

In The Matter Of:
WOODFORD COUNTY
ZONING BOARD OF APPEALS

PUBLIC HEARING
December 10, 2020

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WOODFORD COUNTY
ZONING BOARD OF APPEALS

TRANSCRIPT OF PUBLIC HEARING
REPORTED REMOTELY
LIBERTY BIBLE CHURCH
EUREKA, IL
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Reporting Remotely:

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APPEARANCES:

ZONING BOARD MEMBERS:

Kim Holmes, Chairwoman
Teresa Gauger
Jerry Lay
Dean Backer
Marty Clinch
Ansel Burditt Alternate

Lisa Jording - Zoning Administrator

Erik Gibson - ASA for Woodford County

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1 (The time is 4:01 p.m.)

2 KIM HOLMES: All right. We're going to
3 get started this evening. I'm going to open the
4 meeting, open the hearing. This is the Woodford
5 County Zoning Board of Appeals. I'm Kim Holmes,
6 chairman. This is December 10th, it's four PM,
7 and we're continuing on with Panther Grove Wind
8 LLC application for special use and variances.

9 Roll call, please.

10 LISA JORDING: Kim Holmes.

11 A. Here.

12 LISA JORDING: Teresa Gauger.

13 A. Here.

14 LISA JORDING: Jerry Lay.

15 A. Here.

16 LISA JORDING: Marty Clinch?

17 A. Here.

18 LISA JORDING: Dean Backer?

19 A. Here.

20 KIM HOLMES: All right. This evening we
21 are going to look at the special use first. And
22 then we'll look at the variances after that.

23 Okay?

24 And Erik, Assistant State's Attorney,

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1 would like to make an announcement.

2 MR. GIBSON: All right. Ladies and
3 gentlemen of the Zoning Board of Appeals, all the
4 evidence was closed last time. You should have in
5 your possession all your notes. Any parts of the
6 application that came in initially. Lisa has
7 available all exhibits that were admitted during
8 the hearing. If you need an exhibit that you
9 don't currently have or didn't bring with you, you
10 can ask Lisa, and she can make it available.

11 Additionally, you should have
12 Tri-County's proposed findings of fact, and also
13 the zoning department via Lisa did findings of
14 fact for both the variances and the special uses
15 which you should have available. You do not have
16 to -- none of that is mandatory. It's just things
17 for your consideration when you are compiling
18 these.

19 Additionally on the screen while we go
20 through this, Lisa is going to try to compile
21 whatever findings of fact you guys discuss.
22 Whatever she types in the screen isn't necessarily
23 a final and complete list. You guys can always
24 modify at any time. But our concern was that as

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1 we're going through, if there's things that come
2 up, I want to try to keep a running list together.
3 That way if you guys want to modify anything we
4 can, and you guys can also see what you have for
5 making motions during this time period.

6 Furthermore, we are obviously having
7 this transcribed. We can only have one person
8 talk at a time. So, the ideal situation, if we
9 can keep it going, if you would like an
10 opportunity to talk, the sound board will be
11 watching for your guys to swing your microphones
12 in front of you. They will know that means you
13 want to talk and they will turn your mikes on.
14 Your mike will be set to off until they turn them
15 on so check to see if they are on if you would
16 like to say something. Otherwise, you should have
17 any of the information.

18 I'm here for any legal advice. Lisa is
19 here for any zoning advice. Other than that, it's
20 up to you guys to, however you guys want to run
21 putting together the findings of fact. I just ask
22 that while we're going through, we take time 'cuz
23 Lisa is going to be typing this up as well so we
24 can keep a running tally of what we have. Thank

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1 you.

2 KIM HOLMES: Thank you. Okay. Oh, and
3 we do have a quorum by the way.

4 So let's get started. This is for
5 special use 2020-11-S. And I want to start out
6 with some of the basics here, is that the property
7 is currently zoned agriculture district. Pursuant
8 to 55 ILCS 5-12009.5, special uses may be granted
9 by ordinance. This is allowable as a special use
10 per Section 28 of the Woodford County zoning
11 ordinance. And adjoining property owners were
12 notified. And objections were presented by the
13 public. All right.

14 So, we'll go into the first one. A,
15 will not be detrimental to the public health,
16 safety and welfare. We've heard a lot of
17 testimony. We have had a lot of expert witnesses.
18 We've been given a great deal of information about
19 electrical and health and shadow flicker. So, at
20 whatever point that you would like to put as one
21 of the findings whether that would address letter
22 A. Okay.

23 We have one of those as shadow flicker,
24 that the applicant has testified pursuant to our

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1 ordinance that they would be in compliance with
2 less than 30 hours of shadow flicker a year for
3 nonparticipating. Do I have any other
4 contributions by the board?

5 MARTY CLINCH: As far as finding A,
6 detrimental to the health and safety; I'm sorry,
7 Marty Clinch, ZBA.

8 One of the issues that I felt that was
9 quite extensively researched and presented by the
10 applicant was the turbine blades, and that had to
11 do with the ice throw and the blade throw. I
12 thought that was presented very well.

13 There was some opposition about it, but
14 I think that was explained very well. The reason
15 why the one particular turbine had lost its blade
16 was through a lightning strike.

17 But, looking through the research that
18 they have done in this pile of testimony, I find
19 that there is no detrimental to the health and
20 safety and welfare of the general public. The
21 residents around there. I believe that this
22 turbine is positioned far enough away that that
23 type of thing would not occur.

24 The other thing that I found was

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1 interesting is how this construction is going to
2 go in; that they will do their diligence on
3 addressing any kind of public complaints. They
4 will take care of them within 24 hours if there is
5 any complaints during the construction and after,
6 during the operation of this wind farm.

7 So, I felt that that was addressed very
8 well. And the audible noise, which was the
9 infrasound, I felt that that was addressed. I
10 think that looking through the testimony and the
11 information in the literature that was given to
12 us, that the blades themselves will be a new style
13 of blade. That either the GE turbine or the
14 Vestas turbine will have special blades that will
15 address the noise level as best as can be. So, I
16 felt that that was addressed. So, that's my
17 testimony.

18 KIM HOLMES: Jerry.

19 JERRY LAY: Jerry Lay, ZBA. When
20 considering whether something will be detrimental
21 or injurious to the health, safety and welfare of
22 the public or to the district, I find I had to
23 consider information on both sides of the issue,
24 which give weight to the health and safety and

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1 welfare in all of Woodford County.

2 In doing this, we have to give weight to
3 the probabilities, possibilities, and
4 eventualities to issues we perceive could affect
5 the health, safety and welfare from all the folks
6 in Woodford County. We on the ZBA are obviously
7 not an actuarial board putting out betting odds on
8 whether something will negatively or positively
9 affect the residents of Woodford County.

10 If we have to decide whether the noise
11 that's generated by this generator, placed by the
12 prescribed setback and it's all within standards,
13 if that will negatively affect the residents, all
14 we have to go by is the facts that were presented,
15 and the input of any residents that spoke with us.
16 Will it bother them? We don't know. I don't know
17 for sure. We only have that testimony to guide
18 us. Could the placement of the wind turbines
19 adjacent to private airstrips or heliports where
20 there are currently no wind turbine generators
21 exist affect the health safety and welfare of
22 pilots or residents nearby? That's a stronger
23 question.

24 These two examples have to be weighted

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1 differently as a lot of the evidence has to be
2 weighted. It can't be equal. Although the
3 obstruction distances proposed for the obstacles
4 to be placed near the Unzicker airstrip meet the
5 absolute -- meet the minimums, I'm quite concerned
6 by the willingness of those individuals involved
7 to vastly minimize the obstruction safety margins
8 around the Unzicker safety, or the Unzicker
9 airstrip.

10 So, on this finding I'm going to find a
11 negative.

12 KIM HOLMES: Okay. Thank you. Now we
13 know that all county mandated setbacks will be met
14 to insure the safety of participating and
15 nonparticipating residents and landowners, with
16 the exception of the variances, which we are going
17 to be discussing later.

18 We have also heard testimony about
19 wireless communication, radar and radio
20 transmission interference which was evaluated and
21 determined that there would be no effect, which
22 was made by industry experts. If there is found
23 to be any interference again after Marty spoke,
24 that these issues would be perhaps not resolved,

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1 but at least looked into within 24 hours of a
2 complaint or concern. Is there anything else
3 anybody wishes to add?

4 Four, will not be detrimental to the
5 public health, safety and welfare. So we've had
6 shadow flicker, noise, the design to limit ice
7 throw, blade failure.

8 MR. GIBSON: Ladies and gentlemen, I
9 think the conversation is good. I would ask that,
10 'cuz we're obviously trying to compile the
11 findings of fact, so when you get done with your
12 discussion on a particular one, if you can
13 condense it down to a concise statement of your
14 finding, that would be great. I have no problem
15 with you guys having discussion explaining how you
16 got to where you got. That obviously is
17 appropriate.

18 But if you can condense it down just to
19 what your concise finding is, similar to the ones
20 that you saw from Tri-County and the ones from the
21 zoning administrator.

22 For instance, Marty, when you made your
23 findings, just if we could get a concise, a couple
24 concise statements what your finding is, I

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1 appreciate you explaining how you got there. But
2 also if we could get explanation of exactly what
3 your finding is. Thank you.

4 KIM HOLMES: All right. So, this is Kim
5 Holmes. In saying that, when I spoke about shadow
6 flicker, I found that to be positive. As well as
7 following the Illinois Pollution Control Board
8 standards, as well as mandated setbacks for both
9 nonparticipating and participating residents and
10 landowners. I consider that to be a positive.

11 And in terms of any wireless
12 communication radar and radio transmission, I
13 consider that to be a mitigation factor positive.

14 MARTY CLINCH: Marty Clinch, ZBA. I
15 respectfully disagree with Jerry Lay that this is
16 a negative. I think that all of the testimony
17 that was brought forth, the applicants were all
18 under, or sworn under oath to tell the truth and
19 nothing but the truth so help you God.

20 So, I believe that the facts and figures
21 that were presented before us are genuine, and I
22 think that this A should be ruled in the
23 affirmative.

24 KIM HOLMES: Thank you, Marty. Kim

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1 Holmes again. I would agree with Marty.

2 DEAN BACKER: Dean Backer, ZBA. After
3 listening to Marty, and I think he is absolutely
4 right on what he said. So, I'm in the
5 affirmative.

6 KIM HOLMES: All right. Do we have any
7 further discussion about A? No? I think the
8 consensus for the board is that this is a
9 positive.

10 B, will not be injurious to the use and
11 enjoyment of other property in the immediate
12 vicinity for the purpose already permitted. The
13 applicant need not demonstrate complete
14 compatibility, but the applicant shall demonstrate
15 reasonable efforts to minimize incompatibility.

16 Well, Kim Holmes. One of the uses that
17 would be permitted by a special use is a wind farm
18 in the agricultural district. And I believe that
19 it's taking out a minimum amount of acreage to
20 operate, while preserving area for -- preserving
21 our prime farm ground. And indeed, if we have
22 this project for 30 years, then that will at least
23 preserve that farm ground from being developed for
24 the next 30 years.

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1 So, I consider that to be positive. Does
2 anyone else have anything that they would care to?
3 Go ahead, Teresa.

4 TERESA GAUGER: Yes. Teresa Gauger,
5 ZBA. The setback requirements to nonparticipating
6 resident of four times the turbine height are
7 maintained for all turbines. And so with that, I
8 do find that as a positive.

9 I would like to, though, enter a special
10 condition that Panther Grove wind energy facility
11 has stated that they will use one of two types,
12 the GE 158 or the Vestas V-150. And their
13 respective listed generating capacities. And I
14 believe that in the special condition those should
15 be the only two to choose from.

16 JERRY LAY: Jerry Lay, ZBA. Back to
17 item B. I agree with Teresa as far as the
18 setback. And on the four times on the wind
19 turbines. Will they be injurious to the
20 enjoyment? That's rather subjective. The visual
21 distractions will obviously be offensive to a lot
22 of people. The sounds, which are going to be
23 placed there from the turbines, which are not
24 there now, along with the turbine siting of the

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1 turbine sites themselves, the actual structures,
2 which are not there now, people in the area are
3 going to have to adjust and they are going to have
4 to adjust to the red flashing lights whenever they
5 are flashing.

6 So, for the positives of putting them in
7 correctly and the negatives of the visual
8 distractions, the renewable noise and the flashing
9 lights, I find that a wash and I find neither
10 negative or positive on that.

11 KIM HOLMES: Thank you, Jerry. Are
12 there any other observations or any findings for B
13 by the board? Go ahead, Marty.

