

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 28th day
13 of January A.D. 2009
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 Nick Tranel
Melvin Gratton, Chairman
Linda Delvaux, Zoning Administrator
David Akemann, Attorney

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1 MR. GRATTON: Okay. Good evening,
2 everyone, and welcome to this evening's program.
3 You're at the Jo Daviess County Zoning Board of
4 Appeals and Planning Commission. This is our
5 regularly scheduled January 28th meeting for
6 this month.

7 I'd like to start by having Melissa call
8 the roll to see if we can establish a quorum.
9 So Melissa, would you do that, please?

10 (Roll call was taken and
11 Nick Tranel was absent, but
12 arrived shortly thereafter.)

13 MR. GRATTON: Since we do have a quorum we
14 can proceed. Normally at this time we would
15 read the minutes of our last meeting, but we're
16 going to dispense with that until our next
17 meeting, so we will cover that at that time.
18 This evening we've been directed back here to
19 have another public session on the new proposed
20 zoning ordinance for Jo Daviess County and we've
21 had two of these already. And in hindsight it
22 appears that it may have served us better if we
23 might have had some educational sessions prior
24 to this -- the public hearing session of this.

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1 But nonetheless, I think if you will bear with
2 us this evening, you will come to understand

3 that the process is working, that there are
4 multiple changes that are being presented this
5 evening and I'll ask your cooperation and your
6 patience while we address those and as we get
7 through the process. We're going to try to do
8 this in a fairly orderly fashion. But for those
9 of you who may be here for the first time I
10 would like to go through some of the -- a little
11 bit of the history. I want to take just a
12 couple minutes and do some history and what's
13 transpired with this document so everybody is at
14 least a little bit on the same page.

15 Zoning in Jo Daviess County started March
16 1st of 1995 and it's been in effect since that
17 date. In 1997 the Jo Daviess County Board and
18 some leaders in Jo Daviess County decided to do
19 a visioning statement or a visioning process and
20 the -- the fruits of that was that it ended in a
21 visioning statement. And what they did was try
22 to take public input to see where people in
23 Jo Daviess County wanted this county to go, what
24 direction they were looking at. So they did

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1 that and if we were in the county board room you
2 could read that. It's a very concise but
3 eloquent document that states who we are and
4 what we want to be as a county. From that we

5 started working on a Comprehensive Plan and we
6 spent over two years developing a Comprehensive
7 Plan and a Comprehensive Plan is another
8 document that goes way beyond the vision
9 statement. It embodies all of the aspects of
10 the goals and the ideals and the dreams that
11 people have for this county and that was adopted
12 in 1999. At that time upon adoption of that, if
13 any of you recall and I think if you were --
14 belong to any civic or governmental group you
15 will remember that there were presentations
16 given all over the county to try to inform all
17 of the citizens of that. Over 2,000 people were
18 reached with those presentations. The feedback
19 from that was very positive. The understanding
20 when the Comprehensive Plan was developed was to
21 realize that it was a guiding document only and
22 this Board and the County Board has used this as
23 a guide since it was adopted. But to bring this
24 into any kind of -- to have any kind of major

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1 effect, the zoning document is the one that
2 actually spells out and determines what will
3 actually happen. So probably -- I'm going to go
4 back -- it's been a five or six-year process.
5 The decision was made to rewrite and update the
6 County Zoning Ordinance to bring it in

7 compliance and to have the -- to state the goals
8 and the aspirations of what was found in the
9 Comprehensive Plan. So as that was done, the
10 decision was made to rewrite this document
11 in-house and there was a committee formed to do
12 that. It was a committee, the Zoning Board was
13 a part of that committee and many County Board
14 members past and present were on that, many
15 citizens were involved in that process. So
16 we've been doing this for -- it will probably be
17 six years before we finish this, but it's been
18 a lengthy process and as soon as -- those
19 meetings we had, and probably we averaged about
20 one meeting a month for that six-year period to
21 get to where we are with this, that was a
22 process that was -- it was completely
23 transparent, the meetings were posted. As soon
24 as we had some -- enough document to put on the

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1 county website it was there. There were many
2 citizens who attended on and off throughout that
3 process because of their concern and their
4 interest in this. So for those of you who think
5 this just came out of the woodwork quick and
6 someone tried to put something out there, this
7 was a totally transparent document as far as its
8 creation and a lot of people have worked very

9 hard to get to this.
10 Now, the results of this. I think for the
11 most part that this document does reflect the
12 Jo Daviess Comprehensive Plan. We put in there
13 language that our legal counsel, Dave Akemann is
14 here tonight. He's worked with us to make a
15 document that is -- not only says what we want
16 as a County, but is also legally defensible.
17 And our old document many people say, well, what
18 was wrong with the old one? well, the old one
19 was a document that was -- I would call it a
20 pretty generic document. It got us going with
21 zoning in the county, but it didn't really look
22 at what we were trying to accomplish as a
23 county, where we want to go and where we want to
24 hit. It was, you know, kind of a boilerplate

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1 document. It was probably lax in what it didn't
2 say more than what it did say. And I want all
3 of you to realize that these documents are fluid
4 and changeable. A zoning document isn't
5 something that we chisel in stone in 1995 or in
6 1999 or in 2009 or any time. They're documents
7 that change. We've changed the present document
8 multiple times. Sometimes it's just a phrase or
9 a wording, sometimes it's major. During this
10 process we've done three major things. We've

11 completely updated the mapping system which was
12 -- was somewhat deficient to start with. That
13 was a major accomplishment. We rewrote the LESA
14 system to make it totally objective rather than
15 subjective because we knew we wanted to apply it
16 to zoning change requests. We were looking at
17 wind ordinances as part of this initially. We
18 realized I think up front that this is something
19 that needed to be in there. It was incorporated
20 and amended into our current ordinance, so all
21 these changes have already been put into our
22 current ordinances and -- ordinance and it's
23 been there to -- they're there in order for us
24 to recognize that as good ideas come along they

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1 get incorporated into the document. Now,
2 whatever we do with this document, however it
3 ends up, realize that it's amendable, it will
4 never be perfect no matter how hard we try.
5 Every time we go over this, every time we meet
6 with a public group, every time we sit down and
7 have our own discussions we change something,
8 because there are always ways to improve it and
9 make it better and that will be true going
10 forward. So please remember that whatever we
11 end up with, if next month or two months from
12 now or next year someone comes up with a better

13 way to do it that more reflects the wishes of
14 the County, that's what will happen.

15 Somebody at one of our previous hearings
16 indicated, well, why do we need such a big
17 document. You know, our old document was what,
18 91 or 94 pages long? This one is a hundred and
19 sixty-one pages long, so 68 pages more than the
20 old one. well, if you look at what we actually
21 did in there there are two major changes that we
22 made to the new document that I think will serve
23 us very well. First of all, we expanded the
24 definitions so that the words that are used in

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1 there are defined and so everyone knows what
2 they mean. That added an additional 21 pages to
3 the document. We put another element in there
4 which is called the use table and standards.
5 Throughout the existence of this Board and we
6 looked at what other counties are doing, we
7 decided that why do we want future boards and
8 future county government to have to sit here and
9 reinvent the wheel every time something changes
10 or something happens. So what we did was try to
11 identify all the possible uses that can take
12 place as far as zoning changes, identify them
13 and apply the standards to them that are
14 reasonable, that make sense for a lot of

15 reasons, for safety, for, you know, just using
16 good judgment. A lot of people would say, well,
17 look it, you've got 46 more pages of standards.
18 well, when we started there were no standards.
19 It was much like some people accused of us doing
20 of zoning boards having to sit down and we make
21 it up as we go along. well, we did initially.
22 The first quarry request we ever had was one
23 that we said, well, what do we need to do this,
24 so we did Quarry 101 in order to determine, you

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1 know, what makes for a safe and efficient quarry
2 operation. well, that's just one of the many
3 standards that you're going to see in here. so
4 what happens now going forward -- this Board is
5 not going to be here forever, we hope not anyway
6 and as times change the precedents that have
7 been set in the past, the wisdom that's been
8 gained which this group and other county zoning
9 boards who have done these things, we've tried
10 to incorporate that in there so that going
11 forward if any of you come in, if you want to
12 establish an adult entertainment establishment
13 someplace, the same standards are going to apply
14 to each and every one of you no matter where you
15 are in Jo Daviess County. And we're not going
16 to sit here and say, well, we like this or we

17 don't like it. We're going to say this is what
18 the ordinance says. This is where they're
19 allowed. This is -- these are the conditions
20 under which they're allowed. That's what the
21 uses and the use table and standards do.

22 We have people still in Jo Daviess County
23 who probably would prefer that we don't have
24 zoning. If you're one of those people, you

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1 probably will not like this document no matter
2 how we do it. There also will always be people
3 who have differences of opinion about how this
4 document should look. Those of us who have
5 worked on it have had differences of opinion.
6 What has transpired is something that has been
7 the consensus of a committee working together
8 and not any one individual's viewpoint. So as
9 you look at this and you look at zoning I would
10 ask that you do this: That you look at it from
11 the standpoint of what good can it do, what
12 protections can it afford us versus what rights
13 might it take away, because that's an ultimate
14 balancing act that we do with the zoning
15 process. We give up certain individual rights
16 to protect the whole and in doing so it -- it
17 enables us to sit back and to, in comfort,
18 maintain the property values in this County,

19 maintain the standard of living, maintain the
20 morals and the safety and all those other things
21 that go into this. So if you could sit where we
22 sit and listen to the testimony as we have over
23 the years, you will find that most people aren't
24 so much concerned about their -- their rights

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1 when the hearing takes place. There are a lot
2 more people concerned about do I want that next
3 to me and how are you going to put that next to
4 me? And just think about that. Think about the
5 waste storage facilities, for example, landfills
6 they used to be called. Think about the adult
7 entertainment establishments. Think about the
8 quarries, the wind farms and the kennels and
9 everything else that go into this and say do I
10 want that next to me and if I do, what
11 particular safeguards might make that a
12 reasonable thing to have in this particular
13 district or in my neighborhood. We've struggled
14 with that, so it's -- it's something that I just
15 wanted to take these few minutes and I'm going
16 to get right into the meat of the problem here.
17 I think your questions and your concerns that
18 came up in the first two sessions, if you will
19 bear with us as we go through the amendments
20 that have been proposed this evening, will be

21 addressed. There were a few things that got in
22 there that in our rush to complete this document
23 probably should have been changed. I think
24 we're catching a lot of that information that

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1 wasn't put in there. I think one of the -- one
2 of the things we heard was for agriculture. If
3 you remember the Comprehensive Plan there were
4 two major economic drivers in Jo Daviess County,
5 agriculture and tourism. And our charge I think
6 in completing this document was to protect both.
7 I think we've provided major protections for
8 agriculture in here. You'll find new setbacks,
9 you will find an updated LESA system which is a
10 tool that we use to determine what land should
11 be taken out of agriculture and which should
12 not. The lot size, which has been a concern to
13 many people, we're going to discuss that again
14 tonight. So -- and I think you will see that
15 agriculture is -- is better protected by this
16 ordinance than what we've had in the past. And
17 I think by protecting agriculture we also
18 protect the County tourism and further business
19 to come here.

20 So let's -- we'll get into this. The way
21 I would like to do this is we've had -- I think
22 we have -- what's the number, Linda, about 16 --

23 15 amendments that the County Board has
24 suggested -- what they've done is they've sent

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1 this back to us for us to discuss and ultimately
2 for you to provide any additional input into
3 this process. So what I'd like to do, I don't
4 know if you all have the copies of that, but
5 we'll try to keep you up to date as to where we
6 are in the process as we go through. I would
7 like to take these probably amendment -- one
8 amendment at a time. But I think we'll also
9 group them together and say all the amendments
10 that fall into the ag district, for example,
11 we'll try to put those in one basket and deal
12 with it. There's another one on lighting, we'll
13 try to do that. There's one on temporary uses.
14 By the way, when you separate those -- the use
15 standards and the definitions out of there you
16 come up with one page more than the old
17 document. And if you look at what we've done to
18 temporary uses in here, there will be a net
19 decrease in size of the document I think when we
20 get done. So let's get started. What I would
21 like the public to do is be patient with us for
22 a minute. I would like to have the Zoning Board
23 discuss this so that the full flavor of what's
24 being presented is out there in front of you.

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1 we might make changes that you're going to
2 suggest, so if you would allow us to do that.
3 If we do that it will save you and us both some
4 time and then before we make a final
5 recommendation on it we will take any public
6 testimony that you may have regarding any of
7 this and then as we get through the amendments
8 if you have other items that we didn't cover
9 that you'd like to be heard on, there will be an
10 opportunity to be heard on those. So anybody
11 have any questions?

12 Okay. All of us are going to be under
13 oath when we testify this evening and so I'd
14 like to swear everybody in. Remember that. If
15 you testify I'd like you to come up to the
16 microphone, use it, write down your name and
17 address on there so Melissa can record that
18 correctly. Also tell us your interest and what
19 your concern is and share that with us and we'll
20 have any give and take that's necessary at that
21 point. So I'm going to swear everybody in to
22 start with, so would you raise your right hands,
23 please.

24 (WHEREUPON Everyone in the room

1 was sworn in.)

2 MR. AKEMANN: Mr. Chairman?

3 MR. GRATTON: would you like me to
4 introduce you, David?

5 MR. AKEMANN: No. Again -- if you'd like,
6 but I just wanted to interject a point of
7 clarity when we're referencing the "County Board
8 Amendments". These are actual amendments to the
9 document that was received by the County Board
10 that have been proposed by individual members of
11 the Board. It's not like the County Board has
12 already read and approved these. They're simply
13 suggestions or requests -- requested amendments
14 proffered by individual Board members at this
15 point.

16 MR. GRATTON: Okay, and that is
17 David Akemann and David has been our legal
18 counsel for this process and we are very
19 appreciative of the advice and the counsel that
20 he's given us through this process. And what
21 he's saying is these are -- these amendments
22 that we're going to consider are individual
23 Board members' requests, not the County Board as
24 a whole. I think that's the point he was trying

1 to make. And Linda, would you like to state
2 anything?

3 MS. DELVAUX: The only thing I wanted to
4 do is state for the record that this was
5 publicized again and it was publicized on
6 January 7th from the Gazette, The Flash, The
7 Scoop and The Village Voices and was in the
8 January 9th East Dubuque Register, so we did do
9 publications for a second time on this issue.

10 MR. GRATTON: And we will do our best to
11 conclude this this evening and if we don't we
12 will continue to another meeting. So we'll see
13 how well we can proceed with this.

14 I'm going to start with what's called
15 County Board Amendment No. 1 and No. 2 and I'm
16 going to ask you to set those aside for a
17 moment, because if we adopt County Board
18 Amendment 12 and 13 it won't be necessary to
19 deal with those, so keep that in mind and if we
20 don't adopt 12 and 13 remind me to come back to
21 that. The County Board recommendation by a
22 Board member -- some of these were from staff,
23 county boards and various sources, so keep that
24 in mind. This is simply a definition of what a

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1 footing is. It was lacking in the document.
2 I'm talking about Amendment No. 3. This is Page
3 3 on the -- what you have on 135 in the
4 ordinance. This just defines a footing. Is
5 there any objection to this definition? Anybody
6 want to make any comments on a footing? Okay.
7 I think what we'll do -- unless there's some
8 debate on these, what we'll do -- I'm going to
9 ask the Zoning Board for a consensus opinion. I
10 don't think we have to have individual votes for
11 things like that on a footing, so is everyone --
12 is everyone in agreement that a footing is
13 described as the definition states here?
14 Everybody in favor?

15 (All those simultaneously
16 responded affirmatively.)

17 MR. GRATTON: Linda?

18 MS. DELVAUX: Both Dave and I were
19 discussing that we do think that whether -- you
20 can consensus at this point, but at some point
21 you need to make a motion to amend these into
22 the document.

23 MR. GRATTON: Okay. Would you like --
24 would it be easier for you if we make each

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1 amendment a motion as we go? I think we
2 probably need to do them individually.

3 MS. DELVAUX: Yes, yes, it would be.

4 MR. GRATTON: Let's, because this is I
5 think one -- there's one other definition I
6 believe in here, but let's -- okay, we have a
7 motion by Nick to adopt the definition of a
8 footing.

9 MR. JANSEN: Second.

10 MR. GRATTON: Second by David. Any
11 discussion? All those in favor signify by aye.

12 (All those simultaneously
13 responded.)

14 MR. GRATTON: Opposed? Okay. The motion
15 is then to adopt the definition of a footing.
16 We're on County Board Amendment No. 4 and this
17 gets into the ag district and it's a change from
18 what was there and it's a major change and I
19 think I'm going to -- if Linda would, I would
20 like her to maybe present this. Are you
21 comfortable? She has a better understanding I
22 think than we do on this.

23 MS. DELVAUX: Sure. This proposed
24 amendment was brought forth due to an issue that

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1 was brought to our attention by the attorney in
2 reference to our ordinance at one point in the
3 past had allowed an action to happen by -- by
4 just lineage alone and that was brought to our

5 attention that that is not a legal process. So
6 in order to be considerate to those that had
7 made a faithful movement forward underneath that
8 old ordinance, this -- this motion was -- was
9 brought forth. So in a nutshell what it says is
10 that it will continue to allow those people,
11 mainly parents, children, grandchildren, that
12 had created a parcel and got it recorded with
13 the intent to build when the ordinance did allow
14 that, so what this does is allows them, but it
15 also moves forward from this point on.

16 MR. GRATTON: Okay, and there was some
17 discussion on this. I think the public felt
18 that, you know, if you're a relative of someone
19 who owns a farm you should be able to build
20 your residence on that farm. David and other --
21 and the legal profession have tried to tell us
22 that to defend something like this legally -- by
23 the way, it's been changed in our present
24 ordinance, it's not in there that way --

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1 MS. DELVAUX: Correct.

2 MR. GRATTON: -- that to defend something
3 like this that we do not have a system in this
4 country that gives special rights to people
5 because of their blood lines, their DNA or their
6 lineage and to -- to avoid that, that's why it's

7 not in there. There still will be things like
8 the special use which will allow these things
9 going forward, but this will allow anyone who
10 has created these parcels to go ahead and
11 complete their plans to build on them.

12 MS. DELVAUX: Right, anyone who had made
13 that commitment prior to the change.

14 MR. GRATTON: So that's the -- the change
15 to -- under 8-3a-2, Permitted Uses. That's the
16 essence of what this is saying. So is there a
17 motion or discussion on this?

18 DR. TONNE: Are you going to take public
19 testimony on this?

20 MR. GRATTON: We will. I was going to get
21 our consensus so the public understands where
22 we're going with it and then if they want to
23 present any other viewpoints, I'll allow that.

24 MS. DAVIS: Move to adopt.

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1 MR. GRATTON: Nick moved to adopt it as
2 presented. Is there a second to that? I'll
3 second that. Okay. Bring it to discussion. Is
4 there a discussion on that?

5 MR. JANSEN: So you're saying, to make
6 sure I'm clear, that whatever was in effect
7 prior to March 1st -- all we're saying here is
8 that we recognize that for the future, is that

9 what you're saying, Linda? So if somebody -- if
10 somebody took some acreage prior to March 1st of
11 '95 with the intention of building on it in the
12 future that that's still good?

13 MS. DELVAUX: Correct. This deals with
14 two different dates, so -- so this deals with
15 something that is currently existing in our
16 ordinance which is the March 1, 1995 prior-to
17 date, those parcels being considered lot of
18 record. The second part which we would be
19 adding in is: 2) Or lawfully recorded after
20 March 1, 1995 and then with the caveat that said
21 residential use was permitted by the provisions
22 of the Jo Daviess County Zoning Ordinance then
23 in effect as of the date of the recording of the
24 said lot which means they made a movement

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1 towards that, they made a commitment towards
2 that by recording their lot under the
3 understanding at that point in time that the
4 ordinance was going to allow them. So what this
5 is doing is saying that you made that commitment
6 when the ordinance actually said you could,
7 we're going to honor that commitment for you.

8 MR. JANSEN: Okay. That's what I thought
9 it said. I just wanted to get it in English.

10 MS. DELVAUX: Sure.

11 MR. GRATTON: Is there further discussion
12 here? Okay. Are there -- excuse me -- is there
13 anyone here who would like to be heard on this?

14 MS. WIENEN: Cathy Wienen, West Galena
15 Township, Lifer. Just a question. How does
16 this impact Item C? I'm kind of confused. I
17 think -- I thought C talked about separating the
18 family farm and D was about the other ones or am
19 I like confused? Because if -- are we still
20 leaving all the dates and everything the same in
21 C?

22 MS. DELVAUX: Cathy, what page are you
23 talking about?

24 MS. WIENEN: The original document was

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1 Page 24 because the amendment is to B, but then
2 C talks about the separation from the larger
3 parcel which is kind of what you do with a farm,
4 so I wasn't quite sure if we needed something
5 for C to match B to make them cohesive or am I
6 misunderstanding?

7 MS. DELVAUX: Are you talking -- I'm not
8 sure --

9 MR. GRATTON: We're under permitted uses,
10 is that correct, Cathy, you're there?

11 MS. WIENEN: Right.

12 MR. GRATTON: And we're talking about B --

13 changing B and you're asking about C?

14 MS. WIENEN: And C also talks about the
15 separating of a residence created on a lot by
16 separation of a larger parcel. It's got that
17 same March date in it, so how do these -- I
18 mean, how are they different?

19 MR. GRATTON: This is for consolidation,
20 isn't it, Linda?

21 MS. DELVAUX: Yeah. What C refers to is
22 your -- you have an 80-acre parcel, you have
23 your farmhouse that was built back in, I don't
24 know, 1920s or whatever and you want to sell

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1 that farmhouse off of the lot. What this does
2 is allows you to sell that off with a minimum of
3 the two acres and the 150 feet of road frontage.
4 It allows you to sell that off and I could buy
5 it, anyone could buy that and it would still be
6 a lawful use.

7 MS. WIENEN: As long as you built it
8 before March of '95?

9 MS. DELVAUX: As long as that home was --
10 yes, prior to 1995.

11 MS. WIENEN: So what happens to people
12 that built in 2001 --

13 MS. DELVAUX: Well --

14 MS. WIENEN: -- on their 80-acre farms

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according to the rules?
MS. DELVAUX: well, there's also a clause in here that says if you were the farmer and you built your house on your 80-acre, 50-acre parcel and you're no longer a farmer, you just built your house in 2002, okay, it would allow you to stay on that parcel whether you farmed or did not farm. But what it doesn't allow you to do, unless you come forward and request a split off of the property or something like that, it

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would allow you to stay on that parcel and that's not a problem, but if you want to make it smaller, that's when then you would have to come in and request to do so.

MS. WIENEN: So if they want to separate out 2 acres --

MS. DELVAUX: Yes.

MS. WIENEN: -- so you're basically in the same situation, you've got a house that's been sitting there since sometime after 1995 and you want to separate a piece off, B says you can and C says you can't? I guess I don't -- I'm not seeing where there's a difference between these because they both reference agriculture residences and non-ag residences and they both talk about being recorded -- duly recorded.

17 It's -- I guess I'm not seeing where our
18 differentiation is between these two and I'm
19 probably just missing something. But you're
20 still separating a parcel?

21 MS. DELVAUX: Okay. Right. Well, what B
22 is letting you do -- it's talking about the lot.
23 So if you had a lot that was in existence prior
24 to 1995, then that's considered a lot of record.

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27

1 And if that lot was recorded prior to then then
2 you can build your home on that lot. That's
3 what B is starting to say here.

4 MS. WIENEN: So is the definition of a lot
5 a small parcel? Is that where we're getting
6 dazed and confused here?

7 MR. GRATTON: No. I think, Cathy, the
8 distinction that you probably need to keep in
9 mind here is that B is dealing with the
10 residence itself, the lot with the residence on
11 it and -- or C is and B is dealing with the lot
12 that was legally established which probably does
13 not have a residence on it, but will be allowed
14 under those conditions.

15 MS. WIENEN: Right, so if the family farm
16 separated off their parcel in 2000 and let the
17 son build a house on it, that's not acceptable
18 anymore. But if they separated the ground off

19 and it's still empty, it's acceptable.
20 MR. GRATTON: No, it is acceptable.
21 MS. WIENEN: How?
22 MR. GRATTON: Is anybody else having an
23 issue here that --
24 DR. TONNE: Under the fear of making a

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28

1 mistake myself here, B is about lots and when
2 they were recorded, about lots. If they're
3 recorded prior to '95 you can build a house on
4 it. C has nothing -- is only about residences
5 on lots -- ag lots, but now you're including an
6 existing residence. That will help you read
7 those, B and C and see the differences.
8 MS. WIENEN: Okay. Then why do we have a
9 Point A under B that says your septic system has
10 to conform if there's nothing on the lot?
11 MR. GRATTON: That's if you build on it it
12 has to conform.
13 MS. WIENEN: If you build on it, okay.
14 DR. TONNE: Again, there's no house there
15 in B, so we're adding in B, we're adding lower
16 case A, B and C.
17 MS. WIENEN: Right, yeah, just broke the
18 paragraph apart.
19 DR. TONNE: Okay.
20 MS. WIENEN: So again explain to me one

21 more time, I apologize, but this is something
22 that I don't want to see us go wild. The family
23 farm of 150 acres, in 2001 the parents decide
24 they don't want to farm anymore, they

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29

1 partitioned off a 3-acre parcel and they built a
2 new home on it.

