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1 STATE OF ILLINOIS)
2 COUNTY OF OGLE) Number 13-18AM
3
4
5 In the Matter of the Petition
6 of
7 Josh Franks;
8 Robert Baatz, Christopher Baatz, Andrew Baatz,
9 Byron Township
10 Ogle County, Illinois
11
12 Testimony of Witnesses
13 Produced, Sworn and
14 Examined on this 24th day
15 of January, A.D., 2019,
16 before the Ogle County
17 Zoning Board of Appeals
18 Present:
19 Paul Soderholm
20 Mark Hayes
21 James Reed
22 Randy Ocken, Chairman
23 Michael Reibel, Zoning Administrator
24

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1 MR. OCKEN: I call this January 24th,
2 2019, meeting of the Ogle County Zoning Board of
3 Appeals to order at 6 p.m.
4 Mr. Reibel, please call the roll.
5 (Roll call was taken.)
6 MR. REIBEL: Four present.
7 MR. OCKEN: We have four members present.
8 There is quorum.
9 Please rise for the Pledge of Allegiance.
10 (The Pledge of Allegiance was
11 recited.)
12 MR. OCKEN: The verbatim transcript
13 serving as minutes from the last meeting is on
14 file and will not be read at this time.
15 I will entertain a motion to approve the
16 minutes of the last ZBA meeting.
17 MR. SODERHOLM: So moved.
18 MR. OCKEN: Mr. Soderholm moves. Is there
19 a second?
20 MR. REED: Second.
21 MR. OCKEN: Mr. Reed seconds. All in
22 favor say aye.
23 (All those simultaneously
24 responded.)

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1 MR. OCKEN: Motion passes.
2 All testimony will be taken under oath.
3 Please come forward to the podium to testify,
4 and state your name and address to the recording
5 secretary. Please spell your last name.
6 When testifying, speak clearly and loudly
7 enough to be heard. This hearing is the only
8 opportunity to place testimony and evidence on
9 the record. There will not be another
10 opportunity beyond tonight's hearing to submit
11 additional evidence or testimony for
12 consideration.
13 Please turn off or silence all electronic
14 devices. I will do that as well.
15 The procedures on hearings that will be
16 followed tonight is as found in the ZBA Rules of
17 Procedures or Citizen's Guide to the Zoning
18 Board of Appeals, which are available on the
19 desk near the entrance to this room.
20 If anyone has trouble hearing, please let
21 us know.
22 After a petition has been voted on, you
23 are free to leave; however, you are welcome to
24 stay for the rest of the meeting.

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<p>1 Mr. Reibel, what's the first order of</p> <p>2 business?</p> <p>3 MR. REIBEL: The first order of business</p> <p>4 is to consider the request filed December 17th,</p> <p>5 2018, of John Franks, 2030 Southfield Lane,</p> <p>6 Byron, Illinois; Robert Baatz, 21651 Hoover</p> <p>7 Road, Sterling, Illinois; Christopher Baatz,</p> <p>8 211 West Edson Street, Poplar Grove, Illinois;</p> <p>9 and Andrew Baatz, 1536 South Rawleigh Avenue,</p> <p>10 Freeport, Illinois, for an Amendment to the</p> <p>11 Zoning District to rezone from AG-1 Agricultural</p> <p>12 District to IA Intermediate Agricultural</p> <p>13 District on property described as follows, owned</p> <p>14 by Robert Baatz, Christopher Baatz, and Andrew</p> <p>15 Baatz, and being purchased by Josh Franks:</p> <p>16 Part of the West Half (W1/2) of the</p> <p>17 Southeast Quarter (SE1/4) of Section 24,</p> <p>18 T25N, R10E of the 4th P.M., Byron</p> <p>19 Township, Ogle County, Illinois, 18.53</p> <p>20 acres, more or less.</p> <p>21 Property Identification Number: Part of</p> <p>22 04-24-400-019.</p> <p>23 The Common Location of 9200 block of North</p> <p>24 Hedge Road.</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	<p>1 Family Residence District. The remainder of the</p> <p>2 site perimeter is adjoined by parcels in</p> <p>3 agricultural use that are zoned AG-1.</p> <p>4 Zoning history, none.