14 MARTY CLINCH: Marty Clinch, ZBA. On
15 the shadow flicker, I felt that they had given
16 enough information about how they will handle that
17 through their, let's see, it's through the
18 Woodford County zoning ordinance on the Appendix
19 M. It does address the shadow flicker where the
20 turbine will be shut down during a certain period
21 of time during the day and during the year. And
22 not to exceed over 30 hours of flicker shadow per
23 year. And I thought they addressed that well.
24 And that's why I would rule positive on that one.

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1 And as far as the nighttime lights, the
2 ADLS system comes into play, that if there is an
3 aircraft within the area, they will be shut down.
4 The lights will be shut down, or I'm sorry; they
5 will be turned on. But after a certain point in
6 time they would be shut down to where they won't
7 be on all the time where the residents will have
8 to look at those lights. So, I think that's a
9 positive. So I would rule in the affirmative for
10 B.

11 KIM HOLMES: Do we have any other
12 findings for B? If not, we can move on to C.
13 Will not be injurious to the district in which it
14 shall be located.

15 Kim Holmes, I'm going to talk briefly
16 about the migratory birds and Illinois DNR. And
17 that the EcoCAT that was done, the recommendation
18 by the state, IDNR, that they limit the fall bat
19 migration, which is from July 15th and October
20 15th, from dusk until dawn, then they could
21 curtail to four, and I don't know what the M/S is.
22 But, as compared to five.

23 So, they would reduce it from five to
24 four during that time frame. And when

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1 temperatures are above 50 degrees Fahrenheit. So,
2 I find that to be positive and I would make it a
3 condition that this recommendation be followed. I
4 know there was also a study done for the birds and
5 there typically it would be done for two years
6 once the project is up and running.

7 IDNR, again, recommended three years,
8 and I would make that a condition based on
9 testimony that the applicant would be willing to
10 do a three year study. And I find those to be in
11 the positive.

12 TERESA GAUGER: Teresa Gauger, ZBA. I
13 just want to say that I do concur with you, Kim,
14 on the migratory birds.

15 JERRY LAY: Jerry Lay, ZBA for item C, I
16 find no where should it be injurious to the
17 district for which it's located.

18 And madam chairman, before we go on, I
19 don't know the exact sequence of how to do some of
20 this, but I would like a little more discussion
21 before we close out here this evening on some of
22 the obstacles that are listed on the map here.
23 Would that still be possible or not? Once we
24 close one of these issues, is it closed?

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1 KIM HOLMES: No. I mean, we can go back
2 at any point. This is going through
3 alphabetically right now.

4 JERRY LAY: I understand. Let's just
5 finish C then. I wanted to find a sequence of
6 events here. And that was Jerry Lay, ZBA by the
7 way. Thank you.

8 KIM HOLMES: I also see here that we
9 have an agreement in lieu of taxes, otherwise
10 known as AILOT, and it reads that if there's a
11 change in law resulting in property taxes that are
12 more than the amount authorized by the above
13 statute, that the company will pay the higher
14 rate. And if the change by law results in
15 property taxes that are less than taxes in
16 accordance, they would pay -- continue to pay the
17 higher rate. So, I consider that to be a
18 positive.

19 MARTY CLINCH: Marty Clinch, ZBA. One
20 of the things I wanted to add to C about it not
21 being injurious to the district.

22 In our ordinance there is a Woodford
23 County long range comprehensive plan. And in that
24 plan it does state that wind farms are a very

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1 important role to the economic development of this
2 county. So, that's why I would say that this
3 is -- could be ruled in the positive.

4 Plus the fact that the tax revenue off
5 of it is going to feed 3.4 million dollars the
6 first year into the school districts that are
7 affected. And 93 million dollars over 30 years.
8 I think that's very beneficial to the school
9 districts. And also the landowners in this
10 district are going to be -- there's going to be
11 111 million dollars paid to the landowners over
12 the 30 years. So, there is a positive on the
13 income and the revenue coming in, which is good
14 for economic development. And that's why I'm
15 ruling a positive.

16 KIM HOLMES: Thank you, Marty. I would
17 like to mention too that there will be some
18 funding that will go to our local EME and our fire
19 district, etc., and extra training. So I consider
20 that to be in the positive.

21 All right. Do we have any more input
22 for letter C? Okay. We'll go on to D.

23 Will not impede the normal and orderly
24 development and improvement of the surrounding

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1 property for uses permitted in the district.

2 Property in the proposed project area is
3 primarily utilized for ag production. Wind energy
4 systems have demonstrated their compatibility with
5 farming in the county and region over the past ten
6 years. Land divisions and development should
7 continue unimpeded due to the relatively small
8 footprint of the project. And I find that to be a
9 positive. Go ahead, Jerry.

10 JERRY LAY: Jerry Lay, ZBA. As far as
11 D, and not to impede the normal and orderly
12 development, these will of course impede anyone
13 who has the intent for developing either a private
14 or public airstrip or heliport.

15 However, for the agriculture and any
16 manufacturing that would be in and around the
17 footprint of this, it probably would not impede.
18 I will find neutral on this.

19 TERESA GAUGER: Teresa Gauger. During
20 testimony we heard that there will be a plan in
21 place for the removal of debris caused by the
22 construction. And that it will be on an ongoing
23 basis from the start to the completion of the
24 project. And I find that a positive.

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1 KIM HOLMES: Okay. Do we have any other
2 -- go ahead, Marty.

3 MARTY CLINCH: Marty Clinch. Just to
4 add to that in general terms the applicants did
5 present a very comprehensive plan on the
6 construction and the ongoing production of this
7 after the wind farm is built. And that they will
8 abide by all ordinances and the governmental
9 bodies that are involved in this process,
10 including and not to say them all, but the FAA, or
11 the FFA, IDOT, IDNR, and the Illinois Pollution
12 Control Board, and the United States Fish and Wild
13 Services. They all gave positive reports on this,
14 so that's why I would say this is a good positive.

15 KIM HOLMES: Thank you. And then I
16 would, in response to Mr. Lay, in his neutral
17 determination, that with the airstrips in the
18 area, the one that we're going to be discussing
19 later, the Unzicker RLA for variances has received
20 determinations of no hazard permits. And this is
21 from the FAA. So, I would consider that to be a
22 positive.

23 JERRY LAY: Jerry Lay; from the FAA.
24 And as far as on the FAA, you're talking about

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1 the -- there's been no findings of hazards, is
2 that what you're referring to?

3 KIM HOLMES: Yes. That they have
4 received a determination of no hazard permits for
5 a height of 649 feet from the FAA. And these are
6 for the following wind turbine locations that are
7 going to be at 649. And they also received a
8 determination of no hazard permits at a height of
9 699 feet within a thousand feet from the FAA
10 following wind turbine locations, which are also
11 included in the application.

12 JERRY LAY: I believe it was shown in
13 here that the involvement of the FAA is for the
14 navigable air space, which is above the airstrips,
15 not anything to do with the airstrips at the
16 surface itself. That would be IDOT I believe is
17 what they testified to, and aeronautics.

18 And that's from the OEAAA, I believe is
19 what you're referring to there, if I'm not
20 mistaken.

21 KIM HOLMES: All right. Do we have any
22 further discussion on D? Okay. We're going to go
23 to E.

24 That adequate utilities, access roads,

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1 drainage and/or other necessary facilities have
2 been or are being provided.

3 DEAN BACKER: Dean Backer, ZBA. After
4 listening to a lot of hours of testimony on how
5 they're going to beef up the roads and improve
6 them and see that they're well maintained, even
7 before and during and after the wind farm, I'm
8 pretty much in the affirmative on this. And I
9 might say I drove through a wind farm this morning
10 that's being constructed, whether this is -- okay.

11 KIM HOLMES: We've heard the testimony.
12 Okay. All right. So, for E, I would consider
13 this to be positive, per the applicant, applicant
14 will provide all access roads necessary for
15 construction of the turbines. Additionally,
16 applicant has engaged with the county and
17 applicable township road authorities to reach a
18 mutual road use agreement to account for necessary
19 road improvements, repairs and permits as
20 determined by the road authority.

21 Obviously, the final approval for a road
22 agreement, a road agreement must be in place
23 before permitting.

24 JERRY LAY: Jerry Lay, ZBA. I concur

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1 with Kim Holmes, that the special use can not be
2 issued until there is an agreement in place
3 between the county road commissioners, or the road
4 commissioners, and the county engineer, is that
5 correct?

6 KIM HOLMES: You mean a special use
7 permit?

8 JERRY LAY: Yes.

9 KIM HOLMES: Okay. Does anybody else
10 have anything for E? We'll go on to F. That
11 adequate measures have been or will be taken to
12 provide ingress and egress so designed as to
13 minimize traffic congestion in the public roads.
14 Go ahead.

15 TERESA GAUGER: Teresa Gauger. Yes,
16 there is a plan to notify township road
17 commissioners about daily road use and closures
18 during construction until completion. And so I do
19 find this a positive.

20 KIM HOLMES: Thank you. Do any other
21 members of the board have any -- go ahead, Marty.

22 MARTY CLINCH: During the testimony on
23 the road construction, and especially the ingress
24 and egress, when they bring these turbines in, the

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1 blades and all that, that they have to upgrade the
2 roads. And I believe that that speaks loudly for
3 the township supervisors and all of the road
4 commissioners, that this be done. And I was
5 satisfied with their testimony on that, that they
6 will provide adequate roads and maintain them
7 during construction and put them back in the
8 original condition that they were in or better.
9 And the drainage was a big problem, erosion and
10 stuff, which is typical of this agricultural land.
11 So that's why I would rule it a positive.

12 KIM HOLMES: Thank you. Go ahead, Dean.

13 DEAN BACKER: Dean Backer, ZBA. I asked
14 him some pretty direct questions one night on
15 repairing the drainage tile that are in these
16 farms. And I was well satisfied with the answers
17 I got. So I think it's in the affirmative here.

18 KIM HOLMES: Thank you. All right. Any
19 other?

20 G, is consistent with the Woodford
21 County comprehensive long range plan. Okay. I
22 find that to be, it is positive. We have, the
23 Woodford County comprehensive plan identifies the
24 following principals related to the proposed

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1 special use. Agriculture is preserved and
2 supported through mutual respect and balance among
3 agricultural development and the environment.
4 Businesses are retained, attracted and locally
5 expanded to insure a solid tax base.
6 Diversification in the agriculture economy is
7 encouraged by supporting nontraditional and value
8 added agriculture products and agriculture-related
9 industry.

10 The project's ability to support
11 continuing farm operations by providing an
12 alternative stable income stream to property
13 owners and local farmers promotes continued
14 farming operations with minimal loss to farmable
15 acres, as previously stated in the project area.
16 Further, as previously stated, it will also lead
17 to increased tax revenue in the area.

18 JERRY LAY: Jerry Lay, ZBA. I do
19 acknowledge what you stated there, madam chairman,
20 and as far as will it be consistent? I've never
21 seen any direction in here as what it requires
22 consistent. But it is mentioned in there, as you
23 just mentioned also, it also is stated at least in
24 the comprehensive plan amended in November of 2014

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1 that it is not -- there is not a clear consensus
2 on the appropriateness of wind farms is one of the
3 statements. So, on G here my commitment to that
4 would again be a neutral.

5 KIM HOLMES: Do we have any other
6 contributions for the comprehensive long range
7 plan discussion? Go ahead, Marty.

8 MARTY CLINCH: Marty Clinch ZBA. As far
9 as the Woodford County comprehensive long range
10 plan, it did talk about making sure that the
11 agricultural land was preserved in any way, shape
12 or form. And they did say that wind farms were a
13 very important investment in economic development,
14 as far as that goes.

15 And with the idea that we're taking 84
16 acres out of production out of 22,000 acres that
17 the wind farms will be in concert with the farming
18 industry.

19 So, I would move into the positive.

20 KIM HOLMES: Thank you. Okay. Before I
21 go ahead and call for the motion, under any one of
22 these findings, A through G, do you have anything
23 additional that you would like to add at this
24 point?

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1 JERRY LAY: Madam chairman, I would have
2 further discussion. I guess it would fall under
3 A, after reviewing the maps for the Unzicker
4 airstrip here, I looked at wind turbines number
5 24, 25, 26, 27 and 28. And these five obstacles
6 are either in or very near the established
7 horizontal setback zone as it sits right now if
8 these were to be put into place.

9 Now, Mr. Unzicker has taken
10 extraordinary measures to design and draw
11 specific departure procedures, arrival procedures,
12 and even potentially emergency procedures in order
13 to accommodate these obstacles being placed this
14 closely to his airstrip.

