

STATE OF ILLINOIS  
PIATT COUNTY ZONING BOARD

**GOOSE CREEK WIND, LLC**  
**APPLICATION FOR A SPECIAL USE PERMIT**

02/02/2023

6:00 P.M. - 8:30 P.M.

PIATT COUNTY ZONING OFFICER:

Keri Nusbaum

HEARING FACILITATOR:

Scott Kains, Esq.

PIATT COUNTY ZONING BOARD MEMBERS:

Loyd Wax - Chairman

William Chambers

Jim Harrington

Kyle Lovin

Dan Larson

PIATT COUNTY BOARD MEMBERS:

Jerry Edwards

Paul Foran

Michael Beem

COUNSEL FOR THE PIATT COUNTY BOARD:

Andrew J. Keyt, Esq.

COUNSEL FOR THE APPLICANT:

Ben Jacobi, Esq.

APPLICANT - APEX CLEAN ENERGY:

Jerald Hess, Associate Counsel

Alan Moore, Senior Project Manager

COURT REPORTER: Holly Wingstrom, CSR, RPR, CRR

1           MR. WAX: Welcome. Glad you're here. Can  
2 we have rollcall, please?

3           MS. NUSBAUM: Mr. Larson?

4           MR. LARSON: Here.

5           MS. NUSBAUM: Mr. Harrington?

6           MR. HARRINGTON: Here.

7           MS. NUSBAUM: Mr. Lovin?

8           MR. LOVIN: Here.

9           MS. NUSBAUM: Mr. Wax?

10          MR. WAX: Here.

11          MS. NUSBAUM: Mr. Chambers?

12          MR. CHAMBERS: Here.

13          MR. WAX: Please call the county board.

14          MS. NUSBAUM: Mr. Henricks?

15          Mr. Edwards?

16          MR. EDWARDS: Here.

17          MS. NUSBAUM: Mr. Beem?

18          MR. BEEM: Here.

19          MS. NUSBAUM: Ms. Jones?

20          Ms. Piatt?

21          Mr. Foran?

22          MR. FORAN: Here.

23          MR. WAX: Thank you.

24          MR. KAINS: Good evening, ladies and

1 gentlemen. This is what we expect to be the  
2 timeline of this public hearing.

3 I'm trying to remember how many sessions  
4 we've had. Seventeen, perhaps maybe 18.

5 Anybody keep track?

6 Seventeen. And we are in the process of  
7 the board considering the draft findings of fact  
8 prepared by Mr. Keyt, and we are on the first factor  
9 that the board is to consider under the ordinance,  
10 and there are various topics that Mr. Keyt has  
11 delineated under the first factor, and we are on the  
12 topic now of shadow flicker.

13 Mr. Keyt?

14 MR. KEYT: Okay. As you recall, we were  
15 going through the shadow flicker, the finding of  
16 facts that are on the screen, page 14, of the draft,  
17 findings of fact, shadow flicker starts there.

18 I would suggest we take shadow flicker  
19 through the end of that page and see if there are  
20 any suggested changes, additions or revisions.

21 MR. WAX: Anybody have anything?

22 Any of the board members have any comments  
23 or suggestions concerning the entire shadow flicker  
24 portion?

1 MR. CHAMBERS: None here.

2 MR. LOVIN: No.

3 MR. WAX: Anyone have any objections to  
4 the way it's written at this time?

5 MR. KEYT: Okay. Next, over to page 15.  
6 The top is a continuation of shadow flicker. Any  
7 changes to those two first paragraphs on page 15?  
8 This would be the section Shadow Flicker - Evidence  
9 in Support of Objectors.

10 MR. WAX: You are just wanting a reply on  
11 those two paragraphs on the top of 15; is that  
12 correct?

13 MR. KEYT: Yep.

14 MR. WAX: Okay. We are in agreement.  
15 They are fine.

16 MR. KEYT: Okay. Next topic is  
17 Environmental (Wildlife, Avian and Bats). It starts  
18 on page 15. It continues on through page 16 and  
19 through half of page 17. I would suggest that we  
20 take the material on page 15, under Environmental,  
21 and see if there's any changes, revisions or  
22 suggestions.

23 MR. WAX: At this time, we are going to  
24 talk about just page 15?

1           MR. KEYT: Page 15, Environmental, to the  
2 end of page 15.

3           MR. WAX: Okay. Mr. Keyt, could I ask a  
4 question for clarification here?

5           MR. KEYT: Absolutely.

6           MR. WAX: On the last two paragraphs,  
7 explain this, turbines will be curtailed at wind  
8 speeds up to 5 meters per second during the period  
9 of risk.

10           Does that mean external -- during external  
11 wind speeds then up to five meters per second the  
12 turbines will be slowed down or curtailed so that  
13 there is no damage? Is that correct?

14           MR. KEYT: Correct.

15           MR. WAX: So, after it reaches greater  
16 than five meters per second, apparently there is no  
17 curtailment? Or am I misreading this thing?

18           MR. KEYT: I believe the recommendation  
19 from IDNR -- and I would be happy to check -- the  
20 recommendation is to curtail at wind speeds up to  
21 five meters per second. So, if it's over, it would  
22 not be curtailed.

23           MR. WAX: Pardon me?

24           MR. KEYT: If it was over, it would not be

1 curtailed.

2 MR. WAX: Okay. I am not entirely sure if  
3 I get the logic, but if the IDNR put forward that  
4 recommendation, I don't see any reason why we have  
5 better knowledge.

6 What do you think, Jim?

7 MR. HARRINGTON: I agree with you. It  
8 seems a little counterintuitive. I guess, is there  
9 anything else you would want to add to that, or what  
10 are your thoughts?

11 MR. KEYT: I wouldn't add anything beyond  
12 what the IDNR recommendation was. I am happy to  
13 check to make sure that that recommendation is  
14 correct.

15 MR. WAX: I just don't understand the  
16 logic, but they clearly know a whole heck of a lot  
17 more about it than I do.

18 MR. KEYT: I don't want to speak for them,  
19 but I understand what you are saying.

20 MR. WAX: Other than that, are we okay?

21 MR. LARSON: Okay. Good.

22 MR. LOVIN: Yeah.

23 MR. WAX: I think we are okay with it.

24 MR. KEYT: Then the next page would be

1 page 16. It's a continuation of the same topic. I  
2 would suggest that we take that page in its  
3 entirety. Most of these are recommendations from  
4 IDNR.

5 MR. WAX: Are there any concerns or  
6 suggestions from the zoning board members?

7 MR. CHAMBERS: I have one small one. On  
8 the bald eagle section, we've got all the species is  
9 likely to occur in the project area. I think we've  
10 got enough -- we've had testimony and pictures from  
11 within the project area of bald eagles in the  
12 project area, so I'd just change that from "likely"  
13 to "known" to occur.

14 MR. KEYT: What I would suggest is -- what  
15 I would suggest is we could add something under the  
16 evidence in favor of objectors, which is on the next  
17 page, or we could put in a sentence after that  
18 indicating that there has been evidence to the  
19 contrary, that there's bald eagles -- there's  
20 photographs of bald eagles within, however you want  
21 to phrase it. If you think it's in the project area  
22 --

23 MR. CHAMBERS: So, do you want to keep  
24 this language in as to what the IDNR is below?

1           MR. KEYT: So, what I would say is, if you  
2 want to add a sentence at the end, indicating there  
3 has been photographic evidence or evidence -- there  
4 has been evidence submitted of eagles within what  
5 area you would like to include?

6           The project area; is that right?

7           MR. CHAMBERS: Yeah.

8           MR. WAX: Okay. I will.

9           MR. CHAMBERS: Yeah.

10          MR. HARRINGTON: So, what did we end up  
11 with in the end there?

12          MR. WAX: Could you restate that so we can  
13 fully understand what changes were made?

14          MR. KEYT: Give me one second. I am  
15 scratching out the response here. My suggested last  
16 sentence to page 16, on the bullet point on bald  
17 eagles, would be a sentence that states: However,  
18 there has been evidence of bald eagles within the  
19 project area submitted.

20          MR. HARRINGTON: That's in place of there  
21 are no bald eagle nests? That is what you are  
22 saying?

23          MR. KEYT: I would add a sentence at the  
24 end as opposed to replacing the sentence.



1 MR. HARRINGTON: You are adding it?

2 MR. KEYT: Yeah. I think, for clarity,  
3 perhaps it should read: However, there has been  
4 evidence submitted of bald eagles within the project  
5 area.

6 MR. HARRINGTON: I guess I would also want  
7 to suggest the editorial of maybe there are no bald  
8 eagle nests currently within the project area. Do  
9 you have any issue with that?

10 MR. KEYT: I don't.

11 MR. HARRINGTON: Okay. That would be my  
12 suggestion.

13 MR. LARSON: Would you want the same on  
14 that last sentence, too, last thing on the page?

15 MR. HARRINGTON: Right. Good point.  
16 Yeah. I would agree with that.

17 MR. WAX: I'm not sure I caught that.

18 MR. HARRINGTON: Run it by them again.

19 MR. LARSON: If we are going to do that,  
20 we might as well add "currently" to the last  
21 sentence of the page also.

22 MR. HARRINGTON: Referring to the  
23 statement that says there were no occupied eagle  
24 nests within a two-mile buffer of the project,

1 right, Dan?

2 MR. LARSON: Right.

3 MR. HARRINGTON: And you are just saying  
4 edit that to say currently there are no occupied  
5 nests within it?

6 MR. LARSON: If we are doing one, we ought  
7 to do them both.

8 MR. HARRINGTON: I gotcha.

9 MR. KEYT: Okay.

10 MR. WAX: Okay. Anything else?

11 MR. LARSON: No.

12 MR. HARRINGTON: Yeah. I do have one  
13 more.

14 MR. WAX: Go ahead.

15 MR. HARRINGTON: In regards to the subject  
16 matter or upland sandpiper, Andy, looking through  
17 that, as you moved through that, verbiage, start off  
18 with: If construction activities for linear  
19 facilities occur during the breeding season,  
20 suitable habitat will either be removed prior to  
21 April 15 (mowed) or nest surveys will be conducted  
22 by a biological monitor to determine if upland  
23 sandpiper nests are present.

