

1 STATE OF ILLINOIS)
2 COUNTY OF JO DAVIESS)SS

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5 In the Matter of the Petition
6 of
7 Text Amendment, JoDavieSS County Zoning Ordinance
8 Jo DavieSS County, Illinois

9

10 Testimony of Witnesses
11 Produced, Sworn and
12 Examined on this 22nd day
13 of October A.D. 2008
14 before the Jo DavieSS County
15 Zoning Board of Appeals & Planning
16 Commission

17
18
19

20 Present:
21 Susie Davis
22 William Tonne
23 David Jansen
24 Melvin Gratton, Chairman
Linda Delvaux, Zoning Administrator
David Akemann, Attorney

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1 MR. GRATTON: Good evening, everyone. Can
2 you hear okay? This is our monthly meeting of
3 the Jo Daviess County Board of Appeals and
4 Planning Commission. I want to welcome all of
5 you here this evening. I'm going to start the
6 meeting by establishing a roll so we can see if
7 we have a quorum, so Melissa, would you poll the
8 members, please.

9 MS. SOPPE: Bill Tonne?

10 DR. TONNE: Here.

11 MS. SOPPE: Dave Jansen?

12 MR. JANSEN: Here.

13 MS. SOPPE: Susie Davis?

14 MS. DAVIS: Here.

15 MS. SOPPE: Mel Gratton?

16 MR. GRATTON: Here. We do have a quorum
17 so we can proceed.

18 Before we begin tonight I'd just like to
19 mention one thing. I think it would be remiss
20 if we didn't stop a few minutes and pay our
21 respects to a gentleman who had worked with us
22 during the whole life of zoning in Jo Daviess
23 County and during this process and has spent
24 much of his life dedicated to conservation and

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1 the betterment of the stewardship and land
2 preservation in Jo Daviess County and that is
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3 Lester Johnson. For those of you who don't know
4 Lester or didn't know, Lester died last evening.
5 He has been instrumental in providing us with a
6 great deal of information and backup expertise
7 throughout this whole process and I don't know
8 how many of you realize it, but each month on
9 each zoning request or change we do get a
10 national -- a natural resources inventory report
11 which Lester provided for us. It was extremely
12 well done, thorough. He was extremely competent
13 in what he did and he's going to be missed by
14 all of us and I had just wanted to recognize his
15 efforts and his work. He's made Jo Daviess
16 County a better place for -- I think for all of
17 us and I know you join with me in wishing his
18 family our sincerest sympathy at this time and
19 we will miss him. He provided just an immense
20 amount of information to all of us. He educated
21 us and brought us up to speed as to not what was
22 only happening on top of the ground, but what
23 was happening in the soils of Jo Daviess County
24 and the bedrock underneath that. He was a true

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1 gentleman and he did his job extremely well, so
2 we will miss him.

3 This evening before us we have a rewrite
4 of the Jo Daviess County Zoning Ordinance. This
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5 has been a long time in coming. For those of
6 you who have been following this process, this
7 began not just recently, but a long time ago.
8 It started with a visioning statement back in
9 the mid-1990s. From that we developed a
10 Jo Daviess County Comprehensive Plan that you
11 hear and are very much aware of I'm sure. That
12 has provided a guide for development in the
13 county since it was developed and what we have
14 done is that didn't have any real substance
15 other than a guide to help us move forward in
16 how we want to see Jo Daviess County grow. The
17 real meat of how things happen is in a zoning
18 ordinance and we've been working for -- I know
19 the committee who's worked on this has worked
20 for, you know, nearly five years on trying to
21 develop this product. It's not a -- it's not a
22 product everyone is going to agree with all the
23 time, but I think the essence of what the
24 committee worked with was that our overall goal

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1 on this was to look at this in the context of
2 what's best for Jo Daviess County. Not
3 necessarily what's best for each and every one
4 of us necessarily, but for all of us together.
5 So those were some of the things that went into
6 this and I look forward to having a discussion

7 on the product and where we go from here and how
8 we move this forward, so tonight I want you to
9 keep several things in mind as you look at this
10 document. I want you to keep it in context.
11 You can pick bits and pieces out of here that
12 you may or may not agree with, but look at it in
13 a big picture format, keep it in context, put it
14 in perspective as to what it's trying to
15 accomplish. If you need clarity, make sure
16 you're looking at the right heading. Make sure
17 what's being said is under that section that you
18 know you're referring to. And there's a huge
19 section on definitions at the end of the
20 document that's been expanded to add clarity to
21 that. If you're not sure what something means
22 we hope it's in the definitions and it will be
23 explained in those. So this evening what we're
24 going to do is we're going to start with this

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1 document. We're going to start at the
2 beginning. We're going to review it chapter by
3 chapter. There's seven chapters. So that we
4 all are on the same page and that we can add
5 some kind of coherency to this process I'm going
6 to ask that each of you as you testify keep your
7 testimony to the portion that's being discussed
8 at that time. If you want to speak again later

9 on a different portion of it, that's certainly
10 acceptable, but if you would -- I'm going to try
11 to keep this moving and we're going to try to
12 keep our thinking from becoming totally
13 disjointed and jumping all around the document.
14 we're going to go through it in an orderly
15 fashion and so I'll ask your help on that. When
16 each section is completed then what we would
17 like to do as a Zoning Board is to deliberate
18 any changes or discussions that have been made
19 and whether or not we would like to include
20 those in the final document that goes to the
21 County Board and make those changes. We've also
22 reserved tomorrow evening if we don't finish
23 this this evening and in an ideal world we would
24 go through this this evening, we would get all

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1 those changes documented and then give Staff
2 time tomorrow to put that in writing and make
3 sure that it says what we want it to say and
4 then when we reconvene tomorrow evening go over
5 that and see if it -- if it does indeed do what
6 was -- we expected it to do and then finalize it
7 at that point. Now, in the case that we don't
8 get done tonight or tomorrow night we'll
9 probably have to add another evening, but if you
10 would help me we will -- and keep your comments

11 as brief and concise as possible. We're not
12 going to cut anybody off, but -- unless we hear
13 a lot of redundancy. We don't need to hear the
14 same thing over and over again, so if you have
15 something that you agree with if you want to say
16 you agree with it or have a spokesman speak for
17 a group, well, that's great. So does anyone
18 have any questions at this time?

19 MR. OTIS: Mr. Chairman?

20 MR. GRATTON: Yes, sir.

21 MR. OTIS: Are you going to accept written
22 comments?

23 MR. GRATTON: We will accept those, but we
24 don't really have a chance to cross-examine and

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1 discuss those, so you can present those as part
2 of your testimony if you would like so that we
3 can make sure it's in the format that you want
4 it to be. Sometimes we say and write things
5 differently, but --

6 MR. OTIS: Well, in my case I think I can
7 save a lot of time and increase the clarity if
8 it's reduced to writing.

9 MR. GRATTON: If you want to give us a
10 synopsis or a brief summary of what you're doing
11 and submit that in writing that would be great.

12 I want to, you know, thank all of you for
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13 your participation tonight in advance. We hope
14 that this document will -- when we ultimately
15 finish with it will reflect what the citizens of
16 Jo Daviess County want it to and that our County
17 Board will also spend some time on this and
18 deliberate, you know, in a manner which brings
19 this to fruition in some manner. The committee
20 has done a lot of work. I want to thank all the
21 people in the public. There's a list of people
22 who were involved in this, but there were a lot
23 of you who attended meetings and gave us input
24 throughout the process and I want to thank you

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1 for that. So if there are no other questions,
2 we're going to get right into this process.
3 Susie reminded me we need to approve the minutes
4 of the September 24th meeting as part of our
5 proceedings, so has everyone had an opportunity
6 to review those and, if so, do I hear a motion?
7 Yeah, Susie is -- on Page 3 of the minutes under
8 further discussion at the bottom in a statement
9 from Matt Calvert (phonetic), Susie thinks there
10 should be a not on that last line between would
11 and have.

12 MR. JANSEN: I think that's correct. I
13 think Susie is correct.

14 MR. GRATTON: Okay. If that's correct,
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15 are there any other --

16 MR. JANSEN: I'd move to approve the
17 minutes as corrected.

18 MR. GRATTON: Thank you, Dave. We have a
19 motion to approve the minutes as corrected. Is
20 there a second?

21 DR. TONNE: Second.

22 MR. GRATTON: Okay. We have a motion and
23 a second. All those in favor signify by aye.

24 (All those simultaneously

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1 responded.)

2 MR. GRATTON: Opposed? Okay. We will
3 present the minutes then with those corrections.
4 Thank you, Susie.

5 Tonight we will -- what we will do is I'll
6 introduce the Petitioners over here. We have
7 David Akemann and -- who's acting as legal
8 counsel and has for the County and is fully
9 aware of this document and it's -- and it's --
10 what it entails, he is thoroughly familiar with
11 that. And Linda Delvaux, who is the Zoning
12 Administrator, is the other Petitioner for
13 Jo Daviess County and they will be acting in
14 that capacity this evening. So they will be
15 presenting each chapter as we move through this
16 process and then we will -- after each chapter

17 after the presentation we will take any public
18 comments and at that time you will have an
19 opportunity to be heard. The podium is in front
20 of me. I would like you to come up and use the
21 microphone. If you would or if you haven't
22 already, please sign your name and your address
23 on the yellow legal pad that's provided there so
24 it can be recorded correctly. And what I'd like

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1 to do is swear everybody in and remind you that
2 the testimony you give this evening will be
3 under oath, so keep that in mind as you testify.
4 So would everyone raise their right hand,
5 please.

6 (WHEREUPON all those present in
7 the room were sworn in.)

8 MR. GRATTON: Okay. I'm going to ask the
9 Petitioners then to introduce the ordinance and
10 start at Chapter 1 if you would like to.

11 MS. DELVAUX: Sure. I'll go ahead and
12 start just by reiterating some of the things
13 that Mel had just said that approximately six
14 years ago the Jo Daviess County Board did
15 appoint a committee to review the Jo Daviess
16 County Zoning Ordinance. What the Zoning Board
17 of Appeals has in front of them tonight that you
18 are all here to public -- public hearing on is

19 an accumulation of those six years. In
20 September of 2008 the County Board adopted a
21 resolution indicating that they wanted to
22 proceed to the public hearing with this
23 document. Dave Akemann, sitting here to my
24 right, and I were appointed at that same time by

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1 the County Board to present the document to the
2 Zoning Board of Appeals this evening. So we are
3 here doing that on behalf of the Jo Daviess
4 County Board.

5 we can move on into Chapter 1, Mel, if
6 that's where you'd like to go.

7 MR. GRATTON: Yes.

8 MS. DELVAUX: Chapter 1 are the general
9 provisions on your agenda. These really are
10 just common general provisions that are found in
11 all zoning ordinances. The Staff does have an
12 amendment which Dave will address right now.

13 MR. AKEMANN: Mr. Chairman, if I may, we
14 have created a document that has eight -- we
15 call them Staff amendments and they're numbered
16 1 through 8. There's a stack of them here.

17 AUDIENCE MEMBER: I think we're going to
18 have to hear better over here. Can we put these
19 people on a microphone, please?

20 MR. AKEMANN: well, let me just stand up
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21 when I talk. Can you hear me now, sir? Can you
22 hear?

23 AUDIENCE MEMBER: If you keep it up.

24 MR. AKEMANN: Okay. I'll do my best and

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1 if somebody can't hear raise your hand, please.

2 MR. GRATTON: David, why don't we use the
3 mike.

4 MR. AKEMANN: Sure.

5 AUDIENCE MEMBER: Thank you.

6 MR. AKEMANN: Okay. We have for the
7 Board's consideration eight separate amendments
8 to the text. I'd say just initially that these
9 in at least Linda and my opinion are not hugely
10 significant unless we would have a comment
11 otherwise. One involves Section 8-1-6, it's the
12 rules of construction. We have proposed to
13 eliminate No. 10. I know everyone may not have
14 this, but I'll briefly explain it. We do have a
15 section that says No. -- at 8-1-6(A)(2), all
16 words not defined in this article or in other
17 articles herein shall be given their common
18 ordinary meaning as the context may reasonably
19 suggest. We also had in the draft any words not
20 defined as follows shall be construed in their
21 generally acceptable meaning as defined in the
22 most recent publication of Merriam Webster's

23 dictionary. We proposed strengthening that
24 section just for clarity and to avoid

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1 duplication and we respectfully suggest the
2 Board consider that.

3 I also want to since this is my first
4 opportunity to speak on behalf of the County
5 Board to thank you for coming. We do have
6 several County Board members here. I don't know
7 if I can risk their wrath by asking them to
8 raise their hands. They're sitting over there
9 and for those of you who are not aware, the
10 Zoning Board will make a recommendation to them
11 on this and any changes to be considered, but
12 the County Board does have the final say in this
13 regard.

14 So the Staff would offer Staff Amendment
15 No. 7 in Chapter 1.

16 MR. GRATTON: Okay. Thank you, David. Is
17 there anyone here from the public who would like
18 to be heard on Chapter 1? Is there anything in
19 there you would like to comment on that you see
20 that you would like clarified or information
21 about? Yes, sir.

22 MR. OTIS: Mr. Chairman, I'm astonished
23 by --

24 MR. GRATTON: Could I get you to come over
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1 and use the mike and we're going to have to
2 share this.

3 MR. OTIS: Mr. Chairman, my name is
4 James Otis. I live in Rice Township. Have
5 lived there for 31 years and I spent a good deal
6 yesterday working on this particular section
7 and quite frankly, as I said earlier, I'm
8 astonished at the proposed amendment. This is a
9 step backwards from what you have in the current
10 Jo Daviess County Zoning Ordinance. In the
11 present ordinance, which has been in effect
12 these years, you have specified definitions
13 spelled out and then you have a secondary
14 reference to an objective standard which is the
15 dictionary and you have that now in the proposed
16 ordinance. What, quite frankly, mucks up the
17 situation is this language in Section
18 8-1-6(A)(2) which adds in that words not
19 defined, etcetera, etcetera, shall be given
20 their common ordinary meaning. Now, without
21 that the administrator or a judge looking at
22 this ordinance can easily find the appropriate
23 definition. He or she goes to the definition
24 section and if they don't find the definition

1 there the ordinance tells them go to the
2 dictionary and which one. Now, that's
3 objective. Everybody can read the same
4 language, everybody knows what it is. But quite
5 frankly, what the heck is the common ordinary
6 meaning? The judge says to one lawyer what do
7 you think it is, he says to the other lawyer
8 what do you think it is and we're off to the
9 races in a silly exercise of navel-gazing. We
10 should leave out the language in there about
11 common ordinary meanings. That appears in
12 old-fashioned zoning ordinances before we wised
13 up in this business to pin down the definitions.
14 If the County Board says what I'm suggesting the
15 County Board controls the show. If what the
16 amendment does is followed, the County Board
17 loses control and turns it over to the judges
18 and the lawyers. I think that's a serious
19 mistake right off the bat in interpretation of
20 the ordinance. You ought to stick with what's
21 definite, what's objective which everybody can
22 understand. When you talk about common ordinary
23 meaning it depends where you come from and whose
24 ax you're grinding. Not a very objective

1 standard. And you only find it usually, as I
2 found out, in ordinances where they don't have
3 definitions and where they didn't think to put
4 in a reference to a common standard like the
5 dictionary. You folks have done that which I
6 think is correct, but you've added in this
7 language which now, as I understand it, is being
8 proposed to control common ordinary meaning
9 stuff. Everyone in this room has a common
10 ordinary meaning and probably not one of them is
11 the same. So I would suggest that the amendment
12 not be adopted and that you stick with the
13 ordinance by deleting that subsection 2 and
14 leave it to the dictionary to determine what
15 words which are not defined and how they're
16 used. Thank you very much.

17 MR. GRATTON: Okay. Thank you. Are there
18 others who would like to testify on Chapter 1?
19 Okay. Hearing no other -- yes?

20 MR. MCINTYRE: I just have a question
21 about the overall -- we're going to go through
22 it chapter by chapter, but is there a place in
23 the testimony where we actually can say
24 something about the ordinance as a whole and the

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1 direction in which it's going?

2 MR. GRATTON: I would like to reserve that
3 until the end unless you want to just put it in
4 as a quick comment and --

5 MR. MCINTYRE: No, no. We can do that at
6 the end. I didn't know if there was going to be
7 a spot for that or not. You know, obviously the
8 document as a whole, there's a meaning there as
9 well, not just in separate chapters, but also as
10 a -- the document as a whole.

11 MR. GRATTON: Absolutely. That's a good
12 point. And David, did you want to respond to
13 the testimony that was given before we leave
14 this section?

15 MR. AKEMANN: The previous speaker would
16 seem to indicate that it should be No. 2 that's
17 stricken and No. 10 left and if the Board is
18 desirous of that we can make a draft of that and
19 have it for you tomorrow evening and you can
20 pick the one you'd like.

21 MR. GRATTON: Okay. We'll take that under
22 advisement then and we'll hopefully have time to
23 review it. Yes?

24 MR. ANDERSON: My name is George Anderson.

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1 I just -- one question. I'm a farmer, so no
2 matter what I do I got to come to you guys to

3 get a permit to build anything, to do anything,
4 change the color of my barn, anything?

5 MR. GRATTON: No, no, George. We're not
6 to that point yet and the answer is no generally
7 to your question, but we have to look at this in
8 context and we'll address that in the ag
9 district if you would wait please for that.

10 MR. ANDERSON: Okay, so this is not part
11 of the ag district, but it says --

12 MR. GRATTON: No.

13 MR. ANDERSON: -- any structure, right?

14 MR. GRATTON: Where are you referring to,
15 tell us for reference.

16 MR. ANDERSON: Compliance with regulations
17 in B, down -- 8-1-8, Page 9.

18 MR. GRATTON: Uh-huh.

19 MR. ANDERSON: Okay.

20 MR. GRATTON: And you're referring
21 specifically to what portion of that?

22 MR. ANDERSON: Okay. Just down at the
23 bottom on No. B (sic) it says no building
24 structures or use -- it just says that we can't,

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1 what, nothing -- if it's not already there
2 everything is going to have to come before
3 zoning?

4 MR. GRATTON: I think that maybe Dave

5 could help me, but I think what this is saying
6 is that just because it exists doesn't mean it's
7 lawful at the present time.

8 MR. ANDERSON: Yeah, I know.

9 MR. GRATTON: And because we have -- just
10 because we change zoning doesn't make something
11 lawful in this situation. If it's an unlawful
12 building, just because we create a new document
13 doesn't make it legal or lawful is I think what
14 this is saying. Do you want to expound on that,
15 Dave?

16 MR. AKEMANN: If you're referring to
17 8-1-7(A) --

18 MR. ANDERSON: Yeah.

19 MR. AKEMANN: -- I think what it says is
20 if the ordinance requires you to get a permit
21 for something you have to get one. If it's
22 silent you don't and much of ag you don't.

23 MR. ANDERSON: Okay.

24 AUDIENCE MEMBER: How do you know that?

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1 MR. AKEMANN: How do I know that?

2 MR. ANDERSON: Yeah.

3 MR. AKEMANN: That's what the law is. I
4 mean, this is a general provision and what it
5 says is basically you can't have a building
6 erected in violation of the zoning ordinance.

7 MR. ANDERSON: Good God, I only went
8 through 12 grades of school. I need to know
9 something clear. I mean, I can't get up every
10 morning and say do I have to run into the Zoning
11 Board for this or what.