15 He nor any other pilot should really
16 have to do this. In its current configuration the
17 Unzicker airstrip meets or exceeds IDOT aviation
18 setback requirements and requires no special
19 flight procedures even with the existence of a
20 nearby cell tower to his residence.

21 I certainly do not recommend removal of
22 his airstrip from the FAA VFR sectional because
23 his airstrip may offer safe harbor to a pilot in
24 distress, be it a mechanical emergency, a medical

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1 emergency or a student pilot low on fuel or caught
2 in bad weather.

3 Any pilot caught in need of using Mr.
4 Unzicker's landing area should not have to
5 consider -- will not have his considerable flight
6 hours or experience. And he surely won't be aware
7 of the newly designed procedures if these wind
8 turbines are placed there.

9 Neither the FAA or IDOT restrict maximum
10 distance an obstacle can be away from an airstrip.
11 By allowing the obstacles that I mentioned, number
12 24, 25, 26, 27 and 28, we would be maximizing the
13 minimums, and that's not fair to Mr. Unzicker or
14 to the eight or ten residences in the area that
15 would possibly be affected should any kind of an
16 emergency occur with these windmills nearby.

17 So, I'm requesting, I'd like to put a
18 motion up to the removal of these turbines, and
19 only these turbines. And I'm trying to honor a
20 request that this -- while I'm not trying to shut
21 down the wind turbine facility itself, I would
22 like to see these turbines removed for safety
23 purposes. And that was kind of at the -- not that
24 they be removed, but at the request of Tri-Global

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1 if we found a problem, that we don't scrap the
2 entire wind farm. But if some need to be removed,
3 to at least make it as conservative as possible to
4 paraphrase what they said.

5 KIM HOLMES: I think at this time I'm
6 going to go ahead when we're discussing that, 'cuz
7 that is -- those are seeking variances.

8 JERRY LAY: They're what?

9 KIM HOLMES: Those are the turbines that
10 are seeking variances. So we can discuss that
11 when we're talking about the variances. So I'm
12 not going to entertain a motion right now to start
13 eliminating turbines when we start talking about
14 variances.

15 JERRY LAY: I didn't know when you
16 needed to do that. I do have a special condition
17 while we're here.

18 KIM HOLMES: Go ahead. What do you
19 propose, Mr. Lay?

20 JERRY LAY: And Jerry Lay again, ZBA.
21 And this has to do with the lighting of the
22 obstacles. It's been stated in their
23 presentation, I believe it was Mr. Underwood, that
24 all of the obstacles will be lighted in accordance

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1 with the advisory circular 70/7460-1 M as in Mike,
2 and there is within that, within that provision
3 you brought up, I'd like to see these lighted in
4 accordance with that advisory circular. And in
5 accordance with the wind turbine, marking of wind
6 turbines in snow prone areas.

7 The primary thing this does is add a
8 second light on top of the nacelles and gives more
9 visibility. It would be very similar to like the
10 wind tower that Mr. Unzicker has next to his strip
11 right now, only with an additional light on top of
12 it.

13 So, I would like to have a special
14 consideration that these be marked in accordance
15 with the very same advisory circular, and in
16 accordance with snow prone areas. And these have
17 all been acknowledged by Mr. Unzicker and Mr.
18 Green and I believe it was Mr. Blackman, Geoff
19 Blackman, they all acknowledged the fact that we
20 were in a snow prone area.

21 KIM HOLMES: So do you want to simplify
22 that? Are you asking for ADLS, which would be the
23 aircraft detection lighting system? Or a light
24 that is permanently on? Or -- I'm not sure what

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1 you're asking.

2 JERRY LAY: I'll rephrase that.

3 KIM HOLMES: Okay.

4 JERRY LAY: I would like the ADLS,
5 that's a separate deal, they will go on and off in
6 accordance with the radar when it picks up an
7 aircraft. I would just like to see these towers
8 illuminated in accordance with what is said inside
9 the advisory circular, in accordance with the snow
10 prone areas. And what that does --

11 KIM HOLMES: What is that?

12 JERRY LAY: It adds a second light; the
13 primary thing it does is add a second light.

14 KIM HOLMES: Then is that light on
15 constantly? I feel like you're --

16 JERRY LAY: It comes on with the second
17 one that's already there. I don't want to try to
18 give testimony here. But, it would just add a
19 second light. And in making this decision, I'll
20 give you a little background on this.

21 KIM HOLMES: Well, okay. 'Cuz I'm
22 trying to stick to the testimony that we have had
23 and not information that you brought in for
24 testimony. Just the testimony that we've been

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1 exposed to.

2 JERRY LAY: It is testimony that was
3 from that advisory circular. So they have already
4 brought that to our attention.

5 KIM HOLMES: All right. So where is
6 that located in the -- do you have a --

7 JERRY LAY: I certainly do.

8 KIM HOLMES: A paper or --

9 JERRY LAY: Give me a second.

10 KIM HOLMES: All right. Is it okay, I'm
11 going to approach you, Jerry.

12 JERRY LAY: Certainly.

13 KIM HOLMES: Okay. So what you're
14 talking about is there's an FAA advisory circular
15 that describes the FAA's standards for marking and
16 lighting structures to promote aviation safety.
17 ADLS are the only FAA approved light mitigation
18 systems.

19 So, yes, we would like to go ahead and
20 recommend that they use that system, the ADLS.

21 JERRY LAY: It's not anything to do with
22 the ADLS. This is the nacelle itself is where
23 it's addressed, where it says marking and lighting
24 for the advisory circular.

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1 KIM HOLMES: All right. What does the
2 board want to do? Go ahead, Marty.

3 MARTY CLINCH: Marty Clinch ZBA. Jerry,
4 whereabouts is that in the information? What
5 appendix did you find that in?

6 JERRY LAY: That's in the advisory
7 circular that's listed here. It says 70, I'm
8 sorry, where I got it from was the power point
9 presentation.

10 MARTY CLINCH: Okay.

11 JERRY LAY: And it addresses that
12 advisory circular, where it's the standards for
13 marking and lighting structures where they put
14 lights on the structures themselves.

15 MARTY CLINCH: On the top?

16 JERRY LAY: Correct.

17 MARTY CLINCH: On the very top?

18 JERRY LAY: Correct.

19 MARTY CLINCH: And does it have the
20 specifications?

21 JERRY LAY: I'm sorry, Exhibit 20.
22 Thank you. I didn't remember that.

23 MARTY CLINCH: Does it have an actual
24 diagram of where the position of that light is?

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1 Is it on the very top?

2 JERRY LAY: That is not here. The
3 advisory circular was referenced and I looked into
4 the advisory circular that was referenced and it
5 does fall under there. They list it under the
6 ADLS.

7 And I'm sorry, Kim, I didn't see where
8 that was listed on the top there. This really is
9 -- the ADLS is addressed below where it says the
10 7460, and that is part of that, the advisory
11 circular does contain the ADLS. But it also
12 handles the marking and lighting of structures.

13 KIM HOLMES: All right.

14 MARTY CLINCH: Marty Clinch again. What
15 I'm trying to figure out, Jerry, I'm trying to
16 follow your line of thinking here as far as the
17 physical structure; you're saying that the light
18 that is on top is not efficient enough?
19 Sufficient for warning aircraft?

20 JERRY LAY: No, what I'm asking for is
21 it adds a redundant light. That's part of what
22 that does, is add a redundant light. In other
23 words, two of them in case one burns out. I'll
24 give you an example.

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1 Let's say, for instance, a pilot is
2 flying from Indiana to Peoria, and weather gets
3 bad and he has to fly a little bit lower but he's
4 still legal when he's flying, he or she; and they
5 end up into the wind farm here. And then he sees
6 a red light to the right, or he sees a red light
7 to the left, but he sees a dark spot in the middle
8 thinking oh, that's safe. And he flies straight
9 on. And it's a wind structure with a light that's
10 burned out. If there's two of them there, it
11 gives a redundancy.

12 MARTY CLINCH: Sure. And isn't there a
13 certain distance that he has to fly above wind
14 farms? Isn't there an FAA --

15 JERRY LAY: According to this, which is
16 stated there, if he's flying over it, yes. And if
17 he's flying -- and yes; if he's flying above the
18 ground he has to be 500 feet from people or
19 structures. If he gets into bad weather, then it
20 becomes an emergency condition and all bets are
21 off. That was even addressed by Mr. Unzicker.

22 And so what I'm looking at here is a
23 possible scenario where if we mark these things
24 accordingly, it will give it some duplication for

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1 the pilots in the area should something like this
2 ever happen.

3 MARTY CLINCH: I don't see the need for
4 it because these are controlled by a computer.
5 Any problems with them, these devices are
6 registered with the computer right away and that
7 failure is registered right away, the way I
8 understand reading in this stuff here. That it's
9 automatically notified. And any airplanes or any
10 kind of aircraft flying in the area has been made
11 aware of it. That's what I got out of it. Unless
12 I'm missing something.

13 JERRY LAY: You are.

14 MARTY CLINCH: But I think redundancy, I
15 think is covered by their backup systems. So, I
16 would agree with that. Thank you.

17 JERRY LAY: The way the system, Jerry
18 Lay, ZBA. The way the system was described by Mr.
19 Underwood, is that if there is a failure the
20 lights go on solid. And I read that, and he put
21 that out in his power point presentation. And if
22 a light fails that is registered, it is not
23 transmitted to the FAA. That was never stated
24 such. So there is no radio broadcast according to

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1 the documentation that we have that would ever
2 notify the pilot.

3 So all this is, is I'm just looking for
4 a simple safety redundant feature to have these
5 things marked accordingly.

6 MARTY CLINCH: Marty Clinch, again, is
7 there any other wind farms that you are aware of
8 that have this type of system, redundancy lighting
9 system that's in place?

10 JERRY LAY: I'd be giving testimony if I
11 do.

12 MARTY CLINCH: I'm trying to figure out
13 if this is something of a norm or are we adding
14 something to this wind farm? And what does it
15 have to do with what we're talking about right
16 now?

17 KIM HOLMES: Well, I think it was
18 mentioned that we do want, we would strongly
19 suggest using an ADLS system, aircraft detection
20 lighting system. But, I'm with Marty. I don't
21 know as far as the redundancy, I understand what
22 you're saying, Mr. Lay. I can -- if you'd like,
23 we can recommend it.

24 JERRY LAY: I would.

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1 KIM HOLMES: Versus making it a
2 condition. We could recommend that they do that.
3 I just don't know enough about it and I don't
4 recall that much testimony on that particular
5 additional lighting. So, that's why I'm kind of
6 where we're at right now.

7 So, all right. Is there --

8 JERRY LAY: The testimony was actually
9 within the documentation they presented by the
10 number of the advisory circular to me, is how I
11 got that.

12 KIM HOLMES: Okay.

13 JERRY LAY: And I would like to
14 recommend as a special use, I'm sorry, I cut you
15 off. I'm bad at that.

16 I'd like to recommend as a special
17 condition that first off, all turbines be lighted.
18 And that they be lighted in accordance with the
19 advisory circular that was mentioned, AC70/7460-1
20 "M" as in Mike. And that the wind turbines be
21 lighted in accordance with the wind turbine
22 markings in snow prone areas.

23 KIM HOLMES: Okay. And again, we go
24 back to -- we know that lighting is required. So

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1 the type of lighting is important. And we would
2 recommend the ADLS lighting, and then if there is
3 the extra lighting, if it's something that they
4 can do, then we will recommend it.

5 But I'm not going to -- I mean the board
6 would have to agree with me, but I don't believe
7 that we need to make it a condition. The ADLS is
8 a recommendation. I'm not going to require it as
9 a condition, but we would prefer that. And a
10 further preference would be then for the extra
11 lighting. But lighting is already required.

12 JERRY LAY: Okay. And one other thing.
13 All structures be lighted; it's allowed in that
14 same circular that they not be. And that gives
15 pilots false hope at night as far as a safe area,
16 a safe harbor, so to speak.

17 KIM HOLMES: And again, I will put it as
18 a recommendation. I think that for something like
19 that, lighting is already required. We have
20 minimum lighting standards. And we would
21 recommend the ADLS lighting, as well as any extra
22 lighting that you proposed. But as far as being
23 on every turbine, again, a recommendation. But
24 I'm not going to -- I don't think it should be

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1 made a condition.

2 JERRY LAY: The reason I suggested,
3 madam chairman, a special condition is strictly
4 for safety purposes here. And I'm afraid that if
5 we don't state it as such, the minimum allowance
6 will be completed or could be completed, and that
7 that would actually leave turbines sometimes in
8 the middle of the wind farm not illuminated, even
9 with the ADLS. And it was never stated during
10 their testimony that all turbines would be.

