pattern and would minimize disruption to the  
23 non-native trees and vegetation that are in place.

24  
25 Mr. Thorsland stated that the site plan dated March 12, 2013, has a little box on it where the original location  
26 in the earlier site plan for the hangar was to be located. He said that the little box has a note on it that  
27 indicates no loss of woodland and the reason why they moved the hangar a little closer to the runway was to  
28 minimize the impact on the wooded area. He said that Mr. Palmgren is trying to explain why the hangar was  
29 setback where it was but the petitioner moved it to try to make it more compatible. Mr. Thorsland stated that  
30 the reason why it is in the record is to show that the distance of the hangar is not unlike the distance to the  
31 house which is under different ownership.

32  
33 Mr. Courson asked if moving the hangar closer to the runway would require the removal of even more trees.

34  
35 Mr. Thorsland stated no. He said that the petitioner moved the hangar from being way back in to the woods.

36  
37 Mr. Courson stated that the house is closer to the runway than the hangar therefore why is the hangar further  
38 away from the runway than the house.

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1  
2 Mr. Thorsland stated that the point Mr. Palmgren is trying to make is that the hangar is further away so that  
3 there is room to move the helicopter around.  
4

5 Mr. Singleton stated the plan Mr. Wayne Ward provided showed the area of the proposed hangar and the  
6 overall area which included the trees. He said that there are no trees between the side transition area and the  
7 runway other than what is shown on Mr. Ward’s plan.  
8

9 Mr. Hall asked if there were trees between the hangar and the runway. He said that there are at least four  
10 trees which are indicted on the plan that are between the proposed hangar site and the runway.  
11

12 Mr. Singleton stated yes, but no other trees exist that are not shown on the plan.  
13

14 Mr. Thorsland read Item 8.S. again as follows: Regarding concerns about safety, noise, preserving the  
15 essential character of the District, and land use compatibility due to the proximity of the nearest adjacent  
16 dwelling under separate ownership and the proposed RLA, the subject site IS/IS NOT suitable for the  
17 proposed RLA. He entertained a motion for IS/IS NOT.  
18

19 **Mr. Palmgren moved that regarding concerns about safety, noise, preserving the essential character of**  
20 **the District, and land use compatibility due to the proximity of the nearest adjacent dwelling under**  
21 **separate ownership and the proposed RLA, the subject site IS suitable for the proposed RLA.**  
22

23 **Mr. Courson seconded Mr. Palmgren’s motion.**  
24

25 Mr. Thorsland informed the Board that a “yes” vote indicates that the subject site IS suitable for the  
26 proposed RLA and a “no” vote indicates that the subject site IS NOT suitable for the proposed RLA.  
27

28 Mr. Thorsland requested a roll call vote.  
29

<b>Courson-no</b>	<b>Palmgren-yes</b>	<b>Miller-absent</b>
<b>Passalacqua-no</b>	<b>Capel-no</b>	<b>Thorsland-no</b>

30  
31  
32  
33 Mr. Thorsland stated that Item 9.E. regarding the requirement that the Special Use preserve the essential  
34 character of the AG-1 Zoning District staff has recommended the following for subparagraph (2): The  
35 proposed use WILL NOT hinder agricultural production on adjacent properties and agricultural production  
36 may still occur onsite. (from related Case 687-AM-11).  
37

38 **Ms. Capel moved, seconded by Mr. Passalacqua to accept staff’s recommendation for Item #9.E.(2) as**

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1 **follows: The proposed use WILL NOT hinder agricultural production on adjacent properties and**  
2 **agricultural production may still occur on site. The motion carried.**

3  
4 Mr. Hall stated that staff has not added the statement regarding the James Webster submittal and staff would  
5 propose to add this statement as Item 8.Q.(4). on page 12 after the review of the Dan Cothorn letter, the  
6 Hillard Agency data, and the Cragg's data. He said that Item 8.Q.(4) should read as follows: There has been  
7 one real estate appraisal consulting report prepared by James H. Webster & Associates, Ltd. regarding the  
8 affects of the RLA on the market value of the property at 175 CR 1600E, and while there were no  
9 comparables available for comparison and no published literature for reference, the consultant concluded  
10 based on his experience that the RLA will not have a negative impact on real estate values in the  
11 neighborhood. Mr. Hall said that he personally disagrees with Mr. Webster but it is a professional,  
12 competent report from a licensed appraiser therefore it is important to include it in the summary.

13  
14 Mr. Thorsland entertained a motion to add new Item 8.Q.(4) to the Summary of Evidence.

15  
16 **Mr. Palmgren moved, seconded by Mr. Courson to add new Item 8.Q.(4) to the Summary of Evidence**  
17 **as previously read. The motion carried by voice vote.**

18  
19 Mr. Thorsland stated that Item 9.F.(2) includes the following staff recommendation: Compatibility of the  
20 proposed special use with surrounding agriculture was evaluated in related Case 687-AM-11 under review of  
21 Land Resource Management Plan Objective 4.2 regarding interference with agricultural operations and the  
22 Zoning Board of Appeals found the proposed use WILL NOT interfere with agricultural operations.

23  
24 **Ms. Capel moved, seconded by Mr. Passalacqua to accept staff's recommendation for Item 9.F.(2).**  
25 **The motion carried by voice vote.**

26  
27 Mr. Thorsland stated that Item #10.C.(1) is another decision point for the Board which reads as follows: In  
28 related Case 687-AM-11 the ZBA determined that the proposed zoning map amendment DOES/DOES NOT  
29 secure adequate light, pure air, and safety from fire and other dangers. He requested a motion.

30  
31 **Mr. Palmgren moved, seconded by Ms. Capel that the proposed zoning map amendment DOES secure**  
32 **adequate light, pure air, and safety from fire and other dangers. The motion carried by voice vote.**

33  
34 Mr. Thorsland stated that Item #10.C.(2) also requires a decision from the Board. He read Item 10.C.(2) as  
35 follows: In related Case 687-AM-11 the ZBA determined that the proposed zoning map amendment  
36 DOES/DOES NOT conserve the value of land, BUILDINGS, and STRUCTURES throughout the  
37 COUNTY.

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1 Mr. Passalacqua requested that the Board review the information from the Table of Summarizing Most  
2 Salient Evidence Relevant to Special Use Permit Criteria and Map Amendment Findings in Cases 687-AM-  
3 11 and 688-S-11.

4  
5 Mr. Hall stated that this was prepared before the appraisal from Mr. Webster was submitted. He said that  
6 Mr. Webster's information could also be added in Item #10.C.(2) because it mentions the other three but it is  
7 up to the Board. He said that ideally the information would be inserted under new Item #10.C.(2)(d) and the  
8 existing d, e, and f would be re-lettered.

9  
10 Mr. Thorsland asked staff if the same note that was added to the Table of Summarizing Most Salient  
11 Evidence Relevant to Special Use Permit Criteria and Map Amendment Findings in Cases 687-AM-11 and  
12 688-S-11 regarding Mr. Webster's report would be added to new Item #10.C.(2)(d).

13  
14 Mr. Passalacqua stated that the report was completed by Mr. Webster, who is a professional appraiser,  
15 although there were no comparisons included and that is what every appraisal is built upon.

16  
17 Ms. Capel stated that she agrees that it should still be added as evidence.

18  
19 Mr. Passalacqua agreed. He said that he does think that real estate values are negatively affected in a  
20 neighborhood like Aero Place Subdivision because it is Aero Place but a runway in an area that only has one  
21 participating use and does not serve the other landowners in a residential area could have negative impacts  
22 on the other properties.

23  
24 Mr. Hall stated that the Board might prefer this to be worded that it is not clear whether or not there is any  
25 affect therefore the Board does not have to go one way or the other but recognized that there is  
26 disagreements.

27  
28 Mr. Passalacqua agreed.

29  
30 Mr. Palmgren stated that he also agreed. He said that testimony was received from one realtor indicating that  
31 the real knock down in value was the proximity to Route 130.

32  
33 Mr. Thorsland asked if the Board would indicate that it is not clear in related Case 687-AM-11.

34  
35 Mr. Hall stated that since the Board did not make this finding in Case 687-AM-11 he would strike the  
36 following: In related Case 687-AM-11 the ZBA determined. He said that it would be better to indicate the  
37 following: It is not clear what affect the proposed special use permit and zoning map amendment would  
38 have regarding conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY

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1 for the following reasons:. He said that this text would be a good standard on all of these decisions under  
2 Item 10.C.

3

4 Mr. Kass agreed.

5

6 Mr. Thorsland requested that Mr. Hall read the new text which will be included in every decision point under  
7 Item #10.C.

8

9 Mr. Hall stated the following: It is not clear what affect the proposed special use permit and zoning map  
10 amendment would have regarding conserving the value of land, BUILDINGS, and STRUCTURES  
11 throughout the COUNTY for the following reasons:

12

13 Mr. Thorsland asked if the Board agreed and they indicated yes.

14

15 Mr. Hall stated that in the previous subparagraph #10.C.(1) the text should be revised to indicate the  
16 proposed special use permit and zoning map amendment. He asked the Board if they desired to include this  
17 text in all of these findings since this is the special use permit case that the Board is reviewing tonight.

18

19 Mr. Thorsland asked if the Board should insert proposed special use permit and strike zoning map  
20 amendment.

21

22 Mr. Hall stated that in Case 687-AM-11 the Board was explicit that it was the zoning map amendment on the  
23 basis of the proposed special use permit.

24

25 Mr. Thorsland stated that if he were to have any excuse at all for forgetting the decision on Finding 3 it  
26 would be because the Board was making sure that they inserted the text, on the basis of the proposed special  
27 use permit, to every one of the findings.

28

29 Mr. Hall stated that it may be best to indicate the text, on the basis of the proposed special use permit,  
30 immediately following zoning map amendment so that it is perfectly coordinated.