3 DR. TONNE: Now you're in C.

4 MS. WIENEN: Right, and they did it in
5 2001, it's not anymore a permitted use because
6 it's not before '95.

7 MR. GRATTON: Is it the date here that's
8 confusing?

9 MS. WIENEN: I think it's the date. I
10 mean, shouldn't this be as of whenever we put
11 this in effect?

12 MS. DELVAUX: No. Let me ask if I'm
13 understanding you correctly. If it's a family
14 farm, they split a piece off in 2000 and they
15 want to build a house in --

16 MS. WIENEN: They built the house in 2000.

17 MS. DELVAUX: And they built the house in
18 2000. well, they would have had to have done
19 something then -- in order to get that new home
20 they would have had to have rezoned it in order
21 to have built that home. So the parcel is
22 rezoned, the parcel is residential and the house

23 is there and they -- they did it through the
24 process then.

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30

1 MS. WIENEN: Right.

2 MS. DELVAUX: So that makes that legal.

3 MS. WIENEN: So then what is C even -- is
4 that for stuff that didn't get done legally I
5 guess?

6 MS. DELVAUX: C is for -- to allow a home
7 prior to 1995. Allows -- it allows you, the
8 farmer -- let's say you're farming two parcels,
9 you buy another parcel and it has a house on it,
10 the old farmstead on it, you don't need it
11 because you're living in the one that you're on,
12 so you want to sell that farmstead off. So what
13 this does is it allows you to sell that
14 farmstead off that you don't need anymore on
15 that parcel. Because the house was built there
16 prior to 1995, that's what C allows you to do.
17 If you had built the house in 2000 you wouldn't
18 qualify under that, no. But if the house was
19 built prior to that you would qualify for that
20 because the house was there pre-1995.

21 MS. WIENEN: Pre-ordinance.

22 MS. DELVAUX: Yes, yes.

23 MS. WIENEN: I'm still having trouble.

24 Move on.

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31

1 MR. GRATTON: This allows for -- the
2 reason is for farm consolidation. It's in our
3 present ordinance and it's in most ordinances
4 that we've looked at and that's pretty much the
5 language that I think is used. Maybe we're all
6 wrong, but -- yeah, Steve?

7 MR. MCINTYRE: I got to ask the question.

8 MR. GRATTON: Ask the question.

9 MR. MCINTYRE: I think I'm trying to get
10 what Cathy is talking about here, but I got to
11 ask the question.

12 MR. GRATTON: Why don't you identify
13 yourself.

14 MR. MCINTYRE: I'm Steve McIntyre. I live
15 at Apple Canyon Lake, but I also own ag property
16 as well, 20 acres. If I have a larger than
17 40-acre parcel today and I build an agriculture
18 or a nonagricultural home on that 40-acre parcel
19 today, I today do not have to have it be
20 rezoned --

21 MS. DELVAUX: Correct.

22 MR. MCINTYRE: -- to build that today and
23 that's post 1995?

24 MS. DELVAUX: Our current ordinance allows

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1 you to do that.

2 MR. MCINTYRE: And let's say my parcel is
3 a hundred and twenty acres, that's greater than
4 40, so it's a hundred and twenty acres and I
5 built my house today on that hundred and twenty
6 acres. I don't see in the ordinance where I can
7 actually take away my house and sell off
8 everything but 2 acres or some small parcel with
9 that home. I can't do that, that's what you're
10 saying I cannot do anymore? I cannot build that
11 -- I built my house today and cut away -- sell
12 off the hundred and eighteen acres and sell my
13 house that's on 2 acres and then sell the
14 hundred and eighteen acres to an adjacent
15 farmer, I cannot do that today, correct?

16 MS. DELVAUX: Correct.

17 MR. MCINTYRE: I'd have to break it into
18 three 40-acre pieces?

19 MS. DELVAUX: Well, you were able to build
20 your home because your parcel was 40 acres or
21 more. So in order to remain legal within that
22 40 acres or more, as long as you kept the house
23 on 40 acres at least then you still remain a
24 permitted use. You don't create any kind of a

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1 nonconformity then. But if you --

2 MR. MCINTYRE: Thank you for using that
3 term nonconformity.

4 MS. DELVAUX: But if you sell everything
5 but 2 acres since you just built your house in
6 2000 then you're creating a nonconformity with
7 the ordinance. The ordinance wouldn't let you
8 do that unless you came through -- in the
9 current ordinance I would take you through a
10 rezoning process. What's proposed in the new
11 one would be a special use process.

12 MR. MCINTYRE: Okay. I would -- I would
13 have to -- if I did want to separate it off as a
14 2-acre parcel or a 5-acre parcel or a 10-acre
15 parcel, whatever, with the home I would come
16 before the Zoning Board and ask to have a
17 special use permit for this lot that I'm
18 creating with my home so that I can take it away
19 and say can I have this here and what would
20 happen if it was denied?

21 MS. DELVAUX: Then --

22 MR. MCINTYRE: I would have to sell it
23 all.

24 MS. DELVAUX: Then your home --

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1 MR. MCINTYRE: I would have to sell all
Page 31

2 hundred and twenty plus my home to somebody else
3 and --

4 MS. DELVAUX: All but 40. You could still
5 keep it on 40.

6 MR. MCINTYRE: Provided that we have that
7 in our ordinance after this goes through.

8 MS. DELVAUX: Well, the 40 acres is still
9 the lot size in the ag district, correct.
10 whatever lot size is in the ag district that is
11 permitted then that's what you would have to do
12 in order to stay conforming.

13 MR. MCINTYRE: Okay. I think it's clear
14 as mud. Thank you.

15 MR. GRATTON: The only difference, Steve,
16 from the present ordinance is today you'd have
17 to do it with an R-1 designation and going
18 forward you have to use a special use. That's
19 the only change. So there's really not a
20 major --

21 MR. MCINTYRE: Yes and no. There is a
22 2-acre lot size today, but okay, thanks.

23 MR. GRATTON: Any other people? Neal,
24 would you just stand up and state your name so

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35

1 it can be recorded correctly please.

2 MR. EHRLER: I'm Neal Ehrler, E-H-R-L-E-R.
3 Okay. I have eight kids and I own some ground

4 and I'd like to take, you know, 60 acres and put
5 nine lots on it, one for myself and one for all
6 eight of my kids. Now, that's not possible on
7 60 acres, is it?

8 MR. GRATTON: Not without some provision.
9 You'd have to go through a process to do that
10 and the process -- you could -- depending on how
11 you wanted to set that up, it might look like an
12 R-1 district, it might look like special uses
13 for those, so that would have to be determined
14 which way you'd want to go. It would depend on,
15 you know, where you are in the county and what
16 type of land you're on and everything else.

17 MR. EHRLER: Well, it's all hills. I just
18 wanted all my kids to have a little part of the
19 farm if I did sell it, you know, so that's -- I
20 was just wondering if I could do that.

21 MR. GRATTON: What -- the amendment that
22 we're looking at right now -- if someone had
23 done something like that, what -- the amendment
24 we're considering right now is we're saying

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36

1 we're going to allow them to do it. Going
2 forward we're going to ask that you go through
3 probably a special use process. If you were to
4 do this today, just like we told Steve, you'd
5 probably having to go through the R-1 process

6 anyway to do that. So that would be the
7 difference.

8 MR. EHRLER: Okay. Thank you.

9 MR. GRATTON: Okay. Thank you.

10 MR. THOLE: Richard Thole, 6701 west
11 Guilford Road. I was just wondering just to
12 clarify this, my house is in relatively good
13 shape and I don't plan on replacing it, but --
14 when I moved to the farm the old house was and
15 that's why I'm in a, well, 30-some-year-old
16 house, but if I were to replace that now because
17 the -- of a need for a different house, my
18 structure was beyond repair and it was more
19 economically feasible to build a new house, I'd
20 build that house. Now I'm approaching
21 retirement age or I'm 65, 70 years old and I
22 want to keep my house, but I want to sell off
23 the farm. I still have to keep 40 acres whether
24 I want it or not or --

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37

1 MR. GRATTON: No. Help me with this,
2 Linda.

3 MS. DELVAUX: How old was your house?

4 MR. THOLE: well, I'd have to build
5 something since this new ordinance with the 40
6 acres and so forth. I built a new house and now
7 I farm for another ten years and then I decide,

8 you know, I can no longer handle farming and I
9 want to sell off the land, but I don't want to
10 sell my house. I want to keep 5 acres here and
11 what have you and stay here. Is that possible
12 or is it not? I mean you still have to keep 40
13 acres whether you need 40 acres or can even
14 maintain it?

15 MS. DELVAUX: So this would be a newer
16 home built after 1995. Then if you wanted to
17 put it on something less than the 40 acres, if
18 you wanted something smaller than what your
19 parcel is now, then yes, you would have to go
20 through a special use in order to split it off.
21 If you had the older home -- if you were in the
22 older home, you knew you were going to sell the
23 property, you could under our ordinance split
24 the older home off. The older home could be

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38

1 demolished and rebuilt. If -- if you didn't
2 want to stay in there, if something happened to
3 it, there's provisions to allow it to be
4 rebuilt. There are -- there are options, but if
5 you had a newer home you would be looking at a
6 special use if you wanted it on a smaller lot.

7 MR. THOLE: Well, since I'm up here I've
8 got some of the same concerns as Neal. My kids
9 helped me -- helped me buy my farm. They

10 milked, they worked, they didn't just live
11 there. To me they have a right to come back
12 there if they should choose. Now, the way
13 you're setting this up, 40 acres, a lot of us
14 here in Jo Daviess County are not really well
15 off. Most people can maybe -- even at 5 to
16 \$10,000 an acre somebody can buy 2 acres in
17 Jo Daviess County and build a lot -- or build a
18 house. Now, you take that 40 acres and take
19 that times 5 to 10,000 and you're talking 200
20 and \$400,000 to buy yourself a lot. What this
21 is boiling down to is if you want to live in
22 rural Jo Daviess County in the future you better
23 have pretty damn deep pockets.

24 MR. GRATTON: Let me -- and this is

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39

1 something I can't understand. People will spend
2 a quarter of a million dollars to buy 40 acres
3 to avoid the zoning process when for \$500 they
4 can go through the zoning process and build
5 their house on 2 acres. Now, what am I missing
6 here?

7 AUDIENCE MEMBER: You can be denied.

8 MR. GRATTON: You could, you could, but as
9 we go forward here we're going to spell this out
10 how this is going to work, so --

11 MR. THOLE: well, maybe I just didn't wait

12 long enough here, Mel, and I'll make one more
13 point and then go sit down. I've got five kids.
14 To me it makes more sense for them to come out
15 here and each have a 2-acre lot and take up 10
16 acres of nonproductive land than it does -- I've
17 got enough land --

18 DR. TONNE: That's the key.

19 MR. GRATTON: Excellent point. That's
20 exactly what we're trying to accomplish, Dick.
21 2 acres makes more sense than 40 for that
22 purpose and it saves farmland.

23 MR. THOLE: Yep.

24 MR. GRATTON: And that's the point we're

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40

1 trying to make and that's why the provision is
2 here. The only thing -- I'm not going to say
3 the only thing, but the only way you're going to
4 run into trouble is if you try to do this in the
5 very productive areas of Jo Daviess County and
6 you want all your kids to live out in the middle
7 of your best Tama soil cornfields, it will be
8 denied.

9 MR. THOLE: Okay.

10 MR. GRATTON: All right.

11 MR. CASWELL: Dan Caswell. I think this
12 is -- I think this is a really good amendment
13 designed to address a problem and I think the

14 discussion has highlighted that there are still
15 concerns about the way the current ordinance
16 reads in this regard. If you go in and you want
17 to build a house on 2 acres and it happens to be
18 wooded and your neighbors object, the special
19 use permit might still be denied. Isn't that
20 the case? I mean, is it -- is it a fixed
21 objective LESA score that determines the
22 granting of special use permits or not?

23 MR. GRATTON: The LESA score is not fixed,
24 but if the score is over 200 it tells us and

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41

1 tells County Board members and should tell the
2 applicant that there might be something wrong
3 with this request. This may not be the best
4 place to site that residence. There may be
5 better places and so that's one of the -- one of
6 the factors. The other thing is testimony taken
7 carries weight, but it carries weight in that it
8 is legitimate and valid and not just emotion.
9 In other words, if all your neighbors don't like
10 you -- that's why we tell everybody to be a good
11 neighbor, but if people just say I don't want
12 it, that's not a legitimate reason. But if they
13 come in and they make a valid point, like many
14 of you do at public hearings, then whoever is
15 sitting in this capacity or on the County Board

16 needs to listen to that and you need to have
17 that information spelled out in your zoning
18 document so that it is applied uniformly and
19 fairly and that's what we're trying to do.

20 MR. CASWELL: Okay.

21 MR. GRATTON: Okay. Thank you. Yes, sir?

22 MR. WIEDEL: My name is Mike Wiedel and I
23 just got a silly question only because I got a
24 problem with being a lawyer and we see things

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42

1 more complicated and it's a lot lawfully
2 recorded --

3 MR. GRATTON: Where are you?

4 MR. WIEDEL: I'm looking at the amendment,
5 top line -- second line. A lot lawfully
6 recorded prior to March 1st, 1995. How would
7 that happen? Grandma and grandpa have a farm,
8 prior, are they going to record some kind of a
9 deed? Probably not. Are they going to record a
10 plat? Probably not.

11 MR. GRATTON: David, you want to help us?

12 MR. AKEMANN: I think during the meetings
13 of the rewrite committee there was quite a bit
14 of conversation on quite a number of lots in the
15 county that were previously platted that are
16 very small lots actually. Some plats of
17 subdivision, some using the perhaps One Lot Plat

18 Act Exemption which I'm sure you're familiar
19 with and the intent of the first part of B was
20 to make sure that the lot was lawfully recorded,
21 meaning it wasn't a violation of the Plat Act,
22 you don't walk into the recorder's office and
23 throw something down that would violate the laws
24 that then existed and that's really what it was

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43

1 about was to not take away anything, that if the
2 person had a valid residential lot prior to '95
3 then they're allowed to build a residence on it
4 so long as the septic and waste and setback is
5 met. So you could do it by subdivision, you
6 could do it by an exemption to the Plat Act,
7 either one.

8 MR. WIEDEL: These were events that
9 occurred prior to March 1995, so if we're
10 looking back to see just what those were, there
11 may not be too many of those.

12 MR. GRATTON: There are numerous
13 situations like that around the county, more
14 than you might imagine. Paul, I think you had
15 a --

16 MR. BRASHAW: Paul Brashaw, lifer in the
17 county. I'm a land surveyor also. Regardless
18 of that fact, I'd like to know your definition
19 of a lot? You know, you're making reference to

20 recorded subdivisions. We've had instances in
21 the past that I've dealt with Linda on that
22 we've gone with her parts like on a 10-acre part
23 it's a quarter, quarter, quarter section duly
24 recorded prior to '95 that was not a lot of --

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44

1 not a recorded lot. There's a lot of these
2 parcels out there that have been created prior
3 to March 1st of 1995 that do qualify and I think
4 the uses of the lot of record should include
5 maybe a parcel of record, not just a lot that
6 would reference it to a recorded subdivision.

7 And then getting back to Kathy Wiene and
8 Steve McIntyre's request, if this hundred and
9 twenty acres is six miles out in the country and
10 there's -- they wish to sell the land to a
11 contiguous property owner and there are two
12 existing homes that were built after 1995, the
13 odds of getting that rezoned are fairly slim.
14 You'll pay your \$500 for the privilege of coming
15 before this Board and based on LESA score, which
16 we've all been there, we don't need to address
17 that, they'll probably be denied. So in
18 essence, you're -- you know, you're compromising
19 the property owner by diminishing the property
20 value of his existing home with the sale of the
21 rest of the land. Thank you.

22 MR. GRATTON: Just a comment. The
23 likelihood of denial on that I don't think is
24 probably as great as you indicate, Paul. I

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45

1 don't think on any existing residence -- I can't
2 remember us denying anything like that.

3 MR. BRASHAW: No, but if it was built
4 after 1995 and they've actually farmed it for
5 ten good years, his health went to hell, then
6 he's, you know, wishing to sell the land and
7 remain in the farmhouse, that's an issue that
8 would have to be addressed at that time.

9 MR. GRATTON: I think it would, but also
10 you have to keep in mind that you're not
11 creating something new there, it's already in
12 existence and I think we keep -- take that into
13 consideration. In other words, you're not going
14 to do any damage, it's already there. So that's
15 a major factor. In other words, you're not
16 creating it new, it is there.

17 MR. BRASHAW: It is there.

18 MR. GRATTON: So it's a consideration, so
19 you know, it's not hard and fast, but it's --

20 MR. BRASHAW: But I'd just like to see
21 some -- the definition of the lot, you know,
22 maybe added to a parcel that was in existence
23 and would allow for like a 3 or a 10-acre or

24 5-acre parcel. Those are -- under my

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46

1 understanding are grandfathered in if they were
2 established prior to the March 1st, 1995 and not
3 in a recorded subdivision or a recorded lot.

4 MR. GRATTON: Okay. David?

5 MR. AKEMANN: I think they reference the
6 definition of lot of record which is in the
7 definition section, Page 141. It clarifies it
8 could be part of a subdivision or metes and
9 bounds description and I honestly think that
10 that definition covers the last speaker's
11 concern in that regard.

12 MR. GRATTON: Okay.

13 MS. THOLE: Tanna Thole. I live at 6701
14 West Guilford Road. I just want to clarify
15 something here and I've kind of lost it here
16 while we were talking, but Paul was saying
17 something about however many acres they had --

18 MR. GRATTON: Tanna, why don't you come up
19 to the mic so more people can hear you.

20 MS. THOLE: well, you said something about
21 the adjoining property or something already in
22 existence. Does that have any effect on your
23 say of what you're going to do for lot size?
24 And I'm going to use our farm for instance.

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47

1 MR. GRATTON: Give me an example. I'm not
2 sure I'm following you completely.

3 MS. THOLE: Okay. We have 360 acres. We
4 are completely surrounded pretty much by the
5 Galena Territory. Those lots are eight-tenths
6 of an acre to 5 acres maybe, you know, whatever
7 they wanted them at that's what they're at.
8 Does that have any bearing on if we decide we
9 want to sell some of our farm off? Are you
10 going to look at that and say no, you have to
11 sell 40 acres off or else? Or because we're
12 right next to a property like that does that
13 have any bearing on --

14 MR. GRATTON: Oh, absolutely. What --
15 that's one of the primary tenets of zoning is
16 what's going on and the trend of development and
17 what's happening in the neighborhood and
18 surrounding sites, so yeah, that's -- that has a
19 lot of bearing on the request. It would also
20 have a lot of bearing on what your LESA score
21 might be.

22 MS. THOLE: Okay. Then I guess I'm just
23 missing -- I mean, what is all of this for then
24 if -- I mean, all through Jo Daviess County

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1 there are lots and developments and everything
2 else. I mean, everybody is next to somebody. I
3 mean, that's --

4 MR. GRATTON: Right, but the usage is
5 often different and this is where we -- I think
6 where we have to all step back and look at the
7 bigger picture and not just maybe our own as to
8 what we're trying to accomplish in Jo Daviess
9 County, because we have to create the same
10 document and we try to encompass as many
11 different possibilities in here as you can. But
12 the reason you go through a process to create a
13 different type of zoning is because each and
14 every circumstance is probably different.
15 That's why you can't just come in to the office
16 or to me or any other member here and say, well,
17 can I do this or can I do that. It's really not
18 that simple. It's a process and it takes into
19 consideration all of those aspects of what's
20 going on in that particular parcel.

21 MS. THOLE: It just seems to me like
22 you're closing the door and it's a little too
23 late for that right now. I mean, we're getting
24 up to there where we're thinking about retiring,

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1 360 acres, okay, probably -- as far as I'm
2 concerned Dick and I farmed that ground, it's
3 ours and our kids. I really have a problem with
4 the words allow, may I, and things like that
5 there. I mean, common sense -- I mean, we've
6 farmed it to the best of our ability, okay, I
7 mean, we're going to do what's best, but I'd
8 like to be able to do what's best for us in some
9 parts of this and it just seems like you're
10 making everybody come up and bow down here and
11 it just is a real problem.

12 DR. TONNE: Mel's comments at the
13 beginning, everybody, were particularly apropos
14 to most of this discussion I thought going back
15 to the vision statement, going back to ag and
16 tourism. You can't really save all ag and do
17 that and foster tourism at the same time. The
18 pressure we have for residential growth is good.
19 we're just trying to direct it in a somewhat I
20 think minimalistic way because there's a lot of
21 low scoring ag ground, low LESA scoring ag
22 ground in this county, a lot of it undeveloped
23 still in ag. This is the No. 1 county for
24 cattle and no farmers have gotten up yet and

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50

1 spoken about how they're pressured by residences

2 in the country, but they are, all of ag is. So
3 if we want to have ag and tourism -- back to his
4 first comments -- and to the hours and years
5 that were put into the Comprehensive Plan and
6 the vision statement and even the first zoning
7 ordinance, generic so it was, we're trying to be
8 not subjective but more towards objective about
9 which ag ground can be developed. We have
10 denied very few requests. I think we approved
11 95 percent. I don't know the statistic, but
12 it's somewhere -- we denied a 30-lot subdivision
13 right next to the Galena Territory which is a
14 lot like what you're saying, but that had a very
15 high LESA score among other considerations, so
16 we are in sympathy to every request
17 individually. We probably have a preponderance
18 of testimony here tonight capable on the side of
19 wanting to develop, but I think there is perhaps
20 a silent majority out there. Maybe some of you
21 here are silent on the issue of wanting to save
22 ag. I would invite you to get to the microphone
23 if you want to balance this out a little bit,
24 because we know about that. That's what really

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51

1 this is. Six years of trying to balance ag and
2 tourism.

3 MS. THOLE: Okay. Then I think you

4 misunderstood me somewhat there. I definitely
5 want to stay farming, I love our farm, okay?
6 I'm looking forward to maybe trying to get a
7 little more of our -- we've got ditches in there
8 we've been trying to fix and things like that
9 there. All I'm saying is if the time comes and
10 I want to sell it, I really am going to have a
11 problem having to come up here and say may I,
12 okay? That's my problem.

13 DR. TONNE: well, if you want to sell it
14 and there's some conflict with taking that out
15 of ag then I think this is up for our society to
16 determine, you need to come and clear that with
17 your peers because we have determined ag is
18 important. We can determine it's less
19 important, we can, just tell us and we'll do
20 that.

21 MS. THOLE: well, I mean, I'm thinking our
22 farm probably is one of the maybe least -- I
23 mean we're on a hillside, okay, we're in strips.
24 We have -- the ASCS office has to count strips.

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52

1 I mean, we have tons of strips, okay, that's how
2 we have to farm. I mean, I don't think it
3 should be a problem if I want to develop --
4 develop it or if we want to cut it down, but I'm
5 just saying it's -- all of these rules and these

6 regulations that you're coming up with just
7 seems to be --

8 MR. GRATTON: Tanna, it will be no
9 different than what we've been doing for the
10 last 14 years.

11 MS. THOLE: Well, I pretty much voted
12 against that as much as I could.

13 MR. GRATTON: Okay, so like I said early,
14 if you disagree with the concept of zoning
15 you're not going to agree with having to do this
16 and if you disagree, that's okay and we
17 understand that.

18 MS. THOLE: Okay.

19 MR. GRATTON: But that's -- that's where
20 we are. So does anybody else want to be heard
21 on this issue? I'd like to move along here. We
22 will have more I think input along the lines of
23 agriculture as we proceed.

24 DR. TONNE: We really don't want to stifle

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53

1 anybody's comment, but we've been having this
2 discussion for over a decade. Some of you may
3 be just coming to it recently. Welcome to the
4 topic, but it's not new. Okay.

5 MR. GRATTON: Okay. We have a motion then
6 before us to accept Amendment No. 5.

7 MR. JANSEN: 4.

8 MR. GRATTON: Excuse me, I got to get back
9 -- Amendment No. 4. This is 8-3a-2 under
10 permitted uses to change Section B and there's a
11 motion and a second to adopt that change. Is
12 there further discussion at the table? I just
13 want to state that I think it does do what we
14 were trying to do. At no time were we trying to
15 take anybody's rights away by creating this new
16 zoning ordinance. If we said last year that you
17 could do this or three years ago or whatever, I
18 think it's the honorable thing to do to honor
19 that. So that's what we're doing I think by
20 adding this in here. So any other comments?
21 Okay. Let's call for the question then.
22 Melissa, would you poll the members on this one?
23 MS. SOPPE: Susie Davis?
24 MS. DAVIS: Aye.

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54

1 MS. SOPPE: Bill Tonne?
2 DR. TONNE: Aye.
3 MS. SOPPE: Nick Tranel?
4 MR. TRANEL: Aye.
5 MS. SOPPE: Dave Jansen?
6 MR. JANSEN: Aye.
7 MS. SOPPE: Mel Gratton?
8 MR. GRATTON: Aye.

9 (By voice vote five ayes.)

10 MR. GRATTON: Okay, so we will move
11 forward and we will recommend that this
12 Amendment No. 4 be adopted as part of the
13 ordinance. Let's move to Amendment No. 5 and
14 this is also under permitted uses and it goes
15 down to eliminates what was D. This would be on
16 Page either 24 or 5 in the ordinance that you
17 might have a copy of. It's Page 5 for those of
18 you who are looking at the amendments. It
19 states that -- and this is getting to the lot
20 size and it's saying that ag and non-ag
21 residences provided that the minimum zoning lot
22 size shall be 40 acres -- or at least 40 acres.
23 This is adding in there non-ag. What I was --
24 if you see down below -- you don't have that,

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55

1 okay. I was suggesting -- I met with Linda and
2 talked about how we can implement this and make
3 it as clear as possible and Cathy, try to make
4 this say what we want it to say. I would
5 suggest -- and I'm going to bounce this off
6 everyone here -- that we take E and make an E
7 and an F out of it. That we separate the ag
8 residences and the non-ag residences here. I
9 think E should say that ag residences provided
10 that the minimum lot zoning size shall be at
11 least 40 acres and I think we want to say the

12 same thing with F with the caveat that these
13 lots are still subject to Use Standard No. 33,
14 because as a non-ag residence, as we discussed
15 this, I think if you're going to put these -- or
16 place these non-ag residences in an ag district
17 that they should comply with those provisions of
18 Use Standard No. 33. So that would be my
19 suggestion and I'd like to hear your comments,
20 Members, here first.