11 I would just like to get a confirmation
12 on that, that they are, and the confirmation would
13 simply be in the form of a special condition.

14 KIM HOLMES: If I could hear from other
15 board members, please, any of your thoughts.

16 TERESA GAUGER: Teresa Gauger. I would
17 have to agree with Jerry. I would like to see all
18 them lit; even though it is the ADLS, I still
19 believe that all of the towers need to be lit.

20 KIM HOLMES: I would like input from the
21 other two board members, please.

22 DEAN BACKER: Dean Backer, ZBA. Let's
23 go back to the beginning of this. Are we in a
24 snow hazard area, you know? We're no different

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1 than anybody else. I think if you had lake effect
2 snow it would be different if your towers were
3 right there. But, I don't think we're in that
4 kind of position to be worried about this. That's
5 all I got to say.

6 JERRY LAY: Madam chairman, it was
7 testimony, Dean, from Chris Green and Mr.
8 Unzicker, and like I said, Mr. Blackman, I asked
9 them
10 pointedly if they knew we were in a snow prone
11 area. And they acknowledged that. I didn't ask
12 them about lake effect snow, to be honest with you
13 though.

14 KIM HOLMES: Go ahead, Marty.

15 MARTY CLINCH: So if we put a redundant
16 lighting system up there, we have two lights on
17 top of this turbine. What happens if they both
18 fail? Then what have we got? We're back to
19 square one.

20 So adding more lights, I'm not sure if
21 that is the solution, I understand the idea of the
22 safety and the pilot being in an area. But, I
23 thought that any aircraft coming in to the air
24 space of a wind farm had to be at least a thousand

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1 foot above the highest point of any turbine.

2 And with that in mind, putting another
3 light on another turbine in a snow storm, is he
4 going to see that if it fails too? So, I don't
5 know, being redundant, I know the lights are tied
6 to the computer system just like all other devices
7 on the turbine. Especially if there's a chance of
8 failure, regardless of what it is. And that is
9 instantaneously submitted into the computer system
10 of this wind farm. And it's almost instantaneous
11 that the players involved know of this, and they
12 can react accordingly.

13 So, that's the safety backup system that
14 I understand, is that this system would be taken
15 care of; that as a critical system like that,
16 would be taken care of right away. And especially
17 during a bad snowstorm. That any pilot coming in
18 to that area in a bad snowstorm would see that.
19 And if the lights come on, that's fine. If they
20 don't, then a backup system, backup light system,
21 I'm not sure if that's good too.

22 So, I don't know. I think redundant
23 systems, I'm not sure they work.

24 JERRY LAY: Jerry Lay, ZBA. A quick

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1 example like that would be, Marty, is --

2 KIM HOLMES: Go ahead, Jerry.

3 JERRY LAY: It would be like if there
4 was a stoplight at an intersection, or a lot of
5 times there are two lights and they're in case one
6 fails. Two bulbs. It's just a redundant thing.
7 And to answer your question about safety altitudes
8 in accordance with Exhibit 20 here that Mr.
9 Underwood put out, that in Class G air space,
10 which is what he said these windmills would be in,
11 he states the distances is that a pilot has to
12 have one statute mile visibility and the ceiling
13 -- and also to see and avoid obstacles.

14 What I'm trying to do here is let them
15 be able to see and avoid the obstacles in
16 accordance with what was submitted to us.

17 KIM HOLMES: All right. I think the
18 question we're going back to is the ADLS system, I
19 don't know that we need to require this
20 duplication or redundancy. And the question then
21 is, how does the board feel about lights on every
22 single one of the turbines? I believe there's,
23 what, 80 at this point?

24 JERRY LAY: Jerry Lay. These lights

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1 will only be on during the time the ADLS turns
2 them on. It's just that this will insure that if
3 one light burns out then they can fix the one that
4 burns out and have it up and going. But, they're
5 all illuminated. The chances they will all be
6 illuminated all the time are greatly increased.

7 MARTY CLINCH: Marty Clinch, ZBA.
8 Looking at this Exhibit 20, and the flight path
9 that they have to take, I'm not sure that -- they
10 have to be a thousand foot above the highest point
11 of a turbine blade, which some of them are going
12 to be 648. So, they got to be 1,600 feet above
13 any turbine through the flight path.

14 Now, any aircraft coming through there
15 would be most likely Unzicker's aircraft. Do I
16 get that right? Is that what I understand? That
17 it's not a regular flight path for any other type
18 of aircraft coming through there. And that's why
19 they have that stipulation they have to be a
20 thousand foot above that, so they can pass over in
21 case they are in the flight path of a turbine.

22 So, I'm not sure that adding more lights
23 to it is really going to make a difference. That
24 they're not going to be anywhere near this.

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1 KIM HOLMES: I would agree with Marty.
2 I don't know that having 80 lights in an area
3 versus 40, and then show where the turbines are.
4 But, I think we're at a bit of an impasse here.

5 MARTY CLINCH: Are we adding that to
6 this?

7 KIM HOLMES: Well, I don't think the
8 question was asked during testimony that was being
9 given as to how many, what percentage of turbines
10 will be lit.

11 MR. GIBSON: Okay. Just as a point of
12 clarification for the board, and we have looked
13 over the evidence. You guys have gotten, it
14 sounds like two issues intermingled here. Jerry
15 Lay's initial special condition I think was the
16 redundancy lighting, and then he moved on; and
17 your second one, Mr. Lay, was for all of them to
18 be lit, correct? He's shaking his head yes.

19 Having them all lit, I don't know that
20 was specifically addressed, but my understanding
21 is the FAA regulations based on the spacing of
22 these turbines is that they all have to be lit.
23 So they all will be lit pursuant to FAA
24 regulations.

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1 So, if the board does want to make a
2 special condition, that's fine. But, it's my
3 understanding pursuant to FAA regulation they will
4 be all lit.

5 KIM HOLMES: So what you're saying is,
6 it's a moot point. They are all going to be lit.

7 MR. GIBSON: It is moot, but if you guys
8 just want to put it in there I don't think there's
9 going to be any hemming and hawing since they
10 already have to do it.

11 JERRY LAY: Jerry Lay, ZBA. As a
12 follow-up, Erik, the reason this was brought up is
13 because they are not all illuminated.

14 MR. GIBSON: I think the difference is
15 the spacing between the turbines. That's the
16 issue here, is that the FAA is requiring them to
17 all be lit based on the spacing. But if you're
18 concerned about it, I would say just make it a
19 special condition, and I don't think it's going to
20 be an issue one way or the other.

21 JERRY LAY: Thank you. Jerry Lay. I
22 did not pick that up in the testimony. That's why
23 I was trying to bring that out.

24 MR. GIBSON: Exactly. That's why I

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1 clarified the FAA regulations are requiring it.

2 KIM HOLMES: Did you still want to make
3 it a special use condition, Jerry, for all of
4 those to be lit?

5 JERRY LAY: Don't have to if it's
6 already been stated here that according to the
7 FAA.

8 KIM HOLMES: FAA regulations --

9 JERRY LAY: Yes, according to the
10 advisory circular, which is what addresses this.
11 So, go ahead.

12 MR. GIBSON: Mr. Lay, if it makes you
13 feel better, just make it a special condition.
14 That would be my recommendation, legal
15 recommendation. If you want it in there, it's my
16 understanding it will be there, just make it a
17 special condition. And again, it sounds like it's
18 going to happen regardless because of FAA
19 regulations. But, I would just make it a special
20 condition.

21 JERRY LAY: One final thing then. That
22 was part of it. And how about the redundancy as
23 far as the lighting and marking?

24 MR. GIBSON: Well, I think that's

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1 something you guys have to decide on your own. I
2 only looked into the -- I don't think there's a
3 requirement for that based on the FAA regulations.
4 But you guys can continue to debate about that. I
5 would just merely, it sounded like we were getting
6 two issues melded into one there. At one point I
7 thought you had stopped talking about the
8 redundancy and then we got back to it.

9 So, that issue of all of the turbines
10 being lit sounds like it's a moot point
11 regardless; as far as the redundancy there, I
12 don't believe there's a requirement by the FAA for
13 redundancy lighting. So --

14 JERRY LAY: Jerry Lay from the ZBA.
15 Since we have gone this far, I would like to go
16 ahead and make it a special condition that all
17 wind structures be illuminated in accordance with
18 the advisory circular 70/7460-1 M.

19 KIM HOLMES: Does anybody on the board
20 have anything to say? No. All right. We will
21 put a special condition in there for all of them
22 to be lit, and then the advisory, do you want to
23 make it a requirement? Or do you want it to be a
24 recommendation?

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1 JERRY LAY: Requirement. Jerry Lay.

2 KIM HOLMES: Teresa, do you want it to
3 be a recommendation or requirement for?

4 TERESA GAUGER: Requirement.

5 DEAN BACKER: Recommendation.

6 MARTY CLINCH: Marty Clinch, ZBA. A
7 recommendation.

8 KIM HOLMES: All right. Well, I got to
9 do the tie breaker so I'm going to go with
10 recommendation for the secondary lighting.

11 MR. GIBSON: Just as a -- I don't know
12 that you guys can make it a recommendation. It's
13 either got to be a special condition or nothing.
14 Because there's no allowance under the ordinance
15 for you guy to make recommendations. Because
16 legally speaking, this is going to go as a special
17 use with special conditions to the county board.
18 And the county board has to make their decision
19 based on what you guys have done here.

20 So, I don't know that there is such a
21 thing as a recommendation. And I'm getting the
22 same understanding from the zoning administrator.
23 So, I would legally, I just want to make sure
24 everyone understands.

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1 Legally speaking, I don't think that
2 there is a recommendation you can put on there
3 that's not a special condition. Because I don't
4 want this to go up and somebody feels that this
5 was going to be a requirement and it wasn't.

6 KIM HOLMES: All right. We will go
7 ahead and I guess we will make it a requirement.
8 It was part of the advisory, and the second light
9 we can make it a condition.

10 All right.

11 JERRY LAY: Madam chairman? One more
12 thing, please. And this is referencing the
13 discussion at our last meeting with Chris Green
14 concerning the possible, I'm sorry, referring to
15 the reimbursement or for nonparticipants that get
16 charged more because of windmills in the area when
17 they get their fields sprayed, and I will read it
18 to you to make it more clear if I may.

19 The special condition I would like to
20 submit is that the Panther Grove Wind Energy
21 LLC, or any subsequent owner, shall reimburse
22 nonparticipating farmers/landowners for the
23 difference between the standard aerial application
24 fee charged by the aerial applicator, and any

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1 increased application fee or additional charge
2 incurred due to the proximity of wind turbines
3 that are within the navigable aerial application
4 air space of any fields being sprayed belonging to
5 a nonparticipant.

6 KIM HOLMES: Yes, they did testify to
7 that and they did say they would do that. So I
8 have no problem with that being a condition.

9 JERRY LAY: I understood that he said we
10 could probably work something out, and I would
11 like to get a special condition to certify that,
12 please.

13 KIM HOLMES: Do we have any other
14 comments on that?

15 MARTY CLINCH: Marty Clinch, ZBA. I'm
16 not sure I follow you, Jerry. Are you talking
17 about the farmers that have their crops sprayed by
18 an aircraft?

19 JERRY LAY: I understand. It's
20 difficult. Just a quick reference here, a
21 participant has a windmill, and his neighbor is a
22 nonparticipant and there's a windmill there. And
23 this aerial -- and the windmill may be down here
24 and the aerial applicator has to fly around that.

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1 Aerial applicators have a tendency to charge
2 either fees or an additional rate. At present, it
3 was under testimony -- Mr. Green said that Panther
4 Grove reimburses the participant. And he said
5 that we could probably work something out for
6 reimbursement for a nonparticipant that gets
7 charged more because there's a window here that
8 this person would get reimbursed for if this field
9 was sprayed but the neighbor's field wasn't.

10 It's just for the additional fees so
11 nobody loses out on this, is what I'm after.

12 MARTY CLINCH: I see. Thank you.

13 KIM HOLMES: And we can put that under
14 number C. Will not be injurious to the district
15 in which it shall be located. Is everybody okay
16 with that special condition? Okay. It looks like
17 we have a consensus on that for having that
18 included.

19 And do we have any further discussion
20 now on our findings?

21 LISA JORDING: Kim, can you guys go
22 ahead, I realize you've done most of your
23 findings. But can you kind of continue through
24 that document I gave you and go through your

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1 recommendation to the county board, those other
2 comments; if you want to adopt what's there,
3 that's fine. If you want to change stuff, that's
4 fine as well.