24 We sort of have a question as to exactly

1 are we clear for future people to review this and  
2 say, well, who and when is that occurring? How do  
3 we see that working?

4 MR. KEYT: Yeah, that is a good question.  
5 But it's an IDNR recommendation, so it's hard.

6 Other than the recommendation that came,  
7 it's hard to know what is in the mind of IDNR.

8 MR. HARRINGTON: Right. I guess that is  
9 what I am driving at. If IDNR made the suggestion,  
10 how are we going to facilitate that as a county?  
11 How does this work?

12 MR. KEYT: Well, that would be part of the  
13 recommendations that were placed in the conditions.

14 So, if you remember the wildlife portion,  
15 paragraph 31 of the conditions, it states: The  
16 company shall comply with all current or future  
17 requirements and all current recommendations from  
18 IDNR.

19 MR. HARRINGTON: So, in that case, we are  
20 saying the company will facilitate that?

21 MR. KEYT: Yes.

22 MR. HARRINGTON: Is there anything wrong  
23 with maybe restating that here?

24 MR. KEYT: You could.

1 MR. HARRINGTON: Or maybe a comment that  
2 refers to the condition.

3 MR. KEYT: You could refer potentially to  
4 the conditions, but typically the conditions are  
5 separate from the findings.

6 MR. HARRINGTON: Okay.

7 MR. KEYT: But that is what I would -- I  
8 wouldn't necessarily repeat it there because it's  
9 already there in the conditions if it's approved.

10 MR. HARRINGTON: So you feel we are  
11 covered in that regard?

12 MR. KEYT: I think you are covered in that  
13 regard.

14 MR. WAX: Are you okay with what we have  
15 so far?

16 Will?

17 We are in agreement with what we have put  
18 together so far.

19 MR. KEYT: Okay. So that covers  
20 paragraph 16 or -- I am sorry -- page 16.

21 Then, going to page 17, starting at the  
22 top of the page and going down to the paragraph that  
23 starts with Physical Safety Issues, I think this is  
24 a continuation of the environmental. So, if you

1 take those first four paragraphs there and consider  
2 those.

3 MR. WAX: Do we have any comments or  
4 suggestions from board members?

5 None here?

6 None here?

7 None here?

8 We are okay with that.

9 MR. KEYT: Okay. That will then take us  
10 to Physical Safety Issues starting on page 17. I  
11 would suggest just taking the rest of the page 17.

12 MR. WAX: How we doing?

13 Are there any comments or suggestions by  
14 board members?

15 MR. HARRINGTON: Pretty minor. The only  
16 thing I would maybe suggest, Andy -- correct me if I  
17 am wrong -- the sentence right before your  
18 clarification testimony in regards to the risk  
19 assessment found, that is Dr. Rogers' risk  
20 assessment, correct?

21 MR. KEYT: Correct.

22 MR. HARRINGTON: The only thing I would  
23 ask or suggest is we just say Dr. Jonathan Rogers'  
24 risk assessment found instead of the --

1           MR. KEYT: So, last sentence of that full  
2 paragraph that starts the risk assessment found, you  
3 want it to say, for clarification, Dr. Jonathan  
4 Rogers' risk assessment?

5           MR. HARRINGTON: Instead of the word  
6 "this."

7           MR. KEYT: Gotcha.

8           MR. LARSON: I got a couple minor things,  
9 too.

10          MS. NUSBAUM: There is also a typo in  
11 there where it says exceptionally rare (about in  
12 10,000 turbines), I think we are missing a number in  
13 there.

14          MR. KEYT: I think it was 1 in about -- I  
15 think it was 1 in about 10,000.

16          MR. LARSON: And on the last two bullet  
17 points they both say nonparticipating homes.

18          MR. WAX: Yeah.

19          MR. LARSON: Or maybe that should be like  
20 that, I guess.

21          MR. CHAMBERS: I think that is correct.

22          MR. KEYT: I think that is correct.

23          MR. LARSON: I was thinking of homes when  
24 I saw that.

1           MR. KEYT: There is a differentiation  
2 between homes and properties.

3           MR. LARSON: I see. Yeah.

4           MR. WAX: How are you changing that  
5 particular wording?

6           MR. KEYT: I don't think -- the one  
7 sentence we have that starts with "the risk  
8 assessment found" is now going to read "Dr. Jonathan  
9 Rogers' risk assessment found," and the rest of that  
10 sentence remains the same.

11           I think there was a question about the  
12 first two bullet points talking about the risk  
13 impact from an ice fragment to nonparticipating  
14 homes.

15           I think the question was whether both of  
16 those are supposed to read as homes as opposed to  
17 one reading as homes and one reading as properties.

18           I think it is correct as is because there  
19 was a differentiation in the risk assessment between  
20 homes and properties I believe. So, I believe it's  
21 correct.

22           MR. LARSON: You are right.

23           MR. KEYT: But it's ultimately the zoning  
24 board's call.

1           MR. WAX: What was the conclusion? What  
2 did you do about the comment about rare in about  
3 10,000 turbines? Did you make some change there?

4           MR. KEYT: Yeah. In that paren, I added  
5 "1 in."

6           MR. WAX: Yeah, okay.

7           MR. KEYT: The number 1 in about 10,000  
8 turbines experience.

9           Anything else?

10          MR. HARRINGTON: No. I don't have  
11 anything.

12          MR. CHAMBERS: No.

13          MR. WAX: We don't have anything else.

14          MR. KEYT: Okay. That takes us over to  
15 page 18. I would take page 18 in its entirety  
16 there. It might take a little bit, but it's all on  
17 the same topic.

18          MR. WAX: Any suggested changes, concerns  
19 from the board members?

20          MR. LOVIN: Yeah. The second bullet point  
21 down, the risk of impact from blade throw is an even  
22 smaller risk (1 in 10,000,000 years), do we know  
23 what that blade impact is referring to? property?  
24 house? road? Everything else has it listed.



1           MR. KEYT: Yeah. I don't know, without  
2 going back and looking at it. I could look at it  
3 during a break and clarify it.

4           MR. LOVIN: Thank you.

5           MR. WAX: Anything else?

6           MR. HARRINGTON: No.

7           MR. CHAMBERS: I had one toward the bottom  
8 here where the second-to-last paragraph mentions  
9 testimony regarding fire risk and goes through that.

10           What's missing out of that is testimony  
11 about cropland fire risk, so not just fire risk to  
12 the turbine itself but to dry cropland that is  
13 around the turbine.

14           MR. KEYT: So, under the portion that  
15 starts Physical Safety - Evidence in Favor of  
16 Objectors, is that where you are?

17           MR. CHAMBERS: Yeah.

18           MR. KEYT: So, if you go down: There was  
19 testimony regarding fire risk of wind turbines,  
20 though not necessarily specific to Vestas.

21           Where do you want to put that information?

22           MR. CHAMBERS: So probably immediately  
23 after that paragraph. Note that there was  
24 additional testimony given about concerns for

1 cropland fire and the spread and containment of any  
2 cropland fire.

3 MR. KEYT: Okay.

4 MR. CHAMBERS: That was all I have.

5 MR. KEYT: Okay. So, I added a sentence  
6 at the end of that paragraph that reads: There was  
7 additional evidence regarding the risk to cropland  
8 -- I am going to say risk of cropland fire and  
9 containment of same.

10 MR. CHAMBERS: Correct.

11 MR. KEYT: Okay. I'll just add that to  
12 the end of the paragraph, if that make sense.

13 MR. WAX: Okay. Are we okay with that?

14 MR. HARRINGTON: I am good with that.

15 MR. WAX: Okay. We are okay with that  
16 page.

17 MR. KEYT: Okay. That takes us to the top  
18 of page 19. There is some additional information  
19 there. This one is about the Mahomet Aquifer.  
20 There is -- I would suggest we take that redlined  
21 paragraph by itself.

22 It reads right now: One of the primary  
23 physical safety issues is the utilization of water  
24 from the Mahomet Aquifer. Applicant submitted no

1 evidence of draw-down studies related to the batch  
2 plant or laydown yard. This is significant as it is  
3 unknown whether the water usage from the batch plant  
4 will have a negative impact on the surrounding  
5 owners. Applicant submitted no experts to attest  
6 the issue.

7 I believe that is largely accurate or it  
8 is accurate, but I would suggest there was -- I  
9 think Mr. Carlson testified that there would not be  
10 a negative impact on the water. So, you could add a  
11 clause that says, after that first or the second  
12 sentence: Applicant submitted no evidence of  
13 draw-down studies related to the batch plant or  
14 laydown yard but did provide layperson testimony  
15 that there would not be a negative impact.

16 Up to the board, but that would be the one  
17 addition that would be possible if the board wanted  
18 to include something like that.

19 MR. WAX: Do you like that?

20 MR. HARRINGTON: I'm good with the way  
21 you've got it.

22 MR. KEYT: Okay. So, on that paragraph,  
23 leave as is?

24 MR. HARRINGTON: That's what I am saying.

1     Yeah.

2             MR. WAX: I am okay with it.

3             MR. LARSON: I'm good with it.

4             MR. WAX: You okay with that, Will?

5             MR. CHAMBERS: Yeah. I am fine with it.

6             MR. WAX: Okay. We are okay with that  
7 paragraph.

8             MR. KEYT: The next paragraph deals with  
9 the Federal Aviation Administration Compliance.  
10 There are two paragraphs there on page 19.

11             Any suggested changes or revisions to  
12 those two paragraphs under the FAA Compliance  
13 portion?

14             MR. HARRINGTON: I am good.

15             MR. WAX: Any problems with that?

16             MR. LOVIN: No.

17             MR. LARSON: No.

18             MR. WAX: We agree that section is okay.

19             MR. KEYT: All right. There is another  
20 paragraph on Cultural Resources. Any changes to  
21 that paragraph?

22             MR. WAX: We are okay with that one.

23             MR. KEY: All right. The next section  
24 deals with Decommissioning. It starts on page 19

1 and continues on to page 20. I would suggest we  
2 take the remainder of page 19.