21 DR. TONNE: Just to clarify, Mel, you're
22 saying E is ag and F is non-ag?

23 MR. GRATTON: Yeah, and F contains the
24 standard 33 reference.

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56

1 DR. TONNE: Right, I understand.

2 MS. WIENEN: Where is Standard 33?

3 MR. GRATTON: Well, we're going to discuss
4 that, but Standard 33 is the standard that's
5 applied to non-ag residences. It's back on
6 Page --

7 DR. TONNE: 99.

8 MR. GRATTON: -- 99 or so and when we get
9 to the next part here I'm going to -- well,
10 there's some more that falls into this same
11 category that we want to discuss maybe, but
12 what's your thoughts on putting that in there
13 and at the same time we put them in separating

14 it into ag and non-ag?
15 DR. TONNE: well, Mel, I don't have a
16 problem with that -- for a non-ag residence to
17 go through Use 33. I mean, I really don't have
18 a problem with that, but I want to hear what --
19 you know, what testimony there would be. A
20 non-ag residence out in the country is
21 particularly a problem perhaps, that's what Use
22 33 -- Use Standard 33 is about either with
23 scenery or erosion or other issues as Use 33
24 addresses. So I think it is apropos to the

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57

1 non-ag residence in that situation. This isn't
2 necessarily an issue I would fall on a sword
3 over, however, but I think it's applied
4 correctly.

5 MR. GRATTON: Any other thoughts? Okay.
6 We're going to have some more discussion on 33
7 and stuff going forward, but if you -- go ahead.

8 MS. DEININGER: LaVonne Deininger,
9 property owner in Scales Mound Township. I'm
10 looking at the use in 33 and you're talking
11 about non-ag, so this is recreational, the --
12 people that are coming out here that are not
13 farming and I see in here that it says that --
14 that the driveway slope shall not exceed 15
15 percent, so they're putting these houses exactly

16 where you don't want them, because it's not
17 farmable, but 15 percent, that's too limiting I
18 believe. If somebody wants to live at the
19 bottom of the hill why do you care if they live
20 at the bottom of the hill or at the top of the
21 hill? 15 percent is not very much.

22 MR. GRATTON: well, 15 percent on average
23 gets to be a pretty good grade, but with that
24 being said, the --

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58

1 MS. DEININGER: And the other thing is the
2 area needs to be cleared -- the wooded needs to
3 be cleared?

4 MR. GRATTON: Let's do this one at a time
5 here. The driveway slope, the reason for that
6 is to prevent massive erosion. In other words,
7 we don't want to have -- if you want your house
8 on the top of the hill like you were indicating
9 some people will, if you can't access it
10 without, you know, this type of driveway and
11 that's why there's also some limits in here on
12 how much of the surface area -- surface area
13 ratio that can be utilized for that. What we're
14 trying to do is, one thing, prevent people
15 taking those hilltops and creating a mountain
16 top road or a winding -- you can get 15 percent,
17 but sometimes you might have to go a mile to get

18 -- a half mile to get your 15 percent driveway.
19 So it's being limited to how much of that you
20 can do. You create -- on these sensitive ridges
21 you create some tremendous erosion situations.
22 You also spoil that hillside for any type of
23 visual aspect by creating that. We would like
24 to see those accessed on a different road. The

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59

1 Galena Territory is a prime example of how you
2 develop. They developed with the roads coming
3 in on top of the ridges, not up the side of each
4 hill. That's what we're trying to avoid here by
5 -- by some of this. And your second question
6 was?

7 MS. DEININGER: It also says the area to
8 be cleared if the lot is wooded.

9 MR. GRATTON: Let me -- there are two
10 parts to this standard and this is something
11 that we struggled with a great deal and I don't
12 know how many different things we looked at, but
13 to maintain those sensitive areas how do you
14 identify them, first of all. And what we're
15 doing is identifying them as being underlined by
16 Silurian rock structures. And the very high
17 elevated ridge tops in Jo Daviess County, it
18 takes up about 19 percent of the county, are
19 underlined by Silurian bedrock. This is

20 information we receive with every zoning request
21 from the natural resources office and what it
22 does is it tells us what's under there so if
23 your particular request is underlined by this
24 then we're asking then that you try to maintain

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60

1 the integrity of the trees and treeline and
2 that's the second part of this and that's the
3 reason for that. 80 percent of the county won't
4 be impacted by that. If you want to build on
5 top of the -- some of the most scenic ridges,
6 this is a way to try to preserve those. But
7 we'll get back and talk more on 33.

8 MR. JANSEN: Just a point of interest on
9 the grade of driveways. The 15 percent is also
10 what's used for approval in the guest home
11 accommodation ordinance and that's really for a
12 safety issue. Those of you that are firemen or
13 EMTs, this is a very important fact that you
14 want to be able to get a fire truck down even in
15 the wintertime, get out there if you got an
16 ambulance, if you're -- even if you're a
17 resident. We hold guest home accommodations to
18 higher standard as you would have expected if
19 you were staying in a hotel or whatever. It's
20 probably fair to say that you'd want to make
21 sure that if somebody down at the bottom of this

22 long hill is having a heart attack that you want
23 to be able to get them out of there and get them
24 to a hospital, etcetera, as well. That's just

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61

1 supplemental to what Mel said.

2 MR. GRATTON: Steve?

3 MR. MCINTYRE: I have -- I just want to
4 point out one thing and I just want to make sure
5 it was clear -- a clear direction with the
6 Board. On Page 11 of the current ordinance that
7 we have in place today and have had in place
8 since April 10th of 2006, the minimum lot size
9 for a principal residence on ag land for an
10 agricultural residence is 2 acres. So you're
11 trying to increase it to -- by the new ordinance
12 increase that 2-acre lot size to a 40-acre lot
13 size for an agriculture residence, correct? So
14 if I'm a farmer, I'm always going to be a
15 farmer, I have been a farmer, but you know what,
16 with \$5,000 ag land I can't afford to buy -- I'm
17 a new farmer, just got out of whatever -- or my
18 kid is going to farm or whatever, he can't
19 afford to buy it, but he can afford to rent farm
20 ground. He's got to build his house, got to
21 build his silos, got to build his whatever and
22 he farms and he's going to rent. If he doesn't
23 go through the special use stuff he better buy

24 40 acres, but in the current ordinance all he

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62

1 has to buy is 2, correct? That's what you guys
2 are saying? I just want to make sure I'm
3 reading this right.

4 MS. DELVAUX: Correct.

5 MR. MCINTYRE: If I actually am going to
6 farm and I'm going to be a farmer and I convince
7 you that I am a farmer and it is my primary
8 source of income, it is my primary occupation
9 and it is subordinate and accessory to the farm
10 operation, but I'm renting, I do not own, I am
11 renting, today I can have it -- my house on 2
12 acres and tomorrow when it gets adopted it's 40
13 acres?

14 MS. DELVAUX: Permitted.

15 MR. MCINTYRE: Permitted?

16 MS. DELVAUX: Correct.

17 MR. MCINTYRE: Without a special use
18 permit permitted?

19 MS. DELVAUX: Correct.

20 MR. MCINTYRE: Okay. I just wanted to ask
21 if that was intended and personally -- I'll give
22 you my comment about that. I think that is a
23 detriment to farming and what you're trying to
24 preserve which is farming. Because that guy has

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1 full intentions of farming, full intentions of
2 being a farm operation and for him to either go
3 through the hoops to get a special use permit to
4 actually get his house permitted and possibly
5 denied because the land that he's going to build
6 a house on is a flat piece of land and it's
7 around where he's going to rent and everything
8 else and the LESA score possibly could be high
9 and he will not be able to, because of the LESA
10 score or productivity index or whatever, put his
11 farmstead on that flat black dirt around where
12 he's going to rent and it could detrimentally
13 affect agriculture in this county which is
14 something we do not want to do. That's my
15 comment.

16 DR. TONNE: Let me --

17 MR. GRATTON: We hear you, but I think we
18 disagree.

19 MR. MCINTYRE: Okay, that's fine. You can
20 disagree and I'm -- it's okay, I'm okay with
21 that.

22 DR. TONNE: Steve, I can be clear of your
23 situation there. He wants to farm but can't
24 afford the farm?

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1 MR. MCINTYRE: Can't afford to buy --
2 DR. TONNE: The farm.
3 MR. MCINTYRE: -- he rents.
4 DR. TONNE: Right. I forgot my question.
5 MR. MCINTYRE: I have senior moments all
6 the time.
7 DR. TONNE: Yeah, it is zoning. He may
8 have the owner of that property build the house
9 and rent from the owner. That's one scenario.
10 If the owner wants a house there, say, his house
11 or otherwise, the owner could sell 2 acres to
12 him conditioned on approval for a special use
13 permit, 500 bucks.
14 MR. MCINTYRE: But if it's real productive
15 ag land the LESA score is going to be high and
16 you guys don't want to set a precedence that --
17 DR. TONNE: It depends. The LESA score is
18 just a tool.
19 MR. GRATTON: Let me go back and -- your
20 scenario is kind of a not high percentage
21 scenario --
22 MR. MCINTYRE: But it may be because ag
23 land goes up in price. It may become more of a
24 scenario.

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1 MR. GRATTON: But if you can't -- you
2 know, you still have to come up with the capital
3 in order to do all the other things necessary
4 and that's an impediment. There's nothing that
5 says you can't live on a place that's -- that
6 the special use will work on that's not
7 productive land either if you had to do that.
8 But let me go back and just -- I'd like to spend
9 some time on this -- on lot size. In the ag
10 district -- in the ag district -- and Dave will
11 I think reaffirm this -- there's only two things
12 and then possibly a third in certain situations
13 that we can apply to the establishment of an ag
14 residence. One is the lot size, the other is
15 the setback and the third is it happens to be in
16 a floodplain or whatever and then that might
17 apply. But in Illinois -- this is state statute
18 -- these are the only two things we can apply to
19 agriculture. These -- the lot size -- the
20 setbacks are the same for everything, that's not
21 a debatable thing, it's pretty much standard.
22 So the lot size is the only thing we can sit
23 here and debate, you know, 2, 40, 80, 160. We
24 looked at all of these and I'm not sure if you

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66

1 got your mind going this direction, but the most
2 protective of agriculture is the higher lot

3 size, not the lower lot size. If you think
4 about that and if you're a farmer you say, oh, I
5 need to -- you know, I need to have a larger
6 one. We discussed and debated this. This was
7 on the table from almost Day 1 when we started
8 doing this. We went back and forth on it over
9 and over again. I will tell you that in
10 Illinois 40 acres is probably the most common
11 lot size used in the ag district. Some have
12 tried different -- DeKalb County at one time
13 tried 160 and they did back it up to 40 though
14 in later years. We don't know what the right
15 answer is here. We had discussion with board
16 committee and we've batted it around. I think
17 the committee agreed that the larger the more
18 protective and I think they're correct and I
19 think if you think about what -- if you want to
20 really preserve agriculture you don't allow
21 40-acre lot size or 2-acre lot sizes for ag, you
22 make it higher. Tonight we're looking at 40 as
23 the --

24 MR. MCINTYRE: And as you said earlier, we

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67

1 can agree to disagree.

2 MR. GRATTON: Absolutely, absolutely. So
3 any other discussion? Dan?

4 MR. CASWELL: Thank you, Mel. Jo Daviess
Page 62

5 County doesn't look like the rest of Illinois
6 and so I think we need to keep that in mind when
7 we're thinking about how the rest of Illinois
8 will deal with lot size. But I would tend to
9 agree with you that the larger the lot size the
10 more protective we are of the concept of
11 agriculture; however, the more restrictive we
12 are to the individual farmer. Because what
13 we're doing is we're preventing -- potentially
14 preventing, we're requiring special use permit
15 procedures for the farmer who wants to build the
16 house for a farm worker or for a child who's
17 going to work the farm. And now, they need 40
18 acres or they need the special use permit. They
19 don't have the freedom to just choose to do that
20 and go do it. They have to plan and come before
21 the Board and ask permission to do it.

22 The other group that it might impact and
23 that we should keep in mind, because I think it
24 ties in with tourism, we talked about this the

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68

1 first time around, is the smaller specialty
2 farmer who may be able to make a decent living
3 on a lot size that is actually smaller than 40
4 acres because they're doing some odd specialty
5 farming operation that can sell in a tourist
6 area or sell in locales where you have access to

7 cities. And so this is another group that,
8 again, is not going to have automatic permission
9 to be able to build themselves a residence on
10 their small specialty farm and they're going to
11 need to go through the special use permit
12 process and pay their fee and ask permission.
13 Am I accurate there in terms of the way it
14 works?

15 MR. GRATTON: I think to a certain extent,
16 yes.

17 MR. CASWELL: Okay, and I would just
18 suggest that I do think that is -- it's an
19 imposition on agriculture operations in terms of
20 the individual farmer choices even if the larger
21 lot size tends to encourage agriculture
22 generally conceptually, but I guess I care more
23 about the farmer than I do about agriculture in
24 a general sense. So that would be my comment.

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69

1 MR. GRATTON: Okay. This was -- the
2 larger lot size was the consensus of the
3 actively engaged farmers out there. That's
4 where we were coming up with larger lot sizes
5 and I think the people in production agriculture
6 realize that, you know, it does help protect
7 them. So I don't know what the answer is. I
8 hope, you know, the County Board in their wisdom

9 as they look at this and debate it, I hope they
10 discuss it and make a rational decision.
11 Tonight the amendment before us is 40 acres,
12 so --

13 MR. CASWELL: Can I say one more thing on
14 the amendment? I think the amendment is
15 actually a very good amendment. I think it does
16 respond to a concern that was raised, so I think
17 the amendment is good.

18 MR. GRATTON: Beth, I think you had a
19 comment?

20 MS. BARANSKI: Are you going to talk about
21 the lot size now or later as well --

22 MR. GRATTON: Yeah, we're there, so you're
23 going to tie into everything we're doing here.

24 MS. BARANSKI: I'm Beth Baranski from

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70

1 Galena. I probably may be the only person in
2 the audience perhaps who supports the larger lot
3 size for agriculture. I think what we're
4 hearing is from individuals with individual
5 concerns and those are very important, but I
6 think the purpose of zoning is to help balance
7 individual interests and short term interests
8 with long term goals and common good. And the
9 individual farmer is important because that's
10 what makes agriculture, but if we don't protect

11 the land for agriculture there won't be farmers
12 and if somebody builds their home and six homes
13 for their children and their children want to
14 build for their children and -- part of it is
15 that there are more and more people all the
16 time, so that scenario runs out and we don't
17 have agriculture, we don't have a basis for
18 agriculture in Jo Daviess County. I -- this is
19 just a side almost, but I did a little exercise
20 myself on looking at Rush Township, which is in
21 the heart of the prime and important farmland in
22 the county and can I give these to you?

23 MR. GRATTON: Certainly.

24 MS. BARANSKI: I simply took the plat for

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71

1 Rush Township and color coded acreages below 40
2 acres, 40 up to 80, 80 up to 160 and 160 and up
3 for the 1872 and the 2001 plat and it just gives
4 a visual that supports statistics that we all
5 know that the individual farms are tending to
6 get larger and that there are less of them. But
7 what strikes me about it is that if the land is
8 there and available then there's flexibility for
9 agriculture to change with the market demands
10 and the technologies that evolve. And I think
11 the job for the zoning is to protect that
12 flexibility and the -- going back to your

13 comments, Mel, about the Comprehensive Plan and
14 the visioning, when -- we have a certain number
15 of people here with testimony about their
16 individual concerns, but 96 percent of the
17 response to the survey done at that time said
18 that the rural character and life-style in the
19 county should be maintained and 92 percent said
20 that agriculturally-productive land should be
21 preserved for farming. It's a strong, strong
22 statement and this is the moment -- this is
23 where it comes to the rub of whether we mean
24 that or we don't mean that regardless of what,

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72

1 you know, particular individuals may want to do
2 with their property. And I would say that
3 coming for a special use permit so that a house
4 can be built in an area that isn't productive is
5 a very small price to pay if we're able to
6 preserve -- really preserve the agriculture
7 basis in our county. And I could think of this
8 differently. I work in my husband's
9 architectural firm. I suppose if the county was
10 broken into 1-acre parcels we'd do a lot of
11 designs, have a lot of design commissions for
12 houses, but I think all of us have the other
13 part of us that cares about, you know, bigger
14 things than those individual benefits and zoning

15 is what is in place to help us do that. So I
16 support actually the 160 acres. I think the way
17 you've set it up with the special use permit
18 allows for a tailoring -- it allows us to
19 protect those large parcels, but also in the
20 areas where it isn't prime and important
21 farmland, people can come in for a special use
22 permit and get that. It tailors it to our
23 county. Our county requires tailoring because
24 it is so different and you, you know, through a

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73

1 long process have come up with a solution that I
2 think does that. And so I would say I support
3 the 160 acres even and I hope that the County
4 Board will consider that. I know that after
5 looking at many, many options it was people in
6 agriculture who said this is really the way if
7 we want to do it, this is the way to do it and I
8 just -- I hope that we can step up and actually
9 do it, though I know it's a difficult political
10 decision.

11 MR. GRATTON: Okay, it is. Thank you,
12 Beth. Any other -- yes?

13 MS. TOWNSEND: My name is Cathy Townsend
14 and Jerry and I own a farm in Rush Township and
15 Stockton Township and our farm is assessed with
16 centennial farm, a hundred and fifty-three

17 acres. Our house is on the national historic
18 registry. Jerry is the sixth generation on the
19 land and so our focus and our heart is to be
20 able to pass that farmland -- what's left of it
21 down to our children. And I would say as a
22 landowner we do favor the 40-acre smaller size.
23 But I have a question. First of all, when it
24 says on Page 25 agriculture and non-agricultural

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74

1 residence, because we rent our farm ground now,
2 would you define what is a non-agricultural
3 residence? We used to farm, we were dairy
4 farmers. Are we now considered a
5 non-agricultural residence in our house?

6 MR. GRATTON: I don't think so. I think
7 we added language to this document to exempt
8 farmers in your situation, didn't we, Linda,
9 isn't that in there? I know it's our intent.
10 Dave helped draft it, I believe.

11 MS. DELVAUX: The language we added was to
12 allow those that farmed but no longer farm and
13 want to rent their parcel out to remain on that
14 and stay conforming. So as long as you stay on
15 the parcel that you built the house on, it
16 doesn't change, then there's language in here
17 that allows that to remain conforming.

18 MS. TOWNSEND: Okay. Then my next
Page 69

19 question is if within -- Jo Daviess County is
20 such a diverse county and so I'm just going to
21 give you my take on it. It seems that the west
22 half of the county, you know, there's that Apple
23 Canyon Lake project, Galena Territory, it is
24 more hilly, but when you hit North Canyon Park

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75

1 Road, which is my address, our entire farm is
2 prime agricultural farmland. It's -- you know,
3 our LESA or whatever, the numbers are very high,
4 it's very productive ground and it tends to be
5 the east side of Jo Daviess County is more farm
6 productive. Therefore, if we're going to make
7 this so that it covers all agriculture we are
8 somehow penalized because our LESA numbers are
9 higher and it's more difficult to, you know, get
10 the farm to go down the family line. Now, I
11 want to point out just a couple -- I'm going to
12 name some family farms within about 2 miles of
13 where we live where there are two residences on
14 the farm and these residences were built with
15 the intention that the son can move in to take
16 in -- Schultzes right up the road, that was a
17 dairy farm and it's one of the few dairy farms
18 still in operation where a mobile home was built
19 on the property, they lived there for -- you
20 know, for a while and then moved into the main

21 farmhouse, are now productively in dairy
22 farming. Grossingers (phonetic) down the road,
23 the mother lives in the newer home, they are in
24 the older home and there are many -- werkeisers

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76

1 (phonetic), Vanheisens (phonetic), Harbachs
2 (phonetic), I could name family farms that many
3 times need to have two residences on the farm so
4 that it can pass generation and that is our
5 concern. We have two residences. Our son lives
6 now in the residence on our farm. It is our
7 hope and our intention -- sometimes that has to
8 happen so that it can pass generationally. I am
9 very concerned that this, you know, is going to
10 prohibit that and I don't know how the small
11 family farm is going to be able to be passed on
12 if a second residence on that farm -- and
13 whoever said -- I don't remember the gentleman's
14 name -- you know, when you're in farming you
15 don't always have the funds available to buy
16 another 40-acre parcel or, you know, to build
17 another house, it may be distant from where the
18 farm is and so you know, I need some comments or
19 feedback. What do I need to understand?

20 MR. GRATTON: Well, who said that your son
21 or whoever else was involved in that operation
22 couldn't do that? Is the -- what are the size

23 of those farms you're talking about? Are they
24 all less than 40 acres? Are they less than 80

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77

1 acres? I don't see where the rub is coming
2 here. I think you're saying you want to have it
3 both ways. You want to protect --

4 MS. TOWNSEND: No. I'm saying I agree
5 with the 40 acres, that it not go up to anymore
6 than that, that that would be a minimum. I
7 agree with this, but I -- you know, I need to
8 understand, is that going to be allowed -- let's
9 say I have a 300-acre farm and I want to build
10 and put another house on my farm and -- so that
11 my son, you know, can move into farming, is that
12 going to be able to happen after this zoning
13 ordinance?

14 MR. GRATTON: Linda, how would you address
15 that if she came in and asked you that question?

16 MS. DELVAUX: well, if you -- you've got
17 the acreage.

18 MS. TOWNSEND: Let's say a 300-acre dairy
19 farm.

20 MS. DELVAUX: what the ordinance is going
21 to require as a permitted use is at least 40
22 acres. If your son wants a smaller parcel,
23 doesn't want to have it, well, then he would
24 have that option of a special use, but with a

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78

1 300-acre farm you should be able -- I mean, the
2 density on that for the zoning lot would -- you
3 would have that.

4 MR. GRATTON: I think there are provisions
5 for you to accomplish what you're saying to
6 accomplish and I appreciate your comments on the
7 40 acres. But you cannot -- we cannot in
8 Jo Daviess County have it both ways, you can't
9 opt to develop land and farm it both and I think
10 you're very proud of the history and the
11 productivity of the farm that you're a part of
12 and I think that's an ethic that we're certainly
13 hoping to maintain in Jo Daviess County, but
14 that farmland will be viable for another
15 generation and what we're doing here is not
16 shortsighted, it's not just for us or for our
17 immediate needs, it's the future we're talking
18 about.

19 MS. TOWNSEND: It is, but you know,
20 because we farmed for 40 plus years and that
21 seems to be the way for the smaller farms, now I
22 realize there's larger farms that have thousands
23 of acres, but for the smaller farms many times
24 that's the thing that allows it to pass from

1 generation to generation, two houses on it.

2 MR. GRATTON: And we hear that and there
3 are provisions for that. If you got three kids
4 and enough acres, that's no problem either. So
5 yeah, your turn again.

6 MR. WIEDEL: Sorry to be a pest, but I
7 really object to adding Use Standard 33 with the
8 new Paragraph F. It's so easy to be ag res and
9 then suddenly become non-ag res, you can do it
10 by changing your occupation, by retiring. There
11 is in your definitions the residential
12 agricultural single-family residence, can be the
13 owner of the property or the occupier of the
14 property if they're engaged in agriculture and
15 that's fine except that residence has to be
16 subject and collateral to and subservient to an
17 agricultural operation which, you know, is
18 expressly illogical perhaps. If the hog house
19 burns down do the hogs get to move into the
20 house? It almost seems to suggest that it's a
21 side benefit to have a house, it's not the
22 primary benefit to have the house.

23 MR. GRATTON: Once you're established
24 there I don't think this is going to apply. You

1 know, you can -- you can call it non-ag res, but
2 it's going to be treated the same as -- we're
3 not -- nobody is going to come out and say that
4 -- going to try to enforce Use Standard 33 on an
5 existing parcel that's already in existence.
6 That's what I'm saying.

7 MR. WIEDEL: That's not what the ordinance
8 says, but we all think you're good, honorable
9 people and we'll hope for the best.

10 MR. GRATTON: I hope it says that.

11 MR. CASWELL: After the effective date.

12 MR. GRATTON: Yes, sir?

13 MR. NAILOR: Ron Nailor (phonetic). I've
14 been a resident all my life, farmed all my life
15 except for two years in the service. I got 79
16 acres, two kids. What the heck do I do?

17 MR. GRATTON: What should you do?

18 MR. NAILOR: Yeah.

19 MR. GRATTON: What do you want to do?

20 MR. NAILOR: I want to give them both half
21 of it and both be able to build a house on it
22 and keep it ag. They enjoy ag. I didn't go to
23 the city and make millions of dollars and come
24 back here and try to tell them what to do with

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1 it.

2 MR. GRATTON: And they're both going to
3 make a living farming?

4 MR. NAILOR: No, they're not going to make
5 a living farming. You know as well as I do that
6 they can't make a living farming.

7 MR. GRATTON: But they want to live in the
8 country?

9 MR. NAILOR: They want to live in the
10 country, so what do I do with that?

11 MR. GRATTON: One of them can have 40
12 acres and do it and the other one is going to
13 have to go through a special use probably or
14 else buy another acre.