5 KIM HOLMES: All right. So, having done
6 our findings, and we have some other comments that
7 we would like to add.

8 So, we have the applicant's response is
9 compliance; will be to be compliant in these
10 different areas under design safety certification,
11 they will comply. Installation certification, and
12 these are all in the Woodford County zoning
13 ordinance. Panther Grove will comply. Control
14 and brakes, they will comply. Electrical
15 components, with everything that is listed, you
16 know, five foot below grade, at least one foot
17 below any ag drain tiles, etc. That they would
18 comply with that. Color, they would comply with
19 that. Lighting, we have just extensively
20 exhausted that. So, and indicated they would be
21 in compliance with that.

22 Compliance with the FAA. Again, they
23 have received determinations of no hazard permits
24 for the various wind turbine locations.

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1 Compliance with zoning laws.

2 JERRY LAY: Jerry Lay, ZBA. Just one
3 quick point there. At the beginning of this
4 entire process I believe it was stated that not
5 all of the wind turbines are in compliance with
6 the OEAAA at this time.

7 KIM HOLMES: That's correct. We will be
8 doing variances, we will be reviewing those.

9 JERRY LAY: Okay. There's even some
10 that are not in the variance, I believe, that were
11 not yet --

12 KIM HOLMES: Which ones are not in
13 compliance, Mr. Lay?

14 LISA JORDING: Kim, if you continue down
15 just a little bit further, number seven,
16 compliance with FAA, it will list the turbines
17 that currently have their full DNHS. It lists the
18 turbines that have move applications in for their
19 DNHS. And it lists -- I believe there's -- maybe
20 there's not any that don't have anything maybe. I
21 don't want to read it while you watch me.

22 But it's all listed in there for you
23 guys to read, which runs are folding in H, which
24 ones are moved and which ones are maybe pending.

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1 JERRY LAY: Jerry Lay ZBA. I guess my
2 question is, do we need a special condition to
3 insure that these are complied, all these are in
4 compliance with the OEAAA? I'd like to -- I'd
5 like to submit a special use, or special condition
6 that they all be in compliance with the OEAAA
7 prior to the issuance of the special use. Because
8 as of this time they are not.

9 KIM HOLMES: I don't understand where
10 this information is coming from. I thought these
11 met all the setbacks, etc.

12 LISA JORDING: Kim, what we're talking
13 about is the DNH, the demonstration of no harm
14 from the FAA, so that's the FAA performs a no
15 hazard air navigation check. All of the turbines
16 were initially submitted for that. And then they
17 moved some turbines. So that's what those DNH
18 that are under review for a move. So they
19 submitted them, they're not just back from the FAA
20 yet.

21 KIM HOLMES: Okay. Well, obviously then
22 we will go ahead and those have to also, Panther
23 Grove will supply DNH once received which is
24 expected to be in December 2020. So, for those

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1 ones that are not, don't have a DNH right now,
2 yeah, it would have to be conditional that they
3 have a determination of nonhazard prior to being
4 permitted. They have to meet those setbacks. And
5 they have to comply with the state.

6 JERRY LAY: Okay. So, just to clarify
7 so I know; when this goes before the county board,
8 can it even go before the county board if they're
9 not all through the FAA yet?

10 LISA JORDING: If you guys put a
11 condition on here, a special condition you can
12 send it to the ZBA with a recommendation of your
13 choosing with the special conditions. That
14 special condition can be that they must have their
15 DNH prior to the permitting. So you don't have to
16 hold them up here.

17 JERRY LAY: I see.

18 KIM HOLMES: So, they would have to go
19 ahead and be in compliance with the state
20 regulations before being allowed to get permits.

21 JERRY LAY: And that would require a
22 special condition.

23 LISA JORDING: Correct.

24 KIM HOLMES: Okay.

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1 LISA JORDING: If I might suggest, we do
2 have the special conditions that we kind of picked
3 out towards the end there. So you might go
4 through everything and get to those special
5 conditions and see if we missed any or if we added
6 ones you don't want. We have quite a few that are
7 listed for your consideration.

8 KIM HOLMES: Let me go through this. I
9 will go with eight again; compliance with zoning
10 laws. They will comply with all applicable laws.
11 Compliance in additional regulations. Warnings,
12 they will comply with this requirement. Crime
13 prevention, tower access will be locked at all
14 times. There's not going to be -- there's going
15 to be a six foot high fence and anti-climbing
16 device around the tower.

17 Setbacks; setbacks listed in Section 31
18 of the ordinance, except for the wind turbines in
19 the vicinity of the three Unzicker fixed wing --
20 of the -- sorry, in the vicinity of the Unzicker
21 fixed wing RLA. One thousand feet from most of
22 the participating residents. One thousand feet
23 from suitable bat habitat as defined in a site
24 characterization report that is provided in

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1 Appendix G and also shown in the site maps,
2 Appendix D. One half mile from the Illinois
3 natural areas inventory site, which is the
4 Mackinaw River, the watershed. That's at the
5 recommendation of the IDNR. Heights; to date
6 Panther Grove has received determinations of no
7 hazard permits for height of 649 feet for the
8 following wind turbine locations, 699 feet within
9 a thousand feet for these wind turbine locations,
10 and they're listed on this paper.

11 So, we have some remaining turbine
12 locations included in the application, and those
13 will be supplied by Panther Grove once they have
14 received them. And we have already made the
15 stipulation that no permits will be issued until
16 those have been received.

17 Roads, we have to have a road use
18 agreement. Migratory birds, which we've already
19 discussed. And so shadow flicker, and again we've
20 discussed that. Then we discussed an agreement in
21 lieu of taxes. Some special conditions we might
22 consider. Compliance with requirements one
23 through four, which is, are you talking about,
24 Lisa, what is compliance with requirements number

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1 one through four on this paper?

2 LISA JORDING: So that's in your zoning
3 ordinance, and that's the design safety
4 certification, installation certification,
5 controls and brakes and electrical components.

6 KIM HOLMES: Okay. That's one of those
7 special conditions, approval of remaining
8 demonstration of no harm, which we've already
9 talked to, or talked about. Approval of the ADLS
10 from the FAA. Approval of the archeological and
11 historic preservation study by the Illinois
12 Historic Preservation Agency. Yes, that should be
13 a condition. Execution of road use agreements
14 with county engineer, township road commissioners.
15 Yes, that's a condition. Annual submission of a
16 report to the Woodford County zoning enforcement
17 officer certifying the completion of annual
18 inspections, including a summary of inspection
19 results for the operating life of the project.
20 Yes, that should be a condition.

21 Compliance with all IDNR recommendations
22 regarding conservation of wildlife natural
23 resources, and presentation of bird and bat
24 conservation strategy plan.

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1 Zoning permit deadline extension of 15
2 months time period to obtain permits. Does
3 anybody have a problem with giving them 15 months
4 to come in and obtain permits?

5 LISA JORDING: That's your normal
6 permitting time line is 90 days.

7 KIM HOLMES: Versus the 90 days or
8 whatever. Okay. Submittal of a national
9 pollution discharge elimination system permit by
10 the application, provided by the applicant. And
11 then obtain a SWPPP, which is a Soil Water
12 Pollution Prevention Plan. Any commercial erosion
13 and sediment control permit as required in the
14 erosion, sediment and storm water control.

15 And then turbine 21, apply for and
16 receive a variance prior to applying for a zoning
17 permit.

18 So, would anybody care at this time to
19 make a motion?

20 LISA JORDING: Just to clarify, based on
21 your discussion tonight I have also added the use
22 of one of the two types of turbines, the GE or the
23 Vestas, with their respected listed generating
24 capacity. All turbines lighted in accordance with

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1 the FAA circular as stated by Mr. Lay. And I took
2 that to be lit with the snow prone areas markings.
3 And that Panther Grove Wind Energy LLC reimburse
4 landowners for any increased costs in the aerial
5 spraying for nonparticipating.

6 KIM HOLMES: Yes, because the ones I had
7 just read under special conditions also included
8 IDNR, the bat study, etc.

9 MR. GIBSON: Just as a reminder to the
10 ladies and gentlemen, you can handle this however
11 you want, but the variances all apply to certain
12 turbines. If you're going to make a motion, it
13 might make the most sense to do a motion for those
14 that don't include the variances until you have a
15 chance to talk about the variances. So maybe you
16 do a motion on all of them except for the ones
17 that are in the Unzicker area, and then after you
18 have a chance to discuss the variances.

19 Because you're going to have special
20 conditions on those probably to require, for
21 instance, there's been no variance applied for at
22 this point on number 21 at this stage. So just as
23 a thought.

24 LISA JORDING: Also we recommend that

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1 you guys adopt this map that I put on your tables.
2 This was the map that was presented on Tuesday
3 evening as the final project map with the removal
4 of turbines 45, 46, 61, 62, 63 and 64. So, we
5 would recommend that you adopt a final project map
6 along with your motion.

7 MR. GIBSON: The reason I'm thinking we
8 might want to adopt the map is just because right
9 now the application and the various conditions and
10 everything just refer to the turbines by numbers,
11 not locations. This would give some context to
12 the county board as to where these turbines are
13 actually located when you send it to them so they
14 can see that as well. And since so many maps have
15 come in during this process, this can be the
16 official final map.

17 KIM HOLMES: Go ahead, Teresa.

18 TERESA GAUGER: Teresa Gauger. I'm not
19 sure if it's requires a special condition, but I'm
20 going to put this out here because the salvage
21 cost was entered in our information what the
22 salvage was worth, and this goes along with our
23 ordinance 154-28-10, that the special condition,
24 Panther Grove wind energy facility shall provide

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1 110 percent of estimated costs in surety bonds for
2 decommissioning with no salvage value included.

3 KIM HOLMES: Well, that's in the
4 ordinance. And it is a requirement. The only way
5 that we would be able to modify that would be a
6 special condition to not, or to include scrap.

7 TERESA GAUGER: Okay. I just wanted that
8 out there.

9 KIM HOLMES: So we know that we're not
10 including scrap value in our decommissioning. Do
11 you want to make a motion? Go ahead, Marty.

12 MARTY CLINCH: The official map was
13 turbine 21, does this reflect the movement?

14 KIM HOLMES: The new location, it does.

15 MARTY CLINCH: This is the new location
16 of turbine 21?

17 KIM HOLMES: Yes.

18 MARTY CLINCH: Thank you.

19 KIM HOLMES: So do you want to make a
20 motion? I would entertain a motion to accept this
21 as the official site map, and anything that came
22 before is not considered to be reliable.

23 MARTY CLINCH: I'll make that motion.

24 KIM HOLMES: Do I have a second?

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1 JERRY LAY: Quick question. Is there a
2 number that we need to reference this to?

3 KIM HOLMES: No, there's no number on
4 it.

5 LISA JORDING: If you wish, it's Panther
6 Grove special use application December 7th, 2020,
7 version one, project overview map. And that was
8 presented by Chris Green in his presentation on
9 December 8th.

10 KIM HOLMES: Okay. It says in the upper
11 right-hand corner, Panther Grove special use
12 permit application December 7th, 2020, version
13 one.

14 LISA JORDING: And it was an exhibit. I
15 can tell you what exhibit that was. That was
16 Panther Grove Exhibit 34.

17 KIM HOLMES: All right. Exhibit 34, the
18 map that was included in that is now the motion
19 being made to make that the official project map
20 for our purposes. Do I have a first?

21 TERESA GAUGER: I will second that
22 motion, that we adopt this as the current map to
23 be used.

24 KIM HOLMES: So you're making the

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1 motion?

2 TERESA GAUGER: I thought Marty did.

3 KIM HOLMES: I'm sorry, the motion has
4 been received and seconded. Roll call vote,
5 please.

6 LISA JORDING: Marty Clinch.

7 A. Yes.

8 Q. LISA JORDING: Dean Backer?

9 A. Yes.

10 LISA JORDING: Kim Holmes?

11 A. Yes.

12 LISA JORDING: Teresa Gauger?

13 A. Yes.

14 LISA JORDING: Jerry Lay?

15 A. Yes.

16 KIM HOLMES: All approved. Motion
17 carried for that purpose. All right. Do we want
18 to come back to the special use? And with all of
19 the conditions listed, we don't think we want to
20 have those reread during the motion, do we? Are
21 we going to list every condition again for the
22 motion? Or can we just say, I make a motion, and
23 then with all of the special conditions listed?

24 LISA JORDING: I would recommend you

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1 guys clean me up some findings. Just read a
2 general finding and the conditions as part of the
3 motion.