31

32 Mr. Thorsland stated that the addition of this text does not change what the Board decided but makes it  
33 clearer.

34

35 Mr. Thorsland stated that Item #10.C.(5)(c) reads as follows: In related Case 687-AM-11 the ZBA  
36 determined that because of the proposed Special Use in related Case 688-S-11, the proposed special use  
37 permit and zoning map amendment DOES/DOES NOT promote the public health, safety, comfort, morals,  
38 and general welfare.

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1  
2 Mr. Passalacqua stated that Item #10.C.(5)(c) is way too wordy and about half of the text could be stricken.

3  
4 Mr. Thorsland stated that the last part of the item is how the Ordinance is written.

5  
6 Mr. Hall agreed. He said that last part is how the Ordinance is written and the first two lines are very wordy.

7  
8 Mr. Passalacqua stated that it was the last part of the item that he thought could be stricken.

9  
10 Mr. Thorsland entertained a motion for Item #10.C.(5)(c).

11  
12 **Ms. Capel moved, seconded by Mr. Courson that in related Case 687-AM-11 the ZBA determined that**  
13 **because of the proposed Special Use in related Case 688-S-11, the proposed special use permit and**  
14 **zoning map amendment DOES NOT promote the public health, safety, comfort, morals, and general**  
15 **welfare.**

16  
17 Mr. Thorsland requested a roll call vote. He noted that a “yes” vote indicates that it DOES NOT and a “no”  
18 vote indicates that it “DOES”.

19  
20 **Palmgren-no**                      **Passalacqua-no**                      **Capel-yes**  
21 **Courson-yes**                      **Thorsland-yes**                      **Miller-absent**

22  
23 Mr. Hall reminded the Board that in Case 687-AM-11 the Board decided that it DOES NOT. He said that  
24 technically four votes are required for a finding or anything else.

25  
26 Mr. Passalacqua stated that he voted as he did because he does not like the part of the decision that discusses  
27 comfort and morals. He said that he is not worried about being consistent but he is indicating that this  
28 decision is poorly written therefore he voted as he did.

29  
30 Mr. Kass stated that in Case 687-AM-11 the Board determined that the proposed map amendment on the  
31 basis of the proposed special use permit DOES NOT promote the public health, safety, comfort, morals and  
32 general welfare. He said that Mr. Passalacqua agreed with the motion that it DOES NOT.

33  
34 Mr. Passalacqua stated that he does not believe that it promotes public health and safety and he is  
35 comfortable with his vote as it stands.

36  
37 Mr. Thorsland stated that the Board’s decision is DOES NOT by the majority but not as a quorum.

38

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1 Mr. Thorsland read Item #10.C.(10) as follows: In related Case 687-AM-11 the ZBA determined that  
2 because of the proposed special use the proposed special use permit and zoning map amendment  
3 DOES/DOES NOT protect natural features such as forested areas and watercourses for the following  
4 reasons:. He requested a motion for Item #10.C.(10).

5  
6 **Mr. Passalacqua moved, seconded by Ms. Capel that in related Case 687-AM-11 the ZBA determined**  
7 **that because of the proposed special use the proposed special use permit and zoning map amendment**  
8 **DOES NOT protect natural features such as forested areas and watercourses.**

9  
10 Mr. Thorsland requested a roll call vote.

11			
12	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
13	<b>Palmgren-no</b>	<b>Thorsland-yes</b>	<b>Miller-absent</b>
14			

15 Mr. Thorsland stated that the Board has completed the decision points in the Summary of Evidence. He  
16 asked staff if there were any other corrections that needed to be addressed at this time and staff indicated that  
17 there were none.

18  
19 Mr. Thorsland stated that the Board will now review the proposed special conditions of approval.

20  
21 Mr. Thorsland requested Mr. Palmgren’s expertise as a pilot during review of the proposed special  
22 conditions.

23  
24 Mr. Palmgren stated that he does not intend to micro-manage this part but if there is something that is  
25 glaringly wrong he will speak up.

26  
27 Mr. Thorsland stated that the Board will begin its review of Item #12. He said that some of these have to do  
28 with what the real altitude is, using mean sea level, and the number that the pilot would have to look at and  
29 how staff would enforce these conditions.

30  
31 Mr. Thorsland read Item #12.A. as follows:

32 **There will be no tight northbound departures below 1000 feet.**

33  
34 Mr. Thorsland stated that the above condition was not included as a requirement of the RLA because this  
35 condition cannot be enforced by the Zoning Administrator. Nonetheless, the petitioner is encouraged to  
36 follow such a rule on an honor basis so as to help ensure the good neighborly relations.

37  
38 Mr. Thorsland read Item #12.B. as follows:

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1           **There will be an increased traffic pattern altitude of 1500 feet above ground level as opposed to**  
2           **the standard 1000 feet above ground level.**

3  
4 Mr. Thorsland stated that the above condition was not included as a requirement of the RLA because this  
5 condition cannot be enforced by the Zoning Administrator. Nonetheless, the petitioner is encouraged to  
6 follow such a rule on an honor basis so as to help ensure the good neighborly relations.

7  
8 Mr. Thorsland stated that it is up to the Board whether or not the Board wants to include these conditions or  
9 not. He noted that there is one additional condition that was proposed by the petitioner regarding the  
10 planting of trees. He said that the petitioner proposed that two Northern Red Oak trees which are 4-inches or  
11 larger will be planted for every 10-inch tree removed and one full acre of new native habitat would be  
12 planted in conjunction with suggested experts by staff. He said that Items #12.A and B are suggested  
13 conditions by the petitioner and could be included if the Board so desires.

14  
15 Mr. Hall stated that the two conditions that were previously proposed would be under Item #12.A. and the  
16 new condition would be under Item #12.B. as follows:

17  
18           **Petitioner attorney, Alan Singleton, proposed at the public hearing on May 1, 2013,**  
19           **a condition that would require proposed that two Northern Red Oak trees which are 4-inches**  
20           **or larger will be planted for every 10-inch tree removed and one full acre of new native habitat**  
21           **would be planted in conjunction with suggested experts by staff.**

22  
23 Mr. Hall stated that if the Board desires to move the above condition from Item #12 to Item #13 to make it a  
24 condition that the Board wants to require then that is the Board's choice.

25  
26 Mr. Thorsland asked the Board if they have any questions or comments regarding the proposed conditions in  
27 Item #12.

28  
29 Ms. Capel asked Mr. Hall if there is a precedent for conditions that are unenforceable and are completely up  
30 to the honor system of the petitioner.

31  
32 Mr. Hall stated that to a certain extent every condition is like that but there is no precedent for anything like  
33 what is proposed in Items #12.A and B. He said that we all recognize that while it is a good motive and  
34 intention for the petitioner to do, it is just not suitable as a condition.

35  
36 Ms. Capel stated that perhaps it is more appropriate to just keep these motives and intentions in the findings.

37  
38 Mr. Hall stated that it would be easier to leave it in the Summary of Evidence if the Board does not want to

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1 include it as special condition for approval.

2  
3 Mr. Thorsland stated that he is hesitant to add them because the altitude from a person on the ground is  
4 going to be very subjective. He said that the only condition that he can compare to this is the condition  
5 regarding the wind farm complaint hotline number sign that was required at every wind tower site. He said  
6 that he is not suggesting that a sign with a phone number be required so that someone can call if they do not  
7 believe that the altitude is correct or a southbound departure occurred. He said that he is inclined to not  
8 include the proposed conditions because it could open up a lot of avenues and he doesn't see how anyone is  
9 going to enforce them. He said that the condition regarding the trees can be addressed and inspected and  
10 presumably can be enforced.

11  
12 Mr. Passalacqua asked if IDOT has altitude regulations.

13  
14 Mr. Palmgren stated that generally there are two basic levels. He said that for lighter aircraft it is 800 feet  
15 above the ground and the elevation is added to that to get the altitude. He said that for heavier aircraft they  
16 are up about another 1000 feet or so and they are separated by speed and weight and they drop faster than a  
17 lighter aircraft which tends to float.

18  
19 Mr. Passalacqua stated that there is already a rule in place and IDOT would be the governing body for  
20 enforcement.

21  
22 Mr. Thorsland asked if the Board is inclined to leave those in the nebulous region and not include those in  
23 Item #13 as a condition.

24  
25 The Board stated yes.

26  
27 Mr. Thorsland asked the Board if they wanted to add a condition regarding the offer from the petitioner  
28 regarding the one acre and the planting of trees.

29  
30 Mr. Palmgren stated that he believes that this offer is a good plan because the petitioner is proposing to plant  
31 quality trees to improve the area and replace the trees which will be cleared.

32  
33 Mr. Thorsland requested a five minute recess.

34  
35 **The Board recessed at 8:45 p.m.**

36 **The Board resumed at 8:50 p.m.**

37  
38 Mr. Thorsland read the proposed special conditions of approval included in Item #13.

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**A. The Restricted Landing Area must be used in compliance with the approved Certificate of Approval for operation from the Illinois Department of Transportation Division of Aeronautics.**

The above condition is necessary to ensure that:  
**The proposed RLA is operated so as to ensure public safety.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition A.

Mr. Singleton agreed.

**B. The petitioner shall apply for a Change of Use Permit within 30 days of the approval of the special use permit or the proposed rezoning in related zoning case 687-AM-11, whichever occurs last.**

The above condition is necessary to ensure the following:  
**Compliance with the Zoning Ordinance within a reasonable time frame.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition B.

Mr. Singleton asked how this relates to the IDOT approval. He asked if they wait until they are done here or do they wait for IDOT.

Mr. Thorsland stated that the original application to IDOT indicated that zoning approval was already obtained.

Mr. Singleton stated that the petitioner believed that he was under agriculture.

Mr. Hall stated that he would prefer that the petitioner apply for the Change of Use Permit which will be understood that the permit is not valid until IDOT approves the petitioner's application. He said that zoning approval is not obtained until a Change of Use Permit is applied for and issued.