3 MR. HARRINGTON: I don't have any.

4 MR. WAX: No problems with that.

5 MR. KEYT: Okay. Next page is page 20.

6 It is a continuation of decommissioning. I would  
7 suggest we take Decommissioning, the first paragraph  
8 of page 20.

9 MR. WAX: Do the board members have any  
10 suggestions, concerns or issue with this section  
11 that we are considering?

12 MR. HARRINGTON: I do not.

13 MR. WAX: We have none.

14 MR. KEYT: All right. Then there is a  
15 section on Additional Findings. There are two other  
16 factors listed in your zoning code: 1.) To assure  
17 that any development and production of wind-energy  
18 generated electricity in Piatt County is safe and  
19 effective and to facilitate economic opportunities  
20 for local residents.

21 And then a final sentence there that says:  
22 These factors are addressed in the findings herein  
23 by application of these factors.

24 Any changes to that portion of the

1 findings?

2 MR. WAX: Any concerns, suggestions by the  
3 board members?

4 MR. HARRINGTON: In regards to just the  
5 additional findings you are saying?

6 MR. WAX: Yes.

7 MR. HARRINGTON: No. I do not.

8 MR. WAX: We have no concerns.

9 MR. KEYT: Okay. For clarity's sake, we  
10 are going to go through all of the factors -- I am  
11 sorry -- all of the evidence first and set the  
12 findings of fact because some of the findings apply  
13 across different factors. Then we'll come back and  
14 address each factor and whether the applicant has  
15 met the factor itself, okay? Just for  
16 clarification.

17 So that would then take us to factor  
18 number 2 which starts in with Property Values. That  
19 is on page 20. So, from Property Values, those  
20 first paragraphs there at the end of page 20,  
21 changes or additions there?

22 MR. WAX: Do we have concerns regarding  
23 the last two paragraphs on page 20?

24 MR. CHAMBERS: I just have a typo for you.

1 Above Property Values there where the factors are  
2 listed, that last part of the factor about  
3 diminished property "valued" should be "values"  
4 within the neighborhood.

5 MR. KEYT: Okay. Any other changes or  
6 additions? Suggested revisions?

7 MR. WAX: We are okay with that.

8 MR. KEYT: That takes us to page 21,  
9 continuation of Property Values. Quite a bit of  
10 information there, but any suggested changes or  
11 additions there?

12 MR. WAX: How far down do you want us to  
13 consider?

14 MR. KEYT: I would suggest just taking the  
15 whole page.

16 MR. WAX: Okay.

17 MR. KAINS: Usually people want them blown  
18 up. There you go. Thank you.

19 MR. WAX: Any concerns?

20 MR. HARRINGTON: Pretty minor. In regards  
21 to paragraph 2, all the way down, towards the  
22 bottom, in the sentence beginning: Wind turbine  
23 leases can add value to agricultural land.

24 And then there is a "; and". I don't

1 think we want to leave that in there, do we?

2 And assessors, does that all go together?

3 MR. KEYT: The way it's written now is  
4 wind turbine leases can add value to agricultural  
5 land; and assessor surveys do not reflect...

6 You want to remove the semicolon?

7 MR. HARRINGTON: I am not interpreting  
8 that those two sentences go together. Do they?

9 MR. KEYT: Well, I think it's just a  
10 matter of being within the list.

11 MR. HARRINGTON: Okay.

12 MR. KEYT: So, if you take the first part  
13 of that paragraph where it starts, "The results of  
14 marketing impact analysis he undertook found the  
15 following:" and it just bullet points each one  
16 separated by a semicolon.

17 MR. HARRINGTON: I am saying do we want to  
18 get rid of the "and" so it doesn't lead someone at a  
19 later date to believe there is some other piece of  
20 information there, to that statement? But it's to  
21 your preference.

22 MR. KEYT: Okay. It's up to the board.  
23 Do you want to remove "and"? We can remove it.

24 MR. HARRINGTON: I would suggest we remove



1 it. It's up to you guys.

2 MR. CHAMBERS: I think the way it's  
3 written is grammatically correct. I don't see an  
4 issue if you move it.

5 MR. WAX: What do you want to do,  
6 gentlemen?

7 MR. CHAMBERS: I am okay with leaving it  
8 as is.

9 MR. WAX: Okay.

10 MR. HARRINGTON: There you go.

11 MR. WAX: I don't have a serious problem  
12 with it, but I think the sentence starting "Goose  
13 Creek Wind will create well-paid jobs in the area  
14 which will benefit overall housing market demand," I  
15 think that is a stretch myself, but I am not going  
16 to make a big issue out of it.

17 MR. HARRINGTON: I agree with you. I  
18 don't agree with that.

19 MR. LARSON: There is no evidence of that.

20 MR. WAX: I doubt there is evidence to  
21 show that in this area.

22 MR. KEYT: Do you want to remove the  
23 sentence?

24 MR. WAX: What are your feelings,

1 gentlemen?

2 I don't feel strongly about it. I just  
3 have serious doubts about it. I'll leave it up to  
4 the group here.

5 MR. LOVIN: I think it could create some  
6 well-paid jobs in the area, but that doesn't mean  
7 it's going to benefit the overall housing marketing  
8 demand.

9 MR. WAX: I agree.

10 MR. LARSON: So, cut it off after the  
11 "well-paid jobs."

12 MR. LOVIN: Cut it off after the  
13 "well-paid jobs."

14 MR. WAX: Do you like the idea of leaving  
15 out -- leaving out "benefit overall housing market  
16 demand"?

17 MR. HARRINGTON: I think that is what we  
18 are saying.

19 MR. WAX: What about it, Will?

20 MR. CHAMBERS: Yeah. I would be okay with  
21 leaving the well-paying jobs in there and then the  
22 area and taking off the market demand part.

23 MR. WAX: Okay.

24 MR. KEYT: Okay.

1 MR. WAX: Rest of that okay?

2 MR. HARRINGTON: Yeah.

3 MR. WAX: We are okay with the rest of  
4 that portion.

5 MR. KEYT: So, that would conclude  
6 paragraph 21 -- or I am sorry -- page 21.

7 MR. CHAMBERS: I have one thing that kind  
8 of runs from the end of 21 and a little bit into 22.  
9 So, the last paragraph, which details the testimony  
10 about -- mostly about financial security and  
11 personal income from the leaseholders, and that runs  
12 onto page 22 there, where it states, "The payments  
13 to the landowners will total up to \$210 million over  
14 30 years," I would say that this section isn't  
15 relevant to property value. It's talking about the  
16 income of the leaseholder. So, I believe this  
17 section would be better moved to a different  
18 section; probably the economic impact section I  
19 believe.

20 MR. KEYT: So, it sounds like, rather than  
21 removing it out of the document, you want to move it  
22 within the document to the Financial Impact section,  
23 under factor number 1.

24 MR. CHAMBERS: Correct.

1 MR. KEYT: Which is?

2 THE COURT: Pages 8 and 9, Andy.

3 MR. KEYT: Yeah. Pages 8 and 9. It  
4 probably would make most sense on page 9, the last  
5 paragraph of those Financial Impact Studies -  
6 Evidence in Favor of Applicant and just put it right  
7 above the italicized portion that states Financial  
8 Impacts - Evidence in Favor of Objectors, and just  
9 put it at the end of that section for the evidence  
10 in favor of applicant.

11 MR. CHAMBERS: Correct. I would be good  
12 with that.

13 And then another paragraph that's the same  
14 type of testimony would be the third paragraph up  
15 from the bottom on page 21, John Jordan's testimony  
16 about wind farm and sending his grandkids to  
17 college, and it's noted in here, well, perhaps not a  
18 direct property value issue. If removing the other  
19 one, I think that one would also go with it.

20 MR. KEYT: Okay. It would be moved and  
21 then edited to where you wouldn't have to have the  
22 sentence in there about it not being a property  
23 value issue, since it would then be in a different  
24 section.

1           Okay. That paragraph would read: John  
2 Jordan testified to his history on his farm in  
3 Mansfield, Illinois. He indicates the wind farm  
4 would allow him to send his grandkids to college.

5           And that would be the end of that  
6 paragraph?

7           MR. CHAMBERS: Correct.

8           MR. KEYT: And that paragraph and the last  
9 paragraph on page 21 and the very top of page 22  
10 need to be moved to different sections on page 9.

11           Yeah. Okay. Are we ready for page 22?  
12 Everybody good with the changes on page 21?

13           MR. WAX: I think so. We are in agreement  
14 with the changes up to that time.

15           MR. KEYT: Okay. Then there is Property  
16 Value Information - Evidence in Support of  
17 Objectors.

18           We would then take the remainder of  
19 page 22. There's a couple of typographical errors  
20 that I need to note.

21           One, the very last -- I am sorry -- in the  
22 second-to-last paragraph, I have realtor misspelled,  
23 and then also realtor friend should have a plural.

24           MS. NUSSBAUM: I think that is another

1 area that Sandra Coile's name is misspelled.

2 MR. KEYT: Correct. Yes.

3 MR. WAX: Board Members, do we have  
4 suggestions, changes, concerns?

5 MR. HARRINGTON: Yeah, I think in that  
6 first paragraph, I believe it's the third sentence  
7 in his report that concludes that properties, I  
8 would suggest we clarify that and say that  
9 residential properties within the wind farm  
10 footprint will experience 35 percent -- correct me,  
11 Andy, that that is what he's trying to say because  
12 then, later on in this paragraph, he repeats and  
13 says agricultural properties within the footprint  
14 would experience an 8.5 percent decrease; is that  
15 correct?

16 MR. KEYT: I believe that is correct.

17 MR. HARRINGTON: So, I think that is why  
18 we ought to have that.

19 MR. KEYT: Yeah. Okay.

20 MR. HARRINGTON: To that point, I don't  
21 know if you want to clarify the next one that,  
22 semicolon, those within a mile. I don't know if you  
23 need to clarify that also or not. Hopefully,  
24 including "residential" will encompass that, I

1 guess.