15 MR. NAILOR: Well, what if there ain't
16 nothing for sale?

17 MS. DELVAUX: I missed how big is the
18 farm?

19 MR. GRATTON: 79 acres.

20 MS. DELVAUX: Yeah, yeah, Mel is correct
21 or they both take 2 acres and put their house in
22 a non-productive part of the farm and leave the
23 rest of it productive.

24 MR. GRATTON: Which is our goal.

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82

1 DR. TONNE: Yeah. Is all 79 really good?

2 MR. NAILOR: No.

3 DR. TONNE: Well, there you go.
4 MR. NAILOR: They're in Jo Daviess County.
5 MR. GRATTON: Well, see, you're in a
6 different part than the previous person was
7 here, so --
8 MR. NAILOR: But it's been in the family
9 all my life. I don't figure on selling it if
10 somebody come out here and offered me \$50,000 an
11 acre.
12 MR. GRATTON: The beauty of this is that
13 you're going to be able to do that. If you have
14 nonproductive areas on that farm that you want
15 to utilize for residential, it's a possibility
16 to do that.
17 MR. NAILOR: And I can't divide -- I
18 couldn't divide it in half?
19 MR. GRATTON: Oh, you can if you want to.
20 MR. NAILOR: And they both get an equal
21 share.
22 MR. GRATTON: Sure, you can.
23 MR. NAILOR: And keep it ag and still have
24 a residence?

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83

1 MR. GRATTON: But if you make it 39 and a
2 half for each of them, they'll both have to come
3 in for a special use.
4 MR. NAILOR: we'll have to come in?

5 MR. GRATTON: Yeah, but that might make
6 the most sense and might make the most
7 productive use of that parcel anyway and I would
8 encourage you to consider that. But there's
9 nothing in here that says they're not going to
10 be able to do that.

11 MR. NAILOR: Unless somebody says no.
12 Unless I got five neighbors around me who say --

13 MR. GRATTON: well, like I said earlier,
14 if it's all --

15 MR. NAILOR: what if somebody drives down
16 the road and says that's a lovely view out
17 there, I don't want to change that view so you
18 can't do that.

19 MR. GRATTON: No, no, no, it's a little
20 more involved than that.

21 MR. NAILOR: Yeah, a little more involved.
22 If I got a house that's a condo -- I got two
23 condos out in the Territory, I own them both, I
24 can sell them both separate?

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84

1 MR. GRATTON: On legally established lots,
2 yes.

3 MR. NAILOR: But I got 79 acres and I
4 can't divide it up between my kids without --

5 MR. GRATTON: If it's in the right place
6 you can bring that in and you can ask to have it

7 rezoned and you can make R-1 out of it if it's
8 appropriate, you can make R-2, you can make the
9 -- a planned residential if it's in the right
10 place and you can do that if it works. Now, if
11 it's prime farmland, there's somebody sitting up
12 here probably, if not us maybe somebody else,
13 that says that's not desirable. But you're
14 saying it's not, so I'm saying I think you're
15 good to go here.

16 MR. NAILOR: I'm in Jo Daviess County
17 straight outside of town, so you know it's not
18 prime farm --

19 MR. GRATTON: well, the closer you are to
20 town the more likely you are able to do that
21 because of the way the LESA score works. The
22 closer you are to services the better scoring
23 you'll get on that as far as the ability to do
24 that. It's -- also that whole system is

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85

1 designed to -- and the Illinois Department of
2 Agriculture really commended -- and we had a sub
3 group that worked on that LESA scoring system
4 and they thought it was one of the finest LESA
5 documents that they've seen. They have to
6 approve all of those. What it's designed to do
7 is to not only save the productive farmland, but
8 it's also designed to provide efficiency as far

9 as providing services. So if you're close to
10 services, whether it be fire, water or whatever,
11 sewer, then that's where growth is encouraged
12 and so that's a plus for you. So you have to
13 understand how this all fits together.

14 MR. NAILOR: You're saying if I got a
15 special permit though I could give them -- give
16 them both 2 acres and --

17 MR. GRATTON: They could co-own the other,
18 they can jointly own it, they can individually
19 own part, whatever you decide.

20 MR. NAILOR: As long as we go through the
21 Board?

22 MR. GRATTON: Yeah, and you can do one of
23 them without going through because you could --
24 if one of them had an acre more than the other

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86

1 one. It's hard to divide -- divide farmland
2 equally anyway in Jo Daviess County for that
3 purpose. So let's move on though. We have a
4 lot to do here yet tonight. Steve?

5 MR. MCINTYRE: Hopefully I'll bring us
6 back on track. E, from what I understand what
7 you guys are trying to do in this new -- it's
8 not -- it's not exactly written the way it's
9 written up there. You want to separate it out
10 agricultural residence provided that the minimum

11 lot size is 40 acres and then have F that says
12 non-agricultural residence provided it's on 40
13 acres plus it is subject to the use of 33 -- 33,
14 the use -- the special use -- whatever they call
15 it, ordinance or whatever -- guidelines.

16 MR. GRATTON: Use standards.

17 MR. MCINTYRE: Use standards, thank you.
18 So don't get me wrong, I like the second half of
19 that. The non-agricultural 40 acres or more, I
20 totally agree with you guys that trying to --
21 actually that should be something even larger or
22 something because now we're talking about taking
23 it for a non-agricultural purpose. But I just
24 want to make sure that when we talk about

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87

1 agricultural residence and non-agricultural
2 residence that we actually understand the
3 definition, because maybe somebody in this room
4 doesn't understand the definition of a ag
5 residence and a non-agricultural residence so
6 that we make sure that what we're talking about
7 here is what we're talking about. This
8 agricultural residence, the way it's defined, is
9 it needs to be accessory and subordinate to the
10 agricultural use of the land as well as it be
11 the -- the occupants of that home need to either
12 be a -- principal occupation is the pursuit of

13 agriculture or a person that actually is --
14 let's see -- or own it. And now I want to say
15 today -- let's say today I have 5,000 acres and
16 I'm farming my land and I'm farming it and I get
17 to an age that I no longer farm and I no longer
18 want to farm anymore; however, I still want to
19 keep the farm in the family and I still want to
20 keep it farming and that -- that residence is no
21 longer accessory and subordinate, but it was
22 built after this ordinance was put in place. It
23 is no longer accessory and subordinate to the ag
24 operation because I lease it out or I let it go

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88

1 dormant and go through CRP or something like
2 that. It is no longer accessory and subordinate
3 because I either got it in CRP or I lease it out
4 to someone else. I know we're going to talk
5 about the definition maybe a little bit later,
6 but I would like to actually address the
7 definition of an interpretation from the zoning
8 office of an agricultural residence needing to
9 be accessory and subordinate to the ag
10 operation. I don't know how else to describe
11 it. I guess if -- if I have 2,000 acres and I'm
12 leasing it out, is that home accessory and
13 subordinate to the ag operation? Your
14 interpretation I think is no, correct?

15 MS. DELVAUX: Well, actually under the new
16 ordinance on Page 26, 8-3a-7, you stay on that
17 500 acres and you rent it out, this clause makes
18 it okay. Page 26 --

19 MR. MCINTYRE: Okay.

20 MS. DELVAUX: -- 8-3a-7, conversion of
21 agricultural residence to non-agricultural
22 residence.

23 MR. MCINTYRE: Excellent.

24 MR. GRATTON: This just says you can live

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89

1 there, you can lease the land, you can put it in
2 CRP or do whatever and the ag residence -- the
3 definition was that it's based on use. Very
4 simply.

5 MR. MCINTYRE: But the definition is not
6 based on use. The definition is based on who's
7 in it. The definition of an agricultural
8 residence includes who's in the home.

9 MR. GRATTON: who else are you going to
10 put in it?

11 MR. MCINTYRE: Well, that's what I'm
12 trying to -- I'm trying to make a point that
13 states that we're trying to define a residence
14 based on the people inside it and what their
15 occupation is and how much income they're making
16 possibly from the farm -- not necessarily --

17 well, primary occupation, what does that mean?

18 MR. GRATTON: It doesn't say you have to
19 make a certain amount of income or anything
20 else.

21 MR. MCINTYRE: what does primary
22 occupation mean?

23 MR. GRATTON: Agriculture.

24 MR. MCINTYRE: He can be a plumber renting

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90

1 out the land though.

2 MR. GRATTON: If he initially was a -- fit
3 the definition and it was an ag residence and
4 that's the way it was created, yes, he can be a
5 plumber according to this.

6 MR. MCINTYRE: Okay.

7 MS. DAVIS: You said you were a farmer,
8 right?

9 MR. MCINTYRE: Yep, but the house was
10 built after 19 -- whenever you do this -- 95 or
11 whatever, the house was built after that fact.

12 MS. DELVAUX: Doesn't matter, nope.

13 MR. MCINTYRE: Okay. I just wanted to
14 make sure.

15 MR. GRATTON: That was put in there
16 specifically to address that situation.

17 MR. MCINTYRE: The conversion back and
18 forth, so then let me -- what's the question?

19 DR. TONNE: We had the same question
20 already tonight.

21 MR. MCINTYRE: Well, kind of, but the
22 definition was -- I don't understand subordinate
23 and accessory to the ag operation.

24 MR. GRATTON: The definition is okay.

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91

1 MR. MCINTYRE: Are you sure?

2 MR. GRATTON: Yes, I am.

3 MR. MCINTYRE: All right, but I will go on
4 record to say that the non-ag of 40 acres or
5 more is definitely good.

6 MR. GRATTON: Thank you. Cathy?

7 MS. WIENEN: Hopefully two very quick
8 questions. One -- and I think 40 acres is good
9 for today, but I think after we get through all
10 this insanity the Illinois Department of Ag in
11 recent studies have issued that some of the
12 strongest growth areas in ag in our state are in
13 what they call boutique type farms, the goat
14 raiser that makes cheese, the vineyards and
15 those don't need 40 acres, so as we get through
16 this worst part, it might be worth a little
17 visitation, because we could maybe preserve more
18 of that more undesirable ground as ag ground if
19 it wasn't so big. So you know, this might be
20 Point A, but maybe Point B is we have to look at

21 the trend. From the tourism standpoint most
22 people don't want to see a bean farm, some do
23 and they like the big tractors, but they want to
24 come see the cheese maker, the wine maker,

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92

1 whatever, so we could maybe make this even more
2 productive for our two main points.

3 My second point is if you're going to hold
4 a new non-ag residence to those standards, that
5 33 standard, everything built should be held to
6 those standards. It shouldn't make a difference
7 if it's a farmhouse or my non-ag house, it
8 should still have to take care of the land.

9 MR. GRATTON: Well, that's one of the
10 things that's coming up that we're going to
11 discuss in just a minute, but I don't think -- I
12 don't think legally we are allowed to do that.

13 MR. AKEMANN: That's correct. State
14 law --

15 MS. WIENEN: -- protected class then for
16 making sure that they protect the land?

17 MR. GRATTON: In their infinite wisdom
18 that's what our state lawmakers said and Dave I
19 think is -- we've asked him that question many
20 times.

21 MR. AKEMANN: And the answer is always the
22 same. As the Chair indicated earlier, there's

23 really only building setback lines and the flood
24 area and minimum lot size, that's it for ag

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93

1 residences. That's why all these distinctions
2 come into play.

3 MR. GRATTON: Okay.

4 DR. TONNE: We had -- the first question
5 was about niche farming and we hope that Jo
6 Daviess County is open to niche farming. I
7 think there will probably be quite a bit of that
8 in our next 50 years and I think this ordinance
9 would allow niche farming. If you farm 30
10 acres, you're fine. If you want a residence,
11 that's where you perhaps interact with the
12 County. You can farm 5, 2, 10, 39, any size,
13 okay.

14 MR. GRATTON: Okay. That really segues --
15 Ron, I'm going to give you a chance to speak in
16 just a minute here. We're not going to go off
17 the subject and we're not going to vote on this
18 particular part for a few minutes, so you'll
19 have an opportunity here. This segued very
20 easily and well into what I want to do next. I
21 want to deal with all these amendments that deal
22 with this particular section at one time instead
23 of being segmented here. If we could, let's go
24 to that Use Standard 33, it's on Page 99 of your

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94

1 ordinance, if you have an ordinance that you're
2 looking at. We have some other pages here.
3 There are some changes we have to make in this
4 and it is just what Cathy and a few people have
5 just told us and what Dave has said. Somehow
6 this got changed. Somebody said No. 33 should
7 apply to ag and non-ag residences and legally it
8 can't. Somehow ag got put in here and that's
9 the -- it's Page 31 of the document we're
10 looking at. Is everybody looking at the same
11 place, Use Standard 33? At the beginning there
12 it says a single-family detached ag or non-ag
13 and ag is crossed out because the intent -- this
14 got added later, it was not intended to be in
15 there and that will be part of our -- our motion
16 here to strike that from it, because as Dave
17 just told us, we can not legally apply all these
18 standards to an ag residence. Is everybody
19 following me on that?

20 MR. JANSEN: Yep.

21 MR. GRATTON: Okay. Were there other
22 changes -- Linda, you had some formatting
23 changes in that section? Do you want to address
24 anything else there?

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1 MS. DELVAUX: I did?

2 MR. GRATTON: You did some formatting
3 changes on No. 33? Let me explain how 33 works
4 just very briefly. 33 works with non-ag
5 residences. Now, the first part of 33 deals
6 with those non-ag residences that come in as
7 special uses that we've been talking about. And
8 that goes through the first page. Then you get
9 over on page -- turn the page, I'm not sure what
10 number it is in your document, but if you turn
11 the page it's 32 and probably 100 on everybody
12 else's. You get halfway down there and it says
13 a single-family detached and we'd cross out ag
14 here again and we go on, when allowed as a
15 permitted use and then as a permitted use we
16 look at -- at these -- this would be the 40-acre
17 plus non-ag residence is how this is set up. So
18 part of our consideration will be to delete ag
19 from both of those sections there. Everybody
20 clear on that?

21 MR. JANSEN: I don't even have that.

22 DR. TONNE: No, nobody has that.

23 MR. GRATTON: It's not in there?

24 DR. TONNE: No.

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1 MR. GRATTON: It was in my copy.

2 MS. WIENEN: It was in the original copy.
3 It's still in there, yep.

4 MR. GRATTON: Okay. I'm behind the times.
5 So anyway, I just wanted to point out how that
6 works there. What else do we have on ag that we
7 want to deal with? We're hearing from people I
8 think that they like applying that. What else
9 do we have to look at? Oh, along the same vein
10 on the use table, this will be Page 76 in the
11 big document and Page 28 in the amendments that
12 you're looking at, does there need to be some
13 changes here to reflect that same thing? I
14 don't think these got picked up. Page 76 in the
15 big document, Page 28 in the amendments.

16 MR. JANSEN: I don't think it's 26.

17 MR. GRATTON: It's the use table.

18 MR. JANSEN: Yeah, okay.

19 MR. GRATTON: The first page of the use
20 table is what I'm looking at. You might have --

21 MR. JANSEN: I got a different page
22 number.

23 MR. GRATTON: Okay, I'm sorry. We've had
24 so many different drafts of these.

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1 MR. JANSEN: 23, last page.
Page 90

2 MR. GRATTON: Here's -- to reflect this on
3 lines down there where it says modular home,
4 agricultural residence, that has No. 33 there.
5 If it's an ag residence that is incorrect. It
6 should be No. 32. Everybody see that? If you
7 want to make that correction. And then on those
8 use standards if you go up to where there's a
9 duplex, 31 should be in there with 33 on the
10 duplex. Do you follow me? And it should also
11 be down here, the single-family attached
12 dwelling, we should have 31 and 33 there. I
13 think that's all the changes that need to be
14 reflected there. When we go over to the first
15 column -- the first vertical column under the ag
16 district, what we've tried to do here -- I don't
17 know if you have this in your copies or not. It
18 might be easier if you -- if we adopt the change
19 that we're looking at, the non-ag and the ag and
20 40 acres -- to make this clear here what we're
21 suggesting that we do on all the non-ag uses --
22 we're suggesting in that box to put an S for
23 special use and this will be for anything under
24 the 40 acres and then permitted, a P there with

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98

1 a footnote showing that it's permitted over 40
2 acres. Are you following?

3 MR. JANSEN: Uh-huh.
Page 91

4 MS. DELVAUX: I actually have it up on the
5 screen, Mel.

6 MR. JANSEN: Yeah.

7 MR. GRATTON: Are there questions or am I
8 making that clear enough to everyone?

9 AUDIENCE MEMBER: Where is the non-ag?

10 MR. GRATTON: We could have created extra
11 lines going across, but instead of doing that we
12 put both in here with footnotes to highlight
13 which ones require that. And then there's one
14 other change on that use table, Page -- while
15 we're at it under accessory uses, that's the
16 second line horizontally from the top. I don't
17 know how we missed these, but they're all
18 spelled out in the accessory use section here
19 and it shows that they're permitted in all the
20 districts and then it just stops going across.
21 They should also be permitted in the commercial,
22 manufacturing and the industrial because those
23 accessory uses are all indicated there and in
24 our accessory use for each of those types -- or

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99

1 districts, so if you want to add Ps in there
2 that would correct that as well. So those are
3 basically corrections to correspond with the
4 other changes that we're looking at.

5 In the ag district are there other issues
Page 92

6 or changes we need to look at? That's -- the C
7 is conservation -- the C-O-N is conservation and
8 C is commercial.

9 Okay. Ron and a few other people had a
10 few comments to make before we make a motion and
11 recommendation on all the ag district --

12 MR. LAWFER: That doesn't have to -- well,
13 okay.

14 MR. GRATTON: Yeah, go ahead. You're
15 dealing with the ag district?

16 MR. LAWFER: Yeah, right. One is -- and I
17 lost my page here, but on the conversion from
18 agriculture to non-agriculture residence, they
19 would be subject to the setbacks that are in the
20 paragraph before that?

21 MR. GRATTON: I think so. I would
22 interpret it that way.

23 DR. TONNE: It's an already built house.

24 MR. LAWFER: That deals with the livestock

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100

1 setbacks.

2 DR. TONNE: Oh, livestock.

3 MR. GRATTON: Oh, you're talking about the
4 livestock setback?

5 MR. LAWFER: Yeah, I don't know what page
6 that was on.

7 MR. GRATTON: Okay. Here's another --
Page 93

8 just for everybody's information, one of the
9 things that we included in this document that's
10 not in our present document is some protection
11 for agriculture from encroachment by residential
12 use and we call those ag setbacks. In the
13 Illinois Livestock Management Act if you're
14 going to build a livestock feeding facility you
15 have to abide by certain setbacks. What we've
16 added in here as a protection for agriculture is
17 those same standards essentially in reverse that
18 if you're going to build a residence you have to
19 abide by those setbacks so as not to compromise
20 the initial investment in agriculture that
21 people have made which could be substantial.

22 MR. LAWFER: Page 26.

23 MR. GRATTON: If it's existing I don't
24 think we can -- how can we do that, Linda, can

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101

1 we?

2 MS. DELVAUX: No. It may or may not
3 comply. It depends on when it was built whether
4 those regulations were in place or were not in
5 place.

6 MR. LAWFER: I'm referring to the
7 conversion of an agriculture residence to a
8 non-agriculture residence, would that be allowed
9 within those setbacks?

10 MR. GRATTON: You're saying that that
11 could create a potential conflict, is that what
12 you're looking --

13 MR. LAWFER: Well --

14 MR. GRATTON: -- if it were in that
15 setback area?

16 MR. LAWFER: You know, B says that there's
17 a setback for a non-agriculture residence and
18 then down below there's a procedure for
19 conversion from agriculture to non-agriculture.

20 MR. GRATTON: I hear you here, Ron.
21 Basically what we were hoping to do was to apply
22 that -- that setback requirement to all the
23 districts whether or not we can apply it to an
24 existing -- I think it goes for new construction

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102

1 and new residences more than existing --

2 MS. DELVAUX: Right, it would be this --
3 this -- it would be applied from this point
4 forward. I mean, if the house was there and it
5 didn't comply -- it just -- it didn't comply
6 when the house was built, that regulation wasn't
7 there, we can't move the house to comply
8 with --

9 MR. LAWFER: But that refers to an
10 existing livestock facility, not one that's
11 being built.

12 MR. GRATTON: I think she's saying we're
13 going to allow it. Is that what you're saying,
14 Linda?

15 MS. DELVAUX: Well, that's what the
16 ordinance says.

17 MR. LAWFER: You are what?

18 MR. GRATTON: We're going to allow that
19 conversion.

20 MR. LAWFER: You are going to allow that
21 conversion?

22 DR. TONNE: I think they're right, but I
23 want to clarify. Is your question you're
24 operating a livestock place, you're the owner of

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103

1 it, you're the operator of it and you live on
2 that farm and you're closer -- you're within the
3 setback because you live there, but you want to
4 sell that house to somebody else, you want to
5 separate it out and sell it?

6 MR. LAWFER: No, no, I don't want to sell
7 it.

8 DR. TONNE: Okay. Well, if your house is
9 there you're --

10 MR. LAWFER: But a neighbor may -- it may
11 be an agriculture residence and he leaves and it
12 becomes a non-agriculture residence.

13 DR. TONNE: It was already built though.

14 MR. GRATTON: I think it was built,
15 they're going to have to live with that
16 situation.

17 MR. LAWFER: Even though -- even though
18 the definition changes from agriculture to a
19 non-agriculture residence?

20 MR. GRATTON: I don't know how we can do
21 it any differently.

22 DR. TONNE: It's there.

23 MR. GRATTON: And there is --

24 MR. LAWFER: The setback requirements are

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104

1 a very, very good part of this, I agree to that,
2 but that was my concern.

3 MR. GRATTON: Yeah, and it's a legitimate
4 question. I think if it exists though I don't
5 think there's much we can do with it.

6 MR. LAWFER: Okay. One of the -- in the
7 ag district when it was set up, the first part
8 of it you got three or four things there and one
9 of them is that you are not allowed any -- I'm
10 not going to find it -- if you help me I'll find
11 the page where it says agriculture district, the
12 first page.

13 MS. DELVAUX: 24?

14 MR. GRATTON: 24?

15 MR. LAWFER: Yes, uh-huh. No. D (sic),
Page 97

16 that's been changed a little I think from some
17 of the original -- from the original zoning
18 ordinances as well as the last ordinance and one
19 of them is that no mobile homes are allowed, but
20 the original ordinance that passed back in, I
21 think -- I think there was an ordinance in '91,
22 you said in '95, but was there one in '91?

23 MR. GRATTON: There might have been a
24 proposed one, but it wasn't --

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105

1 MR. LAWFER: But anyway, No. D (sic) in
2 there, the statement permit the construction of
3 additional farm residence-mobile homes on a
4 farmstead for the use of the immediate family or
5 employed farm managers or laborers, that's been
6 taken out.

7 MR. GRATTON: Some time ago.

8 MR. LAWFER: Okay, okay. I would ask that
9 that be put back in.

10 DR. TONNE: That was in the '90s, '99 '98.

11 MS. DELVAUX: Quite some time ago.

12 MR. LAWFER: I think that answers some of
13 the questions that have been heard here tonight,
14 but let me talk about my particular issue. I
15 was on the County Board when the rotary had a
16 meeting and zoning came up and a couple three
17 years later the very discussion at the County

18 Board level was very, very intense and it was
19 voted on twice and it was defeated on a tie
20 vote. I supported that, but -- and so -- but a
21 lot of things have happened and that's why we're
22 all here tonight because the zoning ordinance
23 was passed. But I own a hundred and fifty-nine
24 acre farm. It has a feedlot, a million and a

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106

1 half gallon manure storage, two or three machine
2 sheds and so on. In 1980 or '81 my son came
3 back and we moved a mobile home there and it
4 just was there for about two or three years
5 until he moved on the dairy farm and then my
6 wife and I moved in the mobile home. After a
7 few years of that we bought a house, the mobile
8 home was moved to my brother's farm who -- he
9 purchased and he had his son that lived in it
10 for a number of years. Now, the sewer, the
11 water hookup and the electricity is all there
12 for a mobile home. I have a grandson now that's
13 looking to come back and he's interested in
14 farming that farm. I cannot move a mobile home
15 on that; is that correct?

16 MS. DELVAUX: Correct, by those standards
17 I think that you're referring to a 14 wide, a 12
18 wide --

19 MR. LAWFER: I'm sorry, I don't hear you.

20 MS. DELVAUX: A 14 wide, a 12 wide type of
21 mobile home, that's what you're referring to,
22 not a larger modular, manufactured --

23 MR. LAWFER: I'm referring to like a -- we
24 had a 10 by 72 in there.

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107

1 MS. DELVAUX: Right.

2 MR. LAWFER: And there is no house on that
3 farm. I guess I'm just questioning why mobile
4 homes were taken out of that and I guess I'd ask
5 that that be put back in? Otherwise, for my
6 grandson to move on that farm I would have to
7 build a house, am I correct, with a foundation?

8 MR. GRATTON: Well, Linda, there are
9 several different options, but they wouldn't
10 fall under what you'd call the old mobile home.
11 There's a lot of new terminology that are used
12 for prefab and put together and --

13 MR. LAWFER: Okay.

14 MR. GRATTON: -- and you'd have to put it
15 on a foundation.

16 MS. DELVAUX: Correct, correct.

17 MR. LAWFER: Okay. Well, I'm not sure
18 that was the intent when I supported the zoning
19 ordinance 25 years ago.

20 MR. GRATTON: How are we doing otherwise,
21 Ron?

22 MR. LAWFER: What? I'm not sure -- I'm
23 not sure we envisioned all this; however, I
24 would like to mention you talked a little bit

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108

1 about the history. 25 years ago Jo Daviess
2 County was only one of three counties north of
3 Springfield that was not zoned and the issue was
4 at that time that Jo Daviess County would turn
5 into a Wisconsin Dells, so it has not, so I
6 guess that answers your question, Mel. But the
7 issue was the billboards that were going up
8 along Route 20, that was the biggest issue.
9 Galena Territory and Apple Canyon Lake were
10 already here.