</p> <p>5 Applicable regs, The IA zoning district is</p> <p>6 intended to help implement the goals and</p> <p>7 objectives of the Ogle County Comprehensive Plan</p> <p>8 and is established to preserve the integrity of</p> <p>9 the AG-1 District by clearly indicating that, in</p> <p>10 the AG-1 District, agriculture is the primary</p> <p>11 use of the land. Agriculture in the IA</p> <p>12 District, while important, is not regarded as</p> <p>13 necessarily the primary use. The IA District is</p> <p>14 intended to be an intermediate zoning district</p> <p>15 between the AG-1 District and the R-1 Rural</p> <p>16 Residential District.</p> <p>17 Special Information:</p> <p>18 Public utilities, none available.</p> <p>19 Transportation, North Hedge Road and East</p> <p>20 Water Road are seal-coat surfaced roads under</p> <p>21 the jurisdiction of Byron Township, and are</p> <p>22 functionally classified as local roads.</p> <p>23 Physical characteristics, the site is part</p> <p>24 of a gently sloping to sloping upland side</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>
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<p>1 For the record, all adjoining property</p> <p>2 owners to the petition have been notified of the</p> <p>3 petition. A public notice was published in the</p> <p>4 Ogle County Life on December 30th, 2018, to</p> <p>5 notify the public of the hearing this evening</p> <p>6 and the specifics of the petition, and signs</p> <p>7 have been posted along each road frontage</p> <p>8 reference the subject property to notify the</p> <p>9 public of the pending hearing.</p> <p>10 Under the Staff Report, which is on file,</p> <p>11 the Board members have received, I will point</p> <p>12 out, under General Information, that the site is</p> <p>13 located at the southwest corner of the</p> <p>14 intersection of North Hedge Road and East Water</p> <p>15 Road.</p> <p>16 Existing land use, approximately</p> <p>17 31.4 percent of the site area (not including</p> <p>18 road right-of-way) is in crop production, and</p> <p>19 the remainder is in mature timber.</p> <p>20 Surrounding land use and zoning, the site</p> <p>21 is located within a predominately rural</p> <p>22 residential area. Approximately 40 percent of</p> <p>23 the site perimeter is adjoined by residential</p> <p>24 subdivision parcels that are zoned R-2 Single</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	<p>1 slope. The site is well drained, and there are</p> <p>2 no mapped wetlands or floodplain areas on the</p> <p>3 site. According to the Ogle County Digital Soil</p> <p>4 Survey, there are no mapped wetlands or</p> <p>5 floodplain areas on the site.</p> <p>6 The identified soil types on the site have</p> <p>7 the following selected characteristics:</p> <p>8 34 percent are classified as Prime</p> <p>9 farmland, 19.5 are Farmland of statewide</p> <p>10 importance, and 46.5 percent are not Prime</p> <p>11 farmland.</p> <p>12 100 percent are rated as being very</p> <p>13 limited for septic fields due to depth to</p> <p>14 bedrock, slow water movement and slope.</p> <p>15 Zero percent are subject to ponding or</p> <p>16 flooding.</p> <p>17 Under the LESA program, the LESA score of</p> <p>18 163.1 indicates a Low rating for protection.</p> <p>19 Land evaluation 63.1; site assessment, 100.</p> <p>20 According to the Illinois Department of</p> <p>21 Natural Resources, the Illinois Natural Heritage</p> <p>22 Database contains no record of State-listed</p> <p>23 threatened or endangered species, Illinois</p> <p>24 Natural Area Inventory Sites, dedicated Illinois</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>

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1 nature preserves, or registered land and water
 2 reserves in the vicinity of the project
 3 location, and the consultation process with IDNR
 4 has been terminated.