2 MR. KEYT: Yeah. We could just state, for  
3 clarification, those residential properties within  
4 one mile.

5 MR. HARRINGTON: Probably a good idea.

6 MR. WAX: Any suggestions?

7 MR. LARSON: I just got one question.

8 MR. WAX: Yes.

9 MR. LARSON: On the Hardtke thing, was  
10 that his home or just another home?

11 MR. KEYT: I don't think it was his home,  
12 but I don't know for sure.

13 MR. LARSON: Okay. For some reason, I was  
14 thinking it was his home, but I could be wrong.

15 MR. CHAMBERS: I have one clarity  
16 suggestion here. So, on the second-to-last  
17 paragraph, Sandra Coile's testimony referring to  
18 discussions she had with a realtor friend of hers  
19 indicated that -- I believe the testimony she gave  
20 she had spoken with both Russ Taylor and Steve  
21 Littlefield, which are both owners of a real estate  
22 practice. So, I think, for clarity, it would be  
23 however we would do this but to note the  
24 qualification level of those individuals rather than

1 just stating a realtor friend.

2 MR. KEYT: So, are you wanting to include  
3 their names?

4 MR. CHAMBERS: Yes. I think that would do  
5 it.

6 MR. KEYT: So, we could add "Sandra Coile  
7 provided testimony regarding discussions she had  
8 with" -- I think there were multiple ones --  
9 "realtor friends of hers that indicated" -- so after  
10 realtor friends of hers, probably open parens --  
11 (Russ Taylor and Steve Littlefield).

12 MR. CHAMBERS: Yeah.

13 Mr. Wax: Anything else?

14 MR. HARRINGTON: That's all I have.

15 MR. CHAMBERS: No.

16 MR. WAX: We are okay with it then.

17 MR. KEYT: Okay. That concludes page 22.

18 Page 23, I think there is a very small  
19 clause there at the top trailing off from the  
20 paragraph. I think I will take that page as a  
21 whole, if the board is okay with that, page 23.

22 MR. WAX: At this point are we considering  
23 the entire page of Transmission Interference?

24 MR. KEYT: Correct. Up to the board, but



1 that is what I suggested.

2 MR. WAX: Okay.

3 Looking okay so far?

4 MR. HARRINGTON: Yeah.

5 MR. WAX: Will?

6 MR. CHAMBERS: Yeah.

7 MR. WAX: I think we are okay with that  
8 section.

9 MR. KEYT: That is page 23.

10 Page 24 is a continuation of the  
11 transmission information. So, if you take that down  
12 to factor number 3, so page 24, top of the page, to  
13 about three quarters of the page where factor  
14 number 3 begins, I believe there was one suggestion.

15 By the way, in the redlined portion at the  
16 bottom of that section, where it states "In  
17 addition, there is evidence that there could be  
18 interference with weather radar," I believe there  
19 was a suggestion from one of the board members to  
20 include "there could be interference with weather  
21 radar to include tornado detection."

22 MR. HARRINGTON: We are okay.

23 MR. WAX: We are okay with that section.

24 MR. KEYT: Okay. That takes us to factor

1 number 3. Factor number 3 --

2 MR. CHAMBERS: For clarity, that section,  
3 are we good with that section, with the addition of  
4 the --

5 MR. KEYT: So, making sure that everyone  
6 is good with the addition that I read that is not on  
7 the hardcopy that you have, that redlined portion  
8 that states, "In addition, there is evidence that  
9 there could be interference with weather radar," I  
10 believe a suggestion of weather radar, including  
11 tornado detection," if everybody is good with that  
12 to include that.

13 MR. CHAMBERS: Yep.

14 MR. KEYT: Okay. Then the next factor  
15 would be factor number 3. Most of the evidence here  
16 is incorporated from factors 1, 2 and 4 through 7,  
17 the other factors. Is there any additional  
18 evidence/findings that the board would like to make  
19 under factor number 3 that are not already  
20 incorporated in the other sections?

21 MR. WAX: In other words, does anyone have  
22 any suggestions of anything to add in this section  
23 other than the reference back to factors 1 and 2 and  
24 4 to 7 are also applicable here? Do you have

1 anything?

2 Are you okay with that?

3 MR. LARSON: Uh-huh.

4 MR. HARRINGTON: Yeah, I am good with  
5 using the information that is considered for 3.

6 MR. WAX: Okay. We are okay with 3.

7 MR. KEYT: Okay. Then that takes us down  
8 to factor number 4, which starts on page 24. It's  
9 just listing of the factor. Then it leaves -- the  
10 substance of it starts on page 25, and the entirety  
11 of that is on page 25, so I would suggest taking the  
12 entirety of page 25.

13 MR. WAX: Do we have suggestions/concerns  
14 from the board?

15 MR. HARRINGTON: What do we think about  
16 Applicant has indicated and is working with both  
17 local drainage authorities on coming to a working  
18 agreement with those entities?

19 Is that what we want to say, or do we want  
20 to say they had submitted a proposal?

21 Maybe you are good with what you got. I  
22 don't know.

23 MR. WAX: My personal look at this thing  
24 is that, yes, technically it is not required;

1       however, I admit to being disappointed that no  
2       evidence of any degree of progress was presented to  
3       this board. I am not saying it's required. I am  
4       just saying I think this group felt that we did not  
5       get significant input as to what is going on at all  
6       or what is intended.

7               MR. LARSON: Maybe we could add that.

8               MR. WAX: Pardon me?

9               MR. LARSON: Maybe we could add that to  
10       the last of it.

11              MR. KEYT: It's up to the board. If it's  
12       not required, it may not be particularly relevant,  
13       but it's okay to include it.

14              MR. HARRINGTON: It's not required as says  
15       the SUP, but it does say it's required prior to the  
16       construction permit, correct?

17              MR. KEYT: Yeah, correct.

18              MR. HARRINGTON: So, it is sort of  
19       required as all of these items have been denoted,  
20       right?

21              MR. KEYT: Yeah.

22              MR. HARRINGTON: So, maybe that is where  
23       you craft your statement -- right? -- and you say  
24       "To date, the zoning board is unaware of any

1 progress in this regard; however, it is still  
2 required prior to the issuance of a" -- I notice we  
3 use building permit in some cases and construction  
4 in others, so I don't know which one you are wanting  
5 to go with.

6 MR. WAX: I think you are going in the  
7 right direction there. It is just a matter of it  
8 makes it kind of tough and you have to have kind of  
9 faith that everything is going to work out right  
10 because we don't have a lot of good evidence to date  
11 that there is much progress if any.

12 MR. KEYT: So, a potential sentence for  
13 the ZBA to consider would be "The Zoning Board of  
14 Appeals was not provided evidence of progress, if  
15 any, on this issue."

16 MR. WAX: That's reasonable. Okay.

17 MR. CHAMBERS: With the additional note  
18 that that was not required for the special use  
19 permit but would be required for a building permit  
20 or prior to the issuance of a building permit.

21 MR. KEYT: Okay. So I added a third  
22 sentence to that paragraph that would say, "For the  
23 ZBA's consideration, though not required for the  
24 special use permit application, such evidence is

1 required prior to the issuance of construction  
2 permits."

3 MR. HARRINGTON: Yep.

4 MR. WAX: Okay. We are okay with that.

5 MR. KEYT: Okay. Any other changes or  
6 additions to page 25?

7 MR. WAX: Anything else, gentlemen?

8 MR. HARRINGTON: No.

9 MR. WAX: I think we are okay with it.  
10 Thank you.

11 MR. KEYT: Okay. That takes us to  
12 page 26. I would suggest we take factor number 5 in  
13 its entirety and then factor 6 after that.

14 Factor 5 deals with ingress and egress.  
15 It's fairly short.

16 MR. WAX: Any suggestions to this portion?

17 MR. LARSON: (Shaking head.)

18 MR. HARRINGTON: I don't know. We don't  
19 have any visibility of the road access agreement, so  
20 it's hard for us to say.

21 MR. WAX: I think that what you are saying  
22 is that, while we do not -- I am not sure we want to  
23 make a significant change in this thing, but we are  
24 kind of operating here on faith that there is going

1 to be a significant interaction and correction and  
2 make use of; and to make this, we lean heavily on  
3 this that measures will be taken because we are not  
4 aware of what's going on, where the roads are going  
5 to be, exactly what is going to be used today. So,  
6 we are just -- I think we're just going to have  
7 faith that the appropriate negotiations between the  
8 attorney and the applicant and the county board are  
9 going to make it work because right now we are not  
10 presented with a lot of information that gives us  
11 credit to say, yes, yes, this is a done deal. We  
12 have to have faith that it's going to happen.

13 MR. KEYT: In terms as to the ingress and  
14 egress portion and the design to minimize traffic  
15 conditions, so I think -- here is what I am trying  
16 to understand: Is there a change or removal that  
17 you want to make to that paragraph?

18 MR. HARRINGTON: I don't think there is.  
19 At least, not in my regard.

20 MR. WAX: Pardon me?

21 MR. HARRINGTON: I don't think so. I am  
22 commenting that we don't have any knowledge of the  
23 topic.

24 MR. KEYT: Okay.

1           MR. WAX: I think we are in agreement with  
2 it.

3           MR. KEYT: Okay. All right. That would  
4 take us to factor number 6. I would suggest taking  
5 that one in its entirety, page 26.

6           MR. WAX: Members of the board, do you  
7 have questions, concerns, slight concerns, suggested  
8 changes?

9           MR. LARSON: The only thing I have is, on  
10 the last paragraph, it says: The increase in  
11 revenue to the local farmers can assist in the  
12 protection of the land.

13           I think that should maybe be the  
14 landowners, instead of just stating farmers.

15           MR. CHAMBERS: I would agree with Dan on  
16 that one.

17           MR. WAX: It may not be something that  
18 anyone else thinks so, but I looked at that whole  
19 paragraph as a pretty stretch of imagination to  
20 believe that is reality.

21           MR. HARRINGTON: I would agree. You go  
22 right off the top and "The allowance of wind  
23 turbines on properties may assist in conserving  
24 agricultural property for farming activities as



1       opposed to other development..." I mean is that  
2       really something we proved? I mean I don't know  
3       about that.