Mr. Singleton thanked Mr. Hall for the clarification and agreed to special condition B.

**C. The use of the RLA by fixed wing aircraft for non-public safety assistance shall be no more than three take offs and three landings in any 28 day period whether that**

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1           **use is by the petitioner or an invited guest.**

2  
3           The above condition is necessary to ensure the following:

4           **That the use of the RLA does not become excessive in such close proximity to a**  
5           **dwelling under other ownership.**

6  
7           Mr. Thorsland asked Mr. Singleton if he agreed to special condition C.

8  
9           Mr. Singleton agreed.

10  
11  
12           **D.     The use of the RLA for personal helicopter use shall be limited to no more than two**  
13           **take offs and two landings in any 28 day period whether that use is by the petitioner**  
14           **or an invited guest.**

15  
16           The above condition is necessary to ensure the following:

17           **That the use of the helicopter(s) for personal use does not exceed the amount of use**  
18           **authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

19  
20           Mr. Thorsland asked Mr. Singleton if he agreed to special condition D.

21  
22           Mr. Singleton agreed.

23  
24           Mr. Passalacqua asked if there is something in the finding that discounts emergency use.

25  
26           Mr. Thorsland stated that special condition M. assures that the use of RLA does not occur at nighttime  
27           unless required for public safety assistance. He asked Mr. Passalacqua if he wanted to change this to  
28           make sure that the limit of take-offs and landings does not apply to public safety applications.

29  
30           Mr. Passalacqua stated yes.

31  
32           Mr. Singleton stated that Special Condition D. should be consistent with Special Condition C.

33  
34           Mr. Thorsland stated that revised special condition D. would read as follows:

35  
36           **D.     The use of the RLA for personal helicopter, non-public safety assistance use shall be**  
37           **limited to no more than two take offs and two landings in any 28 day period whether**  
38           **that use is by the petitioner or an invited guest.**

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1           The above condition is necessary to ensure the following:  
 2           **That the use of the helicopter(s) for personal use does not exceed the amount of use**  
 3           **authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

4  
5 Mr. Singleton agreed to the revised special condition D.

6  
7           **E.     No “Fly-In Event” (more than 6 planes) as described in 92 Ill. Adm. Code 14.760**  
 8           **shall occur on the subject property.**

9  
10          The above condition is necessary to ensure the following:  
 11          **That the use of the RLA does not become excessive in such close proximity to a**  
 12          **dwelling under other ownership.**

13  
14 Mr. Thorsland asked Mr. Singleton if he agreed to special condition E.

15  
16 Mr. Singleton agreed.

17  
18  
19          **F.     The petitioner shall maintain at all times when take-offs and/ or landings may occur**  
 20          **at the RLA, public liability and property damage insurance with a minimum**  
 21          **coverage of \$5 million dollars and a copy of a valid certificate of insurance shall be**  
 22          **on file with the Zoning Administrator when any take-offs or landings do occur.**

23  
24          The above condition is necessary to ensure the following:  
 25          **That the petitioner has adequate insurance to compensate anyone affected by injury**  
 26          **or property damage resulting from the operation of the RLA in such close proximity**  
 27          **to a dwelling under other ownership.**

28  
29 Mr. Thorsland asked Mr. Singleton if he agreed to special condition F.

30  
31 Mr. Singleton agreed.

32  
33  
34          **G.     No pre-operation run up procedures shall be conducted east of the proposed hangar**  
 35          **location.**

36  
37          The above condition is necessary to ensure the following:  
 38          **To prevent nuisance conditions resulting from the RLA.**

39

5/1/13

1 Mr. Thorsland asked Mr. Singleton if he agreed to special condition G.

2

3 Mr. Singleton agreed.

4

5

6

**H. All landing traffic patterns shall be flown exclusively south of the RLA to maximize the distance between the aircraft landing at the RLA and the neighboring residential properties to the north.**

7

8

9

10 The above condition is necessary to ensure the following:

11

**To minimize nuisance conditions resulting from the RLA.**

12

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**I. The Special Use Permit shall not be transferrable to future owners of the subject property.**

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The above condition is necessary to ensure the following:  
**That any future owner(s) of the subject property must also receive the proper approvals for an RLA.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition I.

Mr. Singleton agreed.

**J. All aircraft (operable and inoperable) and aircraft parts must be stored in a fully enclosed building/hangar at all times.**

The above condition is necessary to ensure the following:  
**That nuisance problems do not arise as a result of the establishment of the RLA.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition J.

Mr. Singleton agreed.

**K. The only aircraft that may be stored at the RLA and on the owner's adjacent property shall be limited to the owner's aircraft and aircraft owned by the parents, children, or siblings of the owner which in no case shall exceed eight aircraft at any given time.**

The above condition is necessary to ensure the following:  
**That the proposed RLA only be used for aircraft of the owner and the immediate family.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition K.

Mr. Singleton agreed.

**L. This RLA Special Use Permit does not authorize landscape or tree maintenance in the wooded area in the CR District on the west side of the East Branch of the Embarrass River and any tree trimming or removal of trees in that area pursuant to the RLA shall cause this Special Use Permit to become void.**

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The special condition above is necessary to ensure the following:  
**To ensure that the environmental quality of the wooded area is not damaged for the purpose of protecting the RLA certification by IDOT.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition L.

Mr. Singleton agreed.

**M. No take-offs or landings shall occur at anytime other than during daylight hours except as required for public safety assistance which may occur anytime necessary.**

The above condition is necessary to ensure the following:  
**That the use of RLA does not occur at nighttime unless required for public safety assistance.**

Mr. Thorsland asked Mr. Singleton if he agreed to special condition M.

Mr. Singleton agreed.

**N. There shall be a minimum separation distance of at least 230 feet between the nearest point of the RLA and the nearest dwelling.**

The above condition is necessary to ensure the following:  
**That the use of the RLA does not pose unusual safety or nuisance concerns due to even closer proximity to a dwelling under other ownership.**

Mr. Thorsland stated that the Summary of Evidence includes a note indicating that this requirement is probably not suitable as a special condition and has been included here simply so that it will not be overlooked. If the Board is inclined to require a greater separation it should require a different site plan and a different legal description that describes a location that provide the greater separation. He said that this is not a condition that is advisable to include because it is not relevant to the site plan that is before the Board.

Mr. Palmgren stated that special condition N. should be stricken.

Mr. Passalacqua agreed that special condition N. should be stricken.

5/1/13

1  
2 Mr. Thorsland asked Mr. Hall if he has a new special condition N. for the Board to review.

3  
4 Mr. Hall read new special condition N. as follows:

5  
6 **N. The Petitioner will plant one acre of new woodland in a location on the subject**  
7 **property where there is no existing woodland and plant at least two Northern Red**  
8 **Oak trees of minimum 4 inch diameter at breast height for each existing tree that is**  
9 **10 inches or greater diameter that is removed in the proposed hangar area, as**  
10 **indicated on the Proposed Hangar Site drawing submitted by Engineer Wayne**  
11 **Ward on April 25, 2013, all intended to establish native habitat and in consultation**  
12 **with an appropriate ecological consultant selected from a list provided by the**  
13 **Champaign County Soil and Water Conservation District.**

14  
15 The above condition is necessary to ensure the following:  
16 **To mitigate injury to the existing woodlands.**

17  
18 Mr. Hall stated that this is a very technical special condition and would never recommend cooking up  
19 something this technical during the context of one meeting but it is the Board's finding.

20  
21 Mr. Singleton requested that the condition be revised to indicate the subject property or the petitioner's  
22 adjacent property. He asked Mr. Hall why breast height was included.

23  
24 Mr. Hall stated that breast height is the normal standard.

25  
26 Mr. Singleton stated that breast height is acceptable.

27  
28 Mr. Thorsland stated that indicating the subject property or the petitioner's adjacent property the Board  
29 is not talking about property located in Douglas County but adjacent and contiguous to the subject  
30 property.

31  
32 Mr. Hall stated that even if the special condition is acceptable it does not indicate when these items must  
33 be completed. He read revised special condition N as follows:

34  
35 **N. No Zoning Compliance Certificate shall be approved for the RLA until the**  
36 **petitioner has planted one acre of new woodland in a location on the subject**  
37 **property or the Petitioners adjacent property, where there is no existing woodland**  
38 **and planted at least two Northern Red Oak trees of minimum 4 inch diameter at**

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1           **breast height for each existing tree that is 10 inches or greater diameter that is**  
2           **removed in the proposed hangar area, as indicated on the Proposed Hangar Site**  
3           **drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to**  
4           **establish native habitat and in consultation with an appropriate ecological**  
5           **consultant selected from a list provided by the Champaign County Soil and Water**  
6           **Conservation District.**

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

9           **To mitigate injury to the existing woodlands.**

10  
11          Mr. Hall stated that there are 11 acres of woodland which is west and north of the hangar therefore it  
12          would be advisable to meet as many of the LRMP policies as possible. He said that currently the  
13          condition only discusses establishing the new woodland and testimony indicates that a habitat is not  
14          created by just the planting of trees.

15  
16          Mr. Thorsland stated that the Board received the one-page plan from Mr. Stickers and a large packet of  
17          bulletins as a guideline for management. He asked if the Board would like to fold into the condition that  
18          the remaining woodland must be managed as per the documents provided by Mr. Stickers or is there  
19          something better or lesser that the Board would like inserted.

20  
21          Mr. Palmgren stated that the petitioner has shown that he has done some conservation and restoration  
22          work and will be doing some more in that area in the future.

23  
24          Mr. Thorsland stated that the Board could assume good intentions and that they will follow the plan that  
25          they have although this may be something that is difficult for staff to enforce.

26  
27          Mr. Palmgren stated perhaps the good intention text should be left out because the petitioner has already  
28          completed some of the stuff in some of the areas.