12 MR. AKEMANN: Well, mostly if you have a
13 question I guess you'd ask the zoning office or
14 the building office. That's what happens now
15 and that would --

16 MR. ANDERSON: What if I didn't have a
17 question?

18 MR. AKEMANN: I'm not sure what your
19 question is now.

20 MR. ANDERSON: I want to know what law we
21 got here. I mean, what are we going to follow
22 here? I want something that's simple that I can
23 get up in the morning and say all right, I'm
24 going to paint my barn blue. I want to know

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1 what I can do and what I can't do. I don't
2 think that's asking too much.

3 MR. AKEMANN: Well, we don't usually say
4 in ordinances what you can do by a complete list
5 like I can cut the grass and I can go outside
6 and what -- what this does is prescribe general
7 uses and that's true with any zoning ordinance.
8 This is not an unusual provision to have in

9 there and it might even be an existing one. I'm
10 not sure if it is or not.

11 MR. HENRY: I think what this man is
12 saying is if you have a dwelling and you had it
13 built in 1930, don't you recognize the
14 grandfather's clause? You can change the laws
15 all you want today, but it doesn't make him
16 illegal. That's what he's saying.

17 MR. AKEMANN: That's why in particular you
18 might be referring to the ag district that
19 spells out what can be done and what can't be
20 done in terms of overall construction. This is
21 not a building ordinance. That's a separate
22 document that already exists.

23 MR. HENRY: If he's legal in 1990 he
24 should be legal today or tomorrow depending upon

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1 what you do in this.

2 MR. AKEMANN: Well, yeah, those are
3 provisions that are contained in the district
4 regulations, the general regulations and the use
5 table and you can look at the use table and
6 indicate depending on what district you are
7 whether or not something is permitted as a
8 permitted use or a special use and if it is
9 permitted then you can do it.

10 MR. HENRY: Now, does this Board recognize

11 the grandfather's clause or are you changing
12 that viewpoint also?

13 MR. AKEMANN: Well, when you say
14 grandfather --

15 MR. HENRY: I'm asking the commission.

16 MR. GRATTON: I didn't get your name, sir,
17 would you state that for the record.

18 MR. HENRY: Jim Henry.

19 MR. GRATTON: Jim, okay. Yes, anything
20 that existed prior to zoning in Jo Daviess
21 County is going to have that same condition as
22 it had at that time. Now, that doesn't -- say
23 it's a nonconforming use, that does not make
24 it --

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1 MR. HENRY: I can't hear you. That
2 doesn't what?

3 MR. GRATTON: It's going to have the same
4 status as it does now and if grandfathered is a
5 term that's commonly used, if you understand
6 what I'm saying by that, yes, we're not going to
7 change the status of that, but just because it
8 was grandfathered if it was nonconforming, for
9 example, just because we write a new zoning
10 ordinance doesn't make it conform.

11 MR. HENRY: Conforming to your new law
12 you're saying?

13 MR. GRATTON: Yeah, it still may be
14 nonconforming, but it might be a legally
15 nonconforming use, so we're not sitting here
16 running the clock backwards.

17 MR. HENRY: No, we're not talking about
18 illegal enterprises or buildings, no. We're
19 talking about existing buildings that are
20 obvious today they're not in violation of the
21 law and if they have been around for 20 or 30
22 years I'm sure The Court would be aware of it
23 today.

24 MR. GRATTON: And they're not going to be

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1 in violation in the future I don't believe.

2 MR. HENRY: Correct. Now, that would
3 apply also to the change in agriculture
4 boundaries, for example, you're referring to a
5 160-acre site --

6 MR. GRATTON: Yeah, and we're going to
7 keep that until we get to that section, please.

8 MR. HENRY: When is that?

9 MR. GRATTON: That's going to be when we
10 get to the districts.

11 MR. HENRY: Will that be tonight?

12 MR. GRATTON: I hope so. Okay. Are there
13 any other people who would like to be heard on
14 Chapter 1? Okay. We'll take the information

15 that was -- does any Zoning Board member have
16 any comments on the suggestions that were made
17 on Chapter 1, first of all, for direction?

18 DR. TONNE: No.

19 MR. JANSEN: Just a question,
20 Mr. Chairman. Are you going to take these
21 individually? Are we voting on them
22 individually? Are you going to vote by chapter?
23 what's your plan?

24 MR. GRATTON: I would like to have us

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1 reach a consensus on what we would like to do on
2 each chapter if we could and then let staff put
3 this into writing so that we might review that
4 at some future date, hopefully tomorrow, before
5 we actually recommend approval of that change.
6 we've had the one suggestion here as far as the
7 language on the definitions and if we could we
8 could offer some guidance there if we want to
9 spend some time on that.

10 MR. AKEMANN: would you like us to prepare
11 an amendment in harmony with what the gentleman
12 sought in his comments? If so, I will do so and
13 have it for you tomorrow.

14 MR. GRATTON: If you would, David, what
15 I'd like you to do is to prepare it in that
16 format and also the other format and let us take

17 a look at both and compare.

18 MR. AKEMANN: Absolutely.

19 MR. GRATTON: So with everyone's approval
20 then we will move on to Chapter 2, this is the
21 organization, administration and enforcement of
22 this document. Linda?

23 MS. DELVAUX: well, again, Chapter 2 are
24 provisions that you find in all zoning

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1 ordinances referencing administration, creation
2 of the Zoning Board of Appeals and types of
3 requests and the processes in which -- that you
4 go through in order to acquire those special
5 uses, variations, map amendments, text
6 amendments and appeals. This chapter is
7 dictated by and through the State -- Illinois
8 state statutes.

9 MR. GRATTON: Did you have anything,
10 David, to add to that?

11 MR. AKEMANN: We do have -- the most brief
12 of amendments, Staff Amendment No. 8, adds a
13 numerical number that was not there. There's no
14 actual change in the text itself. We just
15 missed a number, so instead of 1 through 7 --
16 I'm sorry -- 1 through 8, now it's 1 through 9.
17 There's no deletion of words. It's just the
18 numbers. That's in 8-2a-3. There was a

19 paragraph that was not numbered and we added a
20 number.

21 MR. GRATTON: Okay. Thank you. Do we
22 have any public input on Chapter 2? Steve, I'll
23 recognize you.

24 MR. MCINTYRE: Hi. I'm Steve McIntyre

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1 from Apple River. Under 8-2d-2, under notice
2 for special uses and I realize that this is
3 State -- I have two questions with regards to
4 notice given to adjacent property owners, given
5 to public interest or whoever, it gives a notice
6 of 15 days and there's several spots where it
7 talks about notice of 15 days. I realize this
8 is a state statute, but is there -- is there a
9 provision that we can actually make that a
10 little longer? I mean, giving somebody 15 days
11 to actually -- if this is a very difficult case
12 and it's a difficult thing I would be shocked to
13 find out that somebody is going to -- okay, I'll
14 use the hot topic of today, mega dairy in my
15 back yard and it's a special use permit and I've
16 only got 15 days to prepare my appeal, that
17 might be too short of a time. So I mean, I
18 realize it's 15 days, but it would be really
19 nice if it was a little bit longer than that.
20 And I don't know if we can do that with the

21 state statutes or not. Thanks.

22 MR. GRATTON: Do you know the answer to
23 that, David, off the top of your head?

24 MR. AKEMANN: My opinion would be that

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1 probably you can if you choose to do so. The 15
2 days is a number the legislature -- our Illinois
3 legislature wrote. This is verbatim from state
4 law. Could you make it a greater time? I would
5 say you could. I don't know if that would be
6 completely enforceable, but certainly you could
7 at least make the suggestion for greater time if
8 the Board wished to -- to have that provision.

9 DR. TONNE: Just for clarity, Dave, is
10 that 15 working days, so it would, in fact, be
11 three weeks?

12 MR. AKEMANN: No, days would be --

13 DR. TONNE: 15 days?

14 MR. AKEMANN: Yeah.

15 DR. TONNE: Okay.

16 MR. GRATTON: Okay. We can take that
17 under advisement too.

18 MS. WINTER: Mr. Chairman, my name is
19 Nancy Winter. I live in Stockton Township. I'd
20 just like to support the gentleman from the
21 bench's comment particularly in light of the
22 fact that if the notices come out in newspapers,

23 since in this area the newspapers come out once
24 a week, a person might have a very, very short

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1 time to reflect on such a matter.

2 MR. GRATTON: Thank you. Yes, sir?
3 Somebody had their hand up back here.

4 AUDIENCE MEMBER: I just wondered, sir,
5 I'm not following you. I don't see chapters in
6 my --

7 MR. GRATTON: Okay. The way to interpret
8 this when you see -- such as 8-2, whatever the
9 letter is, 2 would be the chapter and then it
10 would be D and the number afterwards, so if
11 we're looking at 8-2 we're looking at Chapter 2,
12 8-3 would be Chapter 3. And if those of you
13 have questions if you would refer to page
14 numbers it probably would also be very helpful
15 to us. Okay. Yes, sir, you're recognized.

16 MR. MOORE: Thank you, Mr. Chairman. My
17 name is Tyler Moore. I'm an attorney. I
18 represent the Galena Territory Association.
19 I'll try and limit my comments to under 45
20 minutes. My comments actually relate to two
21 parts, Chapter 2 and Chapter 8 and many members
22 of the Zoning Board have heard my pitch before
23 about particular portions of this code. Overall
24 I think it is a very well-drafted code. But

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1 from the Territory's perspective we would like
2 to see under Section 8-2e-5 provide for --
3 zoning Board procedures, we'd like to see an
4 alternative procedure in place for consideration
5 of map amendments in the creation of a planned
6 development district. And again, members of the
7 ZBA and members of the County Board have heard
8 my comments before on this, but I'd like to get
9 it obviously on the record at this hearing.
10 Planned development district is a very unique
11 creation which it appears for the first time in
12 this -- in this new code. The planned
13 development district -- the purpose of which is
14 set forth in -- in actually Chapter 3, it's Part
15 3g-1, the purpose and intent of a planned
16 development district is to provide a means of
17 achieving greater flexibility in development of
18 land in a manner not possible in conventional
19 zones to encourage more imaginative and
20 innovative design of projects and to promote
21 more desirable community environment. Unlike
22 other districts in this zoning ordinance, the
23 planned development district does not include
24 minimum standards for setbacks, lot sizes,

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1 density, etcetera and instead leaves a majority
2 of the discretion for those items to the Zoning
3 Board as the fact finder and the County Board as
4 the legislative body. Because a planned
5 development district allows these bodies you, as
6 the ZBA and the County Board, with the
7 discretion that no other district allows and
8 because the intent of the district seems to
9 imply that the goal is to give the elected
10 officials of the county discretion in approving,
11 denying or creating restrictions in that
12 district, I would like to see in the approval
13 process back to the chapter we're on, Chapter 2,
14 the approval process include a two-part hearing
15 much like the hearing that you folks have in
16 place tonight where at -- at least one part for
17 one hearing, the Board would take testimony as
18 to the planned development application,
19 testimony, cross-examination and evidence would
20 be presented at the initial ZBA hearing. That
21 hearing would then be adjourned to a date
22 certain at which time the Board would make the
23 findings of fact. In light of the unique nature
24 of planned development districts, in light of

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1 the fact that the ZBA is making specific
2 findings on a map amendment that deal
3 potentially with creation of restrictions,
4 creation of setback line guidelines, creation of
5 lot sizes and creation of density, from our
6 perspective the implementation of a two-part
7 procedure would allow this Board the opportunity
8 to thoroughly review the planned development
9 district application, consider its potential
10 impacts and craft restrictions -- carefully
11 craft restrictions as part of their
12 recommendation to the County Board, again,
13 understanding full well that this ZBA should not
14 be forced to conduct hearings ad nauseam on the
15 same topic. The goal here, however, is to
16 provide at the very least a two-part hearing,
17 Part 1 for fact finding and evidence. Part 2
18 for deliberation and rendering of decision and
19 passing of the recommendations on to the County
20 Board. That is our recommendation. Beyond that
21 from my client's perspective we believe overall
22 it is a very well-drafted ordinance and I thank
23 you for your time.

24 MR. GRATTON: Okay. Thank you, Tyler and

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1 just -- I don't think part of what you said --
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2 now, I'm going to ask Linda and David to help me
3 on this. You said that it allows ultimate
4 flexibility. I think as we look at that new PDD
5 district I'm not -- I don't want to get into a
6 new district, but I just want to correct
7 something that I think you said. The
8 flexibility in there I don't think allows you to
9 deviate necessarily from all the restrictions.
10 If it's a PD commercial, if it's a PD industrial
11 my understanding is that it would still comply
12 with those setbacks and other regulations in
13 those districts. Is that correct or incorrect?

14 MR. AKEMANN: I'd say that is more
15 incorrect than correct, Mr. Chairman.

16 MR. GRATTON: Okay. That's all I want to
17 clarify.

18 MR. AKEMANN: As counsel said, the PD
19 district is new. We're not there yet, but if
20 you want me to go there now, I will.

21 MR. GRATTON: No, I don't want you to go
22 there. I was just trying to clarify that.

23 MR. AKEMANN: I would just say one of the
24 things that -- obviously this issue has been

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1 addressed at board committee, with the rewrite
2 committee. The real question is the flexibility
3 or discretion with the Zoning Board and the

4 County Board or not. The Zoning Board now has
5 the discretion to continue a hearing if it
6 wishes. The County Board now has the discretion
7 to send a matter back to the Zoning Board if it
8 wishes, if it chooses to do so. The proposal
9 basically would limit the discretion of the
10 Board -- the Zoning Board in some way. I think
11 that's fair. And part of it is, shall we say,
12 perhaps the underline between the lines as maybe
13 we don't exactly trust the future board to do
14 something the right way, if I could be so bold
15 to suggest that and so the request is really to
16 mandate another step that is not legally
17 required, but you can write that in if that's
18 what you want to do, so that would make
19 something mandatory that is now discretionary
20 with you, but I think counsel's position about
21 the PD district being open to a free ride is
22 correct.

23 MR. GRATTON: Okay, thank you.

24 MR. MOORE: Thank you, Mr. Chairman.

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1 MR. GRATTON: Thank you, Tyler. Steve, I
2 want to get somebody else before we let you --

3 MR. MCINTYRE: I know.

4 MR. GRATTON: Yes, sir?

5 MIKE DITTMAR: Hi. My name is
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6 Mike Dittmar. I'm from Elizabeth. I had two
7 problems with Chapter 2 -- 8-2c-2 Section E
8 finality for variations would rest with the
9 Zoning Board and I just think that a board that
10 is not elected should not have final decision on
11 anything. I think our elected representatives
12 should be the final say. We should have the
13 right to go to our elected representatives and
14 ask for the final decision. I'd like to see
15 something change there. The second part is on
16 8-2d-4. This goes back to earlier what a
17 gentleman said that -- let's see -- Line 37, the
18 special use may be subject to conditions
19 reasonably necessary to meet those standards.
20 Reasonably necessary is pretty vague and I think
21 you need some finality in that also. Thank you.

22 MR. GRATTON: Yeah, I think if you --
23 Mike, if you get further into this document you
24 will see a lot of those standards --

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1 MIKE DITTMAR: I've read this document.

2 MR. GRATTON: -- elaborated on as far as
3 special uses and it goes far beyond what you're
4 looking at right here. As far as the
5 variations, your statement there, what we're
6 doing is continuing the current practice of
7 variations being final at the ZBA level. The

8 committee as we looked at that I think in
9 discussions with County Board members and with
10 the public we decided that it wasn't broken and
11 there was no need to fix it.

12 MIKE DITTMAR: well, this public member
13 disagrees with you.

14 MR. GRATTON: Okay. That's your right.
15 Thank you. Are there others who would like to
16 be heard on Chapter 2? Yes, sir?

17 AUDIENCE MEMBER: I've got a question
18 regarding the terms of membership on the Zoning
19 Board. How can we assure the residents of
20 Jo Daviess County that there is a broad view on
21 the zoning issues without having a turnover in
22 the zoning personnel that are on the Board?

23 MR. GRATTON: Without having a -- I'm not
24 sure how to answer that question.

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1 AUDIENCE MEMBER: well, if you have the
2 same people on the Zoning Board forever how can
3 you relate the thoughts of all the citizens of
4 county when it's always the same people on the
5 Zoning Board making the decisions?

6 MR. GRATTON: Okay. You're -- Bill is
7 helping me here. You're thinking something like
8 term limits?

9 AUDIENCE MEMBER: Absolutely.

10 MR. GRATTON: We have -- it's in here, you
11 know, that any of us can be dismissed for cause
12 if we're not doing the job.

13 AUDIENCE MEMBER: What about having a
14 mandatory term limit? I'd like to see in there
15 a mandatory -- whether it's five years, six
16 years, doesn't matter, but I think after five
17 years someone else should have a turn in going
18 into the Zoning Board so that there's other
19 opinions and there's fresh ideas that come to
20 mind.

21 MR. GRATTON: Okay. One of the reasons
22 we're doing this is not so that the members can
23 inflict their, you know, opinions on the
24 document, but that the document spells that out

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1 so that as there is turnover as new people come
2 in that there will be coherence and continuity
3 in how this is applied. It's very important
4 that zoning is applied uniformly and --

5 AUDIENCE MEMBER: I understand that, but
6 all the thoughts come from the same people.

7 MR. GRATTON: It's not, you know, whether
8 I like something or not or any of the other ZBA
9 members like it. It's whether or not it meets
10 the requirements of the Zoning Ordinance, so I
11 think all of us have voted in ways that

12 personally we may not have wished to vote, but
13 we have a legal document that we have to abide
14 by and that's why this is so important that this
15 is correct and that it reflects everything that
16 Jo Daviess County wants because just because we
17 have a different member here, sure, we can have
18 different opinions, but we better be
19 interpreting the legal enforcement of this
20 correctly.

21 AUDIENCE MEMBER: That's my point exactly
22 when you say what Jo Daviess County wants and
23 the ordinances are put in there by the same
24 people so the rest of the county doesn't have a

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1 say-so in it.

2 MR. GRATTON: Well, but the wants come
3 through -- come through the ordinance and not
4 through the people sitting here.

5 AUDIENCE MEMBER: And where do the
6 ordinances come from?

7 MR. GRATTON: The ordinance came from a
8 group of citizens who put this document together
9 just as it did originally.

10 AUDIENCE MEMBER: And who are those
11 citizens?

12 MR. GRATTON: There's a list of all of
13 those people on the acknowledgement page up

14 front who had a part in this.

15 AUDIENCE MEMBER: But the thoughts of the
16 rest of the citizens in the county are not taken
17 into consideration?

18 MR. GRATTON: I don't know why we're here.

19 DR. TONNE: That's it.

20 MR. GRATTON: Yes, in the back.

21 MIKE DITTMAR: Yeah, it's the same point I
22 made. You guys are interpreting the document
23 you created, all right? Turnover is definitely
24 needed especially if you're not elected and

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1 you're not answering to anybody.

2 MR. GRATTON: David, you had your hand up
3 here. You want to --

4 MR. AKEMANN: Yeah, again, Illinois law to
5 which we're all bound in every part of this
6 process gives the appointment authority of the
7 members of the ZBA to one person and that's the
8 chair of the County Board. Neither the County
9 Board nor anybody else in this room can change
10 that. Those appointments are subject to
11 confirmation by the County Board, so it's like
12 the president appoints a cabinet member and the
13 senate confirms it. You could not impose a term
14 limitation as a matter of law in my opinion and
15 that's what it is. The County Board chair

16 decides who the ZBA members are.

17 MR. GRATTON: I do want to remind you
18 also, Mike, real quickly that other than the
19 variations all of these things -- this is a body
20 that makes recommendations. We hold the
21 hearings, we make the recommendations, we try to
22 interpret to the best of our ability, you know,
23 that we're following the ordinance that's been
24 crafted, is being met and the ultimate authority

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1 is in your elected officials as County Board
2 members.