11 MR. GRATTON: And there was a proposed
12 regional landfill too, I believe.

13 MR. LAWFER: Yeah, yeah.

14 MR. GRATTON: There were a lot of reasons.
15 Yes?

16 MR. TURNER: My name is Ken Turner and I'm
17 not sure if this is the right place for it, but
18 I heard you say is there anything else on the ag
19 district, so I'd like to just bring this
20 forward. First of all, I appreciate all the
21 work that you've put in on the zoning ordinance
22 going back to when Mr. Lawfer helped to author
23 the first ones and just the due diligence that

24 the Jo Daviess County Board has continued to

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109

1 show in protection of Jo Daviess County and the
2 citizens within. Probably some of you don't
3 think that I'm here to talk about wind energy
4 conversion, but that's really what I'm here for.
5 Maybe you're aware of some of the health
6 effects. Maybe you're aware that to put a wind
7 energy system in the property owner has to sign
8 off a considerable document. It's like 15, 20
9 pages. It contains the phrase any other effect
10 of any kind or nature whatsoever resulting
11 directly or indirectly from any development
12 activities conducted, wind power facilities
13 installed upon property, any other lands in the
14 vicinity of the property, visual, view, light,
15 noise, vibration, air turbulence, wake,
16 electromagnetic, etcetera, etcetera. They have
17 safety restrictions including without
18 limitations, restrictions, prohibitions on
19 certain sporting, recreational or other outdoor
20 activities, make sure children do not play or
21 stay near the turbine, do not stay -- they
22 instruct their workers do not stay within 400
23 meters which is 1,300 feet from the turbine
24 unless it is necessary. This is -- this is fine

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110

1 and it's good that they have such a document to
2 release the property owners from those things
3 whether they're perceived or real. My question
4 -- my comment is about the property rights. A
5 person should be able to place wind turbines on
6 their property. It's their choice, it's their
7 property. They should not be able to dictate
8 their neighbor's choice, however. So I have
9 just a suggested change to 8-5b-40 and I've
10 written it up and I'd hate to read it all into
11 the minutes like this, but I guess I'm slow on
12 getting on board the zoning changes.

13 MR. GRATTON: This is the WECS standard,
14 is that what you're referring to?

15 MR. TURNER: Yes, that's correct. I would
16 suggest that the setback be increased just
17 marginally from 1,400 to 1,600. That's still a
18 small increase. That's -- all that is is a
19 hundred yards further than they advise their own
20 workers to stay away. They advise their workers
21 to stay away 1,300 feet. This would be another
22 football field farther away to 1,600 and then to
23 write that so it's to the property line.
24 Because if one person is signing away certain

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111

1 rights about being within -- about allowing the
2 noise and the electromagnetic and the wake and
3 the turbulence, if one person has decided this
4 is fine and this is okay, I'm making this
5 agreement, they shouldn't be making it for the
6 adjacent property owner. Right now the way the
7 setback issue is written the 1,300 feet goes or
8 the 1,400 feet goes to a primary structure which
9 means that that -- this other impacted property
10 owner has this area where even the workers are
11 supposed to stay outside of and it's on their
12 property and they're not supposed to let their
13 children on that property. They're not supposed
14 to conduct certain outdoor recreational
15 activities on their property. They're not
16 supposed to be bothered by the wake or the
17 turbulence or the electromagnetic or any other
18 thing and it's their property, but they haven't
19 made up that decision. They made that decision
20 -- that decision was made for them by their
21 neighbor.

22 DR. TONNE: What's this amendment?

23 MR. GRATTON: Ken, could I just interrupt
24 just in the essence of time here. The WECS,

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112

1 which is the wind energy conversion system
2 you're referring to, that was a part of this
3 that early on in the process of the rewriting of
4 this that we studied and looked at and decided
5 that, yes, we need to have these standards in
6 the document and subsequently it was presented
7 as an amendment to our current ordinance and it
8 is in our current ordinance as you say, so it's
9 already in there and if -- I would suggest at
10 this time, since it's just been studied in the
11 last few years, I would suggest that we keep it
12 as is today, but it's one of those areas that
13 certainly we can look at as an amendment in the
14 future if it's not doing what we think it should
15 do, because it is a very recent addition to --

16 MR. TURNER: Okay. Let me -- may I just
17 continue and then provide you a flyer?

18 MR. GRATTON: Sure.

19 MR. TURNER: If you just extend that
20 1,600, remembering that Boone County is already
21 at 2,000, remembering that certain doctors have
22 advised 6,000, if we just extend it to 1,600,
23 just a football field further and we go to the
24 property line so that the adjacent property

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113

1 owner is not having his mind made up for him or

2 her, then that would be a more neighbor friendly
3 constituent and you -- you could also keep a
4 waiver in there. If these two neighbors are
5 talking to each other, like neighbors should and
6 they come to an agreement or -- or a discussion
7 has been made that allows that, then all they
8 have to do is present the waiver to the County
9 Board or to the Zoning Board.

10 MR. GRATTON: Okay. I think we're -- that
11 waiver issue is going to be addressed here later
12 in the evening. That's one of the amendments
13 that was suggested.

14 MR. TURNER: I'm so sorry. I'm having to
15 go.

16 MR. GRATTON: Just hang on for a few
17 minutes. We'll keep that in mind and suggest to
18 the County Board that -- if there's new evidence
19 or documentation that need to be addressed in
20 our ordinance, why, we can look at it in the
21 future.

22 MR. TURNER: I have to leave now. Thank
23 you so much for your time. I'm going to leave
24 some with the Jo Daviess County Board members

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114

1 which I see over here and with somebody over
2 there. Thank you so much.

3 MR. GRATTON: Thank you.

4 MICHAEL DITTMAR: Michael Dittmar from
5 Elizabeth. Going back to the non-ag stuff. I'm
6 totally confused now.

7 MR. GRATTON: Don't be confused.

8 MICHAEL DITTMAR: If somebody owns 40
9 acres and the farm is -- it's a farm and it's
10 either rented or in CRP, is that -- and they
11 want to build a house on it, are they allowed to
12 build a house on it?

13 MS. DELVAUX: Yeah, you have 40 acres, the
14 ordinance would allow an ag or a non-ag if they
15 should make that amendment --

16 MICHAEL DITTMAR: How so?

17 MS. DELVAUX: -- to build the house.

18 MICHAEL DITTMAR: It's automatically
19 permitted? I thought that was what the original
20 one was and you were trying to change that so
21 you had to actively be -- proving to farm it.

22 MS. DELVAUX: The amendment that they're
23 discussing now will take that particular issue
24 back to what we have currently.

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115

1 MICHAEL DITTMAR: Okay, good.

2 MS. DELVAUX: And that is 40 acres,
3 ag/non-ag, come in, get your building permit,
4 the ordinance says it's a permitted use.

5 MICHAEL DITTMAR: Okay. If you own under

6 40 acres and let's say you're actively farming
7 it, is that an ag residence -- and you have a
8 house on it is that an ag residence and it's
9 under 40 acres?

10 MS. DELVAUX: It's a hundred and forty
11 acres?

12 MICHAEL DITTMAR: No, under 40, less than
13 40.

14 MS. DELVAUX: Less than 40?

15 MICHAEL DITTMAR: Yes, and you are farming
16 and this is actually what Steve was talking
17 about where you own a little bit but you rent
18 land.

19 MS. DELVAUX: Okay.

20 MICHAEL DITTMAR: Is that an ag residence?
21 You're farming the under 40 acres and you rent
22 other land.

23 MS. DELVAUX: Could it be defined as an ag
24 residence? If you're actively farming it and

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116

1 the house is there and it's an accessory to the
2 use, yes, it is an ag residence. Does it make
3 your lot size conforming because you're under
4 40? It wouldn't -- if you came in today and
5 wanted to under the new rules -- under this
6 amendment --

7 MICHAEL DITTMAR: That's what I'm asking,

8 yeah.

9 MS. DELVAUX: Under this amendment, okay,
10 if you have a 38-acre parcel and yes, you are
11 farming the parcel, you want to build your house
12 there, will this allow --

13 MICHAEL DITTMAR: House is already there.
14 My question is --

15 MS. DELVAUX: You are already there?

16 MICHAEL DITTMAR: My question is can I
17 build a silo on it? Can I build a machine shed
18 on it?

19 MS. DELVAUX: Could you build an accessory
20 to that agriculture use? Yes.

21 MICHAEL DITTMAR: Yes, under 40 acres and
22 you're farming.

23 MS. DELVAUX: Yes, you can build an
24 accessory to that --

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117

1 MICHAEL DITTMAR: He was shaking his head.

2 MS. DELVAUX: Shaking his head no?

3 MR. AKEMANN: No, I --

4 MS. DELVAUX: I didn't hear him.

5 MR. AKEMANN: I wasn't shake my head.

6 MICHAEL DITTMAR: If you're farming,
7 you're active --

8 MR. AKEMANN: If you're farming -- you're
9 actively farming the only requirement you have

10 to meet is the building setback.

11 MICHAEL DITTMAR: It doesn't matter what
12 size the lot or --

13 MR. AKEMANN: well, the minimum lot size
14 if you have a residence on it, okay.

15 MICHAEL DITTMAR: well, it would be a
16 2-acre residence with 30 acres of farmland.

17 MR. AKEMANN: If the house was built prior
18 to March, you know --

19 MICHAEL DITTMAR: Right, gotcha.

20 MR. AKEMANN: -- then it's a permitted
21 use, the residence is fine.

22 MICHAEL DITTMAR: I'm not asking about the
23 residence. I'm asking if I can -- let's figure
24 a new farm. I plan to start farming next year.

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118

1 MS. DELVAUX: No residence?

2 MICHAEL DITTMAR: No, but under that
3 amendment I do have permission to build one.

4 MR. AKEMANN: You don't need permission to
5 build accessory ag buildings.

6 MICHAEL DITTMAR: No matter what the size
7 of the acreage --

8 MR. AKEMANN: No matter what the size.

9 MS. DELVAUX: well, you need your site
10 permit to build your accessory ag. You can
11 build an accessory to your ag production, if you

12 need a barn. For ag production on that property
13 if it's 39 acres, 38 acres, you can build that
14 accessory to the ag production. The lot size
15 for the house, you would not be able to build a
16 house on that parcel unless you got the special
17 use because it's under the 40 acres.

18 MICHAEL DITTMAR: So if you're farming
19 under 40 acres you can build -- you can build a
20 barn, but you can't build a house to live on it
21 to work in the barn? You can't build a house
22 for yourself to live in it to feed the cows in
23 the barn the hay?

24 MS. DELVAUX: Unless you get that special

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119

1 use to build the house.

2 MICHAEL DITTMAR: Unless I ask permission?

3 AUDIENCE MEMBER: 500 bucks.

4 MICHAEL DITTMAR: \$500 and I could be
5 denied, correct?

6 MS. DELVAUX: Correct.

7 MICHAEL DITTMAR: Thank you.

8 MR. GRATTON: Okay. Yeah?

9 MR. RICHARDSON: I just have a --
10 Tom Richardson, West Galena. I read the draft,
11 but I didn't read the recent one and you have
12 your livestock facility and you go back to
13 definitions and there was actually nothing to

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describe what it is.

MR. GRATTON: The livestock facility?

MR. RICHARDSON: You got your setbacks, is that -- where's your starting point?

MR. GRATTON: Okay. This goes to the Livestock Management Act. It's the same definitions, the same terminology that's used in there as far as animal units and sizes.

MR. RICHARDSON: But I mean, what do they consider the facility? You know, is the whole farm the facility? Is the feedlot the facility?

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120

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where's your setback starting point and end point?

MR. GRATTON: I think it's from the residence to the feedlot, is that the way everybody else is -- I think that's the way we were looking at it.

MR. RICHARDSON: Because you have like -- we'll use the Truckers (phonetic) down there which the cattle are scattered all over and then you come to a confined place.

MR. GRATTON: This would be the confined area I think. Now, if you have 40 acres to confine 5,000 head, why then you might -- might be the whole 40 acres, but if you had 200 and you had --

16 MR. RICHARDSON: Right, if I have 200
17 acres where's your starting point and ending
18 point?

19 MR. GRATTON: Depends how much area you're
20 utilizing for that confined -- where you're
21 confining those -- that livestock to and
22 typically it would be the feedlot itself. If
23 they're running in the dirt lot next to it and
24 there's some -- you know, a large number, that

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121

1 could be the whole lot then or the whole parcel
2 that they're on.

3 MR. RICHARDSON: So how does that work
4 with existing? Take me for an example, if I
5 used the whole area for a feedlot there would be
6 no setback, would I be required to keep it set
7 back?

8 MR. GRATTON: How many are you talking
9 about -- how many livestock?

10 MR. RICHARDSON: Well, if there's -- you
11 could put -- you could put 5,000 head out there.

12 MR. GRATTON: Then it would be that area
13 that confines those 5,000 head that we're
14 talking about.

15 MR. RICHARDSON: But the outside perimeter
16 might be the outside edge of the confinement.

17 MR. GRATTON: Might be.

18 MR. RICHARDSON: And then the neighbor is
19 right next to you.

20 MR. GRATTON: Your neighbor will not be
21 allowed to do that.

22 MR. RICHARDSON: No, but I mean, I'm
23 already there, he's already there. Where would
24 mine start?

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□

122

1 DR. TONNE: Then forget it.

2 MR. GRATTON: It doesn't make any
3 difference. It doesn't apply if you're both --

4 MR. RICHARDSON: So I can go out there and
5 put 5,000 cattle in my head tomorrow and nobody
6 is going to say nothing?

7 MR. GRATTON: The reverse might get you --
8 but the reverse might get you in some trouble
9 though too, so --

10 MR. RICHARDSON: It doesn't --

11 MR. GRATTON: And it wouldn't be with us,
12 it would be with Illinois Department of Ag.

13 MR. RICHARDSON: In your definition
14 there's nothing there to explain that. You
15 know, say if a new person actually started
16 something up and you look up the zoning and it
17 goes to livestock facility and you go back to
18 definitions, there's nothing there to tell him
19 where he's got to start and stop.

20 MR. GRATTON: Have we defined a livestock
21 facility in here?
22 MS. DELVAUX: No.
23 MR. GRATTON: Okay. If we haven't, why,
24 it might be a good thing to do and thank you for

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123

1 pointing that out.
2 MS. DAVIS: It's not in there.
3 MR. RICHARDSON: It's in the state, but
4 shouldn't it be included in this too? I mean,
5 just --
6 MR. GRATTON: It could be for clarity and
7 if you'd like we can make a recommendation to
8 pull that out and insert that if that's --
9 MR. RICHARDSON: So it kind of defines
10 where it is and stuff.
11 MR. GRATTON: Yeah, that's a good
12 suggestion.
13 MR. RICHARDSON: Okay. Thank you.
14 MR. GRATTON: Let's see if we can --
15 MR. BRASHAW: I got one more question.
16 MR. GRATTON: Real quick, Paul, and then
17 we want to --
18 MR. BRASHAW: So I have a hundred and
19 sixty acre farm, under this new ordinance I'm
20 still permitted to divide that farm up into four
21 40-acre parcels and sell them and be either --

22 qualify as an ag or non-ag residence on it and
23 come down to building and zoning and get a
24 building permit?

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□

124

1 DR. TONNE: If it's non-ag you got
2 Standard 33.

3 MR. BRASHAW: If I comply with the
4 Standard 33, which are probably in this case
5 very applicable with slope and all that, so
6 thank you.

7 MR. GRATTON: Yeah. Okay. Let's move to
8 conclude this -- this section that we're working
9 on. We started out with a suggested amendment
10 to the -- it would be No. 5 and the suggestion
11 was to accept that amendment but break it into
12 two pieces for clarity, the ag and the non-ag.
13 We'll put all this together in a motion in a
14 minute, but is that the intent and the agreement
15 with everybody here that we do it this way?

16 DR. TONNE: Uh-huh.

17 MR. GRATTON: Okay. Also, the -- and most
18 of you said in the version that you're looking
19 at and I don't know if it's in my version or
20 not, that ag was eliminated from Section 33 and
21 if it's not, why, it should be okay. And then
22 also on the use table we made some corrections
23 to conform with the other things we're doing

24 here. Everybody has noted those and is on board

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125

1 with those?

2 DR. TONNE: Uh-huh.

3 MR. GRATTON: So here's -- I'll do this
4 just for expediency, if I could. I'll make the
5 motion that we accept County Board Amendment
6 No. 5 and divide it into segments E and F for ag
7 and non-ag, both 40-acre parcels, with F having
8 the Standard 33 attached to it as presented on
9 the screen. That we accept the changes made on
10 the use table for these standards to reflect the
11 special use provision and the permitted
12 provision depending on the lot size. That's
13 Amendment 15. And do we need to -- Melissa or
14 Linda, in your current document do you have ag
15 as out of Standard 33 -- in the most current
16 document is it or isn't it? If not, we want to
17 include it?

18 MS. DELVAUX: I changed it in your
19 amendment. I didn't think it was changed --

20 MR. GRATTON: It's changed in the
21 amendment here. Let's just put that in to make
22 sure it gets picked up anyway. How does that
23 sound? So I'm going to make a motion that we
24 accept as a permitted use E and F, Amendment

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1 No. 5, as presented and that we accept the
2 changes to the use table as exhibited in
3 Amendment No. 15.

4 MS. DELVAUX: well, with your added
5 changes as shown on the screen.

6 MR. GRATTON: Right here.

7 MR. JANSEN: Yeah, they're already
8 changed.

9 MR. GRATTON: The screen doesn't have the
10 accessory uses that we talked about, but I
11 think you had them earlier.

12 MS. DELVAUX: Yes, it does.

13 MR. GRATTON: They are there, right,
14 Melissa?

15 MS. DELVAUX: Not that one. There, that
16 one, that one there.

17 MR. GRATTON: And then just to be safe,
18 the amendment that I suggested with -- on Use
19 Standard 33, 8-5b-33, that ag be eliminated in
20 that and it just reflects and states non-ag
21 residences and in the special and permitted use
22 area. And also in reference to testimony that
23 was given, that we put in the definition of a
24 feedlot as described in the Illinois Livestock

1 Management Act. Is there anything else that I
2 need to include?

3 MR. JANSEN: Second.

4 MR. GRATTON: Okay. We have a motion and
5 a second. Is there any further discussion?

6 MR. TRANEL: Just one question. The
7 question on the livestock feedlot -- do I need
8 this? Okay. We may need to clarify
9 specifically where a feedlot exists. I'm not
10 sure that's -- I'm not sure -- I don't know the
11 state statute by heart. You might need to
12 clarify exactly where that is. Does that answer
13 your question?

14 MR. RICHARDSON: Well, there was no
15 definition at all in your -- I mean --

16 MR. TRANEL: Right, but I think we need to
17 clarify exactly what a feedlot it.

18 MR. RICHARDSON: Right, what it is and
19 where you're starting and stopping.

20 MR. TRANEL: Right.

21 MR. GRATTON: Since the State is always
22 doing this in the reverse manner, they're
23 measuring this in some way, we want to use that
24 same language is what we're suggesting here.

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1 MR. TRANEL: And identify exactly where it
2 is.

3 MR. GRATTON: So if they can measure it,
4 we should be able to measure it with that same
5 language. All right. Any other concerns?
6 Okay. We're ready for the motion -- or for the
7 question to be called then, Melissa.

8 MS. SOPPE: Bill Tonne?

9 DR. TONNE: Aye.

10 MS. SOPPE: Nick Tranel?

11 MR. TRANEL: Aye.

12 MS. SOPPE: Dave Jansen?

13 MR. JANSEN: Aye.

14 MS. SOPPE: Mel Gratton?

15 MR. GRATTON: Aye.

16 MS. SOPPE: Susie Davis?

17 MS. DAVIS: Aye.

18 (By voice vote five ayes.)

19 MR. GRATTON: Okay. We're done with that.
20 I'm going to ask our stenographer, do you need a
21 break?

22 THE REPORTER: I'm okay.

23 MR. GRATTON: We'll try to get a little
24 farther into this. I don't know how far we'll

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□

129

1 get, but does anybody want to take a break for a
2 few minutes?

3 MR. JANSEN: I do.

4 MR. GRATTON: Okay. Five minutes -- oh,
5 Tanna, come on up.

6 MS. THOLE: I just have a question. I've
7 listened to all this and I understand and your
8 whole object -- or object, whatever, the main
9 thing that you're trying to do here is to
10 preserve Jo Daviess County, preserve agriculture
11 and all this stuff and you have -- if anybody
12 wants to do anything, to sell a lot or to build
13 a house, whatever, we're having to come before
14 the Board or to get a special use permit, right
15 -- or to ask for one; is that right? If I want
16 to sell off 40 acres --

17 MR. GRATTON: You don't need -- that's
18 permitted.

19 MS. THOLE: Okay. If I want to sell off
20 20 acres I've got to come --

21 MR. GRATTON: That requires either a
22 special use or --

23 MS. THOLE: And what you want to do is --
24 but I mean, what you're trying to do here is to

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(815) 453-2260

□

130

1 preserve the land, promote agriculture and keep
2 things flowing, okay. Then why is it going to
3 cost \$500, is that what I'm hearing? This is
4 just what I've heard. Every time somebody wants

5 to do something or get -- ask the question or
6 apply for a permit it's a \$500 nonrefundable
7 fee; is that right?

8 MR. GRATTON: For a special use.

9 MS. THOLE: For special uses \$500, so if
10 Neal wants to come in and ask for eight of his
11 kids, \$500 for each kid nonrefundable?

12 MR. GRATTON: Only if they want to each
13 build a house.

14 MS. THOLE: why isn't it \$20?

15 MR. GRATTON: well, because I don't think
16 Linda --

17 MR. JANSEN: You're talking to the wrong
18 people.

19 MR. GRATTON: This body does not set the
20 fees, by the way. The County Board sets the
21 fees.

22 MS. THOLE: But I mean, if this isn't
23 something to make money or whatever, if this is
24 just something to protect something why is it

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(815) 453-2260

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131

1 going to cost so much to come in? I mean, \$500
2 for us people on that farm is a lot of money.

3 MR. GRATTON: would you volunteer at the
4 office to work for nothing for a while?

5 MS. THOLE: I don't know. I think I could
6 make -- write things black and white a lot

7 better than all this stuff I tried to read
8 through.

9 DR. TONNE: well, what you're proposing
10 then is that we take it out of taxes. This is a
11 user fee for those who need the special uses or
12 rezoning or whatever and it's actually pretty
13 reasonable to the cost of holding the public
14 hearing and all the other work, but if you
15 really think otherwise, there's your audience.

16 MS. THOLE: Okay.

17 MR. GRATTON: Okay. We're in five-minute
18 recess. We'll be back here and reconvene.

19 (A recess was taken at 9:39 p.m.
20 and proceedings resumed at 9:47
21 p.m.)

22 MR. GRATTON: Before we leave the use
23 table, Steve came up to me and asked if we could
24 add something for clarity on there and this is

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132

1 under a modular home ag residence and it's
2 listed there as a special use -- or excuse me --
3 as a permitted use. If we were to add special
4 use there with the Footnote No. 4 we could I
5 think clarify this when people are looking at
6 this and Footnote No. 4 would say on lots less
7 than 40 acres.

8 MR. MCINTYRE: Mel, that's also on
Page 123

9 single-family detached agricultural residence as
10 well.

11 MR. GRATTON: Maybe I need to ask Dave
12 about that. On the ag residences, Dave, can we
13 put that footnote in there or do we want to
14 leave that and just permit it?

15 MR. AKEMANN: Where are you referencing?

16 MR. GRATTON: Well, we're referencing the
17 agricultural residences.

18 MR. AKEMANN: Okay. On Page 156, the
19 definitions?

20 MR. GRATTON: No, Page 76, we're on the
21 use table. We're just trying to clarify so that
22 the casual reader as they look at this they will
23 get the whole picture. What we did in the
24 non-ag residences we put S and P in this case,

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133

1 the P had a footnote. In the ag residences do
2 we want to put an S with a footnote to indicate
3 that it might require a special use less than 40
4 acres. Do you have an opinion on that?

5 MR. AKEMANN: Depends on what you
6 ultimately decide, of course, but if that's what
7 you end up with -- you know, how many footnotes
8 do you want? You know --

9 MR. MCINTYRE: My only -- the reason why I
10 brought it up was because if you don't add the S
Page 124

11 with the special footnote it could indicate that
12 it's not allowed on anything -- because you read
13 the ordinance, it's not allowed to put an
14 agricultural residence on less than 40 acres,
15 because it's -- it's only permitted if the lot
16 size is greater than 40 acres or equal to 40
17 acres, so -- but we've already had discussions
18 here that say --

19 MR. GRATTON: And all we're doing is going
20 -- if we add this it would just be for clarity
21 so the people reading this use table would
22 understand what they're looking at and that's
23 the suggestion. Do we want to go there? Is
24 there any reason we can't?

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134

1 MR. AKEMANN: I think probably if -- if
2 you've begun the S/P you really should continue
3 with that because it might indicate you had a
4 different intent if you treat -- if you show
5 them differently, so I would recommend you show
6 them in the same manner whatever you decide that
7 should be.