 5 At the January 17th, 2019, meeting of the
 6 Regional Planning Commission, Mr. Reising moved
 7 and Mr. Probasco seconded to recommend approval
 8 of the petition, as the petition fits the
 9 Comprehensive Plan, the site has generated a low
 10 LESA score, and Byron Township supports the
 11 petition. The motion carried unanimously via
 12 roll call vote.
 13 And I do have a letter on file from Byron
 14 Township which states that the Township Planning
 15 Commission has recommended approval, and
 16 consequently the Township Board is also
 17 recommending approval of the petition. Signed
 18 by Terry Reeverts, Supervisor of Byron Township.
 19 The Illinois Soil and Water Conservation
 20 District feels the following concerns should be
 21 noted and addressed for this petition, as stated
 22 in their Natural Resource Inventory:
 23 The existing land use for this parcel
 24 request is partial row crop production and
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1 partial native upland timber.
 2 The surrounding land use for this parcel
 3 request is partial row crop production and
 4 partial native upland timber with housing
 5 development.
 6 Years of tree cover on a large portion of
 7 the site have produced many consultation
 8 benefits, such as the following: preserved soil
 9 structure, good soil stability with reduced
 10 erosion, carbon bank, and wildlife habitat.
 11 Land evaluation score, 63 out of a
 12 hundred.
 13 All of the soils are very limited for
 14 local roads and streets.
 15 All of soils on the parcel are very
 16 limited for shallow excavations due to depth to
 17 hard bedrock.
 18 All the soils are very limited for
 19 dwellings with basements due to depth to hard
 20 bedrock.
 21 All the soils are very limited for septic
 22 tank absorption fields due to depth to bedrock.
 23 An erosion and sediment control plan needs
 24 to be developed, implemented and maintained
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1 prior to and during all construction phases.
 2 A stormwater detention site needs to be
 3 prevent increased surface runoff from adversely
 4 affecting downstream areas.
 5 And that is all I have.
 6 MR. OCKEN: Would the Petitioners please
 7 come forward to the podium? Please raise your
 8 right hand.
 9 JOSH FRANKS,
 10 being first duly sworn, testified as follows:
 11 MR. OCKEN: Please state your name and
 12 address to the recorder and spell your last
 13 name.
 14 MR. FRANKS: Josh Franks, F-R-A-N-K-S. I
 15 live at 2030 Southfield Lane, Byron, Illinois,
 16 61010 is the ZIP.
 17 MR. OCKEN: And tell us why you are
 18 requesting a rezone from AG-1 to Intermediate
 19 AG.
 20 MR. FRANKS: Sure. So our intention is to
 21 maintain portions of the agricultural status of
 22 the property, but we also would like to pursue
 23 building a home. And due to the limitations of
 24 AG-1 needing 40 acres, we won't have 40 acres to
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1 build a home. And it was made aware to me that
 2 this classification was available, and so we are
 3 requesting to have it rezoned as Intermediate
 4 AG.
 5 We intend to use the property as more or
 6 less a hobby farm, with chickens, a small
 7 orchard, and maintain the woods. If anything,
 8 improve the woods and control some of the
 9 invasives that have come in. And continue to
 10 value the wildlife aspect of the property as
 11 well.
 12 MR. OCKEN: And then will the cropland
 13 continue to be used as cropland on the west and
 14 the south sides of that?
 15 MR. FRANKS: Initially. Within three to
 16 five years, our intention is to build in a
 17 portion of the crop field on the south side of
 18 the timber.
 19 MR. OCKEN: Okay. So you want to build a
 20 house where the cropland is on the south side?
 21 MR. FRANKS: That's our intention at this
 22 time.
 23 MR. OCKEN: So you would have an entrance
 24 on Hedge Road then?