3 MIKE DITTMAR: I understand that, but you
4 dismissed it saying, well, this is how it's
5 always been done, all right, and in answer to
6 Dave's question --

7 MR. GRATTON: I talked about variations --

8 MIKE DITTMAR: Let me finish, please. In
9 answer to Dave's question, even Supreme Court
10 officials can be impeached. The Zoning Board is
11 not above that.

12 MR. GRATTON: Okay. Yes, sir?

13 MR. HOFF: My response to most of the
14 previous speakers would be that the quality of
15 representation is far more important than
16 turnover.

17 THE REPORTER: Sir, state your name,
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18 please.
19 MR. HOFF: Huh?
20 THE REPORTER: Will you state your name
21 for me.
22 MR. HOFF: Oh, I'm sorry. Bruce Hoff,
23 H-O-F-F.
24 MR. GRATTON: Okay. We're still on

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1 Chapter 2. Are there any others who would like
2 to be heard on Chapter 2?
3 MR. SCHWERDTFEGER: Skip Schwerdtfeger
4 from rural Elizabeth. I'd like to agree with
5 Mike. I think that the Zoning Board of Appeals
6 that is appointed should not have the final say
7 in anything and that it should always be taken
8 to the elected officials for final approval or
9 appeal and I think that's a very important
10 point.
11 MR. GRATTON: Okay. Thank you. Steve,
12 real quick, again, if you would.
13 THE REPORTER: State your name again,
14 Steve, your last name.
15 MR. MCINTYRE: Steve McIntyre, Apple
16 River. Under -- and I'll bring this up, I
17 brought this up once before at the -- in front
18 of the ZBA when you guys were actually doing the
19 rewrite and it has to do with special uses and

20 it's where the special uses are defined in this
21 chapter and one of the things that -- by
22 creating this special use table that we have,
23 one of the things it does is it actually takes
24 away some veto power of our citizens and I've

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1 stated this once before, which is, for example,
2 if you do a map amendment and for those of you
3 in the audience that don't know what a map
4 amendment is, it's going from one district to
5 another. It's going from agriculture to rural
6 residential or rural residential to commercial
7 or whatever. That's a map amendment. A special
8 use is a permitted use, given a special use
9 permit, within a district, so if -- since we are
10 changing that in this ordinance by adding
11 special use permits to certain things within
12 these districts in the -- in the map amendments
13 we can force a super majority -- I'm sorry -- a
14 three-quarter majority at the County Board level
15 by having and being a 20-percent adjacent
16 property owner and complaining in writing to the
17 County Board. Under a special use permit we
18 can't do that now. It is a simple majority
19 unless -- and it states here on -- and that's
20 not under -- there isn't one in the special use
21 permits to force a super majority vote and I

22 also think that by state statutes you cannot, so
23 we're actually taking some veto power away from
24 the citizens and I'm not really sure -- I can't

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1 offer a suggestion on a correction of that, but
2 it's just a point -- I guess a point of order
3 saying you know what we're taking away -- by
4 adding this special use permit and special use
5 permitting in these districts we're actually
6 taking away some rights of citizens by doing
7 that. Now, that has to be weighed versus the
8 benefits of adding those special use permits, I
9 understand that, but we are -- and I just want
10 to make sure that it is acknowledged by the
11 citizens of Jo Daviess County that we are doing
12 that by -- by allowing the special use permit,
13 because we are kind of taking away that
14 three-quarter majority by not allowing that map
15 amendments and -- you know, like we have in our
16 current ordinance today. So that is one point I
17 wanted to make. And then the other thing is I
18 do want to talk about the duration of a special
19 use permit and this has to do -- and we'll talk
20 about it when we get into the agricultural
21 district with a lot of special use permitting in
22 that area and that is the duration of the
23 special use permitting and I realize -- and I've

24 had a discussion with the attorney about getting

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1 a variance for that duration. For example, if I
2 wanted to build a home within the ag district it
3 is a special use permit because it may or may
4 not be agricultural purpose and I have one year
5 to actually -- from the time I'm awarded that
6 special use permit to actually start or do
7 construction unless I get a variance. Is that
8 what I'm reading here? I have one year to
9 actually build that home or do that thing that
10 relates to that special use permit unless I get
11 a variance?

12 MS. DELVAUX: Actually that's not quite
13 correct. When you get that special use permit
14 you can ask for an extension on that time
15 limitation, should you ask for two years, three
16 years, five years. I wouldn't recommend asking
17 for something indefinitely, but you can ask for
18 a time extension on that should your plans be
19 three years out.

20 MR. MCINTYRE: And that's what I meant by
21 a variance.

22 MS. DELVAUX: Well, a variance is kind of
23 a whole different animal, so it's something that
24 you could ask for at the time that you get that

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1 special use.

2 MR. MCINTYRE: Okay. Thank you. And then
3 the last point I want to make on Chapter 2 and
4 then I can sit down, is under County Board
5 voting requirements to amend which is on Page
6 20. These are dealing with text amendments as
7 we're dealing with them today. There is a
8 provision in here to actually force a
9 three-quarter majority at the County Board
10 level, but there is no time duration for the
11 written protests. Can that happen -- actually
12 as it relates to all three of those cases to
13 force that three-quarter majority it doesn't say
14 it has to be in by the end of the working day,
15 on the day of the County Board meeting -- or you
16 know, when is that limit? I mean, can it be,
17 you know, a minute before they vote, you know,
18 that kind of thing, so I'm not -- I might have
19 missed it --

20 MR. GRATTON: Look at No. 3. Does that
21 address what you --

22 MR. MCINTYRE: It has to be within 30
23 days? Well, then that's not right, because what
24 we have now is it's on the day of -- well, I

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1 don't know about text amendments, but I know
2 from a three-quarter majority forcing and
3 three-quarter majority on map amendments it can
4 be the day of if I'm not mistaken. Some of
5 those written protests from adjacent property
6 owners, the meeting happens on the fourth
7 wednesday, it goes to County Board the following
8 -- the two weeks after that on a Tuesday, so
9 that's not even 30 days and you're asking for
10 somebody to write -- you know, write a protest
11 on a decision that isn't even being made. Do
12 you follow my --

13 MR. GRATTON: Well, you have 30 days to do
14 that -- to make your protest.

15 MR. MCINTYRE: But I don't know what to
16 protest unless it's been talked about at a ZBA
17 meeting and the ZBA happens on wednesday -- the
18 fourth wednesday and the following second
19 Tuesday is not 30 days, so I can't write a
20 protest on something you guys haven't even
21 talked about yet.

22 MR. GRATTON: But it says after the
23 hearing.

24 MR. MCINTYRE: Okay. Well, I just want to

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1 make sure that -- that we have ample time,
2 again, about notice and proper --

3 MR. GRATTON: And I think this again comes
4 from state statutes, is that correct, David?

5 MR. AKEMANN: Pardon?

6 MR. GRATTON: This comes directly from
7 state statutes, doesn't it?

8 MR. AKEMANN: Yes, it does.

9 MR. GRATTON: That's where we got this,
10 Steve. We weren't trying to reinvent what the
11 state has done.

12 MR. MCINTYRE: Like I said, I just want to
13 make sure that I'm heard. Thanks.

14 MR. GRATTON: Are there others on Chapter
15 2? Okay. ZBA members then, are there any
16 actions from what we've heard that you would
17 like to include in our recommendations? The
18 first suggestion was to change the time frame
19 from I think 15 to 30 days. I didn't write down
20 where that was. Did you get that, Linda or
21 Melissa?

22 MS. SOPPE: 2d.

23 MR. GRATTON: 2d. Again, that was state
24 statute, the 15 days, but David I think didn't

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1 think there was a problem with extending that if

2 we chose to do so. Any thoughts on that?

3 DR. TONNE: Yeah, I think I would be in
4 favor of extending it. You have the issue of
5 publication and being able to get that out in a
6 timely fashion, the point has been well taken by
7 the papers in this county of why circulations
8 tend to be weekly, so perhaps adding another
9 week there to the 15 making it 21 days or
10 something like that would be wise. I'd be
11 interested in hearing from Staff though if
12 there's any logistical or timing problems with
13 that 21 days.

14 MS. DELVAUX: The first thing that came to
15 mind was the length of the process as it is now
16 that it may add -- just to be informed -- more
17 length to the process and getting through.
18 Applications would have to be in to our office a
19 little earlier in order for us to meet a
20 lengthier time publication, so that's -- that's
21 how it could affect the public.

22 DR. TONNE: What she's suggesting is that
23 given what time of the month you come into the
24 office and when the next paper publishes you

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1 might just miss one deadline and therefore miss
2 a whole month with a monthly meeting schedule.

3 MR. GRATTON: Any other thoughts?

4 MR. JANSEN: Mr. Chairman, I concur with
5 Bill on that. I think 21 is probably an
6 appropriate change.

7 DR. TONNE: Is?

8 MR. JANSEN: Is. I think we can tolerate
9 that and you're right, Linda, it's going to
10 delay some people, but you know, that's the
11 nature of the law, so if it takes a little bit
12 longer, so be it.

13 DR. TONNE: Perhaps we would invite
14 testimony about the length of the process
15 already. If there would be anybody that has an
16 opinion on that.

17 MR. GRATTON: I think generally from
18 working with people I think most people would
19 like to see the process as streamlined and
20 condensed as possible except for the PDD maybe.

21 DR. TONNE: Yeah, we didn't really go into
22 extensive discussion of Article 1 and perhaps
23 the Chairman would not want to get into Article
24 2 right now, but the PDD is one thing we haven't

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1 talked about which is Article 2, I believe, or
2 is that 1?

3 MR. GRATTON: It's in 2, but let's finish
4 up on the number of days before we move on to
5 that. I'm hearing 21 days. Does someone want

6 to put that in the form of a motion? Mike?

7 MR. TOEPFER: Mike Toepfer, Apple River.

8 what we're talking about is if an individual
9 property owner has an objection and you're
10 limiting the time he's going to have to gather
11 5 percent of the land-owning property owners in
12 the county to get written objections I think the
13 suggestion I would make that takes more time
14 than less, it's on his dime because he's making
15 the objection, I think 30 days is more of a
16 realistic time because that's the administrative
17 hassle he is going to have.

18 MR. GRATTON: I think that's a good point.

19 DR. TONNE: That -- if I might -- well,
20 let me ask Staff what they think of that. That
21 would automatically make it more than a month.
22 You'd miss a whole month then automatically.

23 MR. TOEPFER: But again, that's the
24 objector's -- that's this -- he's making that

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1 decision. He's going to have to go out and
2 gather those written objections.

3 MS. DELVAUX: If I may, I think that we're
4 talking about two different issues here. The 21
5 days is the notice of publication is what I
6 believe you were talking about at that point.
7 when you're talking about the 30 days I believe

8 you're referring to the opportunity for an
9 adjoining landowner to file a letter of
10 objection in order to force that three-quarter
11 majority vote. In one sense you're talking
12 about a time frame after the public hearing and
13 in the other sense you're talking about a time
14 frame before the public hearing, so I think that
15 you need to keep the two separately and deal
16 with the two separately.

17 MR. GRATTON: Okay.

18 DR. TONNE: So then as I understand it,
19 we'll leave it 15 days on Page 17, but consider
20 more days in another location of this document?

21 MR. GRATTON: Okay. Let's get to the
22 exact place we're looking at here.

23 MR. JANSEN: Page 17.

24 MR. GRATTON: Okay. You're looking at

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1 notices on 17?

2 DR. TONNE: Yeah, and that we're happy
3 with 15, if we all understand. That's simply
4 notifying there's going to be a meeting 15 days
5 before the meeting. If you object and you want
6 to trigger a three-quarter vote it's after the
7 hearing.

8 MR. GRATTON: which we're suggesting 30
9 days now I believe.

10 DR. TONNE: Well, we've heard that
11 testimony. What does Staff think about that?

12 MS. DELVAUX: Just to let you know how
13 that would affect -- and the public how that
14 would affect the time length again on the
15 hearing process, what would happen traditionally
16 we'd go from a Zoning Board hearing which is a
17 fourth Wednesday of the month and we get final
18 disposition the second Tuesday of the following
19 month, that's a pretty short turnaround time for
20 the applicant then to know whether their request
21 has been approved by County Board or not. By
22 adding additional time in there, that 30 days,
23 what it's going to do is allow that hearing on
24 the fourth Wednesday that the County Board is

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1 not going to hear that until two months later,
2 so there's going to be an additional time frame
3 added in there no matter what which ultimately
4 does affect the public because I know better
5 than anyone that when people come in they
6 usually want things yesterday and I have heard
7 complaints that the time frame is too labored,
8 too long, so I think it's important that these
9 things are brought out at the public hearing so
10 everyone has an understanding of what these
11 stipulations, these time frames add or don't add

12 to the process.

13 DR. TONNE: Yeah, as a ZBA member we do
14 hear every month how people are in a hurry, they
15 want to break ground, they've got their house
16 plans, they've got their plans for their
17 business, whatever it is and I would have to say
18 19 out of 20 there isn't the controversy you're
19 thinking about.

20 MR. GRATTON: Mike, did you have your hand
21 up?

22 MR. MCINTYRE: Well, since I was the one
23 that actually brought it up, I'm actually
24 referring to 8-2d-2 which is notice for special

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1 uses prior to the hearing, days before the
2 hearing. You're only giving somebody 15 days
3 prior to your ZBA hearing to formulate or be
4 noticed that something is going to be next to me
5 or whatever and this has to do with a special
6 use permit. This has nothing to do with 15 days
7 from the time the hearing was to the time the
8 County Board votes on it. It has nothing to do
9 with after the fact that, you know, 30 days to
10 protest or whatever. It says 15 days to be
11 notified that something is going to happen
12 around me for a special use permit.

13 MR. GRATTON: This is under notice, that's

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what you're referring to?

MR. MCINTYRE: Under special uses, yeah, that's what I was referring to because we're tossing around these 15 days here and there and that's what my objection was.

MR. GRATTON: And it will -- you're objecting to that, you'd like to see more notice, but the balance on that is do we want to prolong the process for people who are applying for these.

MR. MCINTYRE: And I just want to make

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sure people get due process.

MR. GRATTON: Mike?

MR. TOEPFER: And I'm sorry, I was referring to County Board voting requirements to amend under 8-2e-6(A)(1). I don't think we ever -- I thought that's what we were discussing on the time frame, written protest against proposed text amendment are signed by 5 percent of the landowners of the county and I don't know if we have a time limit on that one.

MR. GRATTON: Yeah, and both of these come from the ultimate wisdom of those people downstate and it's commonly used throughout the State of Illinois in the frame that it's in and we've been using it that way. And most people

16 do find out -- they get to the meetings and if
17 they choose to file a protest they've done it,
18 so I'm wondering again if it's not broke do we
19 need to fix it. I mean, we have a whole state
20 operating under the same time lines. It's been
21 that way ever since state legislature has
22 mandated it, so do we want to change that,
23 that's the question, yes or no?

24 DR. TONNE: I don't think so.

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1 MR. GRATTON: No motion, then we'll just
2 leave that. Okay. Let the minutes reflect then
3 that we will leave that as is. Tyler made a
4 presentation here regarding this two-part
5 hearing. I think we've discussed that
6 extensively at some of our committee meetings,
7 we've heard that before. Again, I -- my
8 personal belief is that if it's going to be a
9 lengthy process, if it's going to be a major PD
10 development what he's asking for will probably
11 happen anyway. If it's a more simplified one do
12 we need that? I don't know, so I'd be
13 interested in your thoughts. We've already
14 shared those at several meetings we've had, so
15 do we want to change anything?

16 DR. TONNE: We've gone four nights on a
17 wind farm, we've gone multiple nights on Rentec.

18 This is a good example tonight, we'll go
19 multiple nights. I really have a little bit of
20 a problem. I think it's easily satisfied. When
21 you go multiple nights you've got to be careful
22 that you offer the same openness to the second
23 night that you have the first night, the same
24 transparency. It's difficult I think to go to

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1 multiple nights and then not allow testimony.
2 It's either -- you know, there's no slightly
3 pregnant in here. Either you have another
4 hearing and you abide by the same protocol or
5 you don't, so if you're going to the second
6 night you could have continued testimony, some
7 of it redundant and I'm really not worried about
8 redundant as much as I am disenfranchising those
9 that might not be there the second or the fourth
10 night.

11 MR. MOORE: I don't know if you're
12 inviting my response, but I think my comment to
13 that would be the response -- the second night
14 of the hearing can be whatever you say it's
15 going to be. You can implement into Chapter 2
16 that testimony shall be concluded at the initial
17 hearing or any adjournment of the initial
18 hearing and that not before a reconvened -- that
19 deliberation and fact finding has to occur at

20 the second meeting and so if it spills over into
21 two meetings, so be it, then you can make your
22 fact finding, but what I don't want to have
23 happen and my concern -- because of the
24 uniqueness of this district my concern is that

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1 some applicant comes before the ZBA with a
2 planned development that has already greased the
3 skids before they get here, okay, and the deal
4 has already been cut for what this planned
5 development is going to look like, okay, and --
6 but you don't have this now in your zoning code,
7 so maybe my comments don't mean a whole lot, but
8 in other counties that have planned developments
9 it's very easy for a developer to present a
10 development plan to staff, to individual members
11 of the Board.

12 DR. TONNE: No, it's not.

13 MR. MOORE: Well, in other places it can
14 be.

15 DR. TONNE: Not here.

16 MR. MOORE: I appreciate that that you're
17 on the Board right now and that is your
18 position, but -- but from the public's
19 perspective having heard comments earlier and
20 certainly I don't -- I don't agree that the ZBA
21 needs to have term limits, but the point from

22 the public is you may not always be here. This
23 Board may not be the same forever and while you
24 have the discretion now, as Mr. Akemann pointed

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1 out, to adjourn meetings and continue them as
2 long as you see fit, that's not mandated, it's
3 not mandatory. The concern from my perspective
4 and my client's perspective is in a situation
5 such as planned development with so much
6 discretion available to elected and appointed
7 officials of the county to craft this district
8 in any fashion they see fit without objective
9 standards, because we need this flexibility,
10 without objective standards we need to know as a
11 public that the Board is taking into
12 consideration all of the testimony that it heard
13 at the ZBA to be comfortable. Now, again, not
14 saying anything about this Board or any future
15 board, but --and I'm not throwing the door wide
16 open for all other districts, but because this
17 is a unique district that is the reason for the
18 request.

19 MR. GRATTON: This is a -- this is --
20 again, we're moving ahead of ourselves here in
21 the PDD district and we've had this conversation
22 extensively with I think board committees and
23 the people who have been at some of those

24 meetings and if you want to think about it some

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1 more we can, you know, look at it again when we
2 get to that PDD district, but I -- at this point
3 I don't think I want to belabor that until we
4 get there. Anything else on Chapter 2 that we
5 need to -- there was a suggestion that
6 variations not be final at this level. Any
7 thoughts on that?

8 DR. TONNE: No.

9 MR. GRATTON: Okay. I think in
10 conversations with Board and other members this
11 has worked very well and there is a comfort
12 there and it can always be amended or changed if
13 it's not correct, if it ceases to work
14 correctly, so let's wrap up then Chapter 2 and
15 move ahead and we're going to go to Chapter 3
16 and Chapter 3 gets us into the districts and I
17 would like to break this down a little bit.
18 This is pretty lengthy as far as we're covering
19 all the different districts, so Linda, if you
20 would start with the presentation, you can do
21 the preamble and all that if you want, but the
22 ag district would be the first district we would
23 want to consider.