8 MR. GRATTON: Then what I'm going to do is
9 make a motion on all the ag residences there to
10 add an S-4, the 4 being the footnote that says
11 on lots less than 40 acres and I'd make a motion
12 to direct staff to pick all those up and make

13 those changes. So is there a second to that
14 motion?

15 DR. TONNE: Second.

16 MR. GRATTON: Motion and second. Any
17 discussion? Okay. All those in favor -- I
18 don't know if we have to have Melissa do this.

19 MS. DAVIS: well, aren't you doing the
20 whole --

21 MR. GRATTON: No, we've done the other
22 part. This is just a catchup, so all those in
23 favor signify by aye.

24 (All those simultaneously)

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(815) 453-2260

□

135

1 responded.)

2 MR. GRATTON: Opposed? Okay. We will
3 present that change then as well. All right.
4 We're over to use -- not use standard, we're off
5 that now -- amendments -- David?

6 MR. AKEMANN: I hate to mess you up, but
7 as I am looking at this I believe the ag
8 residences would be, you know, P or S in any
9 district. It doesn't really matter what
10 district it's in.

11 MR. GRATTON: That is correct, okay.

12 MR. AKEMANN: Just so you know.

13 MR. GRATTON: So we need to -- it might be
14 for clarity good to add that in all those

15 districts then. Let's back up and amend the
16 motion to include all the districts for those ag
17 residences and Nick moved to include all the
18 residences and I'll second that. Any other
19 discussion? All those in favor signify by aye.

20 (All those simultaneously
21 responded.)

22 MR. GRATTON: Opposed? Okay. we'll
23 direct staff then to make those changes. I
24 think we're over to Board Amendment No. 6 and we

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136

1 have a series of these and they're dealing with
2 the lighting ordinances and most of them don't
3 look like they're too difficult, but Linda and I
4 had a chance to go over these and I had a couple
5 suggestions to bring them into especially
6 wording conformity with the rest of the
7 definitions that we're using. The first one,
8 Amendment No. 6, the suggestion there is to --
9 under prohibited signs the suggestion was to
10 include animated signs and the electronic
11 billboards. What we're doing is in this
12 ordinance we're calling billboards standard
13 outdoor advertising structures/billboards. So
14 my suggestion there is that we accept this, but
15 that we add that terminology, because when you
16 look in the definitions that's where you're

17 going to find it. Now, we can debate whether we
18 want to include those as prohibited signs, but
19 if we do, why, I would suggest that we use that
20 common terminology throughout, so that will be
21 the amendment before us. So let's look at the
22 amendment itself then.

23 DR. TONNE: Well, what you're saying, Mel,
24 is an animated sign and electronic billboard are

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(815) 453-2260

□

137

1 the same thing. You're just putting the words
2 -- the word billboard there so that people know
3 what we're talking about.

4 MR. GRATTON: I'm saying that when we
5 define billboards you don't find it under
6 billboards, you find it under standard outdoor
7 advertising structure/billboards, so all we have
8 to do is add that to this --

9 DR. TONNE: Yeah.

10 MR. GRATTON: -- so that it is consistent
11 throughout the document is what I'm suggesting.
12 Now, whether you want to include that as a
13 prohibited sign, that's what's up for
14 discussion.

15 DR. TONNE: Well, in a related way we
16 heard some testimony about why -- and we liked
17 the fact we didn't turn into the Dells, so that
18 would tend to be the thought -- that would tend

19 to be the thought, yeah.

20 MR. GRATTON: So do we have a -- is there
21 anyone here who wants to -- this is just under
22 prohibited signs. Any comments on this one?
23 Beth?

24 MS. BARANSKI: Wasn't there a definition

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138

1 for electronic billboard too, are you including
2 that or --

3 MR. GRATTON: Was electronic billboard --
4 oh yeah, that's coming up. We can consider that
5 at the same time if we want to. Probably if we
6 won't do this one though we won't need to do the
7 next one; is that correct?

8 MS. DAVIS: I'll move we accept that.

9 MR. GRATTON: Okay. We have a motion by
10 Susie to accept under prohibited signs and a
11 second by Nick and I'll read the -- under
12 prohibited signs A is going to be animated
13 signs, electronic standard outdoor advertising
14 structure/billboards. That's the motion before
15 us. Is there any further discussion? All those
16 in favor of adding that Amendment No. 6 as
17 presented say aye.

18 (All those simultaneously
19 responded.)

20 MR. GRATTON: Any opposed? Okay. Then we
Page 129

21 go to Amendment No. 7 and this is the definition
22 of that and the motion would be in this case to
23 add the definition with that language that we
24 just added previously, electronic standard

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(815) 453-2260

□

139

1 outdoor advertising structure/billboards and
2 then the definition says billboards that can be
3 updated electronically, usually a large
4 projection spectacular or LED sign with changing
5 advertising and internal illumination. So --

6 MR. JANSEN: Move to accept the change.

7 MR. GRATTON: Okay. We have a motion to
8 accept County Board Amendment No. 7 with this
9 new language --

10 DR. TONNE: Yeah.

11 MR. JANSEN: -- as amended by the Chair.

12 DR. TONNE: Well, I speak in favor of --

13 MR. GRATTON: Do we have a second on the
14 motion?

15 DR. TONNE: I'll second it, but I would
16 comment we have a definition already of
17 electronic message center in the draft. Is it
18 somewhat redundant?

19 MR. GRATTON: No, I think that's
20 different.

21 DR. TONNE: Is it? Okay.

22 MR. GRATTON: I think that's referring to
Page 130

23 like the time and temperature and things like
24 that.

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140

1 DR. TONNE: All right.

2 MR. GRATTON: And this is that large
3 changing billboard size display that we're
4 talking about done.

5 DR. TONNE: Okay.

6 MR. GRATTON: Is that everybody's
7 understanding? Anybody here want to comment on
8 that definition? Okay. We have a motion and a
9 second to approve this definition with the
10 amended wording change there to include this
11 additional language. All those in favor signify
12 by saying aye.

13 (All those simultaneously
14 responded.)

15 MR. GRATTON: Opposed? Okay. We will add
16 Amendment 7 then. Amendment 8 is asking that we
17 change some of the shielding standard
18 requirements to a different level of lumens on
19 outdoor fixtures and then eliminate what was 2
20 and -- which gets picked up in 1 I think and add
21 -- well, 4 isn't an addition. What it's doing
22 here it's using full cutoff as the standard or
23 as the requirement for these and eliminating
24 semi cutoff and full cutoff restrictions and

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141

1 then we have -- 5 is the one that deals with
2 light trespass and --

3 MR. JANSEN: I would take the next one, 9
4 and add it because it defines a foot-candle
5 that's referenced in 5.

6 MR. GRATTON: Okay. Can I suggest
7 something on this? Do we need a motion or can
8 we talk about it for a minute first? And I'm
9 sure Beth or Bonnie or whoever is making these
10 suggestions might want to add to this. On No. 5
11 we're trying to measure light trespass by the --
12 measure by one-tenth of a foot-candle.
13 One-tenth of a foot-candle -- I see our physics
14 guy in the back here, but one-tenth of a
15 foot-candle, as I understand the definition that
16 we're going to use here, is the light that would
17 be emitted by a candle one foot above a square
18 and one-tenth of that would probably be a fairly
19 -- a very low level of light. I'm wondering if
20 what we did have, which is in your second -- on
21 Page 9, instead of using that one-tenth of a
22 foot-candle -- and by the way, our staff doesn't
23 have measuring devices to do this type of thing,
24 whether we're creating something that would be

1 very difficult to enforce and Linda and I had a
2 little time to go over this and we looked at it
3 and we thought that if we can just go back in
4 there and indicate that these full cutoff
5 requirements require that all the fixtures be
6 aimed and shielded so as to minimize light
7 trespass across property boundaries and where
8 applicable all commercial installations shall
9 utilize house side shielding to minimize light
10 trespass on residential properties. That's what
11 we had in there originally. So let's open this
12 for any discussion that anybody here has. Was
13 there -- and then 9, Dave, you want to consider
14 that at the same time?

15 MR. JANSEN: Yeah, if it's referenced in 5
16 it's silly to take it separately.

17 MR. GRATTON: So can we have some
18 discussion?

19 MS. DAVIS: Are you recommending that we
20 stay with our old, is that what you're
21 recommending?

22 MR. GRATTON: I think our discussion was
23 it's very hard for us as a county to measure
24 that and therefore I'm not sure this --

1 recommendations in 5 are as measurable as we
2 might like them to be. Beth, do you want to
3 comment on that?

4 MS. BARANSKI: I understand what you're
5 saying. The only thing I would suggest though
6 is that the way it's written below, I don't know
7 how you would enforce that either if one
8 property owner says one thing and the other one
9 says the other. If you have a standard in there
10 maybe the onus is on the person with the
11 complaint to provide documentation of
12 foot-candles there and maybe they have to -- if
13 it's that serious of a problem they have to
14 provide evidence.

15 MR. GRATTON: But probably starlight and
16 moonlight creates more than a tenth of a
17 foot-candle anyway, doesn't it? I would be
18 guessing. A full moon I know would, so I'm not
19 sure whether we want to make this darker than
20 mother nature intended it.

21 MS. GARRITY: Mel, can I just comment?

22 MR. GRATTON: Bonnie, yeah, if you can
23 shed any light on this.

24 MS. GARRITY: I've heard several times

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1 from the Dark Sky sessions that I've attended
2 that a perfect full moon with no artificial
3 light is the most perfect light you can get.
4 It's even and a person can read and see
5 beautifully anything they need to see in
6 perfect, full moonlight without clouds and
7 that's one-tenth of one foot-candle. It's
8 actually a lot of light, one-tenth of one
9 foot-candle.

10 MR. GRATTON: So it would be the
11 equivalent of a full moon, is that what you're
12 testifying?

13 MS. GARRITY: Uh-huh, I think that's the
14 case. I think that's the case.

15 MR. GRATTON: I don't know that. I'm just
16 trying to -- comments, anybody else? Beth, you
17 want to try again?

18 MS. BARANSKI: I just wanted to add that I
19 talked to a lighting engineer and looking at
20 this again he suggested -- and this kind of ties
21 into it -- that it should be a vertical
22 foot-candle, that it's measured not as if you
23 were laying on the ground where the moonlight
24 would be found, but if you were standing facing

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145

1 a fixture, that it's a vertical measurement.

2 MR. GRATTON: What I'm saying is we don't

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have measurement tools.

MS. BARANSKI: No, I know, but as I said, the onus could be on the person complaining I guess to provide evidence if something is bothering them that significantly that indeed it does exceed the standard.

MR. JANSEN: Yeah, and I -- oh, go ahead.

MS. GARRITY: I was just going to say I support what Beth said. I think that's a real reasonable way to approach it. I support what Beth said about putting the burden on the complaining party and it's not that hard with a light meter.

MR. GRATTON: All right.

MR. JANSEN: I guess my question, Mr. Chairman, is who's -- who's the complainant and under what circumstance -- is it the neighbor or is it somebody driving down the street that lives a hundred miles away and I'm wondering -- and I know that's challenging, the enforcement. I think we can do the measurement thing that Beth talks about. I know there's

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146

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instruments out there. We don't have them and we're not going to do it. I would never think that I'd tell Linda that it's 1 o'clock in the morning, get your foot-candle meter and get out

5 there, because she probably wouldn't do it
6 anyway and I can't blame her. But I am worried
7 a little bit about who makes that complaint and
8 what's their standing, I guess. That's kind of
9 a problem for me.

10 MR. GRATTON: Cathy?

11 MS. WIENEN: Now, this would apply to new
12 things constructed. Isn't there -- I thought I
13 read in here somewhere that all new things being
14 built need a lighting plan on them, so wouldn't
15 you cut it off at the pass before it ever was
16 built?

17 MR. GRATTON: The lighting plan would
18 pertain -- we're going to get to that, but that
19 would pertain to I think the commercial and
20 industrial and this probably could be relevant
21 to residential as well.

22 MS. WIENEN: Okay, so if we added -- I'll
23 be struck down -- to that 33 where they got to
24 have the site plan for residential houses, if

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147

1 you had to indicate outdoor lighting I don't --
2 I mean, why let somebody build something that's
3 not in compliance? I mean, what this is saying
4 is that if it's shining on me I can get rid of
5 it, but if it's only going to be from some point
6 in the future forward, why -- why can't we make

7 it compliant so it never happens?
8 DR. TONNE: well, this is how you do it
9 right here, not in the use standard which would
10 apply only to a special use, so this is going to
11 cover special uses, it's going to cover
12 residential, R-1, R-2, commercial. If you want
13 to cover it evenly this is a good spot to do it.
14 I actually have a problem with No. 5 for all the
15 reasons that have been stated and I really think
16 the changes we've made especially in No. 4 are
17 going to be significant with the full cutoff, so
18 for administration -- next thing you know we'll
19 be charging more than 500 for a special use, you
20 know, if we have to check out the foot-candles.
21 I really like -- you know, this is a living
22 document. If for some reason we have light
23 issues going forward we can put this in a year
24 from now, but I ain't got a problem with that

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148

1 right now.
2 MS. WIENEN: well, what part of what's
3 submitted today for a building permit would you
4 use to administer this? we submit a foundation
5 plan, a floor plan, a site plan. I don't know
6 that there's any kind of electrical plan, the
7 sizing of bulbs submitted, is there? what's --
8 I mean, out in the county.

9 MS. DELVAUX: No, not for your outdoor
10 lighting, no.

11 MS. WIENEN: There's nothing that comes to
12 the Zoning Board when you get your permit that
13 says I'm putting two 90-watters on the corner of
14 my house. There's nothing that I guess --

15 MR. GRATTON: Yeah, what we're saying here
16 is that that will be full cutoff so it's not
17 over -- you know, so light is directed downward.

18 MS. WIENEN: But then we need to direct --
19 that has to be somewhere on the prints that are
20 submitted for approval and somebody is going to
21 have to be able to review that which is going to
22 require an electrical plan which I don't think
23 we have right now.

24 MR. GRATTON: No, that's -- what we're

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□

149

1 asking in the commercial -- if you go forward
2 here a little bit in the commercial and
3 industrial we're asking that they certify that.

4 MS. WIENEN: For commercial, but for
5 residential it doesn't require that.

6 MR. GRATTON: So we could require that
7 residences certify that as well. What do you
8 think, Linda, is that workable or doable or not?

9 MS. DELVAUX: We've not done it, so I
10 guess until we try it I don't know for sure.

11 MR. GRATTON: We're going to have to -- if
12 we adopt this as far as full cutoff and the
13 lumens we're going to have to -- somebody is
14 going to have to tell us that that meets the
15 requirements somehow if we accept this.

16 MS. WIENEN: It would also have to be
17 added to the occupancy checklist, Bill is going
18 to have to go out at night or he's going to have
19 to look at the light bulbs on the exterior. I
20 mean, enforcement of this -- it's not that it's
21 a wrong ordinance, it's just I'm not sure how
22 the people that are staffed today are going to
23 be able to make this sucker work.

24 MR. GRATTON: I think that's our main

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150

1 concern too, Cathy.

2 MS. BARANSKI: Me?!

3 MR. GRATTON: Yeah, Beth.

4 MS. BARANSKI: The way that this is laid
5 out pretty much excludes residential. The 2,000
6 lumens are above what any normal person is going
7 to put on their house and that's where the
8 intent of this is that if you go above that then
9 you have to shield it and the thing about that
10 fifth item is that -- the way this is going to
11 happen is not that Linda is going to drive
12 around looking at people's lights. If there's

13 an issue with a neighbor or -- or -- I don't
14 know, if somebody is passing by who recognizes
15 that something is not lit properly and it
16 happens to fall into this, there's a way to
17 correct it. But what you talked about at the
18 last hearing how very much of this education,
19 for the residential that's all primary
20 education. It's not meant to be regulation.
21 That's the way this is -- this is laid out.
22 It's to look for those levels that are above
23 that really are egregious and that's why the
24 commercial and industrial are targeted because

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□

151

1 they tend to use those higher discharge lamps.
2 So the idea of requiring residential to come up
3 with lighting plans, that's not how this is laid
4 out. And the only thing that is regulatory
5 really is that Item 5 and that's on the basis of
6 complaint is how it would work. And I mean, I
7 do agree you have to figure out how you would do
8 it, but I think there is a way, but that would
9 be my point.

10 MR. GRATTON: Okay. This gets -- it gets
11 difficult. First of all, let's see if we can
12 agree on some of this. We changed the lumens
13 for the light output to require the -- the
14 shielding up above. Is that reasonable? Help

15 me on this. I know lumens is the amount of
16 light, but do you have to -- we can equate that
17 to different size light bulbs just for our
18 reference and it's going to depend on the type
19 of light bulb. We can't just say a hundred watt
20 or a hundred and fifty or a 200-watt bulb gives
21 off this many lumens because you start getting
22 into Halogens and LEDs and everything and it
23 doesn't equate, it's not the same. But this is
24 basically thinking of the old incandescent light

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152

1 bulb probably, 2,000 -- starts out in the
2 hundred and fifty to 200-watt range, just in
3 that neighborhood. It might not be perfect, but
4 it's in that area. There's a definition in here
5 probably.

6 MR. MCINTYRE: The definition says
7 100-watt incandescent light bulb is
8 approximately 1,800 lumens.

9 MR. GRATTON: 1,800 lumens, so 2,000 we're
10 going to be a little over that.

11 MS. WIENEN: So any two-light yard light
12 is already over 2,000, so you're already in
13 violation of a residential district as most of
14 them come in a two-pack.

15 MR. GRATTON: So let's discuss these one
16 at a time. What about the lumen change at the

17 beginning, A-1. We did have 7 and we're going
18 to 2 -- excuse me -- 2,000.

19 MR. JANSEN: So a 2,000-watter is about a
20 hundred watt light bulb?

21 DR. TONNE: 2,000 lumens.

22 MR. JANSEN: 2,000 lumens is equal to --

23 MR. GRATTON: -- an incandescent --
24 1,800-watt incandescent, so a hundred and ten,

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153

1 twenty, hundred and twenty-five.

2 MR. JANSEN: Yeah, okay, and 7,000 is what
3 we had there before?

4 MR. GRATTON: Yeah.

5 MR. JANSEN: So that's a 350-watt light
6 bulb, if there is such an animal.

7 MR. GRATTON: Yeah, I think No. 1 is a
8 legitimate request if we're going to require
9 full cutoff. That's a reasonable place to
10 start, because you can get a lot of glare off of
11 something like that.

12 MR. JANSEN: Right.

13 DR. TONNE: You're saying leave it 2,000
14 lumens in 1?

15 MR. GRATTON: I don't have a problem with
16 that. I don't know about the rest of you.

17 MS. DAVIS: Change it from 7 to 2,000?

18 MR. GRATTON: Yeah, it's changed from 7 to

19 2 in the amendment. 7 was probably a little bit
20 high.

21 MR. JANSEN: Will this generate more
22 fixtures, changing it from 7 to 2?

23 MR. GRATTON: Depends on people's
24 individual taste and everything else, I guess.

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154

1 MR. JANSEN: Yeah. Well, I'm trying to
2 think if we're defeating this. We're doing this
3 by fixture, right? If you put up more fixtures
4 you can wind up with the same situation or
5 worse.

6 DR. TONNE: I guess, Mel, I'm going to
7 agree with you, I'm okay with 2,000 lumens.
8 This, of course, is not in an ag district
9 because it doesn't apply in an ag district.

10 MR. GRATTON: It does to non-ag
11 residences.

12 DR. TONNE: To non-ag residences in the ag
13 district, but not to ag residences or farms and
14 I don't know, speaking for myself I don't really
15 want things real bright in my driveway, you
16 know --

17 MR. JANSEN: Well, light at night is for
18 safety -- mainly safety.

19 DR. TONNE: So I'm happy with that No. 1
20 if you're asking.

21 MR. GRATTON: Okay. Does everybody agree
22 there? Okay. Let's keep moving then. The next
23 change comes down to taking the semi cutoff and
24 full cutoff restrictions and making it all full

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155

1 cutoff.

2 MR. JANSEN: Fine.

3 MR. GRATTON: I think that's a reasonable
4 request. Then we get down to the tenth of a
5 foot-candle.

6 DR. TONNE: If we were horse trading I'd
7 leave that one off.

8 MS. DAVIS: I think it makes more common
9 sense.

10 MR. JANSEN: Even if we weren't horse
11 trading I'd leave it on, but I would -- I'd like
12 to put it on the shelf with -- if something
13 happens in the future that would require us to
14 take another look at it we could revert back to
15 this, because I think there may be something
16 there, but right now I'm uncomfortable with it.

17 MR. GRATTON: Okay. Do we want to go back
18 and utilize the old language then?

19 MR. JANSEN: I would guess so, leave it
20 the way it is.

21 DR. TONNE: well, even that -- there's
22 been testimony even that is hard to enforce,

23 it's just a suggestion.

24 MR. GRATTON: But it gives you the intent

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□

156

1 of what it's trying to do. We're trying to
2 avoid the light trespass.

3 DR. TONNE: Okay, all right.

4 MS. GARRITY: Excuse me, are you on 4 or
5 5?

6 MS. DAVIS: 5.

7 MR. GRATTON: 5.

8 DR. TONNE: Yeah, that's okay I guess. We
9 have other suggestions in this ordinance.

10 MR. GRATTON: Okay. If we're going to put
11 this into a motion let's see what else we can
12 combine with it. On Amendment 9 there's a
13 definition of a foot-candle. That does appear
14 in the document, probably a no-brainer.

15 MR. JANSEN: It's located elsewhere?

16 MR. GRATTON: It is in the document
17 someplace else.

18 MR. JANSEN: Okay.

19 MR. GRATTON: Do you want to deal with
20 those two right now?

21 MR. JANSEN: Yeah, I move to accept the --
22 Recommendation No. 8 excluding 5 and the
23 Amendment No. 9 as presented.

24 DR. TONNE: You mean reverting back?

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157

1 MR. JANSEN: Excuse me, reverting to the
2 original language.

3 MR. GRATTON: In 5?

4 MR. JANSEN: In 5.

5 MR. GRATTON: Okay, and do we have a
6 second?

7 DR. TONNE: Second.

8 MR. GRATTON: We have a motion and a
9 second. Any further discussion? Okay. All
10 those in favor signify by aye.

11 (All those simultaneously
12 responded.)

13 MR. GRATTON: Opposed? Okay. We're going
14 to recommend 8 and 9, 8 with the reversion back
15 to the original language.

16 Then we're over on Amendment No. 10. This
17 will be on Page 72 of the document. One of the
18 things that is getting stricken -- or the
19 suggestion here is to strike -- this is under
20 special uses and exemptions. We're still
21 talking about lighting and there were some -- a
22 special use language in there for recreational
23 sports facility lighting and for -- that seems
24 to be stricken -- or the suggestion is to strike

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1 that. I don't have it, but somebody -- Beth, do
2 you want to give us some rationale on that?

3 MS. BARANSKI: Yeah. Many times the
4 sports facilities, those are the very brightly
5 lit things you see as you're coming along the
6 road and this just simply suggests that they
7 fall under the requirements and present a plan
8 and have the cutoff and here it said that full
9 cutoff lighting is strongly recommended and
10 since those are some of the brightest things the
11 suggestion is that they should fall under the
12 other standard and have full cutoff.

13 MR. JANSEN: Are you referencing sports
14 facilities at high schools and the like?

15 MS. BARANSKI: If they're out in -- yeah,
16 if they're out in the county.

17 MR. JANSEN: We don't have many that are
18 out in the county. Most of them are in town.
19 River Ridge is out in the county.

20 MS. BARANSKI: Yeah, yeah.

21 DR. TONNE: So you're suggesting that this
22 not be stricken?

23 MS. BARANSKI: No, that it be stricken
24 because it's making extra allowances for those

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1 facilities when, in fact, they should fall under
2 the same standards as a -- for lighting because
3 it's not a matter of not having enough lighting,
4 it's just a matter of having well-designed
5 lighting. That's the only difference. And so
6 by exempting them we're allowing that for no
7 apparent reason when you could just put cutoff
8 lighting, have sufficient lighting for the
9 facility without the negative impacts.

10 MR. GRATTON: Okay. These were the
11 special uses and exemptions. This was basically
12 the standard for this type of special use that
13 was included in here and it's being suggested
14 that we strike and let those particular uses
15 also comply with the other standards of the
16 lighting ordinance.

17 MS. BARANSKI: Right.

18 MR. JANSEN: I have a question. Are you
19 familiar with life safety codes for the school
20 districts?

21 MS. BARANSKI: Not --

22 MR. JANSEN: Probably not. I think we're
23 going to be -- and I don't know this for sure,
24 but I harken back to my -- years ago when I was

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1 on the school board that those superceded any
Page 149

2 local regulations and there were even times when
3 I know in Galena we had foot-candles that were
4 not bright enough to satisfy the life safety
5 standards so that kids would get hurt playing
6 football in a game and we had to change our --
7 our poles and lights and everything to get into
8 compliance, so I -- before we do anything with
9 this I'd like to know the answer to that
10 question.

11 MS. BARANSKI: And I'm aware of that kind
12 of thing as far as light levels, but what's
13 interesting is that I was involved when Galena
14 was doing their street lighting, we had a
15 lighting engineer come in and go all around town
16 and the thing that's just interesting is that
17 often the foot-candle levels that you get on the
18 ground are in areas where people don't -- they
19 don't think of that as necessarily bright. For
20 example, on the Highway 20 bridge there's
21 actually a very low foot-candle level on the
22 surfaces which is where you want them for safety
23 reasons, but it's perceived as a bright area,
24 brighter than other areas of town because of the

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161

1 glare and the light pollution. You just see
2 that and so you think it's bright, so it's the
3 design of the fixture. So you may have had to

4 change them to achieve the proper levels, but
5 you could do it within the standards and have
6 the cutoffs and all the other things so that the
7 light is directed to where it's needed and can
8 be used, so it's just a matter of design rather
9 than exempting it from those design standards.
10 You can still achieve the foot-candle levels,
11 but you do it without the negative impact.