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1 MR. FRANKS: Correct. Yeah, there's an
 2 existing entrance that came from the old
 3 farmstead that goes through a gate, and our
 4 intention would be to use that and enhance that
 5 entrance.
 6 MR. OCKEN: Was the old farmstead located
 7 on the property or --
 8 MR. FRANKS: It's on the other side of the
 9 road to the east.
 10 MR. OCKEN: Okay.
 11 MR. FRANKS: It's still standing.
 12 MR. OCKEN: Okay. And so that -- the
 13 current cropland then will essentially be taken
 14 out of production?
 15 MR. FRANKS: A portion of it will.
 16 MR. OCKEN: And the timber, you plan to
 17 maintain the timber as it is, so no --
 18 essentially no changes in the timber?
 19 MR. FRANKS: No intentions in terms of,
 20 like, clear-cutting it or converting it or
 21 building in it. It would be to, you know,
 22 manage it as a woodland, yes.
 23 MR. OCKEN: Uh-huh. And so will you build
 24 outbuildings there as well then?
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1 MR. FRANKS: Possibly. We really haven't
 2 decided, but I would say there's a chance.
 3 MR. OCKEN: Okay. Board members, any
 4 other questions?
 5 MR. SODERHOLM: What type of invasives are
 6 on there now?
 7 MR. FRANKS: So I walked it this fall,
 8 it's mostly bush pine suckle, is probably the
 9 worst one. There's a lot of small saplings that
 10 are not native. Well, that was historically an
 11 old hickory woods. So there is some good
 12 regeneration in there. But our main focus would
 13 be to keep the oak regeneration going.
 14 I work for the Natural Resources, so I do
 15 have a passion for the woods. I know that it's
 16 a historic remnant. That old area was all woods
 17 at one time, even the cropland. So it's my
 18 intent to kind of, you know, keep that going.
 19 MR. SODERHOLM: So there is native
 20 original remnant in that woods?
 21 MR. FRANKS: I would say there's no
 22 original trees, but --
 23 MR. SODERHOLM: How about plants?
 24 MR. FRANKS: I honestly am not sure about
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1 that. My intention is to have a forest
 2 management plan done on the property and get
 3 some wildlife biologists to take a look at it
 4 and see if there's anything of importance that
 5 we should try to preserve and protect.
 6 MR. SODERHOLM: Thank you.
 7 MR. OCKEN: Any other questions?
 8 That's a nice piece of property. I'm glad
 9 to hear you want to preserve the forest. That's
 10 a very nice location there.
 11 MR. FRANKS: Thanks.
 12 MR. OCKEN: You may be seated.
 13 Has anyone filed for an appearance?
 14 MR. REIBEL: Yes. August Bodaine
 15 [phonetic] and Brick Logan.
 16 MR. OCKEN: Petitioners, please come
 17 forward, Mr. Bodaine and Mr. Logan.
 18 MR. BODAINE: It was going to be either/
 19 or.
 20 MR. OCKEN: Pardon me?
 21 MR. BODAINE: Going to be either/or.
 22 MR. OCKEN: I didn't hear what he said.
 23 MR. REIBEL: He said, Either/or.
 24 MR. BODAINE: Either/or.
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1 MR. OCKEN: Thank you.
 2 BRICK LOGAN,
 3 being first duly sworn, testified as follows:
 4 MR. OCKEN: Please state your name and
 5 address.
 6 MR. LOGAN: First name is Brick,
 7 B-R-I-C-K, last name is Logan, L-O-G-A-N, 2671
 8 East Breckenridge, and that's in Byron.
 9 MR. OCKEN: And this is an opportunity to
 10 question the Petitioner, not to make statements
 11 or other personal testimony. If you wish to
 12 make a statement, you get an opportunity later
 13 in the hearing.
 14 So would the Petitioner please come
 15 forward?
 16 MR. LOGAN: Yeah, I don't need -- my only
 17 complaint -- my only question would be, and I
 18 guess it's a combination to -- Randy, is it?