24 MS. DELVAUX: Sure. The chapter does deal

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1 with the different districts, that being an ag
2 district, R-1 which is the rural residential
3 district, R-2, another rural residential
4 district, a commercial district, a new district
5 being manufacturing, industrial, there's a
6 planned development district, another new
7 district, RP residentially planned and a
8 conservation district. As I stated, there are
9 the two new districts being planned, that being
10 the manufacturing and the planned development
11 district. These districts are shown only being
12 amended in the text right now. It's important
13 to understand that we're not amending anyone
14 into these new districts, that the County zoning
15 map stays the same, we're not amending that in
16 any way tonight. This is only text amendments.
17 And with that being said I can move on to the ag
18 district being the first in here and maybe the
19 reason most of you are here, I don't know.
20 There is a big change in the ag district that's
21 being proposed. That change is a minimum
22 agricultural lot size of 160 acres. This is a
23 minimum lot size for an ag residence in order to
24 be built on land that is zoned agriculturally.

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1 There are also a minimum lot size for
2 nonagricultural residences or agricultural
3 residences on lots less than 160, they are
4 treated as a special use and would be allowed to
5 go down to a 2-acre minimum in size. A little
6 background on that. We currently have a 40-acre
7 minimum lot size in Jo Daviess County. For
8 residences in the ag district we allow both
9 non-ag and ag residences in that district on
10 anything 40 acres or more. That is the current
11 status of our ordinance. What this has done has
12 resulted in many parcels not being used
13 agriculturally but being split up into those
14 40-acre parcels. The change to 160 together
15 with the non-ag residence being treated as a
16 special use in the ag district with the 2-acre
17 minimum will likely lead to the ability of maybe
18 some smaller lots out there with people asking
19 for the special use instead of just purchasing
20 themselves 40 acres so they can do as they
21 please. Maybe not the correct language. This
22 does support both agricultural and tourism
23 economy as outlined in the comprehensive plan
24 and I probably need to elaborate on -- when I

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1 said that. What I really meant to say not
2 necessarily do as they please, provides
3 opportunity for both the farmer in the county to
4 remain on the larger parcels and keep farming --
5 the vitality of farming in this county, but it
6 also allows for those that don't farm to put
7 their home in an ag district on a smaller parcel
8 but doing it so that it doesn't interfere with
9 the farming ability in the County, it doesn't
10 interfere with the scenic vistas that we have in
11 this County that I think most people find very
12 pleasing to the eye and maybe part of the reason
13 why some people live in this County, so that's
14 kind of a background on the ag district and the
15 160 acres.

16 MR. GRATTON: Okay. With that we're ready
17 to -- question, Bill?

18 DR. TONNE: For Linda or Dave, especially
19 Linda. Linda, to your knowledge and as you
20 understand it you have some familiarity with the
21 Comprehensive Plan which we've had since about
22 1998. Is there anything in this draft,
23 especially in this area of the districts and the
24 160 acres and the 2-acre minimum for a non-ag

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1 residence in the ag district, anything in there
2 that you feel is in conflict with the

3 Comprehensive Plan?

4 MS. DELVAUX: well, with -- with the
5 opportunity I've had to work with this new draft
6 I would say in general that the language in the
7 drafted ordinance is in compliance with the
8 Comprehensive Plan, I would say that -- a
9 general compliance.

10 DR. TONNE: Thank you.

11 MR. GRATTON: Okay. Any other questions
12 here?

13 DR. TONNE: Not now.

14 MR. GRATTON: Okay. At this point we'll
15 open this up for any testimony or any input
16 you'd like to provide regarding the agricultural
17 district.

18 MR. HARMET: My name is Dick Harmet from
19 rural Elizabeth and I'm objecting to changing
20 the minimum farm size from 40 to 160 acres. The
21 County Board in its wisdom has already voted
22 down a prior proposed text amendment change in
23 the minimum farm size from 40 acres to 80 acres.
24 This new proposed change is even more

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1 unreasonable. Farm size regulations in
2 Jo Daviess County should encourage, not
3 discourage, small livestock operations,
4 vegetable farms, vineyards, prairie crops and
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5 tree farms. Such activities can provide a
6 viable future for area agriculture while
7 retaining the rural nature of the county that we
8 all desire.

9 MR. GRATTON: Yes, sir?

10 MR. CASWELL: I'm Dan Caswell. I'm the
11 supervisor in Berreman Township and rather than
12 have all of our people come and testify before
13 the Board after we had heard about the change
14 and we read about it in the newspaper for the
15 first time, we had some concerns about it and so
16 we went and we asked and we actually ended up
17 circulating a petition and in a couple of days'
18 time, because time was short for us, we had 68
19 residents from Berreman Township, which doesn't
20 sound like a lot, but actually that's more than
21 two-thirds of our voters and another hundred
22 residents of people in the county who just heard
23 about this and said, oh, I'd like to sign that
24 or circulate it, signed petitions that basically

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1 said they agreed with the gentleman who just
2 spoke. They don't think this is a good idea and
3 that it's in the interests of the citizens. If
4 I could speak just a minute for the Berreman
5 Township folks. We may have some unique
6 characteristics down there. We're the ones that

7 are farthest away from Galena. You probably
8 don't see us or hear about us much except when
9 Blackwater comes in. And I appreciate the
10 Board's -- I appreciate the work that the Board
11 is doing because this is not an easy job, but
12 let me say a couple of things. Our view is
13 that the change to 160 acres appears to be
14 contrary to the interests of the residents of
15 Berreman Township. There's a general sentiment
16 in the township that owners of private property
17 should have substantial freedom to use it as
18 they choose. I think that is a general
19 sentiment among the folks who will live in my
20 township. We have some economic issues as well.
21 Our tax base is approximately the fifth lowest
22 in the entire state because of the size of the
23 township. Last year we effectively doubled our
24 road and bridge tax in order to try and prevent

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1 our roads from crumbling away. The things that
2 would decrease the tax burdens on the citizens
3 there and increase our tax base are things that
4 we might well be open to in terms of further
5 building. There isn't a lot of building that
6 goes on down there, but increasing the minimum
7 agricultural lot size to 160 acres might well
8 have the effect of unduly restricting new

9 construction because of the need to obtain
10 special permits -- special use permits and the
11 potential for a denial of those permits.
12 Another factor that relates to the citizens'
13 interests is the potential for an unintended
14 consequence of driving young people out of the
15 county, driving older people off their land,
16 where a landowner may no longer have the
17 complete freedom to build an additional
18 residence for a child or a parent that they now
19 have if they have a farm that's 40 acres or
20 larger. We also have some concerns that it may
21 be contrary to the interests of the farmers of
22 our land in Berreman Township. The proposed
23 revision seems designed to deal with the prime
24 farmland with the large grain, corn and bean

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1 farm operations that we have more in the
2 northeastern portion of the county. In Berreman
3 Township all of our land when you look at the
4 maps it says H-E-L on it because it's highly
5 erodible land. It's hilly land. There's a lot
6 of woods, a lot of trees, creeks, ponds. It's
7 nice land and it's good for cattle and it's good
8 for hay, it's probably good for the specialty
9 type farms that the gentleman was talking about.
10 It's not great for large scale corn and bean

11 farming. Now, I have to say that most of the --
12 most of the farmland in Berreman Township is, in
13 fact, being used either for CRP or for farm
14 uses, various farm uses. We have not seen the
15 problem that has apparently driven the committee
16 to recommend the increase to 160 acres. We have
17 not seen the division of farms and taking them
18 out of productive use of farmland, so that's
19 speaking for our small corner of the county.
20 The original lot size for farms, as I understand
21 it, in this county was 40 acres and I think with
22 the topography that we have in Berreman Township
23 the 40 acres actually makes very good sense for
24 farms there, but not for the big grain farmers,

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1 but for the kind of farms that can work there
2 with pasture and hay and the like.
3 Another concern that we have, and I'll
4 just touch on it briefly because I think it was
5 addressed, is that the proposed revision could
6 unduly restrict the operation and expansion of
7 smaller specialty farms. Some folks predict
8 that specialty farms are the future of farming
9 in areas like Berreman Township. I think they
10 may well be right and I'd hate to restrict that
11 and I think those sorts of farms fit well both
12 with our agricultural goals and with our tourism

13 goals for the county. I think that works very
14 well. Another concern we have is that
15 increasing the minimum lot size to 160 acres may
16 also have the unintended consequence of causing
17 larger lots of farmland to be purchased when
18 people want them for hunting or recreational use
19 and so we may find that farmland is even less
20 affordable for purchase or for rent by local
21 farmers. I mentioned the tax base issue.
22 Berreman Township obviously has some interest in
23 allowing growth in our township in order to
24 contribute to our tax base and I'm not sure that

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1 leaving our goals and interests in the hands of
2 the County, which may have different goals for
3 different parts of the County, is something that
4 is ideal from our point of view. We're a little
5 concerned that the change could also increase
6 the costs at the county level. We have -- we
7 have a lot of farms that would be impacted by
8 this. By my count we had about 60 percent of
9 our farms that would be impacted by this change,
10 40 out of about 67. That's not -- that's not a
11 scientific count. I tried to do that as best I
12 could, but there are a lot of places across the
13 county that are going to be impacted and it may
14 be that the applications to Linda's office and

15 the petitions to the Zoning Board of Appeals
16 would increase substantially and you may find
17 yourselves with more than you can deal with one
18 night a week -- or one night a month, I should
19 say, so that's something to think about. The
20 cost is not only to our Zoning Board of Appeals
21 though in terms of time, it's also a cost to the
22 people in the township and in the county who
23 have to make the special use permit applications
24 and take the time and the money to do that.

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1 Last thing I want to say is that I'm a
2 little concerned that it is -- that the proposal
3 is inconsistent with the Comprehensive Plan in
4 treating Agricultural Preservation Area 2
5 property the same as Ag Preservation Area 1
6 property. The Ag Preservation 1 property is
7 what's called prime farmland and that pretty
8 much falls in the northeastern section of the
9 county. As I said before, the Ag Preservation
10 Area 2 farmland is like we have in Berreman
11 Township and it is not prime farmland. It's
12 hilly, it's highly erodible land, it's wooded
13 areas. And it seems as if this ordinance is
14 designed to promote the larger farm and I would
15 suggest that that may not be the best use and
16 best application for the farmland in our

17 township and in areas like our township. One
18 thing the Board might consider is if they don't
19 reject the increase to 160 acres altogether,
20 they might consider treating the agricultural
21 areas differently. Ag Preservation Area 1,
22 maybe it makes more sense there. I'll let the
23 people who live there or who farm there address
24 that, but in Ag Preservation Area 2 and other

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1 farmland in the county it seemed to us to make
2 good sense to -- to leave it as is or perhaps
3 make it even smaller. I'd be happy to leave a
4 copy of my comments and a copy of most of the
5 petitions that we had a chance to make a copy of
6 with the Board.

7 MR. GRATTON: We would like those, Dan.
8 Could I take just a moment and respond to some
9 of the things you said, because I think by and
10 large they're the same comments that this
11 committee that drafted this has made over and
12 over again. And the concerns that you and Dick
13 have raised here are the concerns that the
14 committee struggled with and I knew 160 acres
15 when that was finally proposed would get
16 people's attention and it has, but let me -- I
17 want to make sure everybody here is up to speed.
18 I don't think we're on two different sides of an

19 issue here. I think we're agreeing more than
20 we're disagreeing and the reason I say that is
21 the big push for changing this to a higher
22 number, and this is a minimum lot size in order
23 to be able to put a residence on that particular
24 lot, it has nothing to do whether or not it's

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1 agriculture or a farm, it's the ability or the
2 right to put that agricultural residence on that
3 piece of property, okay, I want to make that
4 real clear. We're not defining a farm here.
5 Farms are defined by the agricultural use, so
6 the ability of anyone to use any type of
7 farming, whether it be the largest scale farming
8 or the small niche farming, is not changed by
9 this. The only thing that's changed is the
10 ability to put residences on those smaller
11 parcels or smaller lots by right. The provision
12 that was put in here was to allow those in an ag
13 district to be put in and utilized as a special
14 use with a 2-acre minimum lot size. So don't
15 forget that that provision is here. If you get
16 back into the standards -- I'm jumping ahead of
17 myself a little bit, but I think helps explain
18 this -- there are a lot of issues in doing this
19 and to correct some of the statements that are
20 made, 40 acres originally in our document was

21 not a right, it was a precedent that was set
22 with early zoning administrators and was
23 ultimately put into our document is how that
24 came to be, so there's nothing magic about 40

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1 acres, it's just what we have today. And that
2 means if you have 40 acres today you can, you
3 know, build a home on it.

4 MR. CASWELL: I was actually talking about
5 the 1800s when I said 40 acres was the way that
6 it was divided up.

7 MR. GRATTON: well, yeah, and you are
8 correct on that, but if you look at standards
9 that are being proposed in order to do this what
10 we're looking at -- we looked at how you
11 differentiate among these different agricultural
12 districts. You know, in the Comp Plan we had
13 AG-1, 2 and the general ag district and to map
14 that is almost impossible. We looked at some
15 soils and went through all of this.
16 Lester Johnson was one of the people that helped
17 us with some of that early mapping. It was
18 almost impossible to do it from a mapping
19 standpoint, so we discarded that idea. Instead
20 we went to some criteria -- we spent a great
21 deal of time on the LESA scoring system, the
22 land evaluation and site assessment tool, which

23 if you've been to any zoning meetings you
24 understand that that is utilized in any

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1 conversions from any ag property to some other
2 use and that was as -- part of this process and
3 that's already been adopted by our County Board
4 and it's being utilized today and it's a fine
5 tool and it's a very objective document the way
6 we presented it. What it does it helps us
7 identify in Jo Daviess County those areas that
8 are less productive for agriculture and it will
9 allow a lot of homes to be built in Berreman
10 Township under that special use provision and in
11 a lot of other places. The place it will not
12 allow some of those to be developed or created
13 will be on the very good farmland in Jo Daviess
14 County, so the proposal before us is not
15 something I think we're disagreeing on, it's how
16 we get to that same -- to that objective. We
17 are proposing this 160 as that minimum lot size
18 in order to build that and we don't know that
19 that 160 is the right number. We've debated a
20 lot of different numbers in the process. I
21 think the committee thinks that the right number
22 is somewhere between 40 and 160, but we don't --
23 and the reason this was presented to the County
24 Board early -- and I don't think they rejected

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1 the request per se, they rejected it at that
2 point because they wanted to see it as part of
3 the whole document was the discussion at those
4 meetings. It wasn't that they necessarily
5 turned that down. What we would have liked to
6 seen was a discussion on that 80 acres to give
7 us guidance as to what we'll put in this
8 proposal. That didn't happen at that time and
9 so it was sent back to committee and ultimately
10 this is what came to be, but the -- I'm -- you
11 know, we're not going to get into a disagreement
12 here because we're not disagreeing. What we're
13 thinking this is accomplishing and you can all
14 judge this yourselves, is that not only will we
15 preserve farms by doing this and farmland, but
16 we will preserve the tourism base by not
17 creating, you know, a lot of those residential
18 districts scattered all throughout the county.
19 When we look at our present map our only option
20 at this time if we want to create a residence
21 out there in Jo Daviess County on less than
22 40 acres is to rezone it residential in the
23 middle of the county. The committee's thinking
24 was that is not what we want to do. We do not

1 want to create those red dots scattered
2 throughout Jo Daviess County as residential. It
3 doesn't make sense from a zoning standpoint,
4 it's spot zoning, but it's the only tool that we
5 have in our present document, so that was hence
6 the creation of the 2-acre minimum for a special
7 use. And there are ultimate places in
8 Jo Daviess County where that will be possible,
9 so I'm not sure we're in disagreement or not.

10 MR. CASWELL: I appreciate that. Can I
11 just make sure I'm clear on two things. One is
12 that if you have 160 acres or more you would
13 still need a special use permit if you wanted to
14 build a nonagricultural residence.

15 MR. GRATTON: That is correct.

16 MR. CASWELL: If you have 40 to 160 acres
17 -- if you have 40 to 160 acres you would need a
18 special use permit to build a residence whether
19 it's agricultural or not under the proposed
20 change?

21 MR. GRATTON: Linda, you can explain that.

22 MS. DELVAUX: No. There are actually some
23 exceptions to the rule that are written in.

24 MR. CASWELL: If you have your preexisting

1 lot?

2 MS. DELVAUX: If you have a parcel that's
3 considered a lot of record, that parcel was
4 developed after 1995 before any change would
5 occur, 40 acres or more, if that was developed
6 and recorded in that metes and bounds
7 description then it has an exception and you can
8 build an ag or a nonag residence on that parcel.
9 It's considered a lot of record. That's one of
10 the exceptions. There's another exception in
11 there on parcels smaller than 40 acres. If they
12 were recorded prior to 1995, which was the
13 original adoption of the county zoning
14 ordinance, those are a recorded lot of record
15 meaning they're the same metes and bounds
16 description today as they were yesterday you
17 would have that ability to also build an ag or a
18 nonag residence. So there are exceptions to the
19 rule.

20 MR. CASWELL: Yes, okay, I understood
21 that. If you have a 40 to 160-acre parcel the
22 general rule is that you would need a special
23 use permit to build either an agricultural or a
24 nonagricultural residence if this is approved.

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1 There are certain exceptions that Linda just
2 identified, if you have a lot of record that
3 exists as of the time the ordinance --

4 MS. DELVAUX: Yes. If you have a
5 newly-created parcel, anything under 160, we're
6 looking at that size frame, newly-created, yes,
7 you would need a special use to build a
8 residential home on the parcel.

9 MR. CASWELL: If you had a 120-acre lot
10 today that had a home on it but it wasn't
11 sectioned off into a recorded group of 40 acres,
12 once the ordinance changes you would not be able
13 to build without a special use permit -- a
14 second home?

15 MS. DELVAUX: You would have 120 acres and
16 one home on it. That's what you would have.

17 MR. CASWELL: And let me just clarify that
18 that I think the concept of the 2-acre special
19 use permit in order to not have all the spot
20 zoning -- I didn't hear any objection to that
21 from the folks that I talked to. I think the
22 concern probably lies -- nor have I heard
23 concerns about the Board or about the tools that
24 we can use for making special use permit

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1 decisions. I think that the general concern
2 that I have heard is that there's a concern that

3 owners of private property have substantial
4 freedom to use it as they choose and I think
5 that's a -- that's a fundamental concept that I
6 would urge the Board to take seriously.

7 MR. GRATTON: Okay. Your thoughts are
8 well taken. I think we're in agreement on that
9 basically. We are in agreement on the goals
10 that we're trying to accomplish here and if you
11 think about this I want you -- I want you to
12 think about this. Which is the biggest
13 protection for agricultural? Or do we not want
14 to protect agricultural? If that's the way we
15 want to go, that's an option. So there are some
16 protections there and we need to think through
17 this whole process, so --

18 MR. CASWELL: Thank you.

19 MR. GRATTON: And all of this farming is
20 all permitted.

21 DR. TONNE: You've done particularly well.
22 I want to commend you with your tone and tenor
23 and substance speaking as you did for Berreman
24 Township residents. It's been very good for

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1 this entire body. Thank you for that. But just
2 to elaborate slightly, I won't take a minute.
3 We have a Comprehensive Plan that has a number
4 of goals, one of which is to save agricultural

5 as a business and promote tourism. There's
6 other goals as well, but those are huge. If you
7 object to either of those goals in the
8 Comprehensive Plan you're probably in a
9 minority, a serious minority, okay, because
10 that's what this county has been operating on,
11 that's what this ordinance reflects. A farm
12 does not have to be 160 acres. What we're
13 saying is you need 160 acres for a house on that
14 land. You can have a niche farm -- you can have
15 a niche farm. It can be a vineyard, it can be a
16 lot of things. A single beehive doesn't
17 qualify.