4 MR. GIBSON: Just to be clear, whoever
5 makes the motion, and it doesn't matter to me who
6 does it, I would at minimum state that you're
7 adopting the findings of fact as discussed. And I
8 would also state whether or not you are adopting
9 the special conditions that were discussed as
10 well. I suppose whoever makes the motion could
11 make the motion adopting whatever findings of
12 fact, whatever special conditions they wanted, if
13 they want something omitted. But it's whoever is
14 going to make the motion.

15 MARTY CLINCH: Marty Clinch, ZBA. I
16 will make the motion that we accept the findings A
17 through G, with the adoption of the special
18 conditions.

19 KIM HOLMES: That were discussed.

20 MARTY CLINCH: That we discussed, yes.

21 KIM HOLMES: Do I have a second?

22 DEAN BACKER: Dean Backer, I'll second
23 it.

24 MR. GIBSON: Sorry, just as a point of

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1 clarification, Marty, is this for all of the
2 turbines? Is this for part of the turbines? Just
3 so the record is clear.

4 MARTY CLINCH: Well, this is for the
5 special use that we're discussing now on turbine
6 11.

7 KIM HOLMES: We're talking about the
8 special use as a whole. Now some of these are
9 going through variance. And then some of them
10 have been deleted; 45, 46, 61, 62, 63, 64, if I
11 got that right.

12 MARTY CLINCH: You want me to include
13 that in to the motion?

14 KIM HOLMES: I think all the special
15 conditions would apply to all of the turbines.

16 LISA JORDING: Would you like me to read
17 the numbers that are currently in play? The ones
18 that haven't been removed?

19 KIM HOLMES: All right. Let me see
20 here. All right.

21 LISA JORDING: The turbines that are
22 currently up for approval that have not been
23 removed are turbines 1 through 44; I'm sorry, 1
24 through 43. 46 through 60. 65 through 86. And

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1 the operations and maintenance site one and site
2 two. So that removes 45, 46, 61, 62, 63 and 64.

3 KIM HOLMES: Okay. So those are the
4 specific turbines that you are including in your
5 motion, Marty? Is that clear?

6 MARTY CLINCH: Marty Clinch, do you want
7 me to start the motion all over?

8 KIM HOLMES: No, I think that Lisa has
9 got a handle on it. She's got the turbine numbers
10 over there.

11 MARTY CLINCH: Okay. Then I would make
12 a motion that we recommend to approve the findings
13 A through G, and that we accept the special
14 conditions for all of the turbines one through 43,
15 46 through 60, and 65 through 86. And the
16 operation sites one and two.

17 KIM HOLMES: Did you get that, Lisa? Do
18 I have a second?

19 DEAN BACKER: I'll second it. Dean
20 Backer ZBA.

21 KIM HOLMES: Okay. Roll call vote,
22 please.

23 LISA JORDING: Dean Backer.

24 A. Yes.

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1 LISA JORDING: Kim Holmes.

2 A. Yes.

3 LISA JORDING: Teresa Gauger.

4 A. Yes.

5 LISA JORDING: Jerry Lay.

6 A. No.

7 LISA JORDING: Marty Clinch.

8 A. Yes.

9 KIM HOLMES: Motion passes. All right.

10 Now we're done with that. Our next endeavor is
11 going to be the variances. But I think we're
12 going to take a 15 minute break. It's now 5:52.
13 If everybody could be back here, let's just make
14 it 6:05 would be about 15 minutes.

15 (A break was taken at 5:52 p.m.)

16 (The time is 6:05 p.m.)

17 KIM HOLMES: It is 6:05. Okay. Marty.

18 MARTY CLINCH: Marty Clinch ZBA. On
19 that last motion, I would like to amend that
20 motion 'cuz we had some numbers that need to be
21 reconsidered.

22 I'd like to make a motion to accept the
23 motion with an amendment for turbines 1 through
24 44. 47 through 60. And 65 through 86. And sites

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1 one and two.

2 KIM HOLMES: All right. Amended motion
3 has been made. Do I have a second?

4 TERESA GAUGER: I'll second it.

5 KIM HOLMES: Okay. Roll vote, please.

6 LISA JORDING: Kim Holmes.

7 A. Yes.

8 LISA JORDING: Teresa Gauger.

9 A. Yes.

10 LISA JORDING: Jerry Lay.

11 A. No.

12 LISA JORDING: Marty Clinch.

13 A. Yes.

14 LISA JORDING: Dean Backer.

15 A. Yes.

16 KIM HOLMES: Motion carries. All right.

17 Our next business is the variances.

18 Now, these are petitions 2020-24, 25,
19 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39
20 and 40, which are all variances.

21 Okay. Do you want to do all of them, or
22 do you want to pull some of those to review those
23 independently, or do you want to do each one?

24 JERRY LAY: Jerry Lay, ZBA. Madam

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1 chairman, if possible I would like discussion on
2 number 24, 25, 26, 27 and 28 before we moved on
3 the variance if that's possible.

4 KIM HOLMES: Okay. We can pull those.
5 Now, do you want to do the rest of them
6 individually, or do you want to take the rest of
7 those and do findings on those collectively?

8 JERRY LAY: This is Jerry Lay ZBA. I'm
9 comfortable with addressing all of the rest of
10 them other than the first five that I mentioned.
11 So as far as I'm concerned, we can address the
12 variance on the remaining.

13 If you want me to read the numbers, it
14 would be for 29, 30, 31, 32, 33, 35, 36, 37, 38,
15 39 and 40. We can do those. I would like to
16 separately do 24, 25, 26, 27 and 28.

17 KIM HOLMES: All right. Do I have any
18 objections to that suggestion? No. All right.
19 So we're going to go ahead and discuss findings
20 for, and one more time, 29, 30, 31, 32, 33, 35,
21 36, 37, 38, 39 and 40.

22 So the first is A, nonconforming uses in
23 the same district and permitted uses in other
24 districts shall not be considered grounds for

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1 issuance of a variance.

2 I would start with, I consider this to
3 be a positive; no other uses were considered as
4 grounds for issuances, variances to the tall
5 structure section are allowable per 154.31.8.

6 TERESA GAUGER: Teresa Gauger. I agree
7 that these variances to the tall structures
8 section are allowable.

9 KIM HOLMES: B, the granting of the
10 variance requested will not confer on the
11 applicant any special privilege that is denied by
12 this ordinance to other lands or structures in the
13 same district.

14 Does anybody have anything they'd like
15 to contribute for this finding? All right.
16 Anybody? I find this to be positive. The
17 applicant has received no special privilege.
18 Variances are allowable pursuant to 154-31-8 for
19 any individual wishing to pursue such petition.
20 Granting is made based on the merits of the
21 testimony presented. Do we have any other
22 discussion?

23 JERRY LAY: Jerry Lay, ZBA I concur.

24 KIM HOLMES: C. The ZBA has found the

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1 reasons set forth in the application justify the
2 granting of the variance. Does anybody care to
3 discuss C? Variance? Go ahead, Marty.

4 MARTY CLINCH: Marty Clinch, zoning
5 board. The only thing I want to add that I
6 thought that stuck out about C was the
7 decommissioning program of the Woodford County
8 ordinance, making sure that all the
9 decommissioning rules, regulations, were followed,
10 and the testimony did indicate that they are going
11 to follow through every letter of the law on that.
12 So that's why I would vote to the positive.

13 KIM HOLMES: Okay. Thank you, Marty.
14 Okay. I find this also to be positive. Applicant
15 has applied for and received a determination of no
16 hazard permit, otherwise known as a DNH from the
17 Federal Aviation Administration as presented in
18 Appendix NN. As well as reviewed by the Illinois
19 Department of Transportation, aviation safety
20 division as presented in Appendix 00. Obstruction
21 lighting will be installed in accordance with FAA
22 and IDOT standards.

23 Additionally, the restricted landing
24 area owner operator has reviewed and evaluated the

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1 proposed variances and has provided testimony
2 supporting approval of the requested variances.
3 Any further discussion?

4 JERRY LAY: Madam chairman, I don't
5 believe the variances we're discussing really
6 involves the restricted landing area there. They
7 do have the OEAAA approval, but I don't think any
8 of those that are listed there were addressed by
9 the Illinois Department of Transportation.

10 So I would be happy with rereading that
11 and just dropping off the, or eliminating anything
12 that addresses the Illinois Department of
13 Transportation, and I would go along with the rest
14 of that.

15 KIM HOLMES: All right. Go ahead,
16 Marty.

17 MARTY CLINCH: Madam chairman ZBA.
18 Jerry, just a clarification, you're saying that
19 IDOT does not have jurisdiction in those turbines?

20 JERRY LAY: No. I'm saying these
21 turbines aren't within the area of consideration
22 for the restricted landing area.

23 MARTY CLINCH: I thought it was in the
24 testimony from the -- I don't remember which

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1 gentleman it was that talked about the IDOT, I
2 can't find it, but it had to do with the -- oh,
3 I'm trying to think; but the IDOT and the FAA were
4 two of the agencies that had to approve that. I
5 believe it was in Unzicker's testimony, that he
6 worked with IDOT officials and the FAA officials
7 through the Tri-Global people that they made the
8 amendments to fit all of those, I'd say in the
9 purple area and not the blue area in the map.

10 I was under the understanding that IDOT
11 had to be a part of that decision too, to give
12 their blessing to it.

13 JERRY LAY: Actually, that wasn't
14 presented that way. First off, there was no FAA
15 official that was involved in any of this that I
16 saw testimony from. And the other testimony was
17 from Tony Reiser, the bureau chief of safety from
18 the Department of Transportation Aeronautics, and
19 he stated that the wind turbines met the minimum
20 standards basically. I'm paraphrasing here
21 because I don't have it in front of me right now.
22 And I'll amend what I said earlier.

23 I would like to just go ahead and add
24 this and the IDOT statement can be inserted in

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1 there, and disregard what I asked earlier. So I
2 would go ahead and accept C as written.

3 KIM HOLMES: Okay. Thank you. Do we
4 have any further discussion about C? No.

5 All right, D. The ZBA finds that the
6 granting of the variance will be in harmony with
7 the general purpose and intent of this ordinance,
8 and will not be injurious to the neighborhood or
9 otherwise detrimental to the public welfare. Does
10 anybody want to speak to this? Nobody? Okay.
11 Positive.

12 The district in which the special use is
13 proposed is mostly agriculture with the exception
14 of resident farms, farmettes and other rural
15 residences. Turbines will impact residents
16 visually through the disruption of the current
17 landscape, however the existing Minonk wind farm
18 currently presents the same disruption to the
19 north and west of the proposed project area.
20 Blade rotation may at times introduce noise and/or
21 shadow flicker to residences in the farm area.
22 The setback requirements to nonparticipating
23 residences of four times the turbine height are
24 maintained for all turbines.

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1 Additionally, the shadow flicker study
2 in Appendix M and updated in Exhibit 37
3 demonstrate compliance with the shadow flicker
4 annual hourly restriction. Applicant additionally
5 presented documentation of compliance with
6 allowable limits for turbine noises set by the
7 State of Illinois; specifically the Illinois
8 Pollution Control Board, Appendix T, and updated
9 in Exhibit 36 of the application states that all
10 turbines are located to meet IPCB audible noise
11 requirements for all nonparticipating residential
12 structures at all times of day and night.

13 Do we have any further discussion?

14 JERRY LAY: Jerry Lay, ZBA. I concur
15 with the findings.

16 KIM HOLMES: Is there any further
17 discussion? E. The variance requested is the
18 least amount of variance required to allow the
19 proposed structure on the existing lot, without
20 regard to aesthetics or personal inconvenience to
21 the property owner.

22 Would anybody like to discuss that? No?
23 Okay. Well, I find this to be positive.
24 Applicant has provided testimony to the effect

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1 that removal or relocation of the variance
2 turbines would render the project infeasible.
3 Therefore, applicant made every effort to site the
4 fewest number of turbines within the tall
5 structures setback. Is there any anything else
6 that people would want to contribute?

7 All right. So, I would entertain a
8 motion, and I would like whoever does the motion
9 to be specific and to name each and every one of
10 the petition numbers in their motion.

11 TERESA GAUGER: Teresa Gauger. I would
12 like to make a motion that we approve the
13 variances for turbine numbers --

14 KIM HOLMES: Well, it's petition
15 numbers.

16 TERESA GAUGER: Petition numbers for
17 2020-29 V, 2020-30-V, 2020-31-V, 2020-32-V,
18 2020-33-V, 2020-35-V, 2020-36-V, 2020-37-V,
19 2020-38-V, 2020-39-V, and 2020-40-V.