29  
30          Mr. Thorsland stated that some benefit will be gained if the petitioners have some sort of discussion with  
31          a professional and knowledgeable source. He said that the debate whether the Board adds a very broad  
32          condition about improving the woodland area or get very specific.

33  
34          Mr. Singleton proposed a second condition which establishes a \$2,000 budget for improving the existing  
35          woodland which is north and south of the proposed hangar area through a plan and in consultation with  
36          the CCSWCD.

37  
38          Mr. Thorsland asked the Board if they desired to make a very simple condition that the petitioner will

5/1/13

1 spend \$2,000 on improving the wooded area or does the Board want to be very specific or leave it all  
2 out.

3  
4 Mr. Passalacqua stated that the intentions are good and have been proven and nowhere in the revised  
5 draft are we going to answer a question that has any bearing on the reforestation. He said that evidence  
6 has been submitted and the intention is wonderful but it is not really pertinent to these questions.

7  
8 Mr. Thorsland asked Mr. Passalacqua if he would prefer that the condition just be implied.

9  
10 Mr. Passalacqua stated yes.

11  
12 Mr. Singleton stated that he would like to have it in there because the petitioner wants to make the  
13 property a better place.

14  
15 Mr. Thorsland stated that Mr. Jones' intentions have been documented.

16  
17 Mr. Courson stated that he thinks it is silly to spend \$2000 because he could give someone a bill for  
18 \$2000 to plant one tree and you can't quantify that you improved anything.

19  
20 Mr. Singleton stated that it would be done in consultation with the expert from the CCSWCD that Mr.  
21 Hall mentioned.

22  
23 Mr. Courson stated that the Board could insert all kinds of conditions but we will be taking up staff's  
24 time to go down to the property to count trees. He said that it is wasting valuable resources of the  
25 County to prove that you are planting trees and to make people feel good. He said that the Board needs  
26 to be realistic because we have a very limited staff which is very, very busy and they don't need to do a  
27 lot of stuff that isn't even pertinent. He said that if Mr. Jones wants to plant trees then he should plant  
28 as many trees as he wants but it isn't the County government's place to nick pick and tell him what kind  
29 of trees to plant or how many dollars he spends on planting them.

30  
31 Mr. Thorsland stated that the petitioner would like to have special condition N. included.

32  
33 Mr. Courson stated that he does not believe that it is necessary but if the petitioner wants it then it should  
34 be included.

35  
36 Mr. Hall read special condition N as follows:

37 **N. No Zoning Compliance Certificate shall be approved for the RLA until the**  
38 **petitioner has planted one acre of new woodland in a location on the subject**

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1           **property or the Petitioners adjacent property, where there is no existing woodland**  
2           **and planted at least two Northern Red Oak trees of minimum 4 inch diameter at**  
3           **breast height for each existing tree that is 10 inches or greater diameter that is**  
4           **removed in the proposed hangar area, as indicated on the Proposed Hangar Site**  
5           **drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to**  
6           **establish native habitat and in consultation with an appropriate ecological**  
7           **consultant selected from a list provided by the Champaign County Soil and Water**  
8           **Conservation District.**  
9

10           The above condition is necessary to ensure the following:  
11           **To mitigate injury to the existing woodlands.**  
12

13           Mr. Thorsland asked Mr. Singleton if he agreed to special condition.  
14

15           Mr. Singleton agreed.

16           Mr. Thorsland asked the petitioner and the Board if there was any additional information that they would  
17           like to have included in special condition N.  
18

19           Mr. Singleton stated no.  
20

21           Mr. Thorsland asked the Board if there was any additional information that they would like to have  
22           included in special condition N. and there was none.  
23

24           Mr. Thorsland entertained a motion to approve special condition N.  
25

26           **Mr. Palmgren moved, seconded by Mr. Passalacqua to approve the special conditions as read.**  
27           **The motion carried by voice vote with one opposing vote.**  
28

29           Mr. Thorsland stated that there is a very long list of Documents of Record and the new Supplemental  
30           Memorandum dated May 1, 2013, includes additional documents which needed to be added to that list.  
31           He noted that documents which have an asterisk next to the document number should only be added to  
32           the Documents of Record for Case 688-S-11.  
33

34           Mr. Hall stated that an IT expert should arrive shortly to achieve a display on the screen and given the  
35           complexity of this case he would recommend that the Board take a short break so that IT can complete  
36           their task.  
37

38           **The Board recessed at 9:25 p.m.**

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1 **The Board resumed at 9:40 p.m.**

2  
3 Mr. Thorsland stated that there is a new development regarding special condition N. He said that the  
4 petitioner, staff and the representative from CCSWCD discussed the special condition and determined  
5 that the condition can be modified to address Mr. Courson's concerns.  
6

7 Mr. Hall stated that he does not know if anyone on the Board is familiar with the IDNR Conservation  
8 Stewardship Program but it is a program whereby if a landowner enrolls a minimum of five acres of  
9 woodland they will receive a tax break and in order to keep the land enrolled in the program the  
10 landowner must continue to meet IDNR's standards for management of the area. He said that this  
11 program requires a forestry plan to be in place and that will take the responsibility off of the County  
12 Zoning Administrator to make sure that someone is doing a good enough job and the only thing that this  
13 staff will be involved in is to make sure that the property is enrolled in the program prior to the issuance  
14 of a Zoning Compliance Certificate and that it is kept enrolled every year thereafter. He said that if the  
15 program ends then that is complication that will have to be addressed. He proposed that the following  
16 be added to special condition N.: and the property shall be enrolled in the Illinois Department of Natural  
17 Resources Conservation Stewardship Program continuously thereafter or the Special Use Permit shall be  
18 void.  
19

20 Mr. Hall stated that Jonathon Manuel, Resource Conservationist with CCSWCD, is present tonight  
21 therefore if the Board has any questions regarding the IDNR Conservation Stewardship Program Mr.  
22 Manuel would be able to answer those questions. Mr. Hall stated that this addition to the special  
23 condition would take a lot of the burden off of staff and assures that the standards are being met. He said  
24 that he is not saying that the condition is perfect but it is a huge improvement over what the Board  
25 approved earlier.  
26

27 Mr. Thorsland stated that in order for the Board to ask Mr. Manuel any questions he would need to  
28 reopen the witness register.  
29

30 Mr. Hall stated that staff has discussed this matter with Mr. Singleton but it must be placed on record  
31 that Mr. Singleton is in agreement with the revision of special condition N.  
32

33 Mr. Singleton stated that is he is in agreement with the revision.

34 Mr. Hall read revised special condition N. as follows:

- 35 **N. No Zoning Compliance Certificate shall be approved for the RLA until the**  
36 **petitioner has planted one acre of new woodland in a location on the subject**  
37 **property or the Petitioners adjacent property, where there is no existing woodland**  
38 **and planted at least two Northern Red Oak trees of minimum 4 inch diameter at**

5/1/13

1           **breast height for each existing tree that is 10 inches or greater diameter that is**  
2           **removed in the proposed hangar area, as indicated on the Proposed Hangar Site**  
3           **drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to**  
4           **establish native habitat and in consultation with an appropriate ecological**  
5           **consultant selected from a list provided by the Champaign County Soil and Water**  
6           **Conservation District and the property shall be enrolled in the Illinois Department**  
7           **of Natural Resources Conservation Stewardship Program continuously thereafter**  
8           **or the Special Use Permit shall be void.**  
9

10           The above condition is necessary to ensure the following:  
11           **To mitigate injury to the existing woodlands.**  
12

13           Mr. Thorsland asked Mr. Singleton if he agreed to revise special condition N.  
14

15           Mr. Singleton stated that in many of the contracts that he writes there is a “cure” period which means  
16           that if you go over the deadline you would only receive a fine. He asked if for some reason the annual  
17           renewal time period slipped by would there be a possibility for a “cure” period. He asked if the text  
18           could indicate that if it shall be voidable if not cured or re-enrolled within 30 days of notice of non-  
19           enrollment.  
20

21           Mr. Hall stated that the Board is very much aware that we have a very long “cure” time with any of our  
22           enforcement activities. He said that 30 days would be very limiting.  
23

24           Mr. Singleton stated that staff has better things to worry about other than non-enrollment within 30 days  
25           therefore if the enrollment is proven then staff will be satisfied.  
26

27           Mr. Hall stated that first notice will be sent with two weeks to reply the final notice must receive a reply  
28           within one week.  
29

30           Mr. Singleton stated that there is a procedure in place therefore he is willing to accept the revised special  
31           condition N.  
32

33           Mr. Thorsland entertained a motion to accept revised special condition N. as previously read.  
34

35           **Mr. Palmgren moved, seconded by Mr. Passalacqua to accept revised special condition N. as**  
36           **previously read. The motion carried by voice vote.**  
37

38           **Findings of Fact for Case 688-S-11:**

5/1/13

1  
2 From the documents of record and the testimony and exhibits received at the public hearing for zoning  
3 case 688-S-11 held on June 16, 2011, August 11, 2011, November 10, 2011, May 31, 2012, August 16,  
4 2012, December 13, 2012, March 14, 2013, April 25, 2013, and May 1, 2013, the Zoning Board of  
5 Appeals of Champaign County finds that:  
6

- 7 **1. The requested Special Use Permit IS NOT necessary for the public convenience at**  
8 **this location because:**  
9

10 **Mr. Palmgren moved that the requested Special Use Permit IS necessary for the public**  
11 **convenience at this location.**  
12

13 Mr. Palmgren said that the petitioner has a history of using his aircraft for assisting local law  
14 enforcement officials at no cost. He said that two local Sheriffs and other local officials have submitted  
15 letters of support for the requested use. He said that the location of the proposed RLA is within three  
16 miles of the petitioner's office and is centralized to assist Champaign and Douglas County officials if  
17 required. He said that no change is needed at the location of the proposed airstrip other than the  
18 construction of a hangar. He said that agriculture will not be affected and the petitioner has a history of  
19 natural area conservation and restoration on this land. He said that the petitioner has agreed to the  
20 special conditions imposed to ensure safety.  
21