18 AUDIENCE MEMBER: But I can't live on it?

19 MR. CASWELL: You can if you get
20 permission through a special use permit.

21 DR. TONNE: We are trying to actually make
22 that easier, okay, and yet satisfy the
23 Comprehensive Plan.

24 MR. GRATTON: Okay. Thank you very much.

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1 MR. CASWELL: Thank you. Can I leave
2 these?

3 MR. GRATTON: If you would, please.
4 Gentleman in the back?

5 RICK DITTMAR: I'm Rick Dittmar from
6 Woodbine Township and I just need a

7 clarification. I currently own 40 acres and I
8 have a house and a shop on it and if this plan
9 goes through -- the new plan we're talking about
10 will I be zoned as a special use or will I be
11 grandfathered in as agriculture?

12 MS. DELVAUX: You'll have an existing
13 parcel and the existing parcel is grandfathered
14 in and your use is permitted because you have a
15 lot of record, so it's permitted under one of
16 those exceptions that I talked about.

17 RICK DITTMAR: But now, can I build a barn
18 or can I put up a fence without getting
19 permission, without being told what color to
20 paint it and things like that or --

21 MS. DELVAUX: Yeah, you can put up your
22 accessory structure as it is today, it will be
23 the same tomorrow, that when you put those
24 accessory structures up you are supposed to get

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1 a site permit for those agriculture structures.
2 That's the way it is today, that's the way it
3 would be tomorrow. We look at things like
4 setbacks, we look at floodplains and things like
5 that when we're looking at agricultural
6 structures, but you are required to get that
7 permit today and will tomorrow.

8 MR. GRATTON: Yes?

9 MS. MONTGOMERY: My name is
10 Geneva Montgomery and my concern is the rights
11 that are being taken away from the people. We
12 have many young people fighting for the rights
13 of the United States and I'll bet there are many
14 people in this room who have also been over
15 fighting at one time or another for equal -- for
16 the rights -- just to maintain the rights of the
17 United States. My husband was one of them. And
18 when he came home from Korea his one desire was
19 to be able to buy a small farm. He was raised
20 in town, but he wanted to get out and have that
21 chance to live on a small farm. We were able to
22 do that. Will the young people who are fighting
23 now have that same right to buy a small farm? I
24 believe that corruption and the removal of our

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1 rights does not begin at the high level, but it
2 begins right here where we're at. I know you've
3 worked hard on this and I respect that. I agree
4 with the gentleman who has just spoken, but I
5 believe we do have to remember that every time a
6 right is taken away we've lost something dear
7 and that's my concern. Thank you.

8 MR. GRATTON: Okay. Mr. Lawfer is up
9 next. Ron, were you going to -- do you have
10 something to say?

11 MR. LAWFER: Yes, just a comment in
12 regards to the agriculture area. It's amazing,
13 164 pages, an increase from 78 pages and I think
14 the original one was 16 pages, so how things
15 have changed and so on. But I noticed in the
16 definitions a term that Dr. Tonne just used and
17 that was farm. There is no definition of a farm
18 in the definitions; is that correct?

19 MR. GRATTON: That is correct.

20 MR. LAWFER: It had been used as
21 agriculture?

22 MR. GRATTON: Agriculture is the
23 terminology that's used, not farm.

24 MR. LAWFER: Okay. I wasn't sure. In

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1 regards to the agriculture residents and the --
2 well, first of all, one of the things that you
3 haven't addressed yet and I applaud the
4 committee for that, was the setback requirements
5 from nonfarm residences in regard to livestock
6 operations and so on. I applaud you for that.
7 However, I'm not sure that I understand or --
8 understand the definition of agriculture
9 residence and nonagriculture residence.

10 MR. GRATTON: David, do you want to give
11 -- he's the one who's advised us and we've been
12 using -- agriculture has been a term that's been

13 defined by Illinois statutes and that's the one
14 we're using and that's how we --

15 MR. LAWFER: However, there are statutes
16 that refer to farms or whatever, but go ahead.

17 MR. AKEMANN: Can I use this?

18 MR. GRATTON: Yes, please do.

19 MR. AKEMANN: The zoning law that's
20 written again by the State that allows the
21 County Board to have zoning regulations at all
22 uses the term agriculture and it defines it in
23 the law what agricultural is. There is a
24 substantial interest that is spoken for in

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1 Springfield, because a non-home rule county,
2 such as the one we're in, the legislature has
3 not given the county boards the right to
4 regulate agriculture in any way except setback
5 lines, that's it. So you can't say you can't
6 farm on a piece of property that's 1 acre or
7 whatever. I told the Board originally from Day
8 1 that you cannot get in the regulation of the
9 agricultural industry, law does not permit that.
10 There's nothing in this ordinance that does or
11 is supposed to. What it does allow is
12 regulation of minimum lot size and building and
13 setback regulations for residences both
14 agricultural and otherwise. There's a lot of

15 case law, people exercise their rights in court
16 that defines what an agriculture residence is.
17 The closest I can come to it, although there's
18 no bright line, but don't shoot any of the
19 messengers, this is what our legislature has
20 given us, is occupied by somebody primarily
21 engaged in the residential operation of the
22 land. That's what an agricultural residence is.
23 why do we have to treat them differently?
24 Because the legislature says we do. One we can

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1 regulate a great deal, that being
2 nonagricultural residences, people want to live
3 in the country but have nothing to do with
4 agriculture versus somebody who's, in your
5 words, are farming the land which is the
6 traditional use. And so one of the issues that
7 they have is how do we balance the issue against
8 preserving prime ag land and ag land generally
9 so it's not eaten all up and that's what the
10 struggle is and the committee has struggled
11 with. So what is the definition of an
12 agricultural residence? It's occupied by
13 somebody engaged in the agricultural operation
14 of that piece of land. That's as close as I can
15 really come to it. The legislature doesn't lay
16 that out for us, but there's a lot of lawsuits

17 that have and unfortunately that's what happens.

18 MR. LAWFER: So if a neighbor would change
19 his operation it would change from a farm -- or
20 an agricultural residence to a -- from a nonfarm
21 residence -- or nonagriculture residence to an
22 agriculture residence?

23 MR. AKEMANN: If you go that way it's
24 always safe actually. The issue comes generally

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1 and this has been addressed by a County Board
2 member that we have a section in this that
3 allows somebody that has farmed it for years
4 that doesn't want to do it anymore and is able
5 to sell that or continue to use it but as a
6 nonag residence and that provision is in here
7 and that was the specific request of a County
8 Board member concerned about that issue.

9 MR. LAWFER: Mr. Chairman, will the zoning
10 map then show agriculture residences and
11 nonagriculture residences? If you're going to
12 have setback requirements that would probably be
13 necessary -- setback requirements from livestock
14 operations?

15 MR. GRATTON: Yeah, these would -- they
16 would be part of a mapping situation. However,
17 I don't think you're going to see these on the
18 zoning map per se. Is that correct, Linda?

19 MS. DELVAUX: Correct. The zoning map
20 would not indicate the use of the residence
21 itself. What a zoning map is designed to do is
22 indicate the actual district, so the zoning map
23 only shows what district the parcels are in.
24 MR. LAWFER: So I don't know whether my

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1 neighbor has a nonagriculture residence or an
2 agriculture residence?
3 MR. GRATTON: Not by looking at the map
4 you wouldn't know that.
5 MR. LAWFER: How can I find that out?
6 MR. GRATTON: Ask her.
7 MR. LAWFER: Well, I realize that you've
8 done a lot of work on this and so on. Those are
9 my concerns and I -- I don't see a definition in
10 here as such for agriculture and nonagriculture
11 residence. You might -- I'm not sure in the
12 table where that shows and even on the A-1 on
13 the table, I know I'm getting ahead, I don't see
14 where agriculture is a permitted use in
15 agriculture.
16 MR. GRATTON: It is a permitted use in the
17 ag district.
18 MR. LAWFER: Does that show that on the --
19 I'll look forward to hearing the discussion on
20 that. Thank you.

21
22
23
24

MR. GRATTON: Yes.

MR. CASWELL: Would it be helpful if I read the definition of agriculture that's in the definition section of the proposed ordinance?

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MR. GRATTON: If you want to, but do it quickly.

MR. CASWELL: An art or science of cultivating the ground, including harvesting of crops and rearing and management of livestock; tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use. In this broad use it includes farming, horticulture and forestry, together with such subject as butter and cheese making, sugar making, etcetera. Unless restricted by the context, the words agricultural purposes have generally been given this comprehensive meaning by the courts of the country.

MR. GRATTON: Okay, and that is permitted anyplace on any size acreage in the ag district. There's nothing in this document that's going to change the way agriculture is practiced. The only thing that's been changed here in the

23 recommendation is to change the minimum lot size
24 for a residence for agriculture. Yes, ma'am?

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1 MS. HAAS: Susan Haas.

2 MR. GRATTON: why don't you step up to the
3 mike, please.

4 MS. HAAS: I'm Susan Haas, outside of
5 Elizabeth. We have a centennial farm there. We
6 have two farms that are only 130 acres and then
7 a farm that's 300 acres. We have four children.
8 I worry that when my husband and I pass away and
9 we have to divide up the farms and stuff that we
10 may have too small of a farm. We have one son
11 that is doing farming on the centennial farm,
12 but he won't be able to keep up the entire
13 amount of acreage for the amount of money that
14 it would cost him. If we have to divide it up
15 at any time we're going to be too small of lots
16 and this worries me.

17 MR. GRATTON: Okay. It will be too small
18 of lots for a permitted agricultural residence.
19 It will not be too small of lots if you want to
20 create a lot or a residence there that is not
21 nonag or even ag as a special use, then you need
22 2 acres, so you can have lots of kids.

23 MS. HAAS: So they could still get their
24 individual lots in a smaller size and then have

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1 a smaller lot inside of that, okay, similar to
2 what we actually have right now as -- because
3 when we pay our taxes we pay on our lot size for
4 our house which is just an acre now I think and
5 then you have your farmland, right -- okay.

6 MR. GRATTON: Yeah, we're not giving tax
7 advice here tonight.

8 MS. HAAS: I know that, I know that, but
9 as long as that can be arranged, so -- because
10 it is very confusing when you read it and I
11 think a lot of people have been confused with
12 the 160 acres thinking, well, our farm isn't
13 even 160 acres, we can't sell that farm, but you
14 do have the opportunity, you already have a lot
15 established on that farm. Thank you.

16 MR. GRATTON: Thank you. Yes, sir?

17 MR. BERLAGE: My name is Ron Berlage. I'm
18 in Rice Township. Can I call you Mel?

19 MR. GRATTON: Sure. I've been called
20 worse.

21 MR. BERLAGE: You stated before that you
22 didn't think that the 160 acres was going to
23 have an impact for the niche farm or the hobby
24 farmers. Say I want to go out or somebody wants

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1 to buy 80 acres, there's a lot of 80-acre farms
2 around here. I don't want to have to worry
3 about being granted a special use permit to
4 build a house on it and I can see what you're
5 trying to do and I said this when it went to the
6 40 acres, I said you're not going to stop the
7 land from being bought by people that have the
8 money to buy them and you're not going to -- I
9 realize you're trying to keep the farming in
10 Jo Daviess County, but in my area alone, Rice
11 Township, within eyesight of my home there's
12 four farms that no longer exist. The reason
13 they no longer exist is because the farming
14 isn't that great. The farmers get to be 70, 80,
15 90 years old, they want to sell them. I just
16 don't think you're going about this the right
17 way to try to keep it as a farm by restricting
18 the acreage because somebody is going to come
19 along with enough money and still buy the
20 160 acres and it's not going to change anything.
21 You can't -- you can't make the person farm.
22 When -- Jackie Schultz is sitting right there,
23 someday when he dies -- which we hope is not too
24 soon -- but if his kids don't want to farm it

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1 it's going to be sold and the guy that buys it
2 more than likely is not going to farm, he's
3 going to put it in CRP which I don't think is
4 right either, because if you're going to have a
5 farm you should farm it and I mean, you're on
6 Highway 20, you're in a fairly good farming
7 area, you got good farm ground, but as far as
8 Rice Township goes it's become a recreation area
9 up and down along the Mississippi. So I'm not
10 really sure that the 160 is right because it
11 will impact some people. John Becker's farm on
12 Shetland (phonetic) Lane, you know, if I want to
13 buy it I don't want to have to worry about a
14 special use permit. I went through before when
15 I lived a mile and a half out of town, I had to
16 get a special use permit to do everything.

17 MR. GRATTON: well, if the residence
18 exists --

19 MR. BERLAGE: well, you ain't going to
20 live in that residence, I mean, it needs work,
21 but you know, you can understand where we're
22 coming from. We don't always want to have to
23 come -- like Donjes (phonetic) farm has been in
24 the family now for probably 145 years. There's

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1 150 acres. Andy would like to build a house

2 someday. Why should I have to come and -- I
3 don't want to use the word beg, but basically
4 you have to come and get permission to build a
5 house on land that's been in your family for 140
6 years or so. There's other nieces, there's no
7 nephews. Say they want to build a house there
8 too. If we're not going to use it for farming
9 then we're going to live on it. It will always
10 be in the family. I mean, one way or another
11 it's going to be kept in the family, but I think
12 you're putting undo hardships on people that are
13 in the same predicament that we are and any farm
14 that's in Warren or Apple River on Highway 20,
15 if it's good quality producing farm nobody is
16 just going to buy it and leave it lay idle.
17 Either the neighboring farmer will buy it -- but
18 like in our area there is nothing -- you know,
19 no neighboring farmer is going to buy 150 acres
20 with 4 tillable.

21 MR. GRATTON: What's the right size, Ron,
22 in your mind?

23 MR. BERLAGE: There is no right size. I
24 said -- when it went to 40 acres years ago I

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1 told Don, I said, that's not going to keep
2 people from coming out here and buying it
3 because they've got too much money. The people

4 that are coming here and building the houses,
5 and I have nothing against those people, if I
6 was in Chicago, Madison, Milwaukee, I'd want to
7 get out too and I'd want to come out here and
8 that's what's brining them here, but there is no
9 right size. But there's too much of this
10 special use permit stuff. It went on with the
11 City of Galena. Ron, you want to sandblast
12 outside, get a special use permit. Ron, you
13 want to paint a car, get a special use permit
14 and then you have to come in, reapply. well,
15 you build your business up after 15 years and go
16 back to apply to another board -- a new city
17 board and they might say, well, tough luck, no
18 special use permit for you. So there's just
19 other things to think about.

20 MR. GRATTON: So you would not -- you
21 would not require a minimum lot size for an ag
22 residence, is that what you're saying?

23 MR. BERLAGE: I hate to limit a farmer
24 that would like to sell off 10 or 15 acres to a

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1 friend, a relative or wherever to build a house.
2 It's his right. He's owned that land, he bought
3 it, he pays taxes on it. If he wants to sell
4 the whole 160 or if he wants to sell whatever,
5 take a percolation test for a septic system, I

6 think it's his right to sell it if you can
7 afford it.

8 MR. GRATTON: Is it desirable to do that
9 on prime farmland?

10 MR. BERLAGE: I think it is. I mean,
11 there's a lot of farms down around Stockton
12 where Ron Lawfer is from, I'm not sure where his
13 farm is at, but we drive down 78 motorcycle
14 riding and I see farm ground -- well, Harbach
15 (phonetic) is down there, that's prime farm
16 ground, right? If he has a family member or a
17 friend that he wants to sell 15 acres off to why
18 shouldn't he be able to sell 15 acres to put a
19 house up, it's his property. If he -- if he
20 misses 15 acres that badly, you know, he won't
21 sell it. I mean, it's just something else to
22 think about. There's a lot of things to think
23 about and I think you need a lot more input
24 before you go any further with this 160-acre

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1 thing and then when Section 6 comes up I'll have
2 to come back.

3 MR. STURM: John Sturm from Hanover, Rice
4 Township. We've been here 25 years. We came
5 here from the city for all the reasons I think
6 that a lot of people feel in this room which is
7 less restriction, more flexibility in what we

8 want to do with our land and not having to apply
9 for special permits. I think if you have
10 experience trying to get things done in the city
11 that's where these continuation of rules are
12 going to take this county which is not a very
13 good spot to go. It seems like we've got
14 protection going on in this county that we don't
15 need. I think that the concept of trying to
16 understand what's gone wrong in this county is
17 making you make these changes, that's what I'm
18 trying to understand, because I don't see
19 anything in this county that's so horrible.
20 Seems like the Zoning Board does its job. We
21 built a facility for horses a year ago. It was
22 a wonderful process in the county. We dealt
23 with professional people, it went through
24 smooth, but I think if we had had to go for a

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1 special use permit and try to prove ourselves on
2 land that we paid for that we've taken good care
3 of like everyone has I think -- I just think
4 it's unnecessary, so I guess my question is why
5 did this process start? What has gone so wrong
6 here in 25 years? Because when I look at the
7 City of Galena it seems like all the silly rules
8 that go on are the things that our friends that
9 still come from the city complain about and it

10 used to be a different city here and I'd hate to
11 see the county go that way. And when we're
12 talking about Rice Township, I can't get a
13 farmer to come up and talk to me, so anyway, I'm
14 just trying to understand what's gone so wrong
15 that you had to make these changes? why can't
16 it just stay with what you were doing?

17 AUDIENCE MEMBER: Good question.

18 MR. GRATTON: Okay. Thank you. Yes?

19 MR. MACOMBER: Bart Macomber from Berreman
20 Township. I live on a farm that never did
21 exceed 120 acres. The question that was just
22 asked I'm very interested in hearing it
23 answered, because the illusion was to many farms
24 being broken up into 40-acre parcels and taken

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1 out of prime agriculture and I don't know -- I
2 don't know if that's a prevalent practice
3 someplace, but I don't see prime agriculture
4 ground going out. But the Board's concern about
5 preserving agriculture I take very seriously. I
6 think that's a very important aspect of this
7 county. It's probably our largest industry and
8 I think the real concern on lot size is that
9 there is not a conversion of agriculture ground
10 to other use. Yes, the parcel the house sits on
11 as we do the 1-acres for farm residences does

12 change, but the rest of the land stays
13 agriculture and I have yet to hear any
14 rationalization for why changing the
15 agricultural lot size from 40 to 160 would
16 preserve more agricultural land, I have yet to
17 hear any. And when you say, well, what size
18 should it be, I realize 40 is arbitrary. In
19 fact, I really believe once you go past 5 acres
20 most of the ground would stay agriculture
21 because it's more than any residence can care
22 for. So all these are arbitrary numbers, but I
23 have yet to hear any rationalization for why
24 it's needed and if it would save more land in

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1 order to make the larger lot size, so therefore
2 it would seem my recommendation is to let it
3 stay. Now, one of the things that I've
4 certainly felt is the emotion of this group and
5 the emotion is there because when zoning came
6 into this county because we told agriculture we
7 won't mess with you and now they're being told,
8 well, we won't mess with you if you're over 160
9 acres and so we're -- the reference that we're
10 slowly taking rights away and we're now saying
11 if you're not 160 we're going to mess with you
12 and that's the way they feel. That's the way I
13 feel. You say, well, you just need a permit and

14 they didn't used to need a permit. And so for
15 these reasons I don't understand the change.

16 DR. TONNE: Could I ask the previous
17 speaker -- are you suggesting leave it the way
18 it is, is that what you're saying?