20 KIM HOLMES: The motion has been made.
21 Do I have a second?

22 MARTY CLINCH: I'll second that. Marty
23 Clinch.

24 KIM HOLMES: All right. Motion has been

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1 made and seconded. Roll call vote, please.

2 LISA JORDING: Teresa Gauger.

3 A. Yes.

4 LISA JORDING: Jerry Lay.

5 A. Yes.

6 LISA JORDING: Marty Clinch.

7 A. Yes.

8 LISA JORDING: Dean Backer.

9 A. Yes.

10 LISA JORDING: Kim Holmes.

11 A. Yes.

12 KIM HOLMES: That motion does carry.

13 All right. The next variance we're going to

14 discuss is petition 2020-24-V.

15 JERRY LAY: And Jerry Lay, if you like,
16 I would be happy discussing the remainder of those
17 as one because they will all apply to one in my
18 discussion. If you want to do them separately, we
19 can.

20 KIM HOLMES: All right. We can do them
21 all together. Do I have any -- okay. Everybody
22 concurs. We will go ahead and we are going to be
23 doing 2020-24-V, 25-V, 26-V, 27-V, 28-V in total.
24 All right.

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1 So the first, under our findings A,
2 nonconforming uses in the same district, permitted
3 uses in other districts, shall not be considered
4 grounds for issuance of a variance. Do we have
5 any discussion about that in regards to these five
6 turbines? All right. I'll find this positive.
7 No other uses were considered as grounds for
8 issuance. Variances to the tall structures
9 section are allowable per 154.31.8.

10 B, the granting of the variance
11 requested will not confer on the applicant any
12 special privilege that is denied by this ordinance
13 to other lands or structures in the same district.
14 Do we have any discussion? I find this positive.
15 Applicant has received no special privilege.
16 Variances are allowable pursuant to 154.31.8 for
17 any individual wishing to pursue such petition
18 grant. Granting is made based on the merits of
19 the testimony presented.

20 C, the ZBA has found that reasons set
21 forth in the application justify the granting of
22 the variance. Does the board have any discussion
23 on letter C?

24 JERRY LAY: Jerry Lay, ZBA. I do. I'll

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1 go back to where I was earlier at the risk of
2 repeating myself.

3 These obstacles addressed in the
4 variances that we're discussing right now --

5 MR. GIBSON: Mr. Lay, real quick. As a
6 point of clarification, I know there's a lot of
7 numbers out here. Which variances are you wanting
8 to talk about?

9 JERRY LAY: Okay. Jerry Lay, ZBA.
10 2020-24, dash 25 --

11 MR. GIBSON: These are the variances or
12 the turbines?

13 JERRY LAY: That's what it says on here.
14 Good question.

15 MR. GIBSON: Because the question
16 ultimately --

17 JERRY LAY: I'm sorry, these are the
18 turbine numbers I'm offering, so I may have
19 already screwed up.

20 MR. GIBSON: If you're wanting to talk
21 about the turbines that are in Mr. Unzicker's
22 farm, those were in the variances you guys just
23 voted on.

24 KIM HOLMES: Oh, I did not know that.

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1 JERRY LAY: That was an unintended
2 consequence.

3 KIM HOLMES: I thought the variances
4 were the same numbers.

5 LISA JORDING: You guys were addressing
6 the variance; the petition number for the
7 variance. So, for instance, petition 2020-24-V
8 addresses turbine 11.

9 JERRY LAY: I was mistaken. I'm sorry.

10 LISA JORDING: So Jerry, which turbines
11 are you wishing to address?

12 JERRY LAY: The turbines I wish to
13 address is number 24, turbine 25, turbine 26,
14 turbine 27 and turbine 28. And that was an
15 interpretation error on my part.

16 LISA JORDING: Okay. So for clarity,
17 turbine 24 is addressed in variance 35. So
18 turbine 24 is variance 35.

19 Turbine 25 is addressed in variance 36.
20 Turbine 25, variance 36.

21 Turbine 26 is addressed in variance 37.
22 Turbine 26, variance 37.

23 Turbine 27 is addressed in variance 38.
24 Turbine 27, variance 38.

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1 Turbine 28 is addressed in variance 39.
2 28, variance 39. So if you would like to make a
3 motion to reconsider.

4 JERRY LAY: Could we amend this last
5 motion that was made, please.

6 KIM HOLMES: Yes. Let's do that.

7 LISA JORDING: And this would be a
8 motion to reconsider, not amend. You already
9 voted. So you need to reconsider this motion. So
10 anyone voting in the affirmative can make a motion
11 to reconsider.

12 TERESA GAUGER: Teresa Gauger. I will
13 make a motion that we reconsider the variances
14 that we previously approved. And would like to
15 change those variances to 2020-24V, 25V, 26V,
16 27V, 28V, 29V, 30V, 31V, 32V, 33V, and 40V.

17 JERRY LAY: I second that.

18 KIM HOLMES: Roll call vote, please.

19 LISA JORDING: To clarify, Teresa, that
20 was a motion to reconsider and approve those
21 variances that you listed?

22 TERESA GAUGER: Correct.

23 LISA JORDING: So for the motion to
24 reconsider and approve the variances as listed by

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1 Ms. Gauger and seconded by Mr. Lay; Jerry Lay, for
2 your vote?

3 JERRY LAY: Pardon me?

4 LISA JORDING: I'm calling you to vote.

5 JERRY LAY: Yes.

6 LISA JORDING: Marty Clinch.

7 A. Yes.

8 LISA JORDING: Dean Backer.

9 A. Yes.

10 LISA JORDING: Kim Holmes.

11 A. Yes.

12 LISA JORDING: Teresa Gauger.

13 A. Yes.

14 KIM HOLMES: Okay. Motion carries. All
15 right. Now we're going to go back to our
16 discussion of turbines 24, 25, 26, 27 and 28. So,
17 we'll start over again.

18 A, nonconforming uses in the same
19 district and permitted uses in other districts
20 shall not be considered grounds for issuance of a
21 variance. We said this was positive. No other
22 uses were considered as grounds for issuance.
23 Variance to the tall structures section are
24 allowable per 1.4.31.8. Any further discussion?

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1 MR. GIBSON: Point of clarification.
2 What are you guys discussing right now?

3 KIM HOLMES: We're discussing variances
4 for turbines.

5 MR. GIBSON: Just to be clear for the
6 record, it's variance numbers 35, 36, 37, 38, 39.
7 I just want to be clear.

8 KIM HOLMES: Right, because I wanted to
9 differentiate that between that and the turbine
10 numbers and those are -- we know that turbine 24
11 is petition 35.

12 MR. GIBSON: Right. I would propose
13 that while you guys discuss this, so there's no
14 other issues, go by the variance numbers since
15 that's what's being voted on.

16 KIM HOLMES: Okay. So we are going to
17 be discussing variances 35, 36, 37, 38 and 39.

18 B, the granting of the variance
19 requested will not confer on the applicant any
20 special privilege that is denied by this ordinance
21 to other lands or structures in the same district.

22 Discussion? This is positive.
23 Applicant has received no special privilege,
24 variances are allowable pursuant to 154.31.8 for

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1 any individual wishing to pursue such petition.
2 Granting is made based on the merits of the
3 testimony presented. Is there any further
4 discussion?

5 C, the ZBA has found that the reasons
6 set forth in the application justify the granting
7 of the variance. I find this to be positive.
8 Applicant has applied for and received a
9 determination of no hazard permit from the Federal
10 Aviation Administration as presented in Appendix
11 NN, as well as reviewed by the Illinois Department
12 of Transportation Aviation safety division as
13 presented in Appendix 00. Obstruction lighting
14 will be installed in accordance with FAA and IDOT
15 standards.

16 Additionally, the restricted landing
17 area, owner operator has reviewed and evaluated
18 the proposed variances and has provided testimony
19 supporting approval of the requested variances.

20 JERRY LAY: Discussion, Jerry Lay, ZBA.

21 KIM HOLMES: Go ahead.

22 JERRY LAY: In section C here, I'm
23 finding in the negative for the simple fact that
24 Mr. Unzicker had to go to extraordinary measures

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1 to design and draw specific departure procedures,
2 arrival procedures, and even potentially emergency
3 procedures in order to accommodate these obstacles
4 in these variances.

5 I asked during our testimony here if
6 these were submitted to the state or the FAA.
7 They were not. These are private approaches that
8 Mr. Unzicker felt obligated apparently to draw.
9 Neither he nor any pilot flying into an airstrip
10 should have to draw their own special approaches
11 and departures to make it safe to land at their
12 own strip. Let alone anybody coming in to use his
13 strip.

14 In its current configuration, without
15 any obstacles in the area right now, this airstrip
16 meets and/or exceeds the IDOT standards. I'd like
17 to reply also to the findings that are in C here
18 in print in front of us, where it mentions about
19 the FAA. The FAA has found no hazard for the
20 navigable air space. The navigable air space in
21 general is for instrument pilots. It has nothing
22 to do with pilots flying visual flight rules.
23 That's the OEAAA evaluation.

24 I further do not recommend that Mr.

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1 Unzicker remove his airstrip from the FAA
2 sectionals, simply because this airstrip does
3 offer, as I mentioned before, safe harbor for any
4 pilots in the area that may be experiencing any
5 kind of an emergency. But these pilots will have
6 no knowledge of the required approaches or
7 departures or even emergency aerial landings if
8 they go to land there. Typically a pilot assumes
9 the areas are safe of obstructions.

10 Neither the FAA or IDOT restrict the
11 maximum distance that a turbine could be placed
12 from an airstrip. These turbines could be put two
13 miles away and you could go to IDOT aeronautics
14 and they would say it meets the requirements.

15 Likewise, the standards that are set by
16 the IDOT are the minimum standards. So a typical
17 example would be is if something has to be five
18 thousand feet away, and there's an obstacle at
19 five thousand and one feet, that's legal. It may
20 not be safe necessarily, but it's legal to their
21 standards.

22 What I'm looking at here, is these five
23 turbines are extremely close to his landing area.
24 Neither Mr. Unzicker nor any other pilot using the

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1 area should have to be exposed to these turbines
2 that close. And I do understand and respect, and
3 I know Keith Unzicker. Excellent pilot. 12,000
4 hours. He flies jets overseas. That's got
5 nothing to do with his airstrip there as far as
6 the safety that's involved compared to what it is
7 right now. We're reducing his safety. In other
8 words, we're maximizing the minimums of the safety
9 requirements.

10 And I feel it's incumbent upon the ZBA
11 to take that into consideration; even though
12 something may be legal, it's legal to drive 55 on
13 the ice on a road until you crash. And then it's
14 too fast for conditions.

15 Just because it maybe meets the standard
16 does not mean it's safe. I'm not looking at
17 eliminating all of these turbines in the variance
18 by any stretch of the imagination. But, I feel
19 that these five turbines that we're discussing
20 right now are a hazard to flight and navigation in
21 and around Mr. Unzicker's strip.

22 No further questions. Or no further
23 comments.

24 KIM HOLMES: Okay. And then according

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1 to Mr. Unzicker, he also indicated that he would,
2 if needed, shut down his airstrip. And that this
3 is a personal or private property, and the
4 paperwork has been filed, and that the FAA,
5 according to testimony, the FAA has issued a
6 determination of no hazard to air navigation for
7 each of the turbines within the Unzicker RLA
8 setback.

9 So, accordingly, the factor, this
10 factor, the tall structures ordinance variance
11 standard is satisfied.

12 JERRY LAY: Jerry Lay, ZBA. The FAA
13 never made, that I was, or there was never
14 testimony that the FAA visited his airstrip. This
15 was done strictly by longitude and latitude
16 locations. And again, it's for navigable air
17 space for instrument pilots, and it has to do with
18 the instrument approaches into Peoria, Chicago and
19 Bloomington. That's the navigable air space they
20 look at.

21 The FAA does not look at private
22 airstrips whatsoever. This is the part of IDOT
23 aeronautics. IDOT aeronautics, under the
24 testimony we got, did not visit this. They

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1 received a letter. So they did not come out and
2 look at his area for any recertification or
3 certification. And they did something on a map
4 and they measured it and it is within their
5 standards for this airstrip.

6 I can't argue with that, that it's
7 within their standards. It's within their
8 standards right now. We're just pushing those
9 standards down. We're reducing them tremendously.

10 And that was my point here. This is a
11 safety thing. I'm not trying to shut down the
12 wind farm. I'm trying to keep this airstrip as
13 safe as we possibly can for not only Mr. Unzicker,
14 but anyone else that can use it. And he only
15 controls what's on the ground of that airstrip.
16 He does not control what flies above it.