4               MR. WAX: I don't know where the evidence  
5       for that is.

6               MR. HARRINGTON: "...and protect the value  
7       of the land on which farm-related equipment is  
8       placed." I can't really think of that case.

9               MR. WAX: Any thoughts?

10              MR. KEYT: Do you want it -- I am just  
11       trying to understand where you want to go. So, on  
12       that second paragraph, do you want to remove the  
13       second paragraph?

14              MR. HARRINGTON: I would be fine with  
15       that.

16              MR. KEYT: It's up to the zoning board.

17              MR. HARRINGTON: You guys should discuss.

18              MR. LOVIN: I am fine with it.

19              MR. LARSON: I am fine with it.

20              MR. CHAMBERS: Yeah.

21              MR. KEYT: So, the second paragraph under  
22       factor 6, on page 26, will be removed.

23              Any other changes to the evidence listed  
24       there under factor number 6?

1 MR. WAX: Are the rest of us okay?

2 We are okay with the rest of it.

3 MR. KEYT: Okay. That takes us almost to  
4 the end of page 27, factor number 7. I suggest we  
5 take the entirety of that factor that is listed  
6 there.

7 MR. WAX: Comments/suggestions about the  
8 verbiage in number 7?

9 MR. LARSON: Again, I think it should say  
10 landowners instead of farmers.

11 MR. LOVIN: Right.

12 MR. WAX: Okay.

13 MR. HARRINGTON: I agree.

14 MR. WAX: State again what you would like  
15 to change.

16 MR. LARSON: Where it says "The project  
17 also provides economic growth to the community and  
18 local farmers," I think it should say local  
19 landowners.

20 MR. WAX: Right. Do you like that change  
21 to landowners?

22 MR. LOVIN: Yeah.

23 MR. KEYT: Any other suggested revisions  
24 or changes?

1           Any other changes from anybody on factor  
2   number 7?

3           MR. WAX: Any other changes, gentlemen?

4           No.

5           MR. KEYT: The rest of the document is the  
6   recommendation, which we'll get to in terms of a  
7   vote.

8           Is there a motion to approve the findings  
9   of fact as written?

10          Now, for clarification, this is not  
11   considering each factor yet. We will go through  
12   each factor and determine whether and take a vote or  
13   consensus on whether the applicant has met each  
14   factor, and then there will be a discussion and vote  
15   on whether to recommend approval, approval subject  
16   to conditions, or denial of the project. Those two  
17   votes will happen later. And if there is a motion  
18   to approve the findings of fact as written --

19          MR. HARRINGTON: Yes.

20          MR. KEYT: -- that would make sense at  
21   this point.

22          MR. WAX: I'll ask the board: Do you want  
23   just a motion, a voice vote? Or, I tend to prefer a  
24   rollcall in this.

1 MR. HARRINGTON: Rollcall.

2 MR. WAX: Rollcall. Open to a motion and  
3 approve findings of fact as written.

4 MR. HARRINGTON: I make a motion.

5 MR. CHAMBERS: Second.

6 MR. WAX: Got a second from Will.

7 Any discussion?

8 If no discussion, may we have a rollcall,  
9 please?

10 MS. NUSBAUM: Mr. Lovin?

11 MR. LOVIN: Yes.

12 MS. NUSBAUM: Mr. Larson?

13 MR. LARSON: Yes.

14 MS. NUSBAUM: Mr. Chambers?

15 MR. CHAMBERS: Yes.

16 MS. NUSBAUM: Mr. Harrington?

17 MR. HARRINGTON: Yes.

18 MS. NUSBAUM: Mr. Wax?

19 MR. WAX: Yes.

20 The Findings of Fact as revised and  
21 written here are approved.

22 MR. KAINS: It's 7:30. Do you want to  
23 take a break?

24 MR. WAX: I think at this point in time a

1 break would be appropriate.

2 MR. KAINS: Very good. All right. The  
3 time is 7:28. We'll take a 10-minute recess, until  
4 7:38, at which time the board will discuss each of  
5 the seven factors contained in the ordinance and  
6 take a vote. This board is in recess for  
7 ten minutes.

8 (BREAK TAKEN.)

9 MR. KAINS: The board has now approved the  
10 draft Findings of Fact. They are now the Findings  
11 of Fact for the Piatt County Zoning Board of Appeals  
12 and are made part of the record of this public  
13 hearing.

14 Now it is time for the board to consider  
15 each of the seven factors contained in the Piatt  
16 County Ordinance.

17 And, Mr. Keyt, I will again look to you to  
18 direct the discussion, and then you will then call  
19 upon the chairman to seek rollcall votes with  
20 respect to the issues.

21 So, Mr. Keyt?

22 MR. KEYT: Okay. Thank you.

23 My understanding is that the board has  
24 traditionally taken factors on special use permit

1 applications and had a discussion as to whether the  
2 applicant has met each factor or not and voted on  
3 whether or not that applicant has met that  
4 individual factor.

5 So, here we have seven factors that are  
6 before the board for consideration. Just so we're  
7 clear, votes on these individuals factors is  
8 separate from whether there is a recommendation of  
9 approval, approval with conditions, or  
10 recommendation of a denial.

11 So, what I would suggest, to keep with  
12 your past practice, is to go through each factor,  
13 we'll talk about them individually, you will then  
14 have discussion on whether or not the applicant has  
15 met the factor or not, and then someone makes a  
16 motion, a motion as to whether the applicant has met  
17 the factor.

18 When making the motion on whether an  
19 applicant has met an individual factor, make sure  
20 you are making the motion in the positive, whether  
21 you intend to vote yes or no, simply so that  
22 everyone -- so that the record is clear on what the  
23 intended vote was to be.

24 So, the motion would sound something like,

1 "I make a motion that the applicant has met factor  
2 number 1 or requirements of factor number 1."

3 And then there will be a rollcall vote, so  
4 each member then would vote individually on whether  
5 the applicant -- whether the board feels the  
6 applicant has met that factor or not.

7 So, any questions? I am happy to answer  
8 or assist in answering those questions.

9 At this time, before we start with factor  
10 number 1 --

11 MR. HARRINGTON: Correct me if I am wrong  
12 Loyd, in the past, we had a discussion but we didn't  
13 actually make a motion for each factor, but you are  
14 suggesting we do that tonight?

15 MR. WAX: I am going to ask Mr. Keyt here.

16 Traditionally parliamentary procedure is  
17 you need a motion and then a discussion, but I hear  
18 you saying that we -- what I think I hear you saying  
19 is that we go through and, if people have questions  
20 or discussions, comments about this thing, we  
21 discuss it back and forth and then have a motion, a  
22 positive motion to approve. Is that what you are  
23 suggesting?

24 MR. KEYT: What I would suggest is on -- I

1 just want you to keep with whatever your past  
2 practice is.

3 If you want to do it by consensus, you  
4 could and just have a discussion on whether they met  
5 that.

6 But you could also do it by making a  
7 motion on every single factor, each one, one by one,  
8 and then having a vote.

9 It sounded to me, from earlier, that your  
10 preference was to have a vote as to each factor. Is  
11 that correct?

12 MR. WAX: Right.

13 MR. HARRINGTON: That is your call.

14 We typically give a rollcall, don't we,  
15 Keri?

16 MS. NUSBAUM: Yeah.

17 MR. HARRINGTON: I don't remember making  
18 motions on the factors in the past.

19 MS. NUSBAUM: Well, we don't. In the past  
20 we've kind of voted on each factor.

21 MR. HARRINGTON: Right.

22 MS. NUSBAUM: And we haven't necessarily  
23 done a motion, but I think if we are going to do a  
24 rollcall for each motion or for each factor we



1 should have a motion.

2 MR. HARRINGTON: Okay. Let's do it.

3 MR. WAX: So, at this point in time do you  
4 want to have some additional discussions prior to a  
5 motion and then kind of come to a consensus and then  
6 have a motion, or do you want a discussion after the  
7 motion?

8 MR. HARRINGTON: I think, if I understand  
9 this right, we are going to actually make a motion  
10 and it will be voted on.

11 MR. WAX: Okay.

12 MR. LARSON: On each factor.

13 MR. WAX: Okay. That's what I am  
14 understanding now for clarity. I am not making  
15 myself clear on this thing.

16 MR. LARSON: You want it as a positive?

17 MR. KEYT: Yeah. Any motion you make,  
18 just by terms of the practice, regardless of here or  
19 anywhere, you want to make whatever the motion is  
20 going to be in the positive. If you make it in the  
21 negative, it's difficult to determine what the  
22 intent of the vote was. So, because you are going  
23 to rollcall the vote, you make the motion in the  
24 positive even if you are going to vote no or that

1 the applicant did not meet that individual factor.  
2 You would still make the motion in the positive, and  
3 there will be a rollcall vote, and if your vote is  
4 no, then no; if yes, then yes.

5 MR. LARSON: Okay.

6 MR. WAX: Are we ready for a motion?

7 Have you thought about this thing enough  
8 that you want to have a motion on this factor  
9 number 1 as to, I guess the motion should be a  
10 motion that the applicant has met this requirement?

11 To be positive, you would want a motion  
12 that I move that we make a motion that the applicant  
13 has met this requirement of factor number 1.  
14 Whether you are going to say yes or no, that would  
15 be the correct motion.

16 MR. KEYT: Correct.

17 MR. WAX: Is that correct?

18 MR. KEYT: Correct.

19 MR. HARRINGTON: Right.

20 MR. WAX: So, at this point in time, we've  
21 been through all the discussion. We've been through  
22 it. We understand these things, so we are open to a  
23 motion of that nature.

24 MR. KEYT: For clarity, we are on factor

1 number 1.

2 MR. WAX: Just for factor number 1.

3 MR. KEYT: Right.

4 The establishment, maintenance or  
5 operation of the special use will not be detrimental  
6 to or endanger the public health, safety, morals,  
7 comfort or general welfare.

8 You can discuss it. You can -- somebody  
9 can make the motion. However you want to do it.

10 MR. WAX: What is your preference?

11 Any problem?

12 MR. CHAMBERS: I am assuming, since each  
13 factor would have a motion here, if we are going to  
14 have discussion on each one, it would be proper to  
15 do a motion and then discussion in each case.