19 MR. MACOMBER: It is much better than the
20 change. It's something that we've grown
21 accustomed to and a change certainly stirs up a
22 lot. I think it took a lot to get zoning past
23 agriculture the first time. Now we're saying,
24 well, you're no longer agriculture because they

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1 said you won't need permits, all you have to
2 worry about is setbacks and suddenly they have a
3 whole new list of things to worry about. You
4 hear the concerns people have of how it's
5 affecting their lives and it's because now to
6 be, in essence, exempt you got to be 160 and I
7 think acreage is a very narrow way to define
8 what is farm or agriculture and I have a lot of
9 ag background.

10 MS. SCHWERDTFEGER: Skip Schwerdtfeger and
11 I want to agree with that and I also want to
12 agree with the previous speaker to that. I
13 always have believed that zoning laws should
14 reflect reality. I don't think the current
15 zoning ordinance reflects reality because you

16 zoned the whole county ag when many parts of the
17 county are not ag. There are ag zonings out
18 there that are 5 acres, 6 acres, 8 acres, 10
19 acres that haven't had a kernel of corn grown on
20 them or a bale of hay made on them or a tree cut
21 on them for sale in 20 years and yet they're
22 still zoned ag. I think that's ridiculous. I
23 think changing the acreage size to 160 acres or
24 anything like that is also ridiculous for the

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1 reasons just stated and I won't repeat them. I
2 think they were very well -- very well said. I
3 also believe as two speakers back said that the
4 only definition of what constitutes a farm
5 should be the state definition, anything that
6 creates \$1,000 a year or more of agricultural
7 income is a farm no matter what its size and I
8 honestly believe, as I stated when you guys went
9 to 40 acres, that wouldn't accomplish the goal
10 you were trying to accomplish and I don't think
11 going to 160 will accomplish it either nor would
12 80. I think you're on the wrong track. I agree
13 with Ron. I looked and looked for a definition
14 of an ag residence in your definitions, there is
15 none. Definition of a farm is not included.
16 The State does, as David said, define farms, but
17 we don't. And I also think that there are a

18 couple of unintended consequences that have not
19 been mentioned. I'm kind of curious to know
20 what the assessor is going to say to all the
21 people with 40s and 20s and etcetera and 80s in
22 the county when the zoning has said that, okay,
23 160 or more constitutes a farm. What are they
24 going to start thinking? I don't know and they

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1 might look and say, hey, we got to change some
2 tax status here. The other point that's been
3 well made, nobody has come up with how many 40s
4 that we've created have not been kept in some
5 form of agriculture. You have not given us that
6 number, that's your job and it has not been
7 done.

8 AUDIENCE MEMBER: I have those, Skip.

9 MR. SCHWERDTFEGER: Good. I'll be curious
10 to hear that. I want to hear that. I know
11 Steve has some interesting stats too. I do know
12 that the gentleman -- the people who have stated
13 that we never intended for the Zoning Board to
14 have the kind of power that this will give you
15 where we have thousands of special use permit ag
16 projects -- I mean thousands, I mean, we're only
17 talking about under 300 farms in the county that
18 are over 160 acres, all the rest of the rural
19 properties will be required to get special

20 permits to make changes or build residences and
21 I frankly don't think you can handle it. You're
22 going to have to increase your size or your
23 meetings or create a much larger added expense.
24 So -- and I think Paul Shalig's (phonetic) bones

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1 are rattling in his grave right now because I
2 worked with Paul when we were trying to get
3 zoning passed and I know that he, as do I, never
4 intended for this kind of power to go through
5 the Zoning Board's hands. So I'm opposing
6 strongly the increase and I would, in fact, like
7 to see acreage size removed entirely.

8 MS. DORSCH: My name is Amy Dorsch. I
9 live with my family in southern Stockton
10 Township on a 40-acre parcel. We came out here
11 about six years ago and the reason we
12 specifically looked for a 40-acre piece was so
13 that it could be zoned agricultural, we could do
14 what we wanted on it. We came out with a vision
15 of small farming, homestead farming,
16 self-sustained -- self-sustainability. You
17 know, be able to raise some poultry for eggs and
18 meat or be able to raise a steer, a couple of
19 hogs, milk some goats or some cows, have a
20 market garden and that ag zoning has allowed us
21 to do that. If I want to do that today or if

22 this thing gets passed I could do all those
23 things on that 40 acres, I just couldn't live
24 there. I'd have to live in town and drive out

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1 to do it I guess. That's what you're proposing.
2 I moved out -- we bought this 40 acres and we've
3 kept it in an agricultural enterprise. My
4 husband also is involved in forestry. He's done
5 some logging. We've done some sawmill work. I
6 notice that that is not included in your special
7 uses. It's not a specific list, although it is
8 identified as an agricultural use. I don't know
9 what the proper minimum lot size is, but I say
10 that 40 acres -- if it's not broke why fix it?
11 I don't see -- again, like the other speakers
12 have said, I don't see any evidence that the
13 county is getting chopped up into parcels that
14 are just what, palatial estates, is that what
15 we're afraid of? I just don't see it
16 personally. I appreciate the ability to live on
17 my acreage, to have small farm endeavors. I
18 appreciate the fact that my eight children are
19 able to be raised in that environment and I
20 would really hope that if one or two or five or
21 all eight of them wanted to live that kind of a
22 life that there would be an opportunity for them
23 to do so without being subject to special use

24 permission which may or may not be granted based

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1 on subjective standards that seem to be
2 changing. And I would also just -- one last
3 question. I'm curious about the fee structure
4 for all those special use permits. What would
5 that entail?

6 MR. GRATTON: Martin, I recognized her
7 first. I'm sorry. I'll get you next.

8 MS. KNUCKEY: Hi. I'm Catherine Knuckey
9 and I live in Scales Mound. I also sell real
10 estate and I was at the last meeting where we
11 talked about trying to raise 40 to 80 and I
12 guess one of my biggest concerns was when the
13 question was asked how many acres had been sold
14 off or parcels sold off that -- that brought
15 about the request to change 40 to 80 and I
16 believe the Board said they had no numbers. I
17 don't believe Linda had any numbers either. I
18 believe her comment was that we would need to
19 ask the assessor's office. Well, I didn't ask
20 the assessor's office because at my disposal
21 through selling real estate through our Multiple
22 Listing Service we have compiled our own list
23 that we use as a reference every day. This does
24 not include a few small real estate offices that

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1 aren't part of our board or the parcels that are
2 sold without the use of a realtor, but I think
3 statistics show that realtors play probably a
4 role in between 80 and 90 percent of real estate
5 transactions. In my research, which our
6 computer goes back to the year 2000, I found
7 that approximately 195 parcels have sold from
8 1 acre -- and I'll give you this stuff -- to 318
9 acres. That is just searching under land
10 agricultural. That is not farms which is even a
11 much smaller number. Of that 195 acres divided
12 by the eight-year base we took that off of that
13 only comes to 24 parcels a year that are sold
14 off from 1 acre to 300 acres. So of that -- of
15 that 24 per year I pulled out of there how many
16 parcels were 40 to 80 acres that have been sold
17 and basically those parcels have come on the
18 market since you changed the zoning to 40 acres.
19 In eight years there's an average of eight
20 parcels every year that range from 40 to
21 80 acres that get sold. So if there are 260
22 plus farms in this county, eight people that
23 have sold their parcels off every year are I
24 guess punishing the rest of us 240 farmers

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1 because now we're changing the regulations so
2 that we need to move to 160 acres. I then
3 proceeded to pull the 60 parcels that were
4 divided off into 40 to 60 acres and went down to
5 the assessor's office and the recorder's office
6 and as I started to search those to see how many
7 of those have been zoned recreational land, as I
8 got started I got up to approximately 20 parcels
9 and not one of them has been zoned recreational.
10 I have one that was a mixed use permit. I have
11 a farm, a farm, a farm, a forest management
12 farm, so we seem to be talking like we're losing
13 all this ground that's being bought for 40 acres
14 and then not farmed was your reason at the last
15 meeting for this jump, but I'm finding that
16 we're crying wolf with no numbers. So unless
17 you can come up with some other numbers for me,
18 I just don't see that how eight sales a year
19 warrants making this drastic change to the
20 farmers and I hope you notice that as you look
21 through this sales sheet you'll see that when
22 I'm selling 15 acres I'm getting \$7,000 an acre
23 plus. When I get to the 160 acres I want you to
24 note that now most of my sale prices have

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1 dropped to like \$2,700, \$4,200, here is a 6,000,
2 it's a rarity, \$3,900, so we've now taken half
3 the value of the farmer's assets and dwindled
4 them away by increasing the size that they have
5 to sell. So I have all this information for you
6 here. I made 15 copies of each. You're welcome
7 to them and if there's a mistake in them I would
8 apologize, but I'm pretty confident that my
9 numbers are right on.

10 MR. GRATTON: Thank you for providing
11 that, Catherine.

12 MS. KNUCKEY: And I really think that it's
13 your responsibility to be giving that to us, not
14 me giving it to you. There's a copy of the
15 total acreage sold and the -- broke out into the
16 40 to 80. Thank you.

17 MR. GRATTON: Okay. What I'd like to do
18 -- okay, our court reporter had asked for a
19 possible break, but if she's okay, well, I'm
20 okay. Everybody else all right? We'll just
21 continue then. Yes, sir?

22 MR. TOAY: Yeah, I'm Dennis Toay from Rice
23 Township and I commend you for the work that
24 you've put in on this. I've been a champion of

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1 zoning since Ron Lawfer was part of that

2 discussion many years ago and I think all of us
3 in the county agreed that zoning was -- in
4 particularly we didn't want Jo Daviess County to
5 become the Dells. We didn't want signage all
6 over, we didn't want all this or that. The
7 160 acres bothers me a lot which is encouraging
8 less people. Many ants and a lot of activity in
9 the county and the small towns with the small
10 parcels makes more activity, more tax base,
11 everything else. So the 160 acres kind of
12 singles it out. I had the luxury of traveling
13 for about 33 years on the road in many areas of
14 Wisconsin and Illinois selling ag products and
15 was a party to what happened in Fitchburg.
16 Anyone that's familiar with -- I think there was
17 a representative from Fitchburg that spoke at
18 one of the roundtable meetings. They had to do
19 something because they had Madison. They really
20 needed to do something, but there was a division
21 there because of the 60, 70, 80-year-old people
22 that were ready to sell their farms and once it
23 went into act -- the zoning went into act those
24 people were not ahead of the curb to get the 10

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1 or \$20,000 an acre that was coming. So I really
2 agree with all the other speakers and Bart had
3 an excellent thing, the 40 acres has been

4 working quite nicely. We have -- this county
5 has done a wonderful job with the signage. We
6 don't look like the Dells and we have a lot of
7 people come into this county. My wife and I
8 have a guest house and we have someone there
9 every weekend from Chicago, Milwaukee, Quad
10 Cities. They come to this county. There are a
11 lot of people here that move to this county
12 because they thought the people and natives of
13 this county have taken good care of it for the
14 last hundred years and we have. There's not a
15 whole lot broken right now. What is your
16 reasoning for having to raise it to 160 acres?
17 What's -- are you expecting Chicago to be here
18 in 20 years or --

19 MR. GRATTON: Well, I think we're closer
20 to that than you realize, but it's -- the
21 rationale for this -- and maybe we need to step
22 back a bit. This committee struggled with this
23 issue for the last five years. This isn't
24 something that we just ended up with. We've

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1 looked at 40, we've looked at 80, we've looked
2 at 160. The primary reason for doing this --
3 and again, it has nothing to do with the
4 agriculture use, it's just the ability to build
5 a residence on that. The thought process is

6 that the larger parcels have more protection for
7 viable agriculture and that was -- that was the
8 fundamental thinking of the committee. We did
9 have 40 acres in there, we did go to 80, we did
10 go to 160 and I'm very happy to hear the
11 feedback from everyone tonight. It's very
12 helpful. I'm going to make a suggestion. I
13 think we've heard what you're saying on the
14 40 acres versus the 160. I haven't heard
15 anybody here stand up and say we like the 160
16 yet and if there's anybody that wants to say
17 that I want you to say that, but if we could I'd
18 like to move on past this. I think we've heard
19 what you're saying. If you would I'd like you
20 to comment on the rest of the ag district. I
21 mean, there's more to it than that.

22 MR. TOAY: Oh, most certainly, and you've
23 done a wonderful job of putting together and
24 this is the wonderful thing about our democracy

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1 is we have a chance to have a hearing and to
2 talk about this, but I think in general what the
3 people are saying -- the people that have moved
4 here and I've said that before, came here
5 because of the -- our forefather, our fathers,
6 our grandfathers took such wonderful care of
7 Jo Daviess County and I believe in your vision

8 of what you're seeing, but right now I don't
9 think is the time. We need more people on
10 smaller acreages. It's a proven fact that
11 that's where our incomes are going to come from
12 and more and more people especially the way the
13 economy is. So thank you for your time.

14 MR. GRATTON: Yeah, there's two types of
15 agriculture that's going to flourish, the very
16 small niches and the large commercial
17 operations. And I think nobody here -- you
18 know, I don't think we disagree on this that
19 agriculture is something that we want preserved
20 in Jo Daviess County. The Comprehensive Plan
21 indicated that the two big economic engines in
22 the county are agriculture and tourism and I
23 think by protecting farmland we're also
24 protecting that golden goose which provides

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1 tourism in this county.

2 MR. TOAY: Again, the protection of these
3 big brothers out here protecting me from selling
4 my land to let -- is another regulation that I
5 think most of us have about had it up to our --
6 with it. If a person -- you point out to me how
7 many people in this county buy a piece of land
8 on a bare lot or 160 acres that doesn't have a
9 tree on it that's going to build a house. They

10 want to build their homes where there's a creek
11 or where there's woods, so I -- Ron Mapes sits
12 on the County Board, we're neighbors, we don't
13 see many people going out in the middle of a
14 cornfield and building a house.

15 MR. GRATTON: And we're fortunate that way
16 too. We're fortunate that we have a place where
17 they don't have to and that's the whole emphasis
18 of what we're looking at here.

19 MR. TOAY: So I think that's the point
20 here. It's something -- we're trying to fix
21 something that's not broken, so --

22 DR. TONNE: Could I just ask the speaker a
23 question a minute if I could before you go. You
24 made a comment about ants and activity in small

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1 towns and encouraging perhaps a certain
2 population growth -- a slow growth perhaps, but
3 to encourage small town activity and the
4 viability of small towns and that is a goal of
5 the Comprehensive Plan as well and we are
6 thinking that if we can save the good ag ground
7 allowing development, albeit on smaller parcels
8 in the trees, on the slopes, on the ridges where
9 there's rock outcroppings which isn't good farm
10 ground that we'll have population growth, but
11 because we're saving ag on the good ground it is

12 perhaps becoming more affordable for farmers.
13 That's not why we're doing this, but we heard
14 testimony tonight and documented evidence that
15 farm ground, larger parcels is actually
16 plateaued, not a bad effect if we're trying to
17 save ag, so some of the -- some of the testimony
18 supports both sides.

19 MR. TOAY: The unfortunate thing is in our
20 country -- in the United States of America
21 everyone wants to own a piece of property. If
22 they could own 10 acres, for some people that's
23 a big deal, 2 acres. How many can afford 160 at
24 3,000 an acre?

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1 DR. TONNE: And that's not what we want to
2 discourage. We want to actually allow, if not
3 encourage that.

4 MR. TOAY: You are encouraging it and I
5 guess because of my -- I came home and I started
6 over 30 years ago traveling into Wisconsin and
7 having -- having gone to Springfield, as we all
8 know when you went to Springfield down in the
9 cash grain area and you came back and the little
10 towns stores were all -- we weren't experiencing
11 that in Warren and Stockton, but all of the
12 sudden we displaced -- well, in our township
13 alone -- we had a road commissioner for 21

14 years, we had 33 dairy farmers. 21 years when
15 he left all of us we had three -- three, so when
16 you take that guy from going to the hardware
17 store or the grocery store and he goes to
18 Freeport or Monroe to work or whatever, with the
19 smaller farms, the acreages, they're back in
20 buying what they need. They buy just as much
21 stuff as the guy on a larger farm because he's
22 buying from a co-op, so I just think that you
23 should, you know, reevaluate that and look at it
24 and it doesn't mean that it can't come up again.

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1 Thank you.
2 MR. GRATTON: You know, to go back to what
3 Catherine -- she raised the point and she
4 provided some numbers as far as values. The
5 other thing that we considered and we don't like
6 to do zoning for purely economic reasons, but to
7 encourage things they -- it does work that way.
8 By putting these parcels in smaller pieces the
9 price does go up and which does inflate land
10 values and which does make it harder for those
11 small farmers to compete on an agriculture
12 basis, so I know most of the farmers that are my
13 age or thereabouts and we're ready to retire and
14 -- but I think what we're doing -- what we're
15 trying to do is to look at the future here too.

16 Martin, you're -- Steve, could I just have you
17 wait and put Martin up.

18 MR. MCINTYRE: I haven't talked on Chapter
19 3 yet.

20 MR. GRATTON: I told Martin he could be
21 next here.

22 MR. HIPPIE: I just want to say that I've
23 always supported zoning and I appreciate the
24 work you've done and I'm willing to give up some

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1 of my rights to do whatever I want to do on my
2 land in order to restrict my neighbor from doing
3 whatever he wants on his land. I mean, it's a
4 trade-off. That's an agreement we all make and
5 that's what zoning is. And I understand the
6 Board's desire to protect the larger acreages
7 from being split up. I've been walking around
8 the county a lot lately and seeing a few things.
9 I've seen a lot of 40-acre lots available. Our
10 neighbor wants to slice off 40 acres and offered
11 it for sale to us. That's happening and 80
12 acres -- eight plots a year doesn't sound like
13 much, but after ten years you've got 80 farms
14 that have had pieces sliced off of them, so that
15 is an issue and I understand why the Zoning
16 Board is trying to stop -- prevent that, but I
17 think they've underestimated the importance of

18 just simply being called a farm and a farmer.
19 what you're taking away is a title, is a dignity
20 and a little bit of our rights. You won't be
21 able to build a house whenever you want, you'd
22 have to get extra special permits and that is a
23 right that they're asking farmers to give up.
24 well, I think the biggest thing you're taking

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1 away is a sense of dignity, is a sense of
2 identity. You're saying anyone with under 160
3 acres is no longer a farmer. Oh yeah, you're
4 engaged in agricultural business, you're not a
5 farmer and I think that that is a powerful,
6 powerful force as you can see here and you might
7 want to reconsider the value of changing the
8 size of this acreage. It's not achieving what
9 you want to do and it's not as critical as you
10 might think it is and that it's hurting more
11 than it's helping, so I'd just ask you to
12 reconsider this specific issue. And one other
13 thing in Chapter -- just a quick clarification,
14 8-3b, exterior setback from a livestock
15 facility. This is for large CAFOs. This
16 appears to just -- correct me if I'm wrong, it
17 appears to protect the CAFOs from the
18 infiltration of houses crushing up against it?

19 MR. GRATTON: Absolutely, absolutely.

20 MR. HIPPIE: You're afraid that the CAFOS
21 are going to be crowded out of the county by
22 houses?

23 MR. GRATTON: No. We're trying to afford
24 the same protection to people out there who have

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1 invested great sums of money in livestock
2 feeding operations as the reverse is true in the
3 Illinois Livestock Management Act which says you
4 cannot build a livestock facility within a
5 certain setback or distance from a residence.
6 What we're doing is looking at that in reverse
7 and if it's good for that side, it's also good
8 for this side.

9 MR. HIPPIE: Well, I understand that. It
10 doesn't seem necessary. I don't think there's
11 going to be a --

12 MR. GRATTON: Oh, don't -- this is where
13 the rub comes with -- especially with
14 agriculture -- animal agriculture in Jo Daviess
15 County and that's the kind of agriculture that
16 will make or continue to make Jo Daviess County
17 thrive. We do have to because of our topography
18 have animal agriculture and if we take that away
19 and if we limit that ability for those farms to
20 be viable, then we've really created a bad
21 situation. If we allow anyone to build a house

22 within any distance of an existing livestock
23 feeding operation we've devalued that person who
24 has that investment in that feeding operation.