22 Mr. Thorsland stated that "necessary for the public convenience" was only touched upon by the first  
23 statement by Mr. Palmgren regarding the petitioner's history of using his aircraft for assisting local law  
24 enforcement at no cost and two local Sheriffs and other local officials have submitted letters of support  
25 for the requested use. He said that he does not know that the other comments by Mr. Palmgren are  
26 weighted to the need for the public convenience. He said that reasons why the special use is not  
27 necessary for the public convenience can be noted as well. He said that he would be inclined to strike all  
28 of Mr. Palmgren's comments other than the first one and modify it. He said that he does not believe that  
29 all of Mr. Palmgren's comments are relevant.  
30

31 Ms. Capel agreed with Mr. Thorsland.  
32

33 Mr. Passalacqua stated that during the finding for the map amendment the Board had to think about the  
34 special use as well. He asked if the same scenario exists during this finding only in reverse. He said that  
35 Mr. Palmgren indicated that no change is needed except for the construction of a hangar although there  
36 is certainly a change needed because the property requires the rezoning.  
37

38 Mr. Thorsland stated that he does not believe that is relevant to finding #1.

5/1/13

1  
2 Ms. Capel agreed. She said that Mr. Palmgren’s first two points should be combined to indicate a  
3 positive point but the rest of his comments do not address public convenience.

4  
5 Mr. Palmgren understood Mr. Thorsland and Ms. Capel’s concerns.

6  
7 Mr. Thorsland requested that staff combine Mr. Palmgren’s first two points and strike the others.

8  
9 Ms. Capel stated that 3.7 acres of land that was previously in agricultural production was taken out of  
10 production for the runway. She said that the petitioner currently has his aircraft in Douglas County  
11 which is only one-half hour from Villa Grove.

12  
13 Mr. Thorsland stated that the Board could indicate that the proposed RLA would benefit the petitioner  
14 but its benefit to the public is minimal. He said that public safety assistance is not required by the  
15 Special Use Permit, and the lack of an RLA would not significantly impact public safety.

16  
17 Mr. Thorsland entertained a motion to extend the meeting to 10:15 p.m.

18  
19 **Mr. Passalacqua moved, seconded by Ms. Capel to extend the meeting to 10:15 p.m.. The motion**  
20 **carried by voice vote.**

21  
22 Mr. Kass read the Board’s findings as follows:

- 23  
24 •**The petitioner has a history of providing assistance to local law enforcement. The Sheriffs**  
25 **Champaign and Douglas Counties along with other local officials have submitted letters of**  
26 **support.**  
27 •**Approximately 3.7 acres of land that was previously in agricultural production was taken**  
28 **out of production for the runway.**  
29 •**The benefit to the public of the proposed Special Use Permit for an RLA is minimal**  
30 •**The public safety assistance is not required by the Special Use Permit, and the lack of the**  
31 **RLA would not significantly impact public safety.**

32  
33 **Ms. Capel seconded the motion.**

34  
35 Mr. Thorsland requested a roll call vote. He noted that a “yes” vote is an indication that the Special Use  
36 Permit IS necessary for the public convenience at this location and a “no” vote is in an indication that the  
37 Special Use Permit IS NOT necessary for the public convenience at this location.

38

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1 The roll was called:

2

3

<b>Capel-no</b>	<b>Courson-no</b>	<b>Palmgren-yes</b>
<b>Passalacqua-no</b>	<b>Thorsland-no</b>	<b>Miller-absent</b>

4

5

6

**2. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be operated so that it WILL be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:**

7

8

9

10

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

11

12

13

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

14

15

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

16

17

Mr. Passalacqua stated that emergency services availability is ADEQUATE.

18

19

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

20

21

22

Mr. Palmgren stated that the Special Use will be designed to CONFORM to all relevant County ordinances and codes.

23

24

25

**d. The Special Use WILL NOT be compatible with adjacent uses because:**

26

27

Mr. Passalacqua stated that the Board had this issue during the last case because it is compatible with the AG-1 District and incompatible with the CR District.

28

29

30

Mr. Thorsland stated that the property is still zoned CR because the map amendment case was denied therefore WILL NOT should be indicated.

31

32

33

Ms. Capel stated that it is also not compatible with the residential use which is adjacent and that it is 142 from that use.

34

35

36

Mr. Kass read the Board's findings as follows:

37

38

- **It is located in the CR District.**

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38

- **It is 142 feet from a residential use under other ownership.**

**Mr. Palmgren moved, seconded by Mr. Courson that the Special Use WILL be compatible with adjacent uses.**

Mr. Palmgren stated that special conditions to ensure safety and consideration of close neighbors have been accepted by the petitioner.

Mr. Kass read the following:

- **The Special Conditions have been accepted by the petitioner to mitigate affects on neighbors.**

Mr. Palmgren asked if an acceptable distance from the airstrip to the closest residential home was determined.

Mr. Thorsland stated that a number was never offered.

Mr. Thorsland requested a roll call vote. Mr. Thorsland stated that a “yes” vote is an indication that the Special Use WILL be compatible with adjacent uses and a “no” vote is an indication that the Special Use WILL NOT be compatible with adjacent uses.

Mr. Thorsland requested a roll call vote:

<b>Courson-no</b>	<b>Palmgren-yes</b>	<b>Passalacqua-no</b>
<b>Capel-no</b>	<b>Thorsland-no</b>	<b>Miller-absent</b>

- e. **Surface and subsurface drainage will be ADEQUATE.**

Mr. Passalacqua moved that surface and subsurface drainage will be ADEQUATE.

Ms. Capel stated that the surface and subsurface drainage will be INADEQUATE because there is evidence that the site floods and it becomes unusable as a landing strip when it is wet and flooded.

Mr. Passalacqua stated that he is looking at this as a change to drainage based on the special use.

Mr. Thorsland stated that the special use is the RLA.

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1  
2 Mr. Passalacqua stated that whether the RLA is there or not it won't change or impact drainage. He said that  
3 the site may be poorly drained but it isn't due to the RLA.

4  
5 Ms. Capel stated that the existing drainage is inadequate.

6  
7 Mr. Thorsland entertained a motion to extend the meeting to 10:30 p.m.

8  
9 **Ms. Capel moved, seconded by Mr. Palmgren to extend the meeting to 10:30 p.m. The motion carried**  
10 **by voice vote.**

11  
12 Mr. Palmgren stated that there are areas of the landing strip which are of soil types which hold water and it  
13 appears that those areas are closer to the river which will not have any aircraft operations. He said that this  
14 is a grass airstrip and, by personal experience, you do not fly upon wet grass airstrips after a rain and that is  
15 so that you can keep the condition of the airstrip.

16  
17 Mr. Thorsland requested that Mr. Palmgren stay with the question in hand which is whether or not the  
18 surface and subsurface drainage will be ADEQUATE or INADEQUATE.

19  
20 Mr. Palmgren stated that he believes that it is ADEQUATE.

21  
22 Mr. Thorsland stated that he agrees that for the special use the surface and subsurface drainage is  
23 INADEQUATE.

24  
25 Mr. Passalacqua stated that every grass landing strip is subject to that today and he does not believe that the  
26 special use created an inadequate drainage problem.

27  
28 Mr. Thorsland stated that for the sake of moving forward he will agree that it is ADEQUATE and asked Ms.  
29 Capel if she also agreed.

30  
31 Ms. Capel indicated yes.

32  
33 Mr. Thorsland asked the Board if they agreed that surface and subsurface drainage will be ADEQUATE and  
34 the Board agreed.

35  
36 **f. Public safety will be ADEQUATE.**

37  
38 Mr. Thorsland stated that public safety will be INADEQUATE because the distance to the closest house

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1 under different ownership is 142 feet.

2

3 **Mr. Palmgren moved that public safety will be ADEQUATE.**

4

5 Mr. Palmgren stated that there are two fire protection districts under contract and no response has been  
6 received from either district.

7

8 **Mr. Courson seconded the motion.**

9

10 Ms. Capel stated that she agreed with Mr. Thorsland in that the public safety will be INADEQUATE  
11 because the distance to the closest house under different ownership is 142 feet.

12

13 Mr. Thorsland requested a roll call vote. He stated that a “yes” vote is an indication that public safety is  
14 ADEQUATE and a “no” vote is an indication that public safety is INADEQUATE.

15

16 The roll was called:

17

18	<b>Palmgren-yes</b>	<b>Passalacqua-yes</b>	<b>Capel-no</b>
19	<b>Courson-yes</b>	<b>Thorsland-no</b>	<b>Miller-absent</b>

20

21 **g. The provisions for parking will be ADEQUATE.**

22

23 Mr. Thorsland stated that the provisions for parking will be ADEQUATE.

24

25 Mr. Hall noted that the required criteria were whether it will or will not be injurious to the district. He said  
26 that the items that the Board just reviewed are the standard items that are intended to be a guide and none of  
27 the items discussed all of the aspects of injury to the CR District and it seemed that there are some things  
28 that are pertinent to the District which are not included in these items.

29

30 Mr. Thorsland stated that the Board determined in Finding #2.d. that the special use will not be compatible  
31 with adjacent uses and listed points as to why it was not compatible. He said that the Board can add more if  
32 necessary.

33

34 Mr. Hall stated no.

35

36 Mr. Thorsland entertained a motion for an overall finding for Finding #2.

37

38 **Ms. Capel moved, seconded by Mr. Passalacqua that the requested Special Use Permit, subject to the**

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1 **Special Conditions imposed herein, is so designed, located, and proposed to be operated so that it**  
2 **WILL be injurious to the district in which it shall be located or otherwise detrimental to the public**  
3 **health, safety, and welfare.**

4  
5 Mr. Thorsland requested a roll call vote.