16 MS. NUSBAUM: Correct.

17 MR. WAX: That was the point I was not  
18 able to explain myself clearly enough.

19 Do you want the motion first and then  
20 discussion?

21 MR. CHAMBERS: Right.

22 MR. WAX: Thank you.

23 MR. CHAMBERS: So, in that case, I will  
24 make the motion that Applicant has met the

1 requirements of factor 1.

2 MR. WAX: Okay. We have a motion that the  
3 applicant has met the requirements.

4 Is there a second?

5 MR. LARSON: I'll second.

6 MR. WAX: And Dan has seconded this.

7 Now, we have a motion and second that the  
8 applicant has met the requirements of factor  
9 number 1.

10 It's time for discussion or whatever you  
11 want to say.

12 Is there any discussion?

13 MR. CHAMBERS: I have my notes. I assume  
14 you may have thoughts or notes, too.

15 MR. WAX: Go ahead.

16 MR. CHAMBERS: I broke it down, you know,  
17 going through the factors. We have health and  
18 safety and morals, comfort and general welfare.

19 So, on health, I have the concerns  
20 outlined there that stood out most that I bring into  
21 the decision on that, would be the constant noise  
22 potential and then uncertainty in the discussion  
23 around possible negative health effects related to  
24 the noise potential there, especially in sleep

1 disturbance, and then the stress and what the IPCB  
2 classifies as noise annoyance. I put that under the  
3 health banner there.

4 And then safety, we've got cropland fire  
5 risk, of course, which is a big factor to consider.

6 The blade or ice throw doesn't concern me.

7 The only other note I had on safety was  
8 the risk to the safety of aerial applicators that  
9 operate within the footprint.

10 And then, on the last bit there, the  
11 morals, comfort and general welfare. Comfort, I  
12 think we'll get into a little more in factor 2.  
13 There is a little bit of overlap there on use and  
14 enjoyment, but I think comfort of those residing  
15 within the footprint could be impacted. That's what  
16 I've got so far.

17 MR. WAX: Thank you. Thank you.

18 Other discussion?

19 MR. HARRINGTON: I would agree with Will.  
20 I had a lot of similar thoughts. I think it  
21 definitely needs to be taken into consideration.

22 There are various numbers of conflicting  
23 information on multiple topics here.

24 I guess I agree there is some evidence of

1 detrimental factors affecting public health, safety,  
2 morals, comfort, general welfare.

3 I have a lot of your same thoughts, Will.  
4 I think one in particular that sticks out to me is  
5 the Gantz residence. I am concerned for that  
6 location. So, I would agree with what he's saying.

7 MR. WAX: Okay.

8 Kyle?

9 Dan?

10 MR. LARSON: I agree with both of them.

11 MR. LOVIN: I think the fire concern is a  
12 real big issue with me, not having any kind of  
13 suppression or, you know, our best effort is to let  
14 it burn. We don't want field fires in this area  
15 when we have those days of 30-mile-an-hour south  
16 winds in the fall and we've got dry corn. It's  
17 going to be hard to stop that. So, that is my  
18 biggest issue there.

19 MR. HARRINGTON: I agree. That just  
20 doesn't sound like a good plan.

21 MR. WAX: Will, you've hit on basically  
22 everything that I've listed here.

23 Any more discussion?

24 Okay. The motion we have and the second

1 is motion that the applicant had met this  
2 requirement, and we've had the discussion. I think  
3 we are ready for a rollcall.

4 MS. NUSBAUM: Mr. Harrington?

5 MR. HARRINGTON: No. We have not met.

6 MS. NUSBAUM: Mr. Lovin?

7 MR. LOVIN: No.

8 MS. NUSBAUM: Mr. Larson?

9 MR. LARSON: No.

10 MS. NUSBAUM: Mr. Chambers?

11 MR. CHAMBERS: No.

12 MS. NUSBAUM: Mr. Wax?

13 MR. WAX: No.

14 MR. KEYT: Okay. That takes us to the  
15 second factor. Same procedure. I'll read the  
16 second factor just so that it's clear in the record:

17 The special use will not be injurious to  
18 the use and enjoyment of other property in the  
19 immediate vicinity for the purpose already permitted  
20 nor substantially diminish property values within  
21 the neighborhood.

22 MR. HARRINGTON: I make a motion.

23 MR. LOVIN: I'll second.

24 MR. WAX: Okay. We are ready for a motion

1 on this thing to recommend the applicant has met  
2 this requirement. You are saying motion to admit  
3 the requirement, and who made it?

4 MR. HARRINGTON: I made a motion.

5 MR. WAX: And Kyle has seconded it.

6 Discussion please?

7 MR. HARRINGTON: So, I guess one of my  
8 topics there would be, I believe we did see some  
9 reference to the fact that there could be effects on  
10 property values. I think that is in consideration  
11 of this matter in particular.

12 I do feel there is concern with that to  
13 the point that I don't think we can go along with  
14 there is no effect there.

15 Use and enjoyment, I don't think it's very  
16 hard to argue the fact that, obviously, if you are  
17 in close proximity to this, you are going to, at  
18 least at the bare minimum, notice this in your  
19 backyard or something, I mean differing degrees  
20 based on location. I would say there is enough  
21 evidence that says it will adversely affect some  
22 individual's use and enjoyment. I'll just leave it  
23 at that for anybody else that wants to add to it.

24 MR. WAX: My concerns are I believe there



1 is evidence for diminished property value, and I  
2 have concern about some health issues.

3 Will, do you have concerns?

4 MR. CHAMBERS: On the use and enjoyment, I  
5 pretty much agree with Jim that, you know, the noise  
6 level is a big consideration there.

7 And then the vista concerns, we've had a  
8 lot of testimony through the hearings that the  
9 reason a lot of residents live in the project area  
10 is because they moved there because of the peace and  
11 quiet, you know, the rural tranquility, and I think  
12 this goes against that in a way that would affect  
13 their use and enjoyment of that property.

14 And then, on the property values, this  
15 would be another case, like Jim mentioned on the  
16 last factor, where there is conflicting evidence  
17 that has been presented. So, even if you take a  
18 middle ground on the evidence that is presented, you  
19 end up somewhere between no effect and a very  
20 negative effect, and wherever that may be is still a  
21 negative effect.

22 So, on the property values, with the  
23 testimony we've had there, I do feel that there is a  
24 significant risk to the property values within the

1 area.

2 MR. WAX: Thank you, Will.

3 Any other comments?

4 We have no more discussion.

5 Are you ready for rollcall on this?

6 MR. HARRINGTON: I am ready.

7 MS. NUSBAUM: Mr. Chambers?

8 MR. CHAMBERS: No.

9 MS. NUSBAUM: Mr. Larson?

10 MR. LARSON: No.

11 MS. NUSBAUM: Mr. Lovin?

12 MR. LOVIN: No.

13 MS. NUSBAUM: Mr. Harrington?

14 MR. HARRINGTON: No.

15 MS. NUSBAUM: Mr. Wax?

16 MR. WAX: No.

17 MR. KEYT: Okay. That takes to us to

18 factor number 3:

19 The establishment of the special use will  
20 not impede the normal and orderly development of the  
21 surrounding property for uses permitted in the  
22 district.

23 MR. WAX: I think we've been over and

24 discussed a lot of this. We've gone back to these

1 other factors to look at the information there. I  
2 think we are ready for a motion on this one.

3 MR. CHAMBERS: I'll make a motion that the  
4 applicant has met their requirements of factor 3.

5 MR. LOVIN: I'll second.

6 MR. WAX: We have a motion and a second.

7 Time for discussion. Anybody over here?

8 I'll start it off then. I do not believe  
9 that there is as much concern about annoyance,  
10 property values and concerns about health as we had  
11 in number 2 or number 1.

12 However, I still believe there is some  
13 degree of concern in this area and in those areas  
14 about health, general annoyance, some degree in  
15 property value.

16 MR. CHAMBERS: On this one, I think we've  
17 got a little bit of overlap with factor 2. On  
18 property notes, I have on this one would be impact  
19 to the future development by reducing the desire to  
20 develop property within the area for uses other than  
21 agricultural, specifically rural residential uses.

22 I think there would be a very steep  
23 decrease in any interest in developing anything  
24 rural residential within the area.

1           And then any future development, whether  
2           it's rural or commercial or not is hampered by the  
3           reduction in available area to develop because of  
4           the setbacks that we would have in place, it would  
5           narrow down the available space to develop. So, I  
6           would say that it does hamper or impede the normal  
7           and orderly development.

8           MR. WAX: Thank you, Will. That is very  
9           well stated.

10           Other comments?

11           MR. LARSON: I agree with Will.

12           MR. HARRINGTON: Yeah. I think he's on  
13           the right track. I agree also. Even if it isn't  
14           completely going to stop it or impede it, I would  
15           have to say it's going to be cumbersome due to  
16           adjacent setbacks and/or other items involved in the  
17           sheer size of these is something to consider, right?

18           MR. WAX: Right.

19           MR. HARRINGTON: So, I think that is a  
20           concern.

21           And I also think that the actual  
22           construction of them will probably be a little more  
23           -- what would I say? -- negative to that exact area  
24           than we realize. I think there is a lot of

1 consideration there, granted some of it being road  
2 debridement that we are not directly involved with.

3 I do think there is reasons to have  
4 reservations at the very least about how that is  
5 going to play out.

6 MR. WAX: Okay. What do you think, Kyle?  
7 Dan?

8 MR. LOVIN: I think he covered it pretty  
9 well.

10 MR. LARSON: I agree.

11 MR. WAX: Are you ready for rollcall on  
12 this one, please?

13 MS. NUSBAUM: Mr. Larson?

14 MR. LARSON: No.

15 MS. NUSBAUM: Mr. Harrington?

16 MR. HARRINGTON: No.

17 MS. NUSBAUM: Mr. Lovin?

18 MR. LOVIN: No.

19 MS. NUSBAUM: Mr. Chambers?

20 MR. CHAMBERS: No.

21 MS. NUSBAUM: Mr. Wax?

22 MR. WAX: No.

23 MR. KEY: Okay. Next factor is number 4:  
24 Adequate utilities, access roads, drainage

1 or necessary facilities have been or will be  
2 provided.