12 MR. GRATTON: By leaving this out I think
13 what we're saying here is we're going to ask
14 that they be full cutoff lighting basically; is
15 that right?

16 MS. BARANSKI: Right.

17 MR. JANSEN: The only other question I
18 have is are we really going to be too concerned
19 when we have maybe 15 football games if you have
20 J-V and all that, some summertime baseball that
21 doesn't happen every night -- you know what I'm
22 saying, that this is an occasional event as
23 opposed to something that's lit up constantly
24 like a gas station or something like that?

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162

1 MS. BARANSKI: Well, that's a subjective
2 question.

3 MR. JANSEN: It is.

4 MS. BARANSKI: I would say when you drive
5 around though when you see a big bright spot

6 it's often a sports facility, so if you're a
7 person who's -- you know, that that's what we're
8 trying to avoid whether it's temporary or long
9 -- anybody -- at any time we could all turn off
10 our lights and there wouldn't be a problem, but
11 it's these occurrences that -- that add up
12 incrementally and --

13 MR. GRATTON: Okay. I think we understand
14 what the reasoning here is. Steve, you have
15 another quick one?

16 MR. MCINTYRE: I just have a question
17 about the recreational sports facility. Does
18 that also include like Chestnut Mountain?

19 MS. BARANSKI: They would be commercial,
20 wouldn't they?

21 DR. TONNE: They would be grandfathered.

22 MR. GRATTON: Any new one coming in it
23 would be commercial and there would be another
24 provision in here to cover that. So I don't

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163

1 hear any strong feeling one way or the other or
2 do I?

3 DR. TONNE: Yeah, I object to deleting A
4 myself. I know it just goes back to it being
5 strongly recommended, you know, that they have
6 full cutoff and louvers and all that -- you
7 know, provided they have the louvers and -- I

8 don't know.

9 MR. GRATTON: And this is --

10 DR. TONNE: I think River Ridge is going
11 to be grandfathered too, so I'm not necessarily
12 worried about River Ridge, but --

13 MR. GRATTON: There may be one or more in
14 our lifetime.

15 DR. TONNE: Right, this isn't going to
16 come up much anyway I suppose, but -- and it is
17 bright, there's no question about it. I can see
18 River Ridge from where I live, but --

19 MR. JANSEN: Do you know, Mike, what kind
20 of shields you have?

21 MICHAEL DITTMAR: I have no idea.

22 MR. JANSEN: The lights are on and you
23 don't even think about it.

24 MICHAEL DITTMAR: I know they're designed

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164

1 by the same company that put Wrigley Field in
2 and they're awesome lighting.

3 DR. TONNE: And they might be angled down,
4 but it bounces up and it's very bright, you
5 know, so --

6 MS. DAVIS: Beth, did Rolfe -- did he
7 address this issue or --

8 MS. BARANSKI: Yes.

9 MR. GRATTON: Okay.
Page 153

10 MS. WIENEN: Mel, I guess the question
11 would be is you need to be careful not to strike
12 it if you can't address it under the standard,
13 so I guess I would defer to a lighting engineer
14 that can come in and say I can light a football
15 field, a baseball field, a soccer field to the
16 acceptable life safety standard without having
17 to give them special permission. If we can do
18 that we can strike it. If we can't then you
19 have to leave this in here to give yourself the
20 ability to light the thing. I guess -- I can't
21 answer that. Hopefully we have --

22 DR. TONNE: I bet it can be done, but
23 that's a good point.

24 MS. WIENEN: Or is it cost prohibitive to

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165

1 a school district or an arts rec center. I
2 guess those are things -- if it can't be done
3 then we probably have to leave this in here as
4 the door to allow it, but if it can be done put
5 it under the standard.

6 DR. TONNE: Yeah, this may need some more
7 research.

8 MR. JANSEN: I do think that this needs
9 more research, because I still think that there
10 are some life safety concerns that are not
11 within our control certainly at the public

12 school level that are set by -- by Springfield,
13 the board of education or somebody down there.
14 And I'd like to know that answer before we
15 progress. I'd rather just leave that out for
16 right now and stick with what we've got.

17 MR. GRATTON: Okay. I'm feeling a
18 consensus here then that we -- for now we leave
19 that in there?

20 MR. JANSEN: Yeah.

21 MR. GRATTON: Okay. Let's move on to the
22 rest of this before we look at -- the next major
23 change is under the service station canopies
24 and the suggestion there -- the suggested change

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166

1 is to -- that they shall be recessed, that
2 lighting shall be recessed into the canopy
3 ceiling with full flat lens and full cutoff to
4 prevent glare and remove that section about the
5 2-inch projection from the ceiling. As I
6 thought about this, if we are going to require
7 full cutoff it doesn't make any difference if
8 it's recessed or if it's hung underneath the
9 canopy. In other words, if someone has one of
10 these and they want to retrofit it, are we going
11 to make them cut into the canopy to do that or
12 can they hang them on and have the full cutoff
13 on the lighting fixtures by hanging them

14 underneath?

15 DR. TONNE: well, in fact, they would,
16 again, be grandfathered if they have a canopy
17 with a light that's not recessed.

18 MR. GRATTON: Right, but when they replace
19 -- well, going forward -- there might be a cost
20 difference for whoever is doing this and if
21 we're achieving our goals does it make any
22 difference to us?

23 MS. DAVIS: I'm sure there's a standard
24 canopy that goes up on every --

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167

1 MR. GRATTON: Oh, these are more likely to
2 cause problems than our sports facilities.

3 DR. TONNE: Do you want to just say
4 lighting fixtures under any canopy shall be full
5 cutoff to prevent glare?

6 MR. GRATTON: Yeah, lighting fixtures
7 shall be full cutoff to prevent glare and then
8 that last sentence that's there and strike the
9 middle sentence?

10 DR. TONNE: Yeah, that's fine.

11 MR. GRATTON: Any -- Bonnie?

12 MR. GARRITY: When I was speaking with
13 Rolfe Gustus about this particular --

14 MR. GRATTON: why don't you come up,
15 Bonnie.

16 MS. GARRITY: I do agree with you that
17 service station canopies and service station
18 lighting is much more of an issue than sports
19 lighting given that we're probably not going to
20 have too much more sports lighting in our county
21 approved, but I believe Rolfe Gustus told me
22 that it was important to have a cutoff flat
23 lens, that that needed to be in there, a cutoff
24 flat lens. He said otherwise you can have a

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168

1 flat lens and drop it down from its housing and
2 it would be glary, so --

3 MR. GRATTON: If it's full cutoff?

4 MS. GARRITY: That was his suggestion,
5 cutoff flat lens.

6 DR. TONNE: No, I think the lens is going
7 to refer to the amount of light and its
8 direction, not the cutoff feature. Cutoff is
9 cutoff, horizontal cutoff, full cutoff.

10 MR. JANSEN: Yeah, we're already saying
11 that.

12 MS. GARRITY: And your other question that
13 you were referring to, are you asking if someone
14 wanted to retrofit and you wanted to encourage
15 them to comply with this you're asking whether
16 or not this apron around the canopy would, in
17 effect, make them full cutoff, is that what

18 you're asking?

19 MR. GRATTON: No, we're talking about the
20 lighting itself, the downward projecting
21 lighting. And the lens is there so that the
22 bulb doesn't stick down below that canopy and it
23 doesn't give you a full cutoff feature when you
24 have that lens, you know --

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169

1 MS. GARRITY: Below the light fixture, not
2 below the canopy. There's two separate things
3 there. You want it not below the light fixture.

4 MR. GRATTON: Right, but if it's -- you
5 still could have flat lens on the bottom of a
6 full cutoff fixture.

7 MS. GARRITY: Yeah, but you want it
8 recessed and flush with the ceiling.

9 MR. GRATTON: You just don't want it to be
10 a bulb or projection down that will provide
11 glare and outward --

12 MS. GARRITY: In order for it to do its
13 job it has to be flat with the ceiling is what
14 I'm trying to say and Rolfe felt that that flat
15 cutoff lens best described it. Was that your
16 understanding, Beth or --

17 MS. BARANSKI: I have no idea.

18 MR. GRATTON: Well, we can leave flat lens
19 and --

20 DR. TONNE: No, I don't think that
21 matters. Full cutoff is full cutoff.

22 MR. JANSEN: Full cutoff says it. Full
23 cutoff doesn't allow anything to protrude below
24 the bottom of the --

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170

1 MS. GARRITY: well, let me just take issue
2 with you there and I'm referring to these flood
3 lights that have become popular which are
4 supposed to be aimed down, but so often they're
5 aimed horizontally and now, that's a full cutoff
6 light but, it's aimed improperly so as not to
7 achieve the aim, so that terminology is a little
8 tricky. When you say full cutoff -- I can give
9 you a full cutoff light with tons of glare
10 protruding in the neighbor's bedroom and
11 trespassing, so full cutoff doesn't always
12 mean --

13 MR. GRATTON: But then it doesn't serve us
14 well in the other places in here by using full
15 cutoff then either.

16 MS. GARRITY: well, I can tell you that
17 Rolfe told me to always use night sky friendly
18 lighting. He said omit that term full cutoff,
19 but most people are still using it and most
20 people understand that that's what that means,
21 but there are, you know, some people that think

22 that that can be gotten around by misaiming, but
23 again, if you have that in here --

24 DR. TONNE: We might need more research on

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171

1 this too.

2 MS. GARRITY: Well, in No. 4 you say shall
3 be installed and maintained in such a manner as
4 to be horizontal to the ground. That -- that
5 says it. If you have that with full cutoff
6 you're achieving your purpose. Did you leave
7 No. 4 in? You left No. 4 in?

8 MR. JANSEN: I don't have 4.

9 MS. GARRITY: Oh, it's 8-4e-3.

10 MR. GRATTON: Okay. Do we have that?

11 MS. GARRITY: You know, you left 5 as --

12 MR. GRATTON: I think we left it there,
13 didn't we?

14 DR. TONNE: Uh-huh, yeah.

15 MS. GARRITY: You left 4 in above 5 there?

16 DR. TONNE: 3 is in.

17 MR. MCINTYRE: Now 3, but yeah.

18 MR. GRATTON: 4 is in.

19 MS. GARRITY: Well, I'm not suggesting
20 that you change your terminology because that
21 does take care of it as long as they're aimed
22 horizontal to the ground then you are achieving
23 your night sky friendly aim. But just one more

24 comment that Mr. Gustus suggested. He thought

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172

1 that the service station -- he wanted to make
2 sure that the service station canopy lighting is
3 -- service station lighting in general is going
4 to comply with the outdoor lighting standard.
5 In other words, not only the canopy, but the
6 rest of their lighting. Is that your intent?

7 DR. TONNE: well, this is narrow. This
8 says service station canopies, so the rest would
9 comply, I guess.

10 MS. GARRITY: If they were over 2,000
11 lumens they would fall under that.

12 DR. TONNE: I suppose.

13 MS. GARRITY: Okay. Thanks.

14 MR. GRATTON: Okay. Do we want to --
15 that's Amendment No. 10, does that complete 10?

16 MR. MCINTYRE: No, I've got something I
17 need to --

18 MR. GRATTON: Steve?

19 MR. MCINTYRE: Under I for the aviation
20 facility lighting there needs to be wording in
21 there that says is exempt from the provisions of
22 this code. That wasn't included in my -- in my
23 definition of that. I'm sorry about that. It's
24 probably my fault. Sorry.

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173

1 MR. GRATTON: Under --

2 MR. MCINTYRE: Under aviation facility
3 lighting which is I there needs to be something
4 that says that ILS landing lights, the heliport
5 landing lights, etcetera, need to comply with
6 that FAA standards and state standards and is
7 exempt from the provisions of this code.

8 MS. WIENEN: This whole section is the
9 exemption.

10 MR. MCINTYRE: No, but it is also special
11 use and exemptions, so if you don't say it's
12 exempt, it may be a special use, so I want to
13 make sure it's --

14 MR. GRATTON: But it's not saying that for
15 all of these, Steve and --

16 MR. MCINTYRE: Yeah, it does. Up above on
17 H it says state maintained roadway is exempt,
18 temporary lighting provision is exempt from the
19 provision of this code, emergency lighting is
20 exempt from the provision of this code. I mean,
21 in other areas like holiday lighting is exempt
22 from this code, so I'm just trying to follow
23 through.

24 MR. GRATTON: You're right. And what was

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1 the wording at the end there?

2 MR. MCINTYRE: Is exempt from the
3 provisions of this code. Thanks.

4 DR. TONNE: Thank you.

5 MR. GRATTON: All right. Should we do
6 that much and then move on to the next one?
7 we're still on lighting, but let's --

8 DR. TONNE: One more little thing on
9 lighting which is Amendment 11.

10 MR. GRATTON: Let's deal with that at the
11 same time.

12 DR. TONNE: My only question, and maybe
13 somebody can clarify this, was the hundred
14 thousand and then I plead ignorance on what is
15 the difficulty and the relative cost or whatnot
16 of a photometric lighting plan. Of course, this
17 is commercial and industrial.

18 MR. GRATTON: Okay. Bill --

19 DR. TONNE: why did we strike the 100,000?
20 In other words, all of them are going to have to
21 do this lighting plan. Commercial is a pretty
22 broad term actually. It's not residential, it's
23 not ag, but it's perhaps fairly broad. It
24 includes a lot of small operations. So maybe,

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1 maybe we ought to say a hundred thousand or
2 50,000 or something.

3 MR. GRATTON: Well, Bill, what we have
4 here is certification and how do we certify that
5 this is what we want it to be and as Linda and I
6 looked at this, why don't we change this
7 language slightly to say commercial and
8 industrial installations must certify that the
9 lighting system is designed and installed and it
10 conforms with all the applicable provisions of
11 this code. What we're doing is asking for a
12 certification and why do we need even the
13 hundred thousand on there? Let those people who
14 are presenting this provide that certification
15 to us that it does meet the provisions of the
16 code. I think you have that, Melissa. Does
17 that make any sense?

18 DR. TONNE: Maybe.

19 MR. JANSEN: Well --

20 DR. TONNE: At this hour.

21 MR. GRATTON: Yeah, we're going to have to
22 wrap up.

23 DR. TONNE: Yeah, okay, agreed.

24 MR. GRATTON: Okay, so can we put these --

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176

1 you want me to read it out loud? This is under

2 certification, 8-4e-5. Commercial and
3 industrial installations must certify that the
4 lighting system's design and installation
5 conforms to all applicable provisions of this
6 code. Okay. Who wants to wrap their arms
7 around some kind of a motion for lighting?

8 MR. JANSEN: You can.

9 DR. TONNE: Starting with --

10 MR. GRATTON: 8-4e-4.

11 DR. TONNE: No. 10 and No. 11, so No. 10,
12 as we've discussed, begins -- this is 4e-4,
13 special uses and exemptions, A, recreational
14 sports facilities lighting, etcetera and in
15 Amendment 10 where it says A, that actually
16 becomes B and reads lighting fixtures under any
17 canopy shall be full cutoff to prevent glare.
18 The portions of the canopy not included in the
19 sign area shall not be illuminated.

20 MR. GRATTON: Bill, is A in or out?

21 DR. TONNE: A is then in.

22 MR. GRATTON: A is in?

23 DR. TONNE: Yeah.

24 MR. GRATTON: Then it's still A, right?

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177

1 DR. TONNE: Yeah, that's what I'm saying
2 and A becomes B.

3 MR. GRATTON: For the service station,

4 okay.

5 DR. TONNE: And B becomes C, etcetera and
6 the only other change to that is that we add
7 Steve's words at the end of I, "is exempt from
8 the provisions of this code". And then
9 continuing with my motion County Board Amendment
10 No. 11 reads, Mel, commercial and industrial
11 installations must certify that -- as you said
12 earlier. I didn't get the rest --

13 MR. GRATTON: Melissa has that language.
14 So that language?

15 DR. TONNE: Yes, that's my motion.

16 MR. JANSEN: Now, coming back to A, the
17 first A, we're going to leave all this in?

18 DR. TONNE: Yeah.

19 MR. JANSEN: This is exactly what's in the
20 ordinance now?

21 MR. GRATTON: A is.

22 MR. JANSEN: Yeah, A is unless I'm
23 misreading it here. It looks like everything is
24 the same, so if you -- if we crossed it out we

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178

1 wouldn't have anything.

2 MS. DAVIS: That's correct.

3 DR. TONNE: We wouldn't have the
4 exemption.

5 MR. JANSEN: Right, that's what I'm

6 saying.

7 DR. TONNE: Yeah, this is the football
8 fields.

9 MR. JANSEN: Right, I'm thinking about
10 that.

11 MR. GRATTON: Do we have a second to the
12 motion?

13 MS. DAVIS: I'll second it.

14 MR. GRATTON: Susie made the second. Now,
15 any further discussion?

16 MR. JANSEN: I'm trying to get my arms
17 around this first A. If -- here we wanted to
18 take it all out so it wouldn't be in the
19 existing ordinance, am I right? So whoever did
20 this -- whoever made that recommendation would
21 have left us without any -- without any
22 exemption. I don't even know if we have the
23 right to an exemption or not. That's a question
24 that I'd like to have answered on this one.

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179

1 DR. TONNE: That's why I'm putting it back
2 in.

3 MR. JANSEN: Yeah, I think we should leave
4 it there for now and I think we need to do some
5 homework, because we may be outside of our
6 purview as far as approval. There may be some
7 standards, there may not be, you know, maybe --

8 maybe the State has changed its mind since then,
9 who knows. Go ahead. I'm done.

10 MR. GRATTON: So you're speaking in favor
11 of the motion?

12 MR. JANSEN: I am, I am.

13 MR. GRATTON: Any other discussion? Okay.
14 Members, all those in favor of the motion as
15 presented and I'm not going to read all that
16 again, signify by aye.

17 (All those simultaneously
18 responded.)

19 MR. GRATTON: Opposed? Okay, so then we
20 will recommend Amendment No. 10 and 11 as
21 presented in Bill's motion I believe. Now, the
22 question comes it's 10:40. We've got a few
23 areas to go over, not a lot. Do we want to try
24 to finish this this evening? I'm not sure --

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180

1 we've got temporary uses and what else? We've
2 already done some of these others. Temporary
3 use is the only thing we have left to cover and
4 then anything else the public wants to talk
5 about.

6 MR. JANSEN: We're directed to go chapter
7 by chapter?

8 MR. GRATTON: Well, we're going amendment
9 by amendment right now.

10 MR. JANSEN: Well, when we're done with
11 this --

12 MR. GRATTON: Then we can go chapter by
13 chapter if anyone has some new information.

14 MR. JANSEN: If I knew --

15 MR. GRATTON: Do we have enough time to
16 complete the process tonight?

17 DR. TONNE: I think so.

18 MS. DAVIS: The temporary uses --
19 (inaudible) --

20 DR. TONNE: I agree, you're saying it
21 would go fairly quick, yeah.

22 MR. JANSEN: If I knew what the audience
23 wanted out of the rest of the --

24 MR. GRATTON: Let's do this. Let's go

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181

1 through this temporary use and see how long it
2 takes and then see what kind of input we have
3 for the rest of the night. If we can wrap this
4 up before 11, let's do it. If not, let's at
5 that point decide -- does that sound reasonable?
6 Okay.

7 we're looking at County Board Amendment
8 No. 12 then which is temporary uses and what
9 this is -- what has happened here is a lot of
10 the use language in here has been stricken and I
11 think -- Linda and Melissa, did you give

12 everyone a clean copy of that?

13 MS. DELVAUX: Melissa can put it up on the
14 screen.

15 MR. GRATTON: You did give me one here
16 someplace. Let me find it -- of how this might
17 look with all the language out of there.
18 Basically when I went over this it looked like
19 -- these uses came out of a -- we refer to these
20 as kind of the woodstock scenario. They were
21 put in there to prevent things that -- uses that
22 might cause situations in the county that we
23 really didn't want. I think the suggestion on
24 this amendment is to eliminate a lot of them and

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182

1 still maintain some of the control that you
2 might want over these types of issues. Type 1,
3 temporary uses, has just one line left in it.
4 Seasonal sale of ag products and -- but not
5 limited to farmers markets.

6 DR. TONNE: Mel, if I might, having read
7 this and studied it and thought about it I like
8 the amendment in its entirety, you know, I
9 really do. You know, a lot of things are
10 stricken. It's a serious change. It's going to
11 save a couple pages -- no, it's going to save
12 more than that.

13 MR. GRATTON: It really will.

14 DR. TONNE: So that's my comment. I don't
15 know if we need to go through it paragraph by
16 paragraph except maybe you disagree with me on a
17 certain paragraph.

18 MR. GRATTON: I'm just going to point out
19 one of the changes in the WEC test towers is
20 that we took out that the owner has the primary
21 -- the owner of a primary structure may waive
22 the setbacks, that is stricken in what we're
23 considering. Any other major strikeouts that
24 anyone wants to comment on?

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183

1 MS. DELVAUX: Mel, I'd just like to point
2 out that even though we're striking it there's
3 still an opportunity at public hearing for the
4 owner to say that, you know, they would be
5 willing if the commission would include that in
6 their, you know, special use to whatever, that
7 -- that it can be done, but it can be done
8 either administratively or --

9 DR. TONNE: Okay.

10 MR. GRATTON: Okay. You did make a
11 motion?

12 DR. TONNE: No, but I just made a comment.
13 I could make a motion.

14 MR. JANSEN: why don't you.

15 DR. TONNE: Yeah, I make a motion we

16 approve Amendment 12 as submitted from the
17 County Board -- County Board Amendment No. 12
18 and I would thank them for the work they did on
19 it actually.

20 MR. GRATTON: Okay. We have a second by
21 Nick. As far as discussion I think it does take
22 a lot of the excess verbiage out of this
23 particular area of the document. This was a
24 document that we utilized from another zoning

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184

1 ordinance and if it can accomplish a -- most of
2 what we want it to without all that verbiage I
3 think it's -- it's applicable, so I would concur
4 with that motion. Anybody else have comments?
5 Okay. All those in favor of the motion signify
6 by aye.

7 (All those simultaneously
8 responded.)

9 MR. GRATTON: Opposed? Okay. We will
10 recommend adoption of Amendment No. 12 then as
11 presented.

12 Amendment 13 is a definition and this is a
13 definition of temporary use and it simply says a
14 use which is only allowed for specific -- excuse
15 me -- a specified period of time, period. Okay.

16 DR. TONNE: Yeah.

17 MR. JANSEN: And it supercedes No. 1?

18 MR. GRATTON: You mean Amendment No. 1?
19 Yeah, it's basically the same, yeah.
20 MR. JANSEN: Okay.
21 MR. GRATTON: So if we adopt this we don't
22 have to go back to No. 1.
23 MR. JANSEN: Move to adopt No. 13.
24 MR. GRATTON: Okay. Second?

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185

1 DR. TONNE: Second.
2 MR. GRATTON: Any discussion? All those
3 in favor signify by aye.
4 (All those simultaneously
5 responded.)
6 MR. GRATTON: Opposed? Okay. We will
7 recommend that definition of No. 13 be included.
8 No. 14 for amendment, if you will recall
9 we talked about the taking out -- we talked
10 about nonconforming uses in this particular
11 instance. I think last session we took out
12 nonconforming structures when they were damaged
13 beyond 50 percent, we struck that and what this
14 is asking us to do is to also strike that in
15 structures that fall under the nonconforming use
16 section of that document. The original
17 discussion we had, I can remember it very well,
18 we sat around the table and we all looked at
19 each other and the reason for trying to get rid

20 of nonconforming uses is because you clean up
21 your ordinance and you go in the direction that
22 you decided that you wanted to go as a county.
23 And you can either say you don't allow any of
24 this stuff to be rebuilt or redone, you can

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186

1 allow part of it with partial destruction like
2 we did here or you can say no, we -- you know,
3 go ahead and rebuild it. I think we took the
4 middle road and I don't think there was a real
5 strong, you know, feeling at that time that that
6 was a better or worse way, but this is taking it
7 back to -- on the structures back to somewhat
8 similar to where we are today.

9 DR. TONNE: The current ordinance, yeah.

10 MR. GRATTON: Somewhat similar. There's
11 other changes in here, but on the structures and
12 the uses for the structures it strikes that. So
13 any discussion? Anybody out here want to --
14 yes, sir?

15 MR. TAYLOR: Peter Taylor, Elizabeth
16 Township. B, Paragraph 3, third line mentions
17 replacement of storage tanks. We don't have a
18 definition of storage tanks. Is this the little
19 gas tanks? Is this an LP tank? Is this a ten
20 million gallon corn facility?

21 MR. GRATTON: I guess they're all included

22
23
24

way this reads, aren't they?
MR. TAYLOR: At the moment we don't know
what it is, so I'm wondering is the zoning

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□

187

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administrator enough of an engineer to know what
needs to be done with different kinds of storage
tanks especially the big permanent facilities?
DR. TONNE: She is.
MR. GRATTON: What are you suggesting,
Pete?
MR. TAYLOR: I just would feel better if
it said what kind of storage tanks. I'm
guessing it means LP tanks, but that's because
it doesn't say.
MR. GRATTON: Broadly interpreted I would
read this to say it includes all those tanks --
all tanks. Now, is that what we want it to say
I guess is the question, so I haven't given a
lot of thought to that. We're saying that these
are nonconforming. In other words, in our
present ordinance they wouldn't be there or in
our new ordinance they wouldn't be there, but
that if something happens we can replace or
repair them. Are we talking underground storage
tanks -- we'd have to come up with a pretty good
definition here if we're going to define this.
AUDIENCE MEMBER: Any underground or fuel

24 storage you're going to have the EPA involved in

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□

188

1 it and they're going to tell you what to do.