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1 I'll defend that all night if I have to.

2 MR. HIPPIE: Well, I understand, you know,
3 I understand. I was just trying to clear up
4 that that's what that was for to prevent
5 infiltration. And I agree with the need to
6 protect agriculture in this county. I think we
7 all kind of agree on that. That's one thing we
8 can agree on. It's just a matter of how to get
9 to it.

10 MR. GRATTON: Thank you, Martin. Steve,
11 are you going to talk about 40 acres or
12 something else?

13 MR. MCINTYRE: I'm going to give you some
14 numbers to kind of follow up.

15 MR. GRATTON: Okay, and then I think the
16 Board would like to maybe -- we've got a lot of
17 territory to cover here yet tonight and I think
18 we've heard enough testimony on the 40 acres
19 that we can debate that and maybe come up with a
20 possible, you know, compromise or whatever we
21 have to do here.

22 MR. MCINTYRE: And I just want to give you
23 some numbers to try to help with that

24 discussion.

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1 MR. GRATTON: Okay, and then I'd like to
2 have some other input on this ag district as
3 well.

4 MR. MCINTYRE: Okay. Just to give you
5 some numbers that I was able to pull also from
6 the recorder's office as well as from our
7 Multiple Listing Service, we have a little more
8 than 22,000 tax parcels in Jo Daviess County,
9 it's like 22,222 or something like that. Out of
10 that there are 844 that are exempt from taxing
11 whether it be a, you know, cemetery or whatever.
12 If you discard those and you just look at
13 Class 20 and 21, which Use Code 20 and 21 is
14 vacant land unimproved, if I'm not mistaken,
15 vacant land unimproved, so I said give me the
16 ones that are over 160 acres. Let me tell you
17 how many there are in Jo Daviess County. There
18 are 91, that's it. Out of 22,000 there are 91
19 over 160-acre parcels that are individually tax
20 I.D.'d of Use Code 20 and 21. The total number
21 that are -- that are -- that are -- sorry --
22 that are 160 acres that are improved or
23 unimproved is 471, so obviously there are a lot
24 of farmhouses on 160-acre pieces. That

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1 constitutes about 2.8 percent. So we're making
2 a zoning ordinance that basically is -- you
3 know, if you want to talk about 160 acres just
4 for one second here, we're actually creating a
5 scrutiny of parcels under 160 acres in the
6 current way it's written now for 90 -- in other
7 words, we'll scrutinize 98 percent or 97 and a
8 half percent that have to go through the zoning
9 ordinance if we assume that. Also, if we look
10 at unimproved parcels between 40 and 160, there
11 are 1,124 of those. These are Use Code 20 and
12 21 as well. Unimproved parcels between 40 and
13 160, 1,124. The total number of parcels between
14 40 and 160 is 2,338 parcels. Those are improved
15 or unimproved rural parcels. Also I went down
16 to 5 acres in case you wanted to look at 5 acres
17 to 40 acres. Unimproved parcels 5 acres to
18 40 acres there are currently 1,031 of those
19 between 5 and 40, there are 1,031 of those and
20 the total number of parcels that are between 5
21 and 40 unimproved and improved is 2,276. So
22 hopefully that gives you some ratio of the total
23 number of parcels that we have, 160, 40, 5,
24 whatever, so it gives you some numbers to kind

1 of go through. And I just want to reiterate
2 that I also liked the idea that Mr. Caswell put
3 through here that said that, you know, we can't
4 paint a broad brush with our county because we
5 do have topography-wise a very wide and changing
6 -- you know, obviously the ag preservation -- or
7 I should say the ag district that we have that's
8 like terrain-limited already it's hard to find a
9 parcel. A lot of these 160-acre parcels were in
10 the north and -- sorry -- northeast corner of
11 our county, not toward -- you know, towards
12 Galena with the exception of maybe Roger's farm,
13 but -- but I mean, there are not a lot of them
14 that are over 160 acres that are close to
15 Galena. The topography doesn't grant it to be
16 that way. So I liked the idea of actually
17 treating the ag and the Ag Preservation 1 and
18 the Ag Preservation 2 districts a little
19 differently instead of painting a big brush.
20 Most of the people that want small parcels from
21 a real estate standpoint are closer to Galena
22 anyway. They want to be closer to Galena anyway
23 from a small standpoint -- small agricultural
24 standpoint, so just -- I hope those help.

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1 DR. TONNE: Yeah, I appreciate those
2 numbers. Are you suggesting that the sheer
3 number of potential --

4 MR. MCINTYRE: Hearings?

5 DR. TONNE: -- potential petitions for a
6 special use and hearings is a reason -- the
7 sheer number?

8 MR. MCINTYRE: The only reason I'm sharing
9 that number is to give you some ratio of those
10 kind of things, because I can't say how many
11 parcels are going to split off from 40 to 5, for
12 example, you know.

13 DR. TONNE: Right. I don't know any other
14 person other than members of the ZBA that has
15 been to more zoning meetings than you, okay, at
16 those collective zoning meetings over many years
17 have we had a lot of requests for R-1s or do you
18 -- is it a few every month?

19 MR. MCINTYRE: On average there's one or
20 two every month or so.

21 DR. TONNE: And why would we, if we made
22 them come for special uses instead of R-1s,
23 would we see more?

24 MR. MCINTYRE: For the simple fact that

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1 remapping is little bit tougher than a special
2 use which is a permitted use within the

3 district.

4 DR. TONNE: Say that again. Special use
5 is easier?

6 MR. MCINTYRE: It's a lot easier to -- in
7 some ways -- in some ways it is a little easier
8 because it's not a map change, it's a little
9 easier to --

10 DR. TONNE: And further to your knowledge
11 what's the cost difference?

12 MR. MCINTYRE: A special use permit is
13 \$500, right?

14 MS. DELVAUX: Correct.

15 MR. MCINTYRE: Remapping and stuff like
16 that is a lot more expensive.

17 DR. TONNE: Thank you.

18 MR. MCINTYRE: Now, can I actually also
19 say some other things? I like the fact that the
20 special use is allowed and that there is a --
21 that ag can stay ag from a map amendment
22 standpoint. I mean, if we looked at -- you
23 know, like everybody talks about, the reason why
24 some of this stuff is looked at obviously is

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1 because there's been some talk at the County
2 Board which is our zoning map looks like a
3 shotgun hit it and there's a bunch of little
4 pellets all over the place which is R-1 and R-2s
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5 that are out in these ag areas and the problem
6 that it presents and we've had this discussion
7 before, you know, is you have different rights
8 as a residential person in a rural area than you
9 do as an agricultural person in a rural area and
10 a lot of times those two districts being butted
11 up against each other kind of --

12 MR. GRATTON: Conflict.

13 MR. MCINTYRE: -- conflict. That's a good
14 word. I don't like the cow smell, I don't like,
15 you know, the tractor running all night long or
16 whatever and that's a different right, but --
17 and so in that -- for that regards I like the
18 special -- I have nothing against the special
19 use permitting of residences in an ag district.
20 That is -- I don't -- like Dan said, I don't
21 think he heard -- I don't think anybody in
22 Berreman Township had a conflict with that. I
23 think we're --

24 MR. GRATTON: And you don't think we'll

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1 see a lot more of them?

2 MR. MCINTYRE: I actually think that --
3 you know, again, we had this discussion in the
4 parking lot once before. The perception of what
5 we see here is that it is negative agriculture
6 perception because you have to -- like everybody

7 stated here -- go through a little more work to
8 get what I want. I mean -- and I've had this
9 discussion too. My wife and I want to do a twig
10 farm on 5 acres and so if I want to actually
11 live there or have my wife and I live there and
12 farm our 5 acres of twigs I got to come and ask
13 permission to do that. And I might hear a no
14 and I might hear a yes, I don't know what I'm
15 going to hear, but the perception is that --

16 DR. TONNE: Steve, I want to let you
17 finish, but one last question. In all the
18 hearings you've been to what is the percentage
19 of denial for R-1 requests, just -- is it -- is
20 it 1 in 20?

21 MR. MCINTYRE: I'm not going -- I have no
22 idea what the number is, but I will say that
23 there is a LESA scoring system that you've
24 adopted and that anything over a 200 is highly

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1 unlikely that it will get rezoned to an R-1 and,
2 you know, I've heard -- I've seen that, so
3 that's fine.

4 DR. TONNE: Thank you.

5 MR. MCINTYRE: But, I mean, again, the
6 perception is there that it is negative
7 agriculture because of that, so --

8 MS. SCHWERDTFEGER: Mel, I have an answer
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9 to your question -- your most sincere question
10 about what the size should be that no one else
11 has mentioned, so --

12 MR. GRATTON: Because this committee has
13 struggled with that greatly.

14 THE REPORTER: Ma'am, will you state your
15 name.

16 MS. SCHWERDTFEGER: My name is
17 Carol Schwerdtfeger. My husband and I are on a
18 farm near Elizabeth, have been for 40 years as
19 of July 1st and I don't want to see this end up
20 being a -- like the Chamber and the CBB
21 (phonetic). You know, we all want to preserve
22 our county. That's -- there's no doubt about it
23 and I've been longtime friends of Mel and Bill
24 and Mary and Dave and so many of you on the

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1 Board, Mark and I don't want this to become an
2 adversarial thing for everyone because we're all
3 working for the same --

4 MR. GRATTON: We don't operate that way,
5 so don't worry about it, okay?

6 MS. SCHWERDTFEGER: We came here and
7 bought land here before zoning and I -- correct
8 me if I'm wrong -- but I think it was the intent
9 of everyone that we preserve the land, not
10 necessarily just farming as an occupation, but

11 the basic premise for wanting to preserve the
12 farms was to preserve the land here and the
13 agricultural nature and appearance of the county
14 as people drive through. Am I correct on that?

15 MR. GRATTON: Absolutely, uh-huh.

16 MS. SCHWERDTFEGER: And in doing that in
17 our whole county you've already identified the
18 two different types of ag areas, correct, plus a
19 third area, preservation land, that is not as
20 suitable for farming as the two levels of
21 farming land, am I correct in that?

22 MR. GRATTON: That's the Comp Plan.

23 MS. SCHWERDTFEGER: Uh-huh, all three
24 areas. So No. 1, in answer to your question, we

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1 should have different sizes apply in those
2 different areas in order to best preserve the
3 beautiful land of our county. That's the first
4 step. Then from a historical perspective both
5 with farming as with education, farms originally
6 started out small family farms not highly
7 recognized and technological and so did schools
8 and over time, many generations, those have
9 grown and grown and grown until they reach a
10 point, as education did, where the problems and
11 it is now with farming with the huge mega farms,
12 it reaches a point where the problems of the

13 mass operation outweigh the benefits and then
14 the pendulum starts swing back the other
15 direction. It did in education. It's just
16 beginning to in farming and it will -- it will
17 keep doing that probably as technology changes
18 throughout the future generations. So for us to
19 try to make rules for something that's already
20 starting to change by continuing in one
21 direction only I think is counterproductive.
22 And an example of how this is counterproductive,
23 when the rule was changed to 40 we saw as
24 realtors a lot of people buy 40 acres to build a

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1 huge home that would have bought five acres if
2 they could have with full freedom. They truly
3 would. In fact, long before zoning some of our
4 own land -- on some of our own land people
5 bought five acres that would have bought two,
6 but at that point it was the current wisdom that
7 2 acres was too small on a porous limestone base
8 for septic systems without risking pollution of
9 wells in rural areas and so we personally put
10 that requirement on our friends that wanted to
11 buy two acres and said well, we'll sell you some
12 land reluctantly, but it has to be five acres so
13 that you -- we won't be polluting each other's
14 wells. So to consider special use permits for

15 land -- lots of 2 acres when we already went
16 through that process 20 years ago might be a
17 mistake. The counterproductivity of 40 acres is
18 still resulting in people buying 40 that would
19 buy five if they could with equal freedoms. If
20 we increase that to 160 the only thing it will
21 change is that only the very wealthiest people
22 have the freedom. That's the only thing it will
23 change.

24 DR. TONNE: Carol, I have --

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1 MS. SCHWERDTFEGER: Now --
2 DR. TONNE: I'm sorry, go ahead.
3 MS. SCHWERDTFEGER: If I could just finish
4 because I'm not a real experienced public
5 speaker and I might lose my train of thought. I
6 think instead of basing it on acreage size and
7 in -- in each of those three areas, particularly
8 in the preservation area, I think it needs to be
9 based on the size that will preserve our water
10 quality. I attended an excellent meeting in
11 Hanover this week sponsored by the League of
12 Women Voters and put on by the Alliance for
13 Water Efficiency, which is a 35-year-old
14 not-for-profit organization which has been
15 researching water quality, and by 2020 40 of our
16 50 states according to their information will be

17 in extreme short supply of water and we all know
18 the quality of water is diminishing. I've
19 noticed sulfur smells creeping into our well
20 water that we never had on the 40 years we've
21 been there. And you know, we knew that would be
22 changing, but it's going to become really
23 critical in the near future and I really think
24 that you wonderful people that devote untiring

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1 evenings like this that none of the rest of us
2 would volunteer for would serve the county best
3 if you would add in there some -- the aspect of
4 subdivision size based on preserving our water
5 quality, because this beautiful land if the
6 water gets -- water supplies get depleted or
7 polluted there won't be any -- no one will want
8 to live here anyway. It will be ruined. So I
9 really think that should be the key, whatever
10 that number is, if it's still 5 acres, whatever,
11 the geologist or the water -- the hydrologist,
12 whoever makes those decisions should decide
13 that.

14 MR. GRATTON: I think we're in agreement
15 on that, Carol. We've been trying to, you know,
16 look at parcels that do protect water and -- I
17 don't know if that thing is working or not -- in
18 every -- in every request that we have that's

19 one of the paramount issues that we look at and
20 I think if you read through the rest of this
21 document you'll find that it was one of the main
22 considerations in trying to cite these things
23 especially on the -- the fragile hilltops of
24 Jo Daviess County. We are very aware of what

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1 lies underneath those. Lester Johnson is one of
2 the people that helped point those things out in
3 some of our earlier discussions and your point
4 is well taken.

5 MS. SCHWERDTFEGER: Just in closing, our
6 county is the only one in Northern Illinois that
7 has any unglaciated hills in it and I think the
8 fact that surrounding county zoning maps look
9 different than ours or if they tell you ours
10 looks like it has measles because of the red
11 dots scattered all over, I think we should be
12 totally unconcerned because our county is unique
13 and I think it requires a special, unique
14 creative approach to it and not feeling any need
15 to conform with counties that are different from
16 ours. And I truly hope you won't be so married
17 to the draft because of having it be -- your
18 hearts and souls have been in this for six years
19 that you won't be open to seeing and hearing and
20 incorporating better ideas. Thank you.

21 DR. TONNE: Yeah, I don't know how I can
22 be that brief, but I'll try. Carol and
23 everybody, we're not married to this like you
24 might expect. We're actually very open-minded.

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1 That is our role to be entirely open about this
2 in our decision. In fact, it's not our
3 decision. It's our recommendation and the
4 County Board's decision. We've studied other
5 areas, Loudoun County, Virginia; McClain County,
6 Illinois, Bloomington; the Dells; Door County;
7 Napa County to name a few. They've chosen
8 various things at various time lines in their
9 conflict, some of it timely, some of it not so
10 timely and in DuPage County I think in a lot of
11 ways they missed it. Kane County is struggling
12 with it now. We're not going to be I hope the
13 Dells or anyplace else where they have
14 billboards or whatever else that we don't like
15 about development. Certain areas of Virginia,
16 West Virginia, Tennessee, Kentucky have seen
17 condominiums go up on the ridge lines that
18 really have spoiled it not only for tourism, but
19 for ag. And so we know what we don't want. And
20 Martin, you may have said the wisest thing I've
21 heard so far tonight, I'm willing to give up
22 some rights, minimal rights so that the rights

23 of all of us and the wisdom and vision of all of
24 us as a society is preserved. I think that's

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1 what we're thinking about. We're not married to
2 40 acres as Mel has said.

3 MR. GRATTON: Or 160.

4 DR. TONNE: Or 160. We don't have how
5 many vacant 40 acres there are and we certainly
6 don't zone 160 or 40 or any number because of
7 money and what people can afford other than the
8 general concept of land value and I think we've
9 done pretty good for 13 years. Land values
10 don't seem to be -- well, given the nature of
11 the malaise we're in in real estate nationally
12 maybe, but we've done okay with our land values.
13 There are counties almost everywhere else in
14 Illinois, rural counties that are jealous of us,
15 so we're not doing that much wrong. They would
16 love to have the rural residential pressure we
17 enjoy. We just think with this enjoyable
18 pressure we need to direct it to that ground
19 that is not good for ag and it can be done.
20 We've got a lot of it. Berreman Township has
21 got a lot of it. It can be done relatively
22 cheaply. You know, the issue of taxes and the
23 zoning office and the number of hearings and
24 whatnot, the zoning office is revenue neutral,

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1 maybe even slightly in the black, okay, just to
2 get that out there. It is a user-controlled and
3 expensed line item -- I'm rambling a little,
4 sorry, but some of these things need to be said.

5 AUDIENCE MEMBER: People are having to buy
6 their freedom right now.

7 MR. GRATTON: Okay. What I would like to
8 do -- it's going to be 10 o'clock and certainly
9 we're not going to get through this whole
10 document this evening. I would like to finish
11 this ag district however and the other major
12 change that's been made in the ag district is a
13 changing those nonagricultural residential
14 requests to a special use versus the R-1 or R-2
15 that we're using today and I would like your
16 input on that because we're going to make a
17 recommendation here before we leave tonight as
18 to how we want to draft this. That's something
19 other than -- Steve alluded to it and he spoke
20 favorably to it. I would like to hear your
21 input on that because it is another of the major
22 changes that have been proposed here, so if we
23 could -- and you can still say I agree 40 or 60
24 or whatever, but if we could move toward this --

1 your thoughts on the special use we would
2 appreciate that. Yes?

3 MR. WIEDEL: well, I'd rather not be
4 chopped off before I get started.

5 THE REPORTER: I need your name, sir.

6 MR. WIEDEL: Michael Wiedel, W-I-E-D-E-L,
7 and we have a farm in -- the Plosh (phonetic)
8 Farm in Massbach and also have the Eden
9 (phonetic) Farm in Stockton Township, but you
10 know, I commend the fact that you've done all
11 the work that you've done. Bless your hearts
12 for doing it. I wouldn't want to sit in these
13 meetings anymore than I have to, but God bless
14 you for doing what you do. I rise to speak
15 against the 160 acres. I think that's
16 absolutely the wrong direction to go. Sure, you
17 got a lot of special use permits and a lot of
18 things that you can apply for relief, but you
19 have no rights, you have to pay a fee and you
20 have to throw your fate to a board such as
21 yours. Maybe you're the nicest people in the
22 world and you'll be very receptive, but we don't
23 know what's going to happen in the future and
24 we've made a large investment in the real

1 estate. It's probably the biggest investment we
2 have and to have that jeopardized by regulation
3 is unacceptable. And also, it seems like you
4 really like to have control and God bless you
5 for having control, that's nice, but it's
6 extremely expensive. It's extremely expensive
7 for the County and it's going to be extremely
8 expensive for the people who are controlled.
9 Many good things have been said this evening.
10 Dan Caswell I think hit the nail on the head and
11 I think a lot of good things have been said and
12 I hope you're listening. I tend to -- one of
13 your members doesn't seem to be listening,
14 doesn't seem to be getting the message. But
15 we're against the 160-acre minimum lot size and
16 it's a strong feeling of the people in this
17 room. I'd like to think that maybe they could
18 have a chance to express themselves and I thank
19 you for your time.