3 MR. HARRINGTON: I would like to make a  
4 motion to consider that the applicant has met the  
5 adequate utilities access road drainage or the  
6 necessary facilities will be provided.

7 MR. KEYT: Okay. Is there a second?

8 MR. LOVIN: Second.

9 MR. WAX: Kyle got a second.

10 Discussion?

11 MR. HARRINGTON: Just pretty much what I  
12 said before. I just don't think we're -- I don't  
13 feel I am apprised enough of any road use agreements  
14 to make a firm decision on this. Mainly because  
15 there are so many details on that subject alone, I  
16 don't know that I have enough knowledge to formally  
17 tell you.

18 MR. WAX: It's a tough one.

19 MR. HARRINGTON: Right.

20 MR. WAX: It's kind of a deal based on  
21 faith that somebody is going do right in the future.

22 MR. LARSON: Same with the drainage.

23 MR. WAX: Right. The drainage deal is  
24 included in that one.

1           MR. HARRINGTON: Right. And I think it's  
2 good that we made the statements regarding that.

3           MR. WAX: Discussion, Will?

4           MR. CHAMBERS: Yeah. On this one, I  
5 think, just based on the way -- the way the  
6 structure of this is set up with the special use  
7 permit and then going on into construction and road  
8 use agreements, I would have faith that, you know,  
9 the county is going to only agree to a good and  
10 reasonable road use agreement, and the same on the  
11 drainage with the drainage commissioner.

12           So, I think, for the purpose of the  
13 factor, in the state that we are in with the  
14 hearing, I don't really have any concerns on this  
15 one. I think with everything, as in the preliminary  
16 stage right now and the framework that is in place  
17 for the future agreements to come into play, that I  
18 don't really see any major concerns on this one.

19           MR. WAX: Okay. I tend to lean in the  
20 favor of the idea that the negotiators -- that we  
21 can have faith on this one of getting it done.

22           Other discussions that we have?

23           Okay. We don't all have to agree on this.  
24 We can take our vote and see how it plays out.

1 MR. HARRINGTON: That's right.

2 MR. WAX: Are you ready for rollcall?

3 MS. NUSBAUM: Mr. Larson?

4 MR. LARSON: No.

5 MS. NUSBAUM: Mr. Chambers?

6 MR. CHAMBERS: Yes.

7 MS. NUSBAUM: Mr. Lovin?

8 MR. LOVIN: No.

9 MS. NUSBAUM: Mr. Harrington?

10 MR. HARRINGTON: No.

11 MS. NUSBAUM: Mr. Wax?

12 MR. WAX: Yes.

13 Three and two.

14 MR. KEYT: That takes to us factor number

15 5:

16 Adequate measurements have been or will be  
17 taken to provide ingress and egress so designed as  
18 to minimize traffic congestion in the public  
19 streets.

20 MR. CHAMBERS: I will go ahead and make  
21 the motion that the applicant has met the  
22 requirements of factor 5.

23 MR. WAX: Okay. Is there a second on  
24 this?



1 MR. HARRINGTON: Second.

2 MR. WAX: We've got a motion to second.

3 Discussion, please?

4 MR. LARSON: I think this one is more like  
5 what you guys were saying, kind of based on faith,  
6 because traffic is one thing, but destroying roads  
7 and drainage is another thing, in my opinion.

8 MR. WAX: Right.

9 MR. LARSON: But I do have faith that the  
10 right steps will be taken.

11 MR. WAX: Okay. I tend to agree with you.  
12 I tend to agree with you on this one.

13 MR. CHAMBERS: I would say that the factor  
14 concerns the project as a whole. So, you know,  
15 eight permanent employees, there is not much traffic  
16 congestion that can be caused by that during normal  
17 operations and with the access roads and everything.  
18 I am sure all of that will be fine.

19 It would be worth noting that, during  
20 construction, I am sure there would be traffic  
21 congestion issues during construction, but there is  
22 not any getting around that. So, I don't think that  
23 construction phase really should get brought into  
24 the discussion on this one. I think it's more of an

1 overall picture. So, in that case, I don't have any  
2 issues.

3 MR. WAX: Okay. Any other concerns?

4 MR. HARRINGTON: I think the applicant has  
5 demonstrated a willingness to try and do everything  
6 they can do.

7 MR. WAX: Rollcall, please.

8 MS. NUSBAUM: Mr. Larson?

9 MR. LARSON: Yes.

10 MS. NUSBAUM: Mr. Lovin?

11 MR. LOVIN: Yes.

12 MS. NUSBAUM: Mr. Harrington?

13 MR. HARRINGTON: Yes.

14 MS. NUSBAUM: Mr. Chambers?

15 MR. CHAMBERS: Yes.

16 MS. NUSBAUM: Mr. Wax?

17 MR. WAX: Yes.

18 MR. KEYT: Okay. That take us to factor  
19 number 6:

20 The establishment, maintenance and  
21 operation of the special use will be in conformance  
22 with the preamble to the regulations of the district  
23 in which the special use is proposed to be located.

24 MR. WAX: Want a motion on this one?

1           MR. CHAMBERS: I'll go ahead and make that  
2 motion that the applicant has met the requirements  
3 of factor 6.

4           MR. LOVIN: Second.

5           MR. WAX: Okay. Kyle has come in with a  
6 motion to second the motion.

7           Okay. Is there discussion here?

8           May I ask first? I suspect I may not be  
9 the only one who in this group or the audience who  
10 doesn't understand the reference to the preamble,  
11 and I would like for Mr. Keyt to explain that to us,  
12 where that document is and what his interpretation  
13 of this thing is so we know what we are actually  
14 comparing this against.

15           MR. KEYT: Okay. Understood. Where it  
16 refers to the preamble is I believe a reference to  
17 the Piatt County Zoning Ordinance as amended  
18 October 12, 2022, that zoning ordinance has various  
19 districts laid out, so there may be a district for  
20 agricultural or residential, etc.

21           There is an agricultural districts section  
22 under Article 5(a)(1), and it lists out essentially  
23 what I would consider the preamble is not  
24 necessarily titled that way, but there is another

1 section that is labeled as the preamble, but I think  
2 this is the reference that those factors are  
3 referring to as the preamble. The preamble -- I am  
4 just going to read it in the record, and I will let  
5 you draw your inferences and let you think what that  
6 may mean.

7 1. Agricultural districts.

8 A. A-1 Agricultural, A-C Conservation:

9 Agricultural land is under urban pressure from  
10 expanding incorporated areas. This urban pressure  
11 takes the form of scattered development in wide  
12 belts around the communities of Piatt County, brings  
13 conflicting land uses into juxtaposition, creates  
14 high costs for public services and stimulates land  
15 speculation. Certain agricultural land constitutes  
16 unique and irreplaceable land resources. It is the  
17 purpose of the A-1 and A-C Districts to provide a  
18 means by which agricultural land may be protected  
19 and enhanced as an economic and environmental  
20 resource of major importance to the County.

21 Therefore, these Districts are intended to  
22 accomplish the following objectives, in order of  
23 priority:

24 (1) Promote the agricultural use of land

1 most suitable for farming activities.

2 (2) Protect the value of agricultural  
3 lands from indiscriminate, incompatible and  
4 conflicting land uses.

5 (3) Conserve and protect open space,  
6 wooded areas, streams, mineral deposits and other  
7 natural resources from incompatible land uses and  
8 provide for their timely utilization.

9 (4) Provide for the location and govern  
10 the establishment and operation of land uses which  
11 are compatible with agriculture and are of such a  
12 nature that their location away from residential,  
13 commercial and industrial area is most desirable.

14 (5) Provide for the location and govern  
15 the establishment of residential uses that are  
16 necessary to and necessary for the conduct of  
17 agricultural.

18 (6) Provide for the location and govern  
19 the establishment and use of limited nonfarm  
20 dwellings.

21 b. Agricultural Nuisance Disclaimer:  
22 Properties within the A-1 and A-C Districts are  
23 located in areas where land is used for commercial  
24 agricultural production. Owners, residents and

1 other users of property in or adjoining these  
2 districts may be subjected to inconvenience,  
3 discomfort, and the possibility of injury to  
4 property and health arising from normal and accepted  
5 agricultural practices and operations, including but  
6 not limited to noise, odors, dust, the operation of  
7 machinery of any kind, including aircraft, the  
8 storage and disposal of manure, the application of  
9 fertilizers, soil amendments, herbicides and  
10 pesticides. Therefore, owners, occupants and users  
11 of property within the A-1 and A-C Districts should  
12 be prepared to accept such inconveniences,  
13 discomfort and possibility of injury from normal  
14 agricultural operations, and are hereby put on  
15 official notice that the Illinois Right to Farm Law  
16 may bar them from obtaining a legal judgment against  
17 such normal agricultural operations.

18 I do have a copy of the zoning code. That  
19 is a reference on page 23. I do have a copy if each  
20 of the board members want that in black and white in  
21 front of them.

22 MR. HARRINGTON: I get the gist of it. I  
23 am good.

24 MR. KEYT: Gotcha.

1           MR. WAX:  What kind of discussion do you  
2 have here on this matter?

3           MR. HARRINGTON:  So the establishment,  
4 maintenance and operations of the special use would  
5 be in conformance with the preamble, what Andy just  
6 read, to the regulations of the district in which  
7 the special use is proposed to be located in.

8           So, I mean, in general terms, I don't know  
9 that the establishment of wind farms was necessarily  
10 outside of it.  I don't think, however, we have to  
11 delineate priorities -- right? -- to a certain  
12 degree -- right? -- or at least to a scope that we  
13 encompass, and as he mentioned item number 1 --

14           Correct, Andy?

15           -- was to promote the use of production  
16 ag, as I perceive what you said.

17           MR. KEYT:  I'll read it:  Promote the  
18 agricultural use of land that is most suitable for  
19 farming activities.

20           MR. HARRINGTON:  Right.  So, that could be  
21 production of ag or, if you have one of these, you  
22 my say, well, it's within production, right?