17 KIM HOLMES: Do we have any other
18 discussion? Go ahead and Marty.

19 MARTY CLINCH: Marty Clinch, ZBA. As I
20 look through the testimony, my notes, and some of
21 the information in our packets, one statement
22 stood out from the FAA, is that it therefore, it
23 is determined that the proposed construction would
24 not have a substantial adverse effect on the safe

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1 and efficient utilization of the navigable air
2 space by aircraft or on any air navigation
3 facility, and would not be a hazard to air
4 navigation providing the conditions set forth in
5 this determination are met. And I know some of
6 that stuff is over my head. I'm not a pilot. I
7 understand that.

8 But, we here as a zoning board are here
9 to gather facts and data and decide what we think.
10 And the testimony that Keith Unzicker brought to
11 the hearing was that he had no problem with these
12 turbines in their place. And the maps that I'm
13 seeing, the revised maps of his approaches and his
14 takeoff, was that he was okay with that. And that
15 there was no obstructions, and the neighbors were
16 okay with it too.

17 So, I see no problem in ruling in
18 affirmative for these turbines.

19 JERRY LAY: Jerry Lay, ZBA. Just to
20 clarify one thing, Marty. When it states, when
21 you said, read there that the FAA found no problem
22 with the airstrips, is that correct? Is that what
23 you said there? I missed a bit of that.

24 MARTY CLINCH: Yeah, it's in this

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1 appendix.

2 JERRY LAY: NN?

3 MARTY CLINCH: Yes, Appendix NN, and
4 also Appendix 00, which is IDOT's review, which
5 gave it a positive review. And then the fixed
6 wing RLA dimension standards, which would be
7 Appendix PP, also indicated that they are okay
8 with this. This landing strip in comparison to
9 the turbines that are around it. This is what I
10 read it, and what we're supposed to be looking at.
11 And that's the determination that says that if
12 these governmental organizations are okay with it,
13 and the landowner is okay with it, and the
14 surrounding neighbors are okay with it, I see no
15 problem in allowing these turbines to be
16 installed.

17 JERRY LAY: Jerry Lay, ZBA. I'm not
18 aware that the surrounding landowners, first off,
19 were pilots. Number two, the FAA determination
20 that is given for the navigable air space, or the
21 airstrips or airports are for public use. They
22 address public use only. They are not addressing
23 private airstrips whatsoever as far as how close
24 wind turbines can be to them. The FAA, according

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1 to the OEAAA, does not give any protection
2 whatsoever to the private airstrips or heliports
3 that are out there.

4 And the IDOT recommendation that was
5 given was an e-mail, if I'm not mistaken. There
6 was an e-mail sent. It was looked at in
7 Springfield and sent back, and said yep, it's
8 okay.

9 I interpreted that simply as someone
10 driving by a state cop doing 55 and then going
11 back to the state cop and asking for a letter
12 saying, will you write down that I was doing 55.

13 My point in this whole deal here is,
14 even though the pilot, who may have other reasons
15 for wanting these turbines set this close, it's
16 not as safe as it is now and it's not as safe as
17 we could make it. And according to the map that
18 was given to us, it's closer than the horizontal
19 zone originally that was set.

20 And so one individual is trying to
21 reduce the safety on this, and he is the pilot,
22 and I'm just saying these are some safety areas
23 that we could address, and not approve the
24 variances for. And it's a reason of safety only.

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1 It's got nothing to do with anything else. The
2 best I can put this. So I will find a negative
3 for that, madam chairman.

4 KIM HOLMES: Yes, I have that, Jerry.
5 Well, and I would reiterate that Mr. Unzicker has
6 indicated that he will shut his RLA down over not
7 having turbines. And that's what he stated in his
8 testimony.

9 So, and another thing is that I guess I
10 think maybe Marty already discussed this, but the
11 applicant provided the proposed turbine locations
12 located on group Exhibit 1, Appendix MM, to IDOT.
13 On September 28th, 2020, IDOT responded to the
14 applicant indicating the wind turbine generators
15 depicted in the attached document comply with IDOT
16 standards with the Unzicker restricted landing
17 area. See group Exhibit 1, Appendix 00.

18 Accordingly, IDOT has determined that
19 the turbine locations are appropriate under its
20 standards.

21 And so I would still, and I have
22 listened, I understand what you're saying. I
23 would still consider this to be a positive. Are
24 there any other further discussion?

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1 D, the ZBA finds that the granting of
2 the variance will be in harmony with the general
3 purpose and intent of this ordinance and will not
4 be injurious to the neighborhood or otherwise
5 detrimental to the public welfare. Do we have any
6 discussion? Okay. Positive.

7 The district in which the special use is
8 proposed is mostly agriculture with the exception
9 of resident farms, farmettes and other rural
10 residences. Turbines will impact residents
11 visually through the disruption of the current
12 landscape, however the existing Minonk wind farm
13 currently presents the same disruption to the
14 north and west of the proposed project area.

15 Blade rotation may at times introduce
16 noise or shadow flicker, and/or shadow flicker, to
17 residences in the farm area. The setback
18 requirements to nonparticipating residences of
19 four times the turbine height are maintained for
20 all turbines. Additionally, the shadow flicker
21 study found in Appendix M and updated in Exhibit
22 37 demonstrate compliance with the shadow flicker
23 annual hourly restriction.

24 Additionally, applicant presented

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1 documentation of compliance with allowable limits
2 for turbine noise as set by the State of Illinois,
3 specifically the Illinois Pollution Control Board,
4 Appendix T, and updated in Exhibit 36 of the
5 application, states that all turbines are located
6 to meet IPCB audible noise requirements for all
7 nonparticipating residential structures at all
8 times of day.

9 Do we have any additions? Any
10 discussion? None.

11 E, the variance requested is the least
12 amount of variance required to allow the proposed
13 structure on the existing lot without regard to
14 aesthetics or personal inconvenience to the
15 property owner. Discussion?

16 JERRY LAY: Jerry Lay, ZBA. Let the
17 record show that it's also the least amount
18 allowed safely. No further discussion. I find a
19 negative on that, by the way.

20 KIM HOLMES: Your observation has been
21 noted. Is there any further discussion on E?

22 All right. I would entertain a motion.
23 When you make your motion, please state the
24 petition numbers.

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1 LISA JORDING: Kim, real quick. I did
2 not clarify this for you in the first step. Your
3 tall structures ordinance also discusses the
4 variances. And specifically talks about how the
5 -- the zoning board of appeals for variance for
6 such regulations, the variance should be
7 accompanied by a determination from the FAA as to
8 the effect of the proposal on operation of air
9 navigation facilities and safe and efficient use
10 of the navigable air space.

11 KIM HOLMES: Okay.

12 LISA JORDING: Such variances shall be
13 allowed where it is duly found that literal
14 application or enforcement of the regulations will
15 result in unnecessary hardship, and relief granted
16 will not be contrary to the public interest, will
17 not create a hazard to air navigation, will do
18 substantial justice, and will be in accordance
19 with the spirit of the ordinance.

20 Additionally, no application for
21 variance to the requirements of this ordinance may
22 be considered by the Zoning Board of Appeals
23 unless a copy of the application has been
24 furnished to IDOT, division of aeronautics, for

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1 advice as to the aeronautical effect of the
2 variance. If the Illinois Department of
3 Transportation aeronautics division does not
4 respond to the application within 15 days, zoning
5 board may act to grant the variance. And then it
6 addresses obstruction, markings and lighting. And
7 then if you deem that, that's typically relating
8 to unmarked things like trees. So, you have
9 probably sufficiently discussed the obstruction
10 markings for these.

11 KIM HOLMES: Okay. So, the turbines
12 will all have lights on them. The locations are
13 all located on a map.

14 We have already stated that there was a
15 -- the FAA has issued a determination of no hazard
16 to air navigation for each of the wind turbines
17 within the Unzicker RLA setback. And this is in
18 Group Exhibit 1, Appendix NN. So the factor of
19 the tall structure ordinance variance is satisfied
20 in that manner. We did hear from Mr. Unzicker.
21 And that they are not contrary to the public
22 interest. These are all on private property. And
23 then it does not create a hazard to air
24 navigation.

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1 This is a private landing strip. It's
2 restricted. People have to have permission to
3 land here. So, it's not a public airstrip in any
4 way.

5 He's also mentioned that there was an
6 existing cell tower obstruction nearby, and that
7 was in hearing transcript 11-19-2020, and then Mr.
8 Unzicker has also had his pilot's license since
9 the fall of 1987 and he has been actively employed
10 as a professional pilot since 1989. And he has
11 over 12,000 hours of flight time.

12 So, again, I mention that he has a
13 private visual flight; it's a private visual
14 flight rules airstrip VFR. This means that Mr.
15 Unzicker controls who can fly in and out of the
16 field, and only during VFR conditions. So, that
17 means that there has to be a visual. And again,
18 that's where the lighting would come in, in the
19 evening.

20 So, Mr. Unzicker, he testified that he
21 does not view the proposed locations of turbines
22 25 and 26 as representing a problem for takeoffs
23 and landings. In fact, he testified that the
24 turbine locations allow sufficient space to

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1 maneuver the light aircraft that he currently
2 operates with an ample margin of safety.

3 Mr. Unzicker emphasizes that during his
4 testimony that he would not have allowed the
5 turbines to be sited where they are proposed, and
6 this is in Appendix MM of Group Exhibit 1, if he
7 believed them to be unsafe. And while the
8 turbines may have some impact on his advanced
9 flight planning, he will still be able to use his
10 airstrip to the full extent he currently uses it.

11 Okay. So the allowance for the variance
12 does substantial justice balancing the private
13 property interests of the owners of property
14 nearby in the project, while also allowing for the
15 continued utilization of the Unzicker airstrip.

16 Further, not only is the spirit of the
17 ordinance achieved via the variances, they are
18 expressly allowed under the tall structure
19 ordinance.

20 So, is that what you're looking for?

21 Okay. All right. Now, I guess I would entertain
22 a motion.

23 MARTY CLINCH: Madam chairman, ZBA. I
24 would like to make a motion to accept the

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1 petitions 2020-35-V, 2020-36-V, 2020-37-V,
2 2020-39-V.

3 KIM HOLMES: Did you get 38?

4 MARTY CLINCH: I'm sorry, 38. 38-V.

5 KIM HOLMES: And also 39?

6 MARTY CLINCH: And 39, yes.

7 KIM HOLMES: Is there a second?

8 DEAN BACKER: I'll second it.

9 KIM HOLMES: Okay. There has been a
10 motion made to approve these five variances and
11 has been seconded. Roll call vote, please.

12 LISA JORDING: Marty Clinch.

13 A. Yes.

14 LISA JORDING: Dean Backer.

15 A. Yes.

16 LISA JORDING: Kim Holmes.

17 A. Yes.

18 LISA JORDING: Teresa Gauger.

19 A. No.

20 LISA JORDING: Jerry Lay.

21 A. No.

22 KIM HOLMES: Motion carries. Would like
23 to thank everybody for coming. I don't think
24 there's anything else on the agenda.

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1 MR. GIBSON: We still have to do public
2 comment. So we didn't do a sign up sheet, but if
3 anyone would like to make public comment, feel
4 free to come to the front over here and I can let
5 you use this microphone. Seeing none.

6 KIM HOLMES: Okay.

7 MR. GIBSON: I think we have to run this
8 like a normal meeting.

9 KIM HOLMES: Okay.

10 LISA JORDING: We're up to adjournment.

11 KIM HOLMES: I would entertain a motion
12 to adjourn.

13 DEAN BACKER: So move.

14 KIM HOLMES: Second? Can I get a
15 second?

16 MARTY CLINCH: I'll second it.

17 KIM HOLMES: Okay. So motion was made
18 and seconded and we are adjourned at 7:02.

19 (The time is 7:02 p.m.)
20
21
22
23
24

1 STATE OF ILLINOIS)
) SS
2 COUNTY OF CHAMPAIGN)

3 I, DEANN K. PARKINSON, a Notary Public
4 in and for the County of Champaign State of
5 Illinois, do hereby certify that the foregoing was
6 taken on December 10, 2020.

7 That said hearing was taken down in
8 stenographic notes and afterwards reduced to
9 typewriting under my instruction and said
10 transcription is a true record.

11 I do hereby certify that I am a
12 disinterested person in this cause of action; that
13 I am not a relative of any party or any attorney
14 of record in this cause, or an attorney for any
15 party herein, or otherwise interested in the event
16 of this action, and am not in the employ of the
17 attorneys for either party.

18 In witness whereof, I have hereunto set
19 my hand and affixed my notarial seal December 12,
20 2020.

21 _____
22 DEANN K. PARKINSON, CSR
23 NOTARY PUBLIC
24

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