6  
7 The roll was called:

8			
9	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
10	<b>Miller-absent</b>	<b>Palmgren-no</b>	<b>Thorsland-yes</b>
11			

12 **3a. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
13 **IMPOSED HEREIN DOES NOT conform to the applicable regulations and standards**  
14 **of the DISTRICT in which it is located based on the recommendation of denial of**  
15 **related Case 687-AM-11.**

16  
17 **Ms. Capel moved, seconded by Mr. Passalacqua that the requested Special Use Permit, subject to the**  
18 **special conditions imposed herein, DOES NOT conform to the applicable regulations and standards of**  
19 **the DISTRICT in which it is located.**

20  
21 Mr. Palmgren stated that he disagrees with Ms. Capel and believes that the requested Special Use Permit,  
22 subject to the special conditions imposed herein, DOES conform to the applicable regulations and standards  
23 of the DISTRICT in which it is located based on the recommendation of denial of related Case 687-AM-11.

24  
25 Ms. Capel stated that the special use is still located in CR therefore it doesn't conform because the special  
26 use is not allowed in CR. She said that this is a technical question.

27  
28 Mr. Passalacqua stated that if ELUC decides that the rezoning should be approved then the ZBA needs an  
29 answer to this question.

30  
31 Mr. Thorsland stated that currently the property is zoned CR therefore the special use is not allowed.

32  
33 Mr. Palmgren stated that the finding is designed in as a negative if you are looking at recommendation for  
34 687-AM-11.

35  
36 Ms. Capel stated that the rezoning was denied by this Board but we have to use this particular system  
37 because that is what was in place when the application was made.

38

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1 Mr. Hall stated that the only way to adequately respond is to specify the basis of the Board’s  
 2 recommendation and this Board has recommended denial of the map amendment. He said that the Board  
 3 could insert the following in each finding: based on the recommendation of denial of related Case 687-AM-  
 4 11. He said that in adding the text the Board should include it the following Findings: 3b. and 4. He said  
 5 that in adding this text the Board has eliminated the questions and indicate that the Board based its  
 6 evaluation on the fact that the subject property is not zoned AG-1 but CR. He said that the Board has  
 7 answered questions like this before on a special use permit when the map amendment was approved and the  
 8 Board did not get his specific but it is his recommendation that in this instance the Board should be specific.  
 9

10 Mr. Thorsland stated that he agrees with Mr. Hall. He said that the Special Use Permit DOES NOT conform  
 11 because of the recommended denial of Case 687-AM-11 which means that the property is still zoned CR and  
 12 an RLA is not allowed regardless of the conditions.

13  
 14 Mr. Thorsland asked Mr. Palmgren if he agreed.

15  
 16 Mr. Palmgren stated that he still disagrees.

17  
 18 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use Permit DOES NOT conform and  
 19 a “no” vote is an indication that the Special Use Permit DOES conform.

20  
 21 Mr. Thorsland requested a roll call vote.

22  
 23 The roll was called:

24			
25	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Palmgren-no</b>
26	<b>Passalacqua-yes</b>	<b>Thorsland-yes</b>	<b>Miller-absent</b>
27			

28 Mr. Courson asked staff if the County Board allows the rezoning could this case be kicked back to the ZBA.  
 29

30 Mr. Hall stated that the County Board should not allow it to be changed without remanding the map  
 31 amendment back to the ZBA because the recommendation is always to follow the recommendation of the  
 32 ZBA or remand it. He said that in this case if the map amendment is remanded and this case has already  
 33 been determined then this case would have to be reinvigorated and the petitioner could do that because the  
 34 map amendment was approved and the conditions have changed therefore the special use permit can now be  
 35 approved. He said that it will not be the most convenient thing for the petitioner but it does put the County  
 36 Board on notice of what the ZBA’s decision was on the Special Use Permit.  
 37

38 **Mr. Courson moved, seconded by Ms. Capel to extend the meeting to 10:45 p.m. The motion carried**

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1 by voice vote.

2

3 **3b. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
4 **IMPOSED HEREIN DOES NOT preserve the essential character of the DISTRICT in**  
5 **which it is located based on the recommendation of denial of related Case 687-AM-11**  
6 **because:**

7 **a. The Special Use will be designed to NOT CONFORM to all relevant County**  
8 **ordinances and codes.**

9 **Ms. Capel moved that the Special Use will be designed to NOT CONFORM to all relevant County**  
10 **ordinances and codes.**

11 **b. The Special Use WILL NOT be compatible with adjacent uses.**

12

13 **Mr. Thorsland moved that the Special Use WILL NOT be compatible with adjacent uses.**

14

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

16 **Ms. Capel moved that public safety will be ADEQUATE.**

17

18 **Mr. Palmgren stated that he agrees with the determination in 3.b.(c) but disagrees with the determinations in**  
19 **3.b.(a) and 3.b.(b).**

20

21 **Mr. Thorsland stated that since there is disagreement the Board must vote on each item.**

22

23 **Mr. Passalacqua noted that the Board has already voted on these exact items.**

24

25 **Mr. Thorsland requested a second for the motion for Finding # 3.b.(a).**

26

27 **Mr. Passalacqua seconded the motion for Finding #3.b.(a).**

28

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1 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use will be designed to NOT  
2 CONFORM to all relevant County ordinances and codes and a “no” vote is an indication that is  
3 CONFORMS.

4

5 Mr. Thorsland requested a roll call vote.

6

7 The roll was called:

8

9 Courson-yes Palmgren-no Passalacqua-yes

10 Miller-absent Capel-yes Thorsland-yes

11

12 Mr. Thorsland requested a second for the motion for Finding #3.b.(b).

13

14 Mr. Courson seconded the motion for Finding #3.b.(b).

15

16 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use WILL NOT be compatible with  
17 adjacent uses and a “no” vote is an indication that it WILL.

18

19 Mr. Thorsland requested a roll call vote.

20

21 The roll was called:

22

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1                   **Palmgren-no**           **Passalacqua-yes**   **Capel-yes**  
2                   **Courson-yes**           **Miller-absent**      **Thorsland-yes**

3

4 Mr. Thorsland stated that the Board’s findings indicate that the requested Special Use Permit, subject to the  
5 special conditions imposed herein, DOES NOT preserve the essential character of the DISTRICT in which it  
6 is located.

7

8 Mr. Hall asked the Board if they would like to insert the following: based on the recommendation of denial  
9 of related Case 687-AM-11.

10

11 The Board agreed.

12

13 Mr. Thorsland asked Mr. Palmgren if he agreed to the overall recommendation for Finding #3.b.

14

15 Mr. Palmgren indicated that he did not agree to the overall recommendation for Finding #3.b.

16

17 Mr. Thorsland entertained a motion for Finding #3.b.

18

19 **Mr. Courson moved, seconded by Ms. Capel that the requested Special Use Permit SUBJECT TO**  
20 **THE SPECIAL CONDITIONS IMPOSED HEREIN DOES NOT preserve the essential character of**  
21 **the DISTRICT in which it is located based on the recommendation of denial of related Case 687-AM-**  
22 **11.**

23

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1 Mr. Thorsland requested a roll call vote.

2

3 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use Permit, subject to the Special  
4 Condition imposed herein DOES NOT preserve the essential character of the DISTRICT in which is it  
5 located based on the recommendation of denial of related Case 687-AM-11 and a “no” vote is an indication  
6 that it DOES.

7 The roll was called:

8

9	<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Palmgren-no</b>
10	<b>Courson-yes</b>	<b>Thorsland-yes</b>	<b>Miller-absent</b>

11

12 **4. The requested Special Use Permit SUBJECT TO THE SPECIAL CONDITIONS**  
 13 **IMPOSED HEREIN IS NOT in harmony with the general purpose and intent of the**  
 14 **Ordinance based on the recommendation of denial of related Case 687-AM-11 because:**  
 15 **a. The Special Use is not authorized in the District.**

16  
17 The Board agreed.

18  
 19 **b. The requested Special Use Permit IS NOT necessary for the public convenience**  
 20 **at this location.**

21 Mr. Thorsland stated that he would recommend that the Special Use Permit IS NOT necessary for the public  
22 convenience at this location.

23  
24 Mr. Palmgren disagreed.

25  
26 Mr. Thorsland entertained a motion for Finding #4.b.

27  
28 **Ms. Capel moved, seconded by Mr. Courson that the requested Special Use IS NOT necessary for the**  
29 **public convenience at this location.**

30  
31 Mr. Thorsland requested a roll call vote.

5/1/13

1  
2 Mr. Thorsland noted that a “yes” vote is an indication that the Special Use IS NOT necessary and a “no” vote  
3 is an indication that it “IS” necessary.

4  
5 The roll was called:

6			
7	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Palmgren-no</b>
8	<b>Passalacqua-yes</b>	<b>Thorsland-yes</b>	<b>Miller-absent</b>
9			

10 **c. The requested Special Use Permit SUBJECT TO THE SPECIAL**  
11 **CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be**  
12 **operated so that it WILL be injurious to the district in which it shall be located**  
13 **or otherwise detrimental to the public health, safety, and welfare.**

14  
15 **Mr. Courson moved, seconded by Ms. Capel that the requested Special Use Permit SUBJECT TO**  
16 **THE SPECIAL CONDITIONS IMPOSED HEREIN is so designed, located, and proposed to be**  
17 **operated so that it WILL be injurious to the district in which it shall be located or otherwise**  
18 **detrimental to the public health, safety, and welfare.**

19  
20 Mr. Palmgren disagreed.

21  
22 Mr. Thorsland requested a roll call vote.

23  
24 Mr. Thorsland noted that a “yes” vote is an indication that the Special Use WILL be injurious and a “no”  
25 vote is an indication that it WILL NOT be injurious.