2 MR. GRATTON: Irregardless of our
3 ordinance, yeah.

4 AUDIENCE MEMBER: Any cleanup or anything
5 it will all be handled by -- by them.

6 MR. GRATTON: Unless there was -- let's
7 say there was a petroleum terminal or something
8 and you had a hundred thousand gallon tank out
9 there, what we're saying is you can repair that
10 or replace it if you want to.

11 MR. MCINTYRE: Well, there are some farms
12 that have very large LP tanks too.

13 MR. GRATTON: Oh, there are. I'm thinking
14 more like the petroleum tank farms though. I
15 don't know if we have any or a lot in Jo Daviess
16 County. We do have the more moderate storage
17 tanks probably out there. We're saying that if
18 they're damaged with this you can repair or
19 replace it. Is that what we want to say?

20 MS. WIENEN: So as an example, this would
21 be like the farm service terminal down there by
22 the refuse transfer, so if something gets
23 damaged they can't fix it?

24 MR. GRATTON: No, we're saying they can.

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1 MS. WIENEN: I know, but I guess then my
2 question is if it's -- replacement might be
3 different from repair, but then we're striking
4 that whole destruction thing though, right?

5 MR. GRATTON: But that's probably not a
6 good example because that probably would not be
7 a nonconforming use. We're talking about
8 nonconforming uses, so these might go back some
9 time.

10 MS. WIENEN: It might be there long enough
11 to be conforming.

12 MR. GRATTON: Yeah, if they've been there
13 forever.

14 DR. TONNE: I think the spirit of No. 3 is
15 consistent with 1 and 2. You know, you're doing
16 ordinary repair and maintenance on
17 nonconformities and this just references tanks.
18 If your tank is getting rusty you can replace it
19 in the same location.

20 MS. WIENEN: I guess --

21 DR. TONNE: You know, I would either
22 strike it because we don't know what a tank is
23 or I would leave it alone, it's fine.

24 MS. WIENEN: You should be able to repair

1 anything.

2 DR. TONNE: Yeah, that's what the spirit
3 of B is.

4 MS. WIENEN: Yeah, you should be able to
5 repair it without having to get a permit.

6 MR. GRATTON: That's what we're saying.
7 Okay. So do I hear people saying that they're
8 comfortable with that?

9 DR. TONNE: Yeah.

10 MR. GRATTON: What about the removal of F,
11 that was the --

12 DR. TONNE: We've heard a lot of testimony
13 about that and we can always put it in a year
14 from now if it's a problem I guess, but I say
15 let it be stricken.

16 MR. GRATTON: Any other discussion? Any
17 other comments? Yes, sir?

18 RICK DITTMAR: Rick Dittmar from Woodbine
19 Township. On nonconforming uses first I have a
20 question. Is that like an ag repair shop or a
21 welding shop being used, you know, a building
22 next to the residence or something, is that what
23 we're talking about?

24 DR. TONNE: Probably not.

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1 MS. DELVAUX: Nonconformities refer to
2 things that are not allowed which are happening
3 in a district which they're normally not allowed
4 to happen. They're things that were there prior
5 to an ordinance being adopted. Those are
6 nonconformities. You own a car repair shop and
7 it's out in the middle of an agricultural piece
8 of property or residential piece of property --

9 RICK DITTMAR: That's what I'm talking
10 about. It's been there for maybe 30 years.

11 MS. DELVAUX: And it's not something
12 that's permitted in that particular zone, but
13 it's been there and it may continue to be there,
14 but it is considered nonconforming. It means it
15 doesn't comply.

16 RICK DITTMAR: I still think it's too
17 restrictive, because these people are -- they're
18 running a business, they're paying taxes,
19 they're hopefully making money and by
20 restricting them from extending their business
21 or enlarging it I think we're hurting the county
22 eventually and three businesses within three
23 miles from where I live you wouldn't know they
24 were running a business if you didn't -- if you

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192

1 drove by and you weren't familiar with the area.
2 I mean, there's no signs and things like that

3 and I just think it's too restrictive, but
4 another question I had is are they allowed to
5 sell that business when they retire -- the
6 nonconforming business?

7 MR. AKEMANN: Yes, it's a use issue, not
8 an ownership issue.

9 MS. DELVAUX: And some of those uses may
10 be considered home occupations, it depends on
11 what they're doing whether it --

12 RICK DITTMAR: The ones I'm -- the
13 examples are a steel shed next to their
14 residence where they're doing welding repair, ag
15 repair, plumbing, things like that.

16 MR. GRATTON: And you'll find in here that
17 some of that falls under the home occupation
18 standard as well and it would be allowed for
19 that owner/operator to do that. It would also
20 be permissible for him to have one employee.
21 Now, if he wants to go beyond that and make it a
22 bigger endeavor, whatever it might be, then
23 you'd have to go through the process and see if
24 you could bring it into a conforming status as

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193

1 a --

2 RICK DITTMAR: well, why couldn't you do
3 like a case by case basis?

4 DR. TONNE: we do.

5 MR. JANSEN: That's exactly how it's done.

6 MR. GRATTON: If it's to be expanded or
7 changed in any way --

8 RICK DITTMAR: It says it's prohibited,
9 but -- like enlargement, no --

10 MR. GRATTON: Enlargement is prohibited.

11 RICK DITTMAR: Extension, a nonconforming
12 use shall not be extended, expanded, enlarged or
13 increased in intensity. It doesn't say you can
14 get special permission from the Board.

15 DR. TONNE: To a land area other than that
16 it's on.

17 MS. DELVAUX: That's not -- that's not
18 what this one says. This one refers to the
19 actual use and yes, they can come and make it
20 compliant. You can always request to make it
21 compliant, but they're saying if it remains a
22 nonconformity that they're saying -- that this
23 is saying that it cannot do that expansion.

24 MS. WIENEN: So your option would be to

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194

1 get a special use for your nonconforming use so
2 that you can expand it?

3 MS. DELVAUX: So that it's not
4 nonconforming anymore.

5 MS. WIENEN: So it would be a special use,
6 but then do we have to modify our table to allow

7 some more special use permits in some of these
8 districts for this nonconforming stuff like --

9 MR. GRATTON: No. The types are already
10 in there -- I mean the types of activity, all
11 those uses are --

12 MS. WIENEN: Oh, but they're really not.
13 Like some of the things he mentioned aren't even
14 allowed in an ag district when you look at the
15 table, so you would never come into compliance
16 by getting a special use permit because special
17 use is not allowed in that district for
18 agricultural sales and service.

19 MS. DELVAUX: Under -- on Page 76, one,
20 two, three, four -- five down we have rural
21 business uses when found to be compatible with
22 established uses on adjoining property are
23 special uses in agricultural districts. We can
24 bring you forward to the commission for them to

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195

1 review the request to see if it's compatible
2 under that particular clause.

3 MS. WIENEN: Okay, but then if we look at
4 the second page, 77, a repair service is not
5 allowed in an ag district under any
6 circumstances, so how -- I guess how do these
7 two pages work together then?

8 MR. MCINTYRE: Yeah, I had that same
Page 182

9 question.
10 MS. WIENEN: Does this No. 5 that you
11 brought up, the rural business, supercede -- we
12 talked about this at the last one and it was
13 midnight and I gave up, but I mean, shouldn't
14 there be some continuity between these two?
15 Because couldn't someone just cite what you say,
16 repair service is not allowed, so therefore you
17 can't use rural business to override it or does
18 it work the other way around that you could be
19 subjective and use rural business to override --
20 like daycare isn't allowed, so a farm wife can't
21 have a daycare center in her house because she's
22 in an ag district? I'm not sure we want to
23 really nuke the small businesses like this. If
24 they want to come into compliance it's going to

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196

1 be risky business.
2 MR. GRATTON: Oh, it could be.
3 MS. WIENEN: The way it's written here it
4 could be very dangerous.
5 MR. CASWELL: Could I suggest that the use
6 standards are actually an area that might
7 engender discussion that goes more than three
8 minutes?
9 MR. GRATTON: Yeah, you may.
10 DR. TONNE: You can say that, but we've
Page 183

11 already had six years.

12 MR. CASWELL: I understand that, but --
13 and I understand you guys are tired of it, but
14 you've been very patient and I would suggest and
15 request that maybe you just do one more day so
16 that people can talk about the use standards.

17 DR. TONNE: well, before you get to that
18 point --

19 MR. GRATTON: If you want to --

20 MR. CASWELL: I have some issues and I
21 want to talk about them, so --

22 MR. GRATTON: Okay. That's next after
23 this, but what about the nonconformities, that's
24 what we want to deal with first and then I think

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197

1 somebody -- Dave and others might want to spend
2 some time on the table. Steve?

3 MR. MCINTYRE: I do have -- there's two
4 points I want to make about the nonconforming
5 use. One is I would like to add in my support
6 for deleting the F from the ordinance. Also --
7 F being the destruction and damage of a
8 particular structure that has a specific -- a
9 nonconforming use in it and then I also want to
10 bring to light the -- the thing that was brought
11 up over here which talks about the extension of
12 this nonconforming use and I'll give you a

13 specific example of a nonconforming use that is
14 in existence at Apple Canyon Lake and that being
15 our solid waste disposal that we have there at
16 that -- at our Apple Canyon Lake facility which
17 is in an RP district. We have a dump --
18 basically a solid waste facility there and as we
19 grow and add more homes that may need to be
20 expanded upon and get into something that's a
21 little bigger because it needs to support more
22 homes than the 900 homes that we have there now.
23 We have 2,727 lots, it might get a little bigger
24 and if we totally exclude the expansion of a

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198

1 nonconforming use, which from the way I read
2 this in the use table, is that that waste
3 facility that we have there is a nonconforming
4 use and therefore we can't expand it and now we
5 got a situation where we either have to abandon
6 something that actually is a moneymaker for the
7 association and go to something where we have
8 some truck come in or something else, I don't
9 know, but it's an example of an expansion type
10 thing, an extension of what we already have and
11 I don't know how to handle it and I don't know
12 the answer to it, but there are real live
13 examples out there that might hurt us.

14 MR. GRATTON: well, there are examples and
Page 185

15 I think that use that Linda stated earlier,
16 we've had a lot of those in our old ordinance
17 and that -- you know, it's kind of a catchall
18 and you need that in there because, you know, in
19 all of our wisdom we can't think of everything.
20 we could do this forever and still miss
21 something, so there is that catchall there
22 whereby you would be able to, you know, come in
23 and request that and I can't remember too many
24 of those legitimate requests that ever get

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199

1 denied. I mean, it's not like we want to put
2 somebody out of business. You know, we don't
3 want to say that Apple Canyon Lake -- you can't
4 get rid of your waste, that doesn't make any
5 sense for any of us, so yeah.

6 MR. MCINTYRE: I have another --

7 AUDIENCE MEMBER: What -- I missed the
8 catchall, where's the catchall?

9 MR. GRATTON: Where was that, Linda?

10 MS. DELVAUX: Page 76. It's the fifth one
11 down under use type.

12 MR. GRATTON: On Page 76. Okay. Let's
13 confine our discussion to the nonconformities
14 that we're looking at here and then we're going
15 to move on to something else and maybe move
16 forward. Go ahead.

17 MS. SMITH: Marje Smith, Apple Canyon
18 Lake. In conjunction with Steve's example here
19 with our recycling centers and waste management,
20 if it were to be expanded does this preclude
21 then the possibility of establishing a second
22 location within the association since it would
23 be a nonconformity item?

24 MR. JANSEN: An additional location?

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200

1 MS. SMITH: An additional location, yeah,
2 because possibly if there's not enough room to
3 expand the one and then we needed additional
4 space does this nonconformity preclude the
5 possibility of establishing a second one on the
6 other side of the lake perhaps on property that
7 is -- that is the association property?

8 MR. GRATTON: My response is why wouldn't
9 you want to try to do that, but do we have an
10 issue with --

11 MR. AKEMANN: I think the answer to the
12 question is yes, without rezoning it to an
13 acceptable permitted use in another district.
14 You're talking about a completely different
15 parcel in another place, that wouldn't be a
16 nonconforming use, that would be a new one.

17 MR. GRATTON: On nonconforming uses any
18 other input? Mike?

19 MICHAEL DITTMAR: Yeah, I have a question
20 kind of going back to what my dad said. If you
21 have a rural business -- we live in tough
22 economic times right now and if you have a rural
23 business that is doing well and can expand to
24 have more jobs why would we want to restrict

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201

1 that?

2 DR. TONNE: To save ag or tourism.

3 MICHAEL DITTMAR: That's more money for
4 the county, that's progress, it's growth.

5 DR. TONNE: We might be granting it for
6 that because it would fit the Comprehensive
7 Plan.

8 MICHAEL DITTMAR: But for like a welding
9 shop there's not even an S or a P there, it's
10 not required -- I mean it's not allowed. You're
11 going to have to put Ss down that whole column
12 then if what you just said is true.

13 MS. WIENEN: Right now the ordinance does
14 not even allow you the option of having a
15 special use hearing. If you're nonconforming
16 you're screwed, yeah, so it's like do we need to
17 leave ourselves a back door that says if someone
18 wants to present themselves to say I would like
19 to come into conformance because I can hire ten
20 more people, right now the Board cannot accept

21 that because it doesn't allow it.

22 MR. GRATTON: You're saying in the use
23 table it doesn't allow it, correct?

24 MS. WIENEN: If you're a nonconforming use

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202

1 you can't expand and you can't come for a
2 special use because it's not allowed.

3 MR. GRATTON: I don't agree with that.

4 MR. JANSEN: I don't either.

5 MS. WIENEN: That's what it says.

6 DR. TONNE: No.

7 MR. GRATTON: No. What Linda was just
8 telling you, do you remember that --

9 MS. WIENEN: Right, but that says if you
10 are in companion with the adjoining properties.
11 well, if the adjoining property is a farm what's
12 that have to do with a welding -- I mean, that's
13 pretty vague.

14 DR. TONNE: well, in an ag district we
15 have all kinds of -- you know, trucking
16 companies and welding shops and things that are
17 compatible with ag.

18 MS. WIENEN: Right, but when you say
19 compatible with established uses on adjoining
20 properties that is a hugely subjective thing. I
21 mean, we've all seen it happen.

22 DR. TONNE: Uh-huh, that's why we have a
Page 189

23 public hearing.

24 MS. WIENEN: And we've seen people get

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203

1 shot down because a neighbor doesn't like
2 something when it might be five new jobs, so I
3 guess I'm not sure -- I'm not sure this is
4 really well balanced going forward.

5 DR. TONNE: well, zoning, like real
6 estate, is a question of location.

7 MS. WIENEN: I understand that, but what
8 -- we need to be able to give people the option
9 to come into compliance. If -- if they truly
10 are saying that -- that fifth item on there is
11 the answer then we should take the rest of these
12 out.

13 DR. TONNE: Through the Chair I'm going to
14 ask -- I'm going to ask the attorney, we've been
15 challenged in the State of Illinois, indeed in
16 this county, on the subject of nonconformities
17 versus special uses and it was held up that a
18 nonconforming like Chestnut, for instance, can
19 put in more ski rods, but they can't buy more
20 land and put in more ski rods, okay. Then
21 subsequent to that court test our ordinance was
22 amended which would identify Chestnut as a
23 special use, okay, which would bring them back
24 here for more ski rods in front of us as I

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204

1 recall, something like that.

2 MR. AKEMANN: well, they're not a special
3 use.

4 DR. TONNE: well, there was a test on this
5 and our ordinance was later amended to allow
6 them to be categorized now as a special use in
7 the ag district and I wish Jim Otis (phonetic)
8 was still alive because he knows the answer.

9 MR. AKEMANN: well, I'm familiar with the
10 case, of course, and the case indicated Chestnut
11 to expand because the zoning ordinance at the
12 time did not prohibit an expansion.

13 DR. TONNE: Because they were a
14 nonconformity.

15 MR. AKEMANN: They were nonconforming, but
16 the ordinance at that time, unlike currently,
17 did not prohibit expansion, enlargement,
18 increasing intensity, so they could.

19 DR. TONNE: It did not deny increased
20 intensity, but it did deny expanded land for
21 nonconformities.

22 MR. AKEMANN: well, expand beyond the
23 current nonconforming parcel, yeah.

24 DR. TONNE: Correct.

1 MR. AKEMANN: Yeah. I guess I'm not sure
2 what the question is.

3 DR. TONNE: I think then a nonconformity
4 can come for a special use in an ag district.
5 It doesn't mean they'll be granted. I don't
6 know, ski lodge, ag district, that's a lot of
7 jobs.

8 MR. AKEMANN: well, any nonconforming use
9 can become conforming by rezoning to a different
10 district or if it would be permitted as a
11 special use in the same district they're
12 currently in by applying and getting a special
13 use, but that's what you encourage to have
14 happen. The point of nonconforming uses from a
15 land planning issue is you really don't want
16 them in their current location for whatever
17 reason you've decided truth and beauty doesn't
18 allow this use in whatever district it's in.
19 And obviously as we've gone over at least a
20 hundred times that I'm aware of that you can
21 either have what the old ordinance did is had no
22 restrictions at all, expand, enlargement, your
23 shop that's a welding shop, I want to expand my
24 use, I'm going to put in a K-Mart, I can expand

1 it, you can't stop me, that's what you want,
2 that's what you can have, okay, that's -- that's
3 unlimited expansion because that's what
4 everybody wants. K mart, Wal-Mart, whatever it
5 is, you pick it, I can expand my commercial use,
6 that's now nonconforming to whatever I want,
7 however many employees I want, however many
8 buildings, whatever, that's what you got, you
9 can do that, you can allow that if that's what
10 you want. The other option which, you know, I
11 was asked to originally draw that was quickly
12 removed was amortization which is you can
13 eliminate them all which you have never selected
14 to do, but you currently have -- you have a
15 nonconforming use, you don't want it to be
16 nonconforming, you want to encourage conforming
17 uses and so you allow people to come in and ask
18 for rezoning, possibly a variation depending on
19 what the problem is or asking for a special use
20 if it's an allowed special use in that district
21 that's what -- what you can do.

22 MR. GRATTON: Okay. Due to the hour here
23 I'm going to make a decision. We're going to --
24 we're not going to finish tonight, so let's

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1 leave nonconformings on the table for the moment
2 and give that some more consideration. What I
3 would like to do before we move to continuance
4 here is to ask those who are in attendance what
5 else would you like us to address and is there
6 some homework we can do prior to our next
7 session to expedite that process. Steve, real
8 quick?

9 MR. MCINTYRE: I don't know if Dan is
10 going to address it or not, but it has to do
11 with the use table regulations. When I read the
12 not permitted under 8-5, 8-4 I see that any hole
13 in the use table means it's not allowed. So I
14 think we need to do some homework as to what may
15 be allowed and what may not be allowed as even a
16 special use permit in some of these -- in some
17 of these areas. Like, for example, I'll just
18 give you a real quick one. Wind energy
19 conversion, private is not allowed at my house
20 if I'm in an RP district or it's not allowed at
21 my house if --

22 MR. GRATTON: Well, we can go over the
23 rationale for that, but let's not go into
24 specifics. What would you like to see

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208

1 addressed?

2 MR. MCINTYRE: I would like us to go over

3 that use table again to -- based on some of the
4 conversations we've had here and based on some
5 of the things about is it allowed or is it not
6 allowed and how it affects the neighborhood. We
7 already have established -- like Apple Canyon
8 Lake, Galena Territory and some of those that
9 are not in a municipality but actually are -- do
10 have a group of people, we need to look at that.

11 MR. GRATTON: I hear you and, Dan, was
12 that what you would like us to do as well?

13 MR. CASWELL: Not exactly. The use
14 standards specifically I think need further
15 discussion. There are specific ones we might
16 want to talk about, but I also would like to
17 talk about the general philosophy of use
18 standards and the idea of trying to identify
19 every permitted or special use which we've
20 already admitted we can't do and otherwise
21 prohibiting things so that there's a philosophy
22 there that I want to talk about and I'd be happy
23 to hand you a paper that I've prepared which has
24 Issue No. 4 as the issue. You can ignore the

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209

1 rest of it because we've already talked about
2 it.

3 MR. GRATTON: Okay. Okay. We'll do that.
4 What else do we need to be looking at? Cathy?

5 MS. WIENEN: One thing that I've talked to
6 a couple of bankers about and they really
7 haven't gotten a legal disposition on these
8 smaller parcels, but if someone comes in for a
9 special use to build their home, special use
10 traditionally was defining a use and did not run
11 with the land, a zoning change ran with the land
12 and there were some questions about, quite
13 frankly, lending money to people who build
14 something on a special use and if the special
15 use is going to be permanent and run with the
16 land why don't we just make a zoning change and
17 I guess that's --

18 MR. GRATTON: Okay. We can have that
19 discussion. We've had it many times, but the --
20 what we're looking at is the special use running
21 with the property.

22 MS. WIENEN: So it's irrevocable. So why
23 are we not just changing the zoning?

24 MR. GRATTON: We can have the discussion.

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210

1 It's going to take us a while.

2 MS. WIENEN: Yeah, that's something as
3 lenders they were saying they were very
4 uncomfortable putting a 30-year fixed on
5 something that's a -- that's on a special use
6 permit that went -- if you went to sell it --

7 DR. TONNE: This brings us exactly full
8 circle to six years ago when we started this
9 whole discussion of R-1 and we came up with
10 special uses instead.

11 MR. GRATTON: And we're not going to have
12 a discussion this evening. What else do we need
13 to -- would you like us to look at and discuss?
14 Is there any prep we can do to --

15 MR. BECKER: My name is Jeff Becker and we
16 have some land up in Rice Township, 40 acres --
17 a little over 40 acres that we intend to build
18 on and there's a couple things that have come up
19 that I think are going to impact us and one of
20 them is that according to what is adopted
21 tonight we're going to be subject to -- and I'll
22 get the terminology wrong, but 33, correct?

23 MR. GRATTON: Right.

24 MR. BECKER: And in the case -- in our

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211

1 case we are on a ridgetop, the land is entirely
2 almost on a ridgetop, there are some steep --
3 you know, it falls off steeply, the road is on
4 the ridgetop, our driveway would be therefore
5 rather level, but the building site is quite a
6 ways off the road and the limitation in 33 calls
7 for no more than a half acre including the
8 driveway and I'm wondering if the intent there

9 was to prevent erosion, a circuitous route up a
10 cliff, in other words.

11 MR. GRATTON: That was part of it. There
12 was some other intent there as well and we can
13 discuss that if you would like us to, but yeah,
14 there was reason for that, but we're not going
15 to spend that time tonight, but yeah, we will
16 discuss that further if you would like us to.

17 MR. BECKER: And then just one other
18 issue. I was hoping to hear tonight and I
19 didn't, the way things stand right now, as I
20 understand it, if we were to have a detached
21 garage we could not have any provision for
22 living area above that detached garage for when
23 kids come?

24 MR. GRATTON: We've had that discussion.

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212

1 Linda and I just talked about that a day or two
2 ago and we -- we do want to -- it is in some of
3 the other residential provisions in here and we
4 want to carry that over throughout all of the ag
5 district as well, so yes, thank you, that's one
6 of the things that's on the table yet.

7 MR. BECKER: Okay. Thank you.

8 MR. GRATTON: Anybody else have anything
9 you'd like us to consider? Okay. What we're
10 going to do then is we're going to continue this

11 meeting. I think we have an alternate date set
12 aside on February 5th. Does that still work for
13 people? Same time, same place, earlier? You
14 want to try it earlier?

15 MR. JANSEN: No, 7 is fine. Is that what
16 you're talking about, the time of day?

17 MR. TRANEL: 7 works.

18 MR. JANSEN: And that's the standard
19 starting time for county meetings, it's probably
20 good to stay there.

21 MR. GRATTON: Anything else?

22 MR. JANSEN: I just have one question,
23 Mr. Chairman. Where do we go -- let's say we're
24 going to finish off the 16 amendments and then

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213

1 we're going to go through the chapters, what
2 happens after that, it goes back to the County
3 Board and --

4 MR. GRATTON: Then we're going to make a
5 recommendation to the County Board and it will
6 go back into their venue.

7 MR. JANSEN: So it could come back again
8 and then we could have more amendments and --
9 okay, I'm just looking for the finality of it.

10 MR. GRATTON: Yeah, we all are. February
11 5th, it's a Thursday night. Does that work for
12 you, David?

13

MR. AKEMANN: Yes.

14

MR. GRATTON: So we'll adjourn then and
this meeting will be continued until -- let's
have -- better have a motion to --

17

MR. JANSEN: So moved.

18

MR. GRATTON: And second -- I'll second
that.

19

20

(All those simultaneously

21

responded.)

22

MR. GRATTON: The meeting is continued
until February 5th at 7 p.m. in this room.

23

24

(The meeting was concluded at

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214

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11:19 p.m.)

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215

1 Now on this 28th day of January, A.D.
2 2009, I do signify that the foregoing testimony
3 was given before the Jo Daviess County Zoning
4 Board of Appeals and Planning Commission.

5

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Melvin Gratton, Chairman

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Linda Delvaux,
Zoning Administrator

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JDCZBA 1-28-09

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Julie K. Edeus
Certified Shorthand Reporter
IL License No. 084-003820
P.O. Box 381
Dixon, Illinois 61021

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