23           So, we don't want to encroach too hard on  
24 that, but we also have to say, hey, we have to give

1 due consideration to all parties.

2           So, I think that the long and short of it,  
3 you know, there is, you know, the one that catches  
4 my eye -- I hate to say it -- is at the bottom of  
5 number 6. There is, however, evidence of farmland  
6 of adjacent property owners may suffer decrease  
7 value in the findings of fact; and I have to say  
8 that is a concern of mine. So, I'll just leave it  
9 at that and say I think it's within striking  
10 distance. However, the neighboring  
11 non-participants, I think, are at a bit of a  
12 disadvantage here.

13           MR. WAX: Right. I agree.

14           MR. LOVIN: Me too. I agree.

15           MR. LARSON: I agree.

16           MR. WAX: Will?

17           MR. CHAMBERS: I agree with Jim. There is  
18 not really too much grounds to pick at the zoning  
19 usage and whether or not that applies.

20           But the language in there about, you know,  
21 protection of property value and open space and just  
22 kind of the general feel of the language about  
23 prioritizing and protecting A-1 and ag and use, I  
24 think those parts of it lend themselves to being a



1 little more critical of this.

2 MR. WAX: Okay. Any other?

3 Okay. Are you ready for rollcall?

4 MR. HARRINGTON: (Nodding.)

5 MR. WAX: Would you do that, please?

6 MS. NUSBAUM: Mr. Larson?

7 MR. LARSON: No.

8 MS. NUSBAUM: Mr. Harrington?

9 MR. HARRINGTON: No.

10 MS. NUSBAUM: Mr. Lovin?

11 MR. LOVIN: No.

12 MS. NUSBAUM: Mr. Chambers?

13 MR. CHAMBERS: No.

14 MS. NUSBAUM: Mr. Wax?

15 MR. WAX: No.

16 MR. KEYT: Okay. Factor number 7 then is  
17 the final one:

18 The special use shall, in all other  
19 aspects, conform to the applicable regulations of  
20 the district in which it is located and the board  
21 shall find that there is a public necessity for the  
22 special use.

23 MR. WAX: We've had time to think about  
24 this a little bit.

1           Is there a motion that we are -- that the  
2 applicant has met this requirement?

3           MR. LARSON: I'll make that motion.

4           MR. HARRINGTON: I will second.

5           MR. WAX: We've got a motion and a second.

6           Discussion, please?

7           MR. CHAMBERS: Well, I'll start on this.

8 My notes on this one would be the longest.

9           The bulk of this factor is on the board  
10 shall find that there is a public necessity for the  
11 special use.

12           So, if members of the public have  
13 testified for various needs or need for more tax  
14 relief, money for roads, money for schools, other  
15 members of the public have testified to a need to  
16 preserve the rural character of the area and  
17 protecting their lifestyle and rights as rural  
18 residents.

19           So, if there has to be a public necessity  
20 for the special use, it would seem, from the  
21 testimony we've heard so far, that there is not any  
22 consensus on what that necessity is.

23           As is noted in the finding of facts, we  
24 don't have a necessity for this as a means of

1 electricity generation because we already have  
2 adequate electricity infrastructure in the area. So  
3 that, if the electricity needs of the county are  
4 already met, some other purpose of the project would  
5 have to rise to the level of public necessity in  
6 order for us to determine that it is a public  
7 necessity. I don't see anything of that level.

8 I do take note of the amount of money  
9 involved, especially for schools, that would benefit  
10 from the tax revenue.

11 I feel that the public institutions that  
12 would benefit are already well established and  
13 well-funded through tax revenues and those, while  
14 they could benefit, I believe that there is not  
15 enough benefit there to outweigh the negative impact  
16 to residents within the project area for that to be  
17 deemed a public necessity for those people to be  
18 outweighed.

19 MR. WAX: Thank you.

20 Are there other comments, or are you in  
21 agreement with Will?

22 I am open to other discussion.

23 MR. HARRINGTON: Yeah. I think Will did  
24 an excellent job hitting a lot of the key points. I

1 think, in the terms here, in all other respects  
2 conform.

3 I got to say hats off to Apex. You guys  
4 went through a mountain of work to try and -- and  
5 you did in a lot of cases check the boxes of the  
6 SUP, etc. I think, once again, good job.

7 But I think when it comes to the other  
8 piece of this question, which is -- I agree with  
9 you, Will -- the board shall find there is a public  
10 necessity.

11 It's a contentious subject, right? As it  
12 mentions in the findings of fact, there is not a  
13 general need in the community for more access to  
14 electrical supply today, you know. That could  
15 change, but today we are well supplied. So, no in  
16 regards to that.

17 But in the bigger picture, I think that,  
18 yes, a lot of conflicting comments from the  
19 public -- right? -- for and against, all of them I  
20 take in due consideration and say, hey, that is  
21 respectable.

22 But I would also agree with Will that it  
23 would appear there is some maybe not so -- there is  
24 more than just financial effects here, is what I am

1 driving at. I think the school revenue is  
2 important. I think tax revenue is important. But  
3 we also have to say, hey, would I want to live with  
4 one of these? Would I want that? So, you know,  
5 that is consideration that we have to take into that  
6 conversation.

7 MR. WAX: Right.

8 MR. HARRINGTON: So, good job. Good job,  
9 Will.

10 MR. WAX: I think both of you have made  
11 some excellent points here in covering a whole  
12 aspect.

13 There is no question Apex has made an  
14 enormous effort here in terms of providing financial  
15 support.

16 And let me compliment you on that, but we  
17 have to balance that against the quality of life in  
18 the environment and how people feel about this.

19 So, with that said, is that in general  
20 agreement with where you're hearing, Dan and Kyle?

21 MR. LARSON: Yeah. I think there is  
22 benefits. I think there is benefits, but I don't  
23 think there is a necessity, basically.

24 MR. WAX: That's sort of my feeling as

1 well.

2 Are you ready for a rollcall?

3 MR. HARRINGTON: I am ready.

4 MR. WAX: Please.

5 MS. NUSBAUM: Mr. Chambers?

6 MR. CHAMBERS: No.

7 MS. NUSBAUM: Mr. Lovin?

8 MR. LOVIN: No.

9 MS. NUSBAUM: Mr. Harrington?

10 MR. HARRINGTON: No.

11 MS. NUSBAUM: Mr. Larson?

12 MR. LARSON: No.

13 MS. NUSBAUM: Mr. Wax?

14 MR. WAX: No.

15 MR. KEYT: Okay. That concludes the  
16 discussion of the specific factors.

17 Last task for the board to take is whether  
18 to recommend or determining what their  
19 recommendation to the county board will be.

20 For clarification, the factors that you  
21 are considering here and the evidence therein are  
22 not an all-or-nothing proposition. Those factors  
23 are a balancing test for you.

24 You could determine that the applicant

1     only met four of the factors, by example, and still  
2     vote for a recommendation of approval.

3             Conversely, you could find that the  
4     applicant met six of the seven factors and still  
5     recommend a denial because of a major issue that  
6     might be lurking there.

7             So, with that being said, you also have  
8     conditions that you are going to recommend or have  
9     recommended to the county board in the event of an  
10    approval.

11            There is a provision in your zoning code  
12    that discusses that aspect which states that before  
13    recommending the issuance of a special use permit,  
14    the board may prescribe such conditions as the will  
15    of the board's judgment to ensure that the factors  
16    that you just went through are satisfied.

17            But with that being said, I think you are  
18    at the time in this hearing process for you, the  
19    board, to make your recommendation to the county  
20    board.

21            There are essentially three options for  
22    the zoning boards to take. Those options are to  
23    recommend an approval, recommend an approval subject  
24    to conditions, or recommend a denial. So, those are

1 the options that are before the board.

2 MR. CHAMBERS: So as I understand it, we  
3 will be under the same rules as before with not  
4 having a negative motion and whatever motion we  
5 would want to send to the county board should  
6 include the conditions.

7 So, in that case, I would make the motion  
8 for approval subject to the conditions which we have  
9 drafted to the county board.

10 MR. HARRINGTON: I would second that.

11 MR. WAX: Got a motion to second.

12 Discussion?

13 We've covered about everything to be  
14 covered. Are you okay with rollcall?

15 MR. HARRINGTON: Yes, sir.

16 MR. LARSON: (Nodding.)

17 MS. NUSBAUM: Mr. Larson?

18 MR. LARSON: No.

19 MS. NUSBAUM: Mr. Lovin?

20 MR. LOVIN: No.

21 MS. NUSBAUM: Mr. Harrington?

22 MR. HARRINGTON: No.

23 MS. NUSBAUM: Mr. Chambers?

24 MR. CHAMBERS: No.



1 MS. NUSBAUM: Mr. Wax?

2 MR. WAX: No.

3 THE COURT: All right, folks. Please be  
4 advised that this is a recommendation from the Piatt  
5 County Zoning Board of Appeals. The final say goes  
6 to the folks on the Piatt County Board, many of whom  
7 are in the room tonight.

8 You would need to check with the county  
9 board office or administrator for the county to  
10 determine when the county board will take up the  
11 issue. That hasn't been decided. It's not on an  
12 agenda for any upcoming meeting that I am aware of,  
13 but this is the recommendation.

14 So, the next step will be for the full  
15 county board to consider this zoning board's  
16 recommendation.

17 Now, Mr. Chairman, I think there is just  
18 one thing left.

19 MR. WAX: I would like a motion to  
20 adjourn.

21 MR. HARRINGTON: I'm make a motion.

22 MR. LARSON: Second.

23 MR. WAX: All in favor say aye.

24 MR. CHAMBERS: Aye.

1 MR. WAX: Aye.

2 MR. HARRINGTON: Aye.

3 MR. LARSON: Aye.

4 MR. LOVIN: Aye.

5 (HEARING ADJOURNED.)

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CERTIFICATE OF REPORTER

I, Holly Wingstrom, CSR #84-003888, reported in machine shorthand the proceedings had in the above-entitled cause and transcribed the same by computer-aided transcription, which I hereby certify to be a true and accurate transcript of the proceedings had.

  
Holly Wingstrom, CSR #84-003888  
Official Court Reporter

Dated: 2/13/2023

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