26  
27 The roll was called:

28			
29	<b>Courson-yes</b>	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>
30	<b>Capel-yes</b>	<b>Miller-absent</b>	<b>Thorsland-yes</b>
31			

32 **d. The requested Special Use Permit SUBJECT TO THE SPECIAL**  
33 **CONDITIONS IMPOSED HEREIN DOES NOT preserve the essential**  
34 **character of the DISTRICT in which it is located.**

35  
36 **Ms. Capel moved, seconded by Mr. Courson that the requested Special Use Permit SUBJECT TO**

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1 **THE SPECIAL CONDITIONS IMPOSED HEREIN DOES NOT preserve the essential character of**  
2 **the DISTRICT in which it is located.**

3

4 Mr. Palmgren disagreed.

5

6 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use DOES NOT preserve the  
7 essential character and a “no” vote is an indication that it DOES.

8

9 Mr. Thorsland requested a roll call vote.

10

11 The roll was called:

12

13	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>	<b>Capel-yes</b>
14	<b>Courson-yes</b>	<b>Miller-absent</b>	<b>Thorsland-yes</b>

15

16 Mr. Thorsland stated that due to the Board’s findings it has been determined that the Special Use Permit,  
17 subject to the Special Conditions imposed herein, IS NOT in harmony with the general purpose and intent of  
18 the Ordinance based on the recommendation of denial of related Case 687-AM-11.

19

20 Mr. Palmgren disagreed.

21

22 Mr. Thorsland stated that a “yes” vote is an indication that the Special Use IS NOT in harmony with the  
23 general purpose and intent of the Ordinance and a “no” vote is an indication that is it IS.

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31

The roll was called:

<b>Passalacqua-yes</b>	<b>Capel-yes</b>	<b>Courson-yes</b>
<b>Palmgren-no</b>	<b>Miller-absent</b>	<b>Thorsland-yes</b>

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

**6. Regarding necessary waivers of standard conditions:**

- A. Regarding the requested waiver of the standard condition in Section 6.1.3 for an RLA that requires compliance with Footnote 11 of Section 5.3 regarding maintenance of vegetation that obstructs the west approach slope of the proposed RESTRICTED LANDING AREA:**
  - (1) The waiver SUBJECT TO THE PROPOSED SPECIAL CONDITION IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Ms. Capel stated that the Board is waiving the condition that the trees shall be kept out of west approach slop of the proposed RLA. She said that this is not the ZBA’s condition but IDOT’s condition.

Mr. Hall stated that this is a condition out of the ZBA’s own Zoning Ordinance and waiving it means that the ZBA does not want the trees to be trimmed for the RLA.

**Ms. Capel moved that the waiver, subject to the proposed special condition IS NOT in accordance with the general purpose and intent of the Zoning Ordinance and WILL be injurious to the neighborhood or the public health, safety and welfare.**

Mr. Passalacqua stated that not trimming the trees is not going to be injurious but is a benefit.

Ms. Capel stated that it is not a public safety benefit but will be a danger those who will be flying in and

5/1/13

1 out of the airstrip.

2  
3 Mr. Hall stated no, because the Board already has a condition that it has to be used in conjunction with  
4 the IDOT certification and the Board is leaving that decision up to IDOT.

5  
6 Ms. Capel stated that the ZBA will approve the waiver and leave it up to IDOT.

7  
8 Mr. Hall stated that this is how it was structured but he wants to make sure that the ZBA understands  
9 and agrees with it.

10  
11 **Ms. Capel amended her motion as follows: the waiver, subject to the proposed special condition IS**  
12 **in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be**  
13 **injurious to the neighborhood or the public health, safety and welfare.**

14  
15 Mr. Palmgren and the Board agreed.

16  
17 **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
18 **or structure involved, which are not applicable to other similarly situated**  
19 **land and structures elsewhere in the same district.**

20  
21 Mr. Passalacqua asked staff if when if this finding discusses “the same district,” it is referring to the CR  
22 District.

23  
24 Mr. Thorsland stated yes, therefore they DO exist.

25  
26 Ms. Capel stated that the situations that exist would be applicable to any site that someone wants to put  
27 an RLA on in CR.

28  
29 Mr. Hall stated that anywhere there is an approach area going out over a wooded area. He said that this  
30 is the trickiest part of this determination and it is unfortunate that it is the last thing that the Board is  
31 doing but it is unavoidable.

32  
33 Ms. Capel stated that the response to this finding would be that special conditions and circumstances DO  
34 exist.

35  
36 Mr. Thorsland asked Mr. Palmgren if he agreed.

37  
38 Mr. Palmgren and the Board agreed.

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1  
2           **(3) Practical difficulties or hardships created by carrying out the strict letter of**  
3           **the regulations sought to be varied WILL prevent reasonable or otherwise**  
4           **permitted use of the land or structure or construction.**  
5

6 Mr. Passalacqua stated that practical difficulties or hardships created by carrying out the strict letter of  
7 the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
8 structure or construction but it will not prevent any reasonable use of the CR District.  
9

10 Mr. Thorsland stated that the Board could add the following: based on the recommendation of denial of  
11 related Case 687-AM-11.  
12

13 Mr. Passalacqua asked if this property was not located in CR the question would not be here.  
14

15 Ms. Capel stated no, it is just difficult to answer because it is in CR.  
16

17 Mr. Palmgren agreed.  
18

19 Mr. Thorsland stated that the response to this finding would be WILL because of the recommended  
20 denial of Case 687-AM-11 not allowing the RLA.  
21

22 Mr. Courson asked if this question would still be posed if the property was in AG-1.  
23

24 Ms. Capel stated it is not otherwise permitted use of the land because it is not permitted.  
25

26 Mr. Hall stated that because of the way that this is worded, the Board has been tending so far is that the  
27 ZBA would deny the waiver.  
28

29 Ms. Capel asked staff what the finding needs to be to pass the waiver.  
30

31 Mr. Hall stated that it has to be affirmative.  
32

33 Ms. Capel stated that it has to be WILL but it can't be because it is not permitted.  
34

35 Mr. Thorsland stated that this is waiver of the maintenance of the vegetation requirement in the  
36 Ordinance.  
37

38 Mr. Courson stated that someone would not be asking for a special use permit for an RLA in the CR

5/1/13

1 District because it isn't permitted therefore there would be no need for the waiver.

2

3 Mr. Thorsland entertained a motion to extend the meeting to 11:00 p.m.

4

5 **Mr. Courson moved, seconded by Mr. Palmgren to extend the meeting to 11:00 p.m. The motion**  
6 **carried by voice vote.**

7

8 Mr. Thorsland stated that he believes that the Finding 6.A.(3) should indicate WILL prevent and  
9 otherwise permitted should be stricken and requested use of the land or structure or construction should  
10 be added.

11

12 Mr. Courson stated that the ZBA cannot take out language that is included in the Ordinance.

13

14 Mr. Hall stated that this is like a variance and the Board must have the same findings that are included in  
15 a variance and that is how Finding #6.A.(3) is written. He said that he agrees that this is very confusing.

16

17 Mr. Thorsland stated that Mr. Courson's argument is that if you look at it as CR and ignore the request  
18 for an RLA the practical difficulties or hardships created by carrying out the strict letter of the  
19 regulations sought to be varied WILL NOT prevent reasonable or otherwise permitted use of the land or  
20 structure or construction because in CR you don't have to cut the trees.

21

22 Ms. Capel stated no, in CR you cannot have an RLA.

23

24 Mr. Thorsland stated yes, but this is a condition about cutting of the trees.

25

26 Mr. Passalacqua stated that it will not prevent permitted use.

27

28 Mr. Hall stated that the determinations on Findings 6.A(1) and (2) assumed that there was an RLA.

29

30 Mr. Passalacqua stated that they only took in to account that they were CR.

31

32 Mr. Hall stated that the Board should follow the logic, even if they don't make sense, the waiver is really  
33 secondary to the Special Use Permit therefore whatever happens to the waiver is only important if there  
34 is a Special Use Permit.

35

36 Ms. Capel stated that the overall logic is that the Board is basing this on the fact that the Board  
37 recommended denial of the map amendment so on that basis the findings for 6.A(1), (2) and (3) have to  
38 be negative.

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1  
2 Mr. Hall stated only if this is logic that the Board agrees to.

3  
4 Mr. Thorsland stated that Mr. Hall’s point is that the waiver of this condition implies that this is granted  
5 and the Board is waiving the condition regarding vegetation if the RLA is there. He said that if the  
6 Board carried out the strict letter of the regulation the Board would not be waiving it therefore it would  
7 prevent reasonable or otherwise permitted use of the land or structure or construction considering that  
8 this is an application for a permitted use in AG-1 and this makes the assumption that the waiver would  
9 be needed if the Special Use was granted. He said that the determinations in Findings #6.A(1) and  
10 6.A(2) were affirmative. He said that if the Special Use is denied the waiver is denied as well.

11  
12 **Mr. Courson moved, seconded Mr. Passalacqua that the determination for Finding #6.A.(3)**  
13 **should be indicated as WILL. The motion carried by voice vote.**

14  
15 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
16 **NOT result from actions of the applicant.**

17  
18 Ms. Capel stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT  
19 result from actions of the applicant.

20  
21 The Board agreed.

22  
23 **(5) The requested waiver SUBJECT TO THE PROPOSED SPECIAL**  
24 **CONDITION IS the minimum variation that will make possible the**  
25 **reasonable use of the land/structure.**

26  
27 Mr. Courson stated that the requested waiver SUBJECT TO THE PROPOSED SPECIAL CONDITION  
28 IS the minimum variation that will make possible the reasonable use of the land/structure.

29  
30 The Board agreed.