20 MR. GRATTON: Thank you, sir. Do we have
21 others who want to address the ag district?
22 Yes, sir?

23 MIKE DITTMAR: This is about the special
24 use.

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1 MR. GRATTON: Name real quick.

2 MIKE DITTMAR: Mike Dittmar,

3 D-I-T-T-M-A-R. I'm here for two reasons.

4 No. 1, I'm a small government -- government guy
5 and this new zoning ordinance is not that, so
6 I'm opposed for a lot of those reasons, but I'm
7 also here for a selfish reason. My family has
8 been farming the same farm for 154 years in
9 Jo Daviess County and in the year 2000 I got
10 married to my wife here and my dad gave me part
11 of my inheritance which was 17 acres and I went
12 into Linda's office and applied for a special
13 use permit to build a house on the family farm
14 that's been in our family for 154 years and I
15 was accepted. When I read about this in the
16 paper I called her up concerned that my dream
17 would be shot, that that paper wouldn't mean
18 anything and I was informed that, yes, that is
19 correct, that piece of paper doesn't mean
20 anything. All right. And contrary to -- that I
21 have to reapply for the special permit. All
22 right. I went from guaranteed to beg for mercy
23 to get it on my land. And to clarify something
24 else, I don't want any of my rights taken away.

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1 I think that if my family has been here for 154
2 years -- and like I said I'm being selfish -- I

3 should have the right to build a house on that
4 land where I want to build and what color I want
5 to build it.

6 MR. GRATTON: Okay. I don't think you
7 applied for a special use for a residence
8 because that doesn't exist right now.

9 MS. DELVAUX: Yeah, I can clarify what --
10 what the process was that Mike went through in
11 the office. Under the zoning ordinance at one
12 time it allowed children, grandchildren to the
13 farm owner to apply, had to have at least
14 2 acres, 150-foot of road frontage. They could
15 get -- there was an exception to the clause
16 where they could get a parcel and they could
17 build a home on there. Mike went through that
18 telling me that he would meet all of these and I
19 in turn sent him a letter telling him that
20 according to the ordinance what it says that,
21 yes, you are qualified to do so. Mike is right,
22 I did have a discussion with him the other day
23 and that clause would no longer be in the
24 drafted ordinance. So what was in one is not

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1 going to be in another, so you might have been
2 allowed to do something under one ordinance
3 where it changes and you may not be allowed to
4 do that same thing under the new rules and

5 regulation and that's what Mike has fallen
6 under.

7 MIKE DITTMAR: I don't think that right
8 should be taken away. One final question. Now,
9 a variance does not get moved on to the County
10 Board, but if I read that correctly, a special
11 permit, if you do deny that, I do have the right
12 to go to the County Board and ask for that to be
13 overturned; is that correct?

14 MR. GRATTON: well, we can recommend
15 either approval or denial or conditions and the
16 County Board makes the final determination.

17 MIKE DITTMAR: That's what I wanted to
18 hear. Thanks.

19 MS. DELVAUX: Special uses do go -- they
20 do make recommendations to the County Board on
21 special uses and the County Board has final
22 determination. That is currently now and that
23 is the same process that they have put into this
24 draft as well. Variances, final determination

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1 at ZBA level. Same thing now, same thing put in
2 the new ordinance.

3 MR. GRATTON: Okay. Any other comments on
4 the -- I'd especially like to hear about the
5 special use process.

6 MR. TAYLOR: Peter Taylor, Elizabeth

7 Township. When I read the whole document a week
8 or two ago it didn't come to mind to wonder
9 about ag residences versus nonag residences.
10 The question came up earlier tonight about
11 what's the definition, so I have a question for
12 Linda or whomever. If I -- I do live on a
13 hundred acres and choose not to invest in the
14 equipment, would rather rent out the land, do I
15 live in an ag residence or do I not?

16 MR. AKEMANN: I would say probably not
17 based on what you said. I did want to clarify
18 something in terms of definitions. There is on
19 Page 156 a definition of single-family detached
20 agricultural residence, so some of you may have
21 looked at the same time I did the first time of
22 ag residence looking for a name, but look on
23 that page and that's where the draft has the
24 definition that you're seeking. So the question

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1 would be would you fit that definition or not.

2 MR. TAYLOR: So asking the same question a
3 different way. A husband and wife and two grown
4 kids, they all live on the farm, operate the
5 farm but they all work off the farm. Are we
6 defining the residence by where you work?

7 MR. AKEMANN: You're defining an ag
8 residence based on the relationship between the

9 people occupying the residence and the
10 agricultural activity on the land, yes, you are.
11 When I say you are, the legislature is --

12 MR. TAYLOR: Yeah, I understand.

13 MR. AKEMANN: -- and so that's what we're
14 stuck with.

15 MR. TAYLOR: I maintain the waterways and
16 do the mowing and so I'm wondering do we need to
17 work more closely on ag residence definition or
18 do we need to drop trying to make a definition?

19 MR. AKEMANN: well --

20 MR. TAYLOR: Now I need to go back and
21 read the document and find out why that's
22 important. I admit I missed that the first
23 time.

24 MR. AKEMANN: Yeah, I did too frankly.

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1 Page 156 that definition exists as it's drafted
2 in the ordinance, so --

3 MR. GRATTON: I think you would be good
4 with the definition the way I look at it. The
5 other part of that -- Dave, do you want to
6 comment on 8-3a-7, that's the conversion of ag
7 residences to nonag residences? That's a
8 provision that's in there that we maybe want to
9 make understood. Page 26.

10 MR. AKEMANN: This was a provision as I

11 mentioned before that was drafted at the request
12 of the County Board member covering the
13 conversion of an ag residence to nonag that
14 would allow that as a permitted use. That's on
15 Page 26, Line 9, it's Section 8-3a-7. There are
16 some guidelines to that, but that's where that's
17 covered and actually allowed and that was a
18 concern of a County Board member that was
19 addressed in that way.

20 MR. GRATTON: Okay. Do we have other
21 testimony?

22 MS. WINTER: I'm Nancy Winter from
23 Massbach. I'd like to commend the committee for
24 all of the work you have done too and all of the

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1 other people who have been involved in
2 consulting with you in developing this plan. I
3 came from DuPage/Kane County area, went to a
4 two-room schoolhouse. DuPage and Kane County
5 were as rural then as Jo Daviess County is now.
6 There's not a farm left in the DuPage County and
7 they did not have any Comprehensive Plan, they
8 didn't have zoning in those years and the same
9 thing can happen here. We can be completely
10 overrun by suburban sprawl. It may not seem
11 like it because we seem far away from the
12 pressures of the Chicagoland area, but once the

13 Route 20 gets done, which it will sometime, it's
14 not going to be very far from Chicago or
15 Rockford to be here and commute, so I really
16 commend you for your effort in what you're
17 trying to accomplish. And my question is
18 concerning the -- the 2-acre special permit and
19 what is its purpose actually for? For instance,
20 in a farm, whatever you decide, 40 acres, take
21 it all away, 160, that's not something I really
22 want to get into myself, but there are many farm
23 families that would like their children to be
24 able to live in the homestead area of the farm

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1 or the parents get to retirement stage and they
2 might want to have a grandparent home on the
3 farm right in the complex. As I understand now
4 that is not allowed. There are people who have
5 extensive acreage that they use for recreational
6 uses and are they allowed to have a residence
7 and a guest house in their same complex or does
8 it have to be divided off into a separate
9 acreage of 2 acres or now as 40 acres. I don't
10 understand if you have taken those kinds of
11 situations into consideration and if so, how
12 they fall out.

13 DR. TONNE: Linda?

14 MS. DELVAUX: I'm thinking.

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DR. TONNE: Go ahead.

MS. DELVAUX: As far as a -- the 2 acres what they would be allowed then for another principal residence would be the special use issue that we've just discussed and hashed out. That would be the opportunity for them to build on the family farm, the family property would be getting that special use on no less than those 2 acres. I'm not sure if that answers --

MS. WINTER: well, that does clarify it,

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but it's been pointed out here by many people that that kind of seems to become a privilege of -- that you have to go and ask the County if you can have your family member have a home on your own farm as opposed to saying, you know, we have a hundred acres or 300 or 80 and there's plenty of room for my -- not mine, but the woman who spoke earlier who had eight children to have homes on that farm. Do they all have to have -- you know, go and -- somebody said beg to have the permission to have a home there for them?

MS. DELVAUX: I would generally have to answer that question as yes, they would need the special use.

MS. WINTER: Is that something that you really think is sort of a healthy attitude? Or

17 for instance, when I get too old and my children
18 want to farm my property do I have to come and
19 ask you if I could build a little granny house
20 for myself so they can live in my house?

21 MS. DELVAUX: Again, it would be depend --

22 MS. WINTER: It doesn't seem to be
23 encouraging the farming family and that's one of
24 the things that we're talking about doing is

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1 encouraging the family farm and if we don't
2 encourage the family to be able to stay together
3 or bring its family home who happen to work in
4 Chicago or New York or wherever it seems to
5 splinter --

6 DR. TONNE: Aside from going through the
7 process for a special use, which isn't -- you
8 know, there's a process there, it probably takes
9 three months and how is it otherwise a
10 discouragement for the family farm -- the
11 farming family to not stay together?

12 MS. WINTER: well, is the special use
13 going to be rubber stamped?

14 DR. TONNE: No, no.

15 MS. WINTER: well, then it discourages it.

16 DR. TONNE: Because how could you apply it
17 one way for a farming family and a different way
18 for a former farming family or a family that

19 never farmed on similar ground?

20 MS. WINTER: Yeah, or a family that uses
21 the same amount of acreage for recreation.

22 DR. TONNE: Right. How would you word
23 that?

24 MS. WINTER: I wouldn't and that's why I

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1 think it's something that shouldn't -- I think
2 it shouldn't be prohibited to -- to --

3 DR. TONNE: So further then we take the
4 other extreme, I know it's an extreme, but if
5 40 acres with eight kids results in nine homes
6 and nine special uses that's okay I guess,
7 right?

8 MS. WINTER: Well, then you have your
9 little family compound, yeah.

10 DR. TONNE: And so it goes with all the
11 farms over 30 years?

12 AUDIENCE MEMBER: There's not a lot of
13 families that have that many kids.

14 DR. TONNE: No, I'm just asking an extreme
15 example. How do we draft this and strike the
16 Solomon balance?

17 MS. WINTER: If all of us who live on
18 farmland could have the opportunity to have our
19 families together if they wanted to be there to
20 work there, to just come to visit that, you

21 know, bring their families, most farmhouses have
22 their limitation on how many people can actually
23 fit into them. The old traditional ones there's
24 one bathroom, etcetera.

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1 DR. TONNE: That's why it's taken five
2 years to get this far.

3 MS. WINTER: I appreciate that. I just
4 think it's something that -- that I would like
5 very much to see thought in the process, trying
6 to keep family farms together and -- and if --
7 also the clustering, if you could maybe -- for
8 instance, when we write conservation easements
9 we do building envelopes, so maybe there could
10 be a building envelope around the original
11 family farm home that was 5 acres of 40 acres,
12 160 or whatever.

13 DR. TONNE: This is I think perhaps a
14 milder version of clustering because it's going
15 to encourage development on crummy ground, if
16 you will.

17 MS. WINTER: Or together anyway.

18 DR. TONNE: Yeah.

19 MS. WINTER: So perhaps something like
20 that, a building envelope around a farm home
21 that would allow you to -- like -- like one can
22 go and get a building permit, more or less,

23 automatically to put in a farm use building, a
24 shed or horse barn or dairy farm or whatever you

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1 want and you could do the same thing and say,
2 okay, I'd like to build a one-story home over
3 here on my -- in my building envelope for my
4 grandfather. Just an idea.

5 MR. GRATTON: How far would you extend
6 this to family members?

7 MS. WINTER: I guess to anybody.

8 MR. GRATTON: Grandparents?

9 MS. WINTER: I don't think -- I don't
10 think I'd legislate it.

11 MR. GRATTON: Great uncles, the whole
12 thing?

13 MS. WINTER: Or a guest house, you know,
14 whoever you want -- I think if you had a
15 building envelope that you put around the
16 homestead --

17 MR. GRATTON: And then not today or
18 tomorrow, but eventually we've got DuPage
19 County?

20 MS. WINTER: No, because there would be
21 the building envelope, so there would be
22 clustering. You said DuPage County messed it up
23 or missed it.

24 DR. TONNE: Missed it, yeah.

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1 MS. WINTER: well, they did and Kane
2 County is not too far away.

3 MR. GRATTON: Okay. Thank you, Nancy.
4 The hour is getting late. What I'd like to
5 propose that we do here tonight -- and there can
6 still be more testimony on the -- on the ag
7 district if we haven't completed it. What I
8 would like to do is take maybe five or ten
9 minutes with the ZBA members and discuss what
10 we've heard this evening and see if there's any
11 drafts that we want the Staff to create for us
12 to look at tomorrow night. David, you had your
13 hand up?

14 MR. AKEMANN: Yeah, I just wanted to
15 mention Staff Amendment 1 makes a correction on
16 Page 24, Line 45 and 6, it says ag residences on
17 lots 40 to 160 and our Staff amendment indicates
18 just simply on 40 acres or more and we don't
19 want to put a ceiling on that.

20 MR. GRATTON: That's correct.

21 MR. AKEMANN: That was not the intent, so
22 we offer that Amendment 1 of that section.

23 MR. GRATTON: Okay. We have a ways to go
24 here. I would like to, for this evening anyway,

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1 start wrapping this up. And ZBA members, in
2 light of the testimony that's been heard tonight
3 two major changes that we --

4 AUDIENCE MEMBER: I just had one question
5 before you wrap up --

6 MR. GRATTON: Real quickly.

7 AUDIENCE MEMBER: On the special use.
8 What I wanted to ask --

9 MR. GRATTON: On what?

10 AUDIENCE MEMBER: On the special use.

11 MR. GRATTON: In the ag district?

12 AUDIENCE MEMBER: Correct.

13 MR. GRATTON: Okay.

14 AUDIENCE MEMBER: Say somebody buys a
15 parcel and you give them the okay, they can go
16 ahead and build their house and this is assuming
17 it's less than 160 so they need the special use
18 in the first place. Is that renewable and, if
19 so, how long?

20 MR. GRATTON: It does not need to be
21 renewed. It would run with the property.

22 AUDIENCE MEMBER: So it would run with the
23 property. So if you give them the okay for the
24 duration that they own it at least they would be

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1 able to put that residence up?

2 MR. GRATTON: No, it would go with that
3 owner and the next owner and so forth.

4 AUDIENCE MEMBER: And so it would continue
5 on?

6 MS. DELVAUX: As long as the house is
7 built. You have so long to get construction
8 going, that's where your time frame comes in,
9 one year, you can ask for longer. If you get
10 close to running out of time you can always ask
11 for a variation, come back and ask for a longer
12 time to get it done. As long as that house is
13 up then that special use runs with the land.

14 AUDIENCE MEMBER: So if somebody buys a
15 property and they hold on to it for 20 years,
16 yet they're prudent enough to get the okay prior
17 to, they really have no option other than kind
18 of chancing it that the Board says okay the next
19 time they apply for that special use?

20 MS. DELVAUX: Yeah, 20 years down the way
21 is a long time.

22 AUDIENCE MEMBER: Because you see a lot of
23 people buying their retirement parcels out here,
24 they buy things to hold onto and then in the end

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1 -- so they wait for a while, they get their
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2 approval, but then down the road things change,
3 they may not get their approval is what I'm
4 hearing, right?

5 MS. DELVAUX: Unless -- yeah, yeah, if you
6 go the special use route, yeah, there are time
7 limitations involved with it, that's true,
8 that's the way it is. If you are investing in
9 something long term like that if I were to be
10 asked I would say invest in something that's
11 already zoned residential, invest in something
12 that already has that ability that you don't
13 have to get the special use for if you're
14 looking for that long term type of investment.

15 AUDIENCE MEMBER: And I see that and I
16 understand things change, but what I see is the
17 people that already have 40s now are going to be
18 grandfathered in, but yet if you get the answer
19 definitely when you buy the property from now
20 with the special use, you aren't necessarily
21 going to have that ability, but it seems like
22 retroactively if you apply this now why is it
23 when something gets the positive answer then
24 that they don't have that for the duration of

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1 their land ownership before you improve it?

2 MR. GRATTON: That's a good -- your point
3 is well taken. The up side of having that not

4 being totally open ended, we still have, you
5 know, lots out here in Jo Daviess County that
6 were created as mining lots and everything else
7 that will never be built on and we have unused
8 lots that are just sitting there and I'm not
9 sure that's good planning that we want to create
10 that either. This might give an incentive for
11 someone to build and I think we would look
12 favorably, you know, on extensions so that, you
13 know, most people -- you know, I don't know what
14 their time horizon is for building, but you
15 know, they know what date specific when they
16 probably would want to do something and we're
17 trying to, you know, make that work for them
18 through the extension process, but --

19 AUDIENCE MEMBER: I understand that and I
20 just see this change a lot in the real estate
21 business, people change their mind at a moment's
22 notice. It's tough and they need assurance
23 because I think it's going to drive a lot of
24 buyers to reconsider do we want to buy this

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1 parcel if we're not going to know -- you know,
2 are we going to be forced to build within a
3 year, two years, five years, ten years, whatever
4 it is. If something catastrophic happens in our
5 family and we don't have the ability to is our

6 land then going to be valued less, are we going
7 to have to sell our land, how does that impact
8 -- or are we better off just buying a lot in the
9 Galena Territory where we know we can build on
10 it, it's sitting there. I'm just afraid to see
11 what might happen in that case with a lot of
12 people that are on the fence right now looking
13 to move into this county.

14 MR. GRATTON: Worst case an unused lot
15 might revert back to agriculture.

16 AUDIENCE MEMBER: Then they lose their
17 guarantee.

18 MR. GRATTON: Okay. We're going to -- I
19 think at this point we're going to cease public
20 testimony at least for this evening and it will
21 be continued to another meeting. Does the ZBA
22 members -- do you have the need to discuss some
23 of the options tonight or would you like to
24 think about them?

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1 DR. TONNE: I have no burning need
2 tonight.

3 MR. JANSEN: No, I'd like to think it
4 over.

5 MR. GRATTON: We are scheduled for a
6 session tomorrow evening right here same time.

7 MS. DELVAUX: Yes.
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8 MR. GRATTON: So if there's no --

9 MS. JANSEN: You want a recess or adjourn?

10 MR. GRATTON: We're going to -- probably I
11 will ask for a motion for a continuation to a
12 specific place which will be here tomorrow
13 evening at 7 o'clock, is that -- somebody want
14 to put that in a motion?

15 DR. TONNE: Yeah, I move we continue this
16 till tomorrow night, 7 o'clock, in the same
17 location.

18 MS. DAVIS: Second.

19 MR. GRATTON: Okay. We have a motion by
20 Bill and a second by Susie. All those in favor
21 -- we'll do a voice vote on this -- signify by
22 saying aye.

23 (All those simultaneously
24 responded.)

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1 MR. GRATTON: Okay. We are adjourned
2 until tomorrow evening.

3 (The hearing was concluded at
4 10:26 p.m.)

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1 Now on this 22nd day of October, A.D.
2 2008, I do signify that the foregoing testimony
3 was given before the Jo Daviess County Zoning
4 Board of Appeals and Planning Commission.

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Melvin Gratton, Chairman

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