31  
32 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**  
33 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR**  
34 **THE PARTICULAR PURPOSES DESCRIBED BELOW:**

35  
36 **A. The restricted Landing Area must be used in compliance with the approved**  
37 **Certificate of Approval for operation from the Illinois Department of**  
38 **Transportation Division of Aeronautics.**

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The above condition is necessary to ensure that:  
**The proposed RLA is operated so as to ensure public safety.**

- B. The petitioner shall apply for a Change of Use Permit within 30 days of the approval of the special use permit or the proposed rezoning in related case 687-AM-11, whichever occurs last.**

The above condition is necessary to ensure that:  
**Compliance with the Zoning Ordinance within a reasonable time frame.**

- C. The use of the RLA by fixed wing aircraft for non-public safety assistance shall be no more than three take offs and three landings in any 28 day period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure that the following:  
**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- D. The use of the RLA for personal helicopter, non-public safety assistance use shall be limited to no more than two take offs and two landings in any 28 day period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure the following:  
**That the use of the helicopter(s) for personal use does not exceed the amount of use authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

- E. No “Fly-In Event” (more than 6 planes) as described in 92 Ill. Adm. Code 14.760 shall occur on the subject property.**

The above condition is necessary to ensure the following:  
**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- F. The petitioner shall maintain at all times when take-offs and/or landings may occur at the RLA, public liability and property damage insurance with a minimum coverage of \$5 million dollars and a copy of a valid certificate of**

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**insurance shall be on file with the Zoning Administrator when any take-offs or landings do occur.**

The above condition is necessary to ensure the following:

**That the petitioner has adequate insurance to compensate anyone affected by injury or property damage resulting from the operation of the RLA in such close proximity to a dwelling under other ownership.**

**G. No pre-operation run up procedures shall be conducted east of the proposed hangar location.**

The above condition is necessary to ensure the following:

**To prevent nuisance conditions resulting from the RLA.**

**H. All landing traffic patterns shall be flown exclusively south of the RLA to maximize the distance between the aircraft landing at the RLA and the neighboring residential properties to the north.**

The above condition is necessary to ensure the following:

**To minimize nuisance conditions resulting from the RLA.**

**I. The Special Use Permit shall not be transferrable to future owners of the subject property.**

The above condition is necessary to ensure the following:

**That any future owner(s) of the subject property must also receive the proper approvals for an RLA.**

**J. All aircraft (operable and inoperable) and aircraft parts must be stored in a fully enclosed building/hangar at all times.**

The above condition is necessary to ensure the following:

**That nuisance problems do not arise as a result of the establishment of the RLA.**

**K. The only aircraft that may be stored at the RLA and on the owner's adjacent property shall be limited to the owner's aircraft and the aircraft owned by the parents, children, or siblings of the owner which in no case shall exceed eight aircraft at any given time.**

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The above condition is necessary to ensure the following:

**That the proposed RLA only be used for aircraft of the owner and the immediate family.**

- L. This RLA Special Use Permit does not authorize landscape or tree maintenance in the wooded area in the CR District on the west side of the East Branch of the Embarrass River and any tree trimming or removal of trees in that area pursuant to the RLA shall cause this Special Use Permit to become void.**

The above condition is necessary to ensure the following:

**To ensure that the environmental quality of the wooded area is not damaged for the purpose of protecting the RLA certification by IDOT.**

- M. No take-offs or landings shall occur at anytime other than during daylight hours except as required for public safety assistance which may occur anytime necessary.**

The above condition is necessary to ensure the following:

**That the use of the RLA does not occur at nighttime unless required by public safety assistance.**

- N. No Zoning Compliance Certificate shall be approved for the RLA until the petitioner has planted one acre of new woodland in a location on the subject property or the Petitioners adjacent property, where there is no existing woodland and planted at least two Northern Red Oak trees of minimum 4 inch diameter at breast height for each existing tree that is 10 inches or greater diameter that is removed in the proposed hangar area, as indicated on the Proposed Hangar Site drawing submitted by Engineer Wayne Ward on April 25, 2013, all intended to establish native habitat and in consultation with an appropriate ecological consultant selected from a list provided by the Champaign County Soil and Water Conservation District and the property shall be enrolled in the Illinois Department of Natural Resources Conservation Stewardship Program continuously thereafter or the Special Use Permit shall be void.**

The above condition is necessary to ensure the following:

**To mitigate injury to the existing woodlands.**

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1  
 2 Mr. Thorsland informed the petitioners that a full Board is not present at this time due to absence of one  
 3 Board member and one vacant seat therefore it is at their discretion whether to move to a final determination  
 4 with the present Board or continue the case until the vacant seat is filled.

5  
 6 Mr. Singleton requested that the present Board proceed to the Final Determination.

7  
 8 Mr. Thorsland entertained a motion to adopt the Summary of Evidence, Documents of Record and Finding  
 9 of Fact as amended.

10  
 11 **Mr. Palmgren moved, seconded by Ms. Capel to adopt the Summary of Evidence, Documents of**  
 12 **Record and Finding of Fact as amended. The motion carried by voice vote.**

13  
 14 Mr. Thorsland entertained a motion to move the Final Determination for Case 688-S-11.

15  
 16 **Mr. Palmgren moved, seconded by Mr. Courson to move to the Final Determination for Case 688-S-**  
 17 **11. The motion carried by voice vote.**

18  
 19  
 20 **FINAL DETERMINATION FOR Case 688-S-11:**

21  
 22 **Mr. Courson moved, seconded by Ms. Capel that the Champaign County Zoning Board of Appeals**  
 23 **finds that, based upon the application, testimony, and other evidence received in this case, that the**  
 24 **requirements of Section 9.1.11B. for approval HAVE NOT been met, and pursuant to the authority**  
 25 **granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

26  
 27 **The Special Use requested in Case 688-S-11 is hereby DENIED to the petitioners Philip W. and**  
 28 **Sarabeth F. Jones to authorize the construction and use of a “Restricted Landing Area” for**  
 29 **use by airplanes consistent with Illinois Department of Transportation regulations and**  
 30 **helicopter use for public safety assistance as needed and with limited helicopter use for**  
 31 **personal use as a Special Use; and with a waiver of a Special Use standard condition required**  
 32 **by Section 6.1 that requires compliance with Footnote 11 of Section 5.3. and subject to the**  
 33 **approved special conditions:**

- 34 **A. The restricted Landing Area must be used in compliance with the approved**  
 35 **Certificate of Approval for operation from the Illinois Department of**  
 36 **Transportation Division of Aeronautics.**

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The above condition is necessary to ensure that:  
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- B. The petitioner shall apply for a Change of Use Permit within 30 days of the approval of the special use permit or the proposed rezoning in related case 687-AM-11, whichever occurs last.**

The above condition is necessary to ensure that:  
**Compliance with the Zoning Ordinance within a reasonable time frame.**

- C. The use of the RLA by fixed wing aircraft for non-public safety assistance shall be no more than three take offs and three landings in any 28 day period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure that the following:  
**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- D. The use of the RLA for personal helicopter, non-public safety assistance use shall be limited to no more than two take offs and two landings in any 28 day period whether that use is by the petitioner or an invited guest.**

The above condition is necessary to ensure the following:  
**That the use of the helicopter(s) for personal use does not exceed the amount of use authorized for fixed wing aircraft given that no Heliport-RLA has been requested.**

- E. No “Fly-In Event” (more than 6 planes) as described in 92 Ill. Adm. Code 14.760 shall occur on the subject property.**

The above condition is necessary to ensure the following:  
**That the use of the RLA does not become excessive in such close proximity to a dwelling under other ownership.**

- F. The petitioner shall maintain at all times when take-offs and/or landings may occur at the RLA, public liability and property damage insurance with a minimum coverage of \$5 million dollars and a copy of a valid certificate of insurance shall be on file with the Zoning Administrator when any take-offs or**

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**landings do occur.**

The above condition is necessary to ensure the following:

**That the petitioner has adequate insurance to compensate anyone affected by injury or property damage resulting from the operation of the RLA in such close proximity to a dwelling under other ownership.**

**G. No pre-operation run up procedures shall be conducted east of the proposed hangar location.**

The above condition is necessary to ensure the following:

**To prevent nuisance conditions resulting from the RLA.**

**H. All landing traffic patterns shall be flown exclusively south of the RLA to maximize the distance between the aircraft landing at the RLA and the neighboring residential properties to the north.**

The above condition is necessary to ensure the following:

**To minimize nuisance conditions resulting from the RLA.**

**I. The Special Use Permit shall not be transferrable to future owners of the subject property.**

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The above condition is necessary to ensure the following:

**To mitigate injury to the existing woodlands.**

5/1/13

1 Mr. Thorsland requested a roll call vote.

2

3 **The roll was called:**

4

5	<b>Miller-absent</b>	<b>Palmgren-no</b>	<b>Passalacqua-yes</b>
6	<b>Capel-yes</b>	<b>Courson-yes</b>	<b>Thorsland-yes</b>

7

8

9 Mr. Hall informed the petitioner that the Board has determined a denial for Case 688-S-11. He said that  
10 staff will inform the Environment and Land Use Committee of this decision at its committee meeting  
11 next Thursday.

12

13 **6. New Public Hearings**

14

15 None

16

17 **7. Staff Report**

18

19 None

20

21 **8. Other Business**

22 **A. Review of Docket**

23

24 Mr. Kass stated that the docket has not changed since the April 25<sup>th</sup> meeting.

25

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

27

28 None

29

30 **10. Adjournment**

31

32 Mr. Thorsland entertained a motion to adjourn the meeting.

33

34 **Mr. Palmgren moved, seconded by Mr. Courson to adjourn the meeting. The motion carried by voice**  
35 **vote.**

36

ZBA

*AS APPROVED JULY 25, 2013*

5/1/13

1 The meeting adjourned at 10:55 p.m.

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6 Respectfully submitted

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11 Secretary of Zoning Board of Appeals

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*DRAFT    SUBJECT TO APPROVAL    DRAFT            ZBA    //*

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