 19 MR. FRANKS: Josh.
 20 MR. LOGAN: -- Josh and to the Board is,
 21 what are the current -- what are the plans,
 22 either today or in the future, and what are the
 23 restrictions as to livestock?
 24 MR. FRANKS: What was the last word?
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1 MR. LOGAN: As to livestock.
 2 MR. FRANKS: Oh, okay.
 3 MR. OCKEN: If you want to please come
 4 forward so we can hear your answer to that, go
 5 ahead.
 6 MR. FRANKS: Well, the restriction part
 7 would be your answer, right, if there are
 8 restrictions?
 9 MR. REIBEL: There really aren't
 10 restrictions in the Intermediate AG District as
 11 to livestock. There aren't as it's currently
 12 zoned either, so.
 13 MR. LOGAN: So let me put words in your
 14 mouth. So then theoretically we could -- a hog
 15 confinement setup could be established back
 16 there that has 400 head of hog?
 17 MR. REIBEL: Probably not, no. There's a
 18 setback that the State -- Illinois Department of
 19 Ag imposes for livestock management facilities
 20 like that. So a concentrated livestock
 21 facility, no. Could someone run some cattle on
 22 there or have chickens or a couple horses?
 23 Sure.
 24 MR. LOGAN: All right. So my only concern
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1 would be some kind of a confinement setup. A
 2 couple cows, I don't have a problem with.
 3 Couple horses, I don't have a problem with.
 4 Couple chickens, don't have a problem with. You
 5 know, a field calf operation, the hog
 6 confinement setup, those kind of things would
 7 give me some voice for concern.
 8 And what you say is that the current owner
 9 could have done that -- could have done that
 10 yesterday too, and I realize that now.
 11 You know, so I guess what I would like to
 12 hear is, do you have any plans to --
 13 MR. FRANKS: We don't. No kind of
 14 confinement. I can't say -- you know, we just
 15 had a daughter, so it's possible there would be
 16 a horse some day. That's not my intention, but
 17 we might run a few goats in the woods. That's
 18 possible.
 19 Probably wouldn't have cattle, just
 20 because there's not enough acres to run a
 21 grazing operation and I don't want to just be
 22 buying hay. It wouldn't be cost effective, so I
 23 doubt that I would do that.
 24 I do have friends that raise livestock,
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1 so it is possible that we would maybe run cows
 2 through there at times of the year, but that's
 3 not my intention. Definitely not a confinement,
 4 is not an intention of ours.
 5 MR. OCKEN: Okay. Anything else?
 6 MR. LOGAN: No -- yeah, I do have one.
 7 Just one house?
 8 MR. FRANKS: We're only building one
 9 house. I can't say that -- if we put up a pole
 10 barn, it might have living quarters in it.
 11 MR. BODAINÉ: No, I mean, it can't be
 12 divided again? Is that probably right?
 13 MR. FRANKS: That's you guys.
 14 MR. REIBEL: Eighteen acres, right? The
 15 minimum parcel size is ten acres under the
 16 Intermediate Agricultural Zoning District. So
 17 if the property were to be divided to build
 18 another house, it would have to be rezoned from
 19 the Intermediate AG District to another zoning
 20 district that allows a higher intensity.
 21 MR. FRANKS: But it could be split off --
 22 you could eventually split off five-acre parcels
 23 if someone wished to do that?
 24 MR. REIBEL: It would have to be rezoned.
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1 MR. FRANKS: And it was approved.
 2 MR. REIBEL: Yeah.
 3 MR. FRANKS: That's not our intention --
 4 MR. LOGAN: Okay.
 5 MR. FRANKS: -- at this time. I can't say
 6 we would never do that, but at this time it's
 7 not our intention.
 8 We want -- we want to be in the
 9 Intermediate AG class. We don't want to be in
 10 the Residential zoning class for a variety of
 11 reasons.
 12 MR. LOGAN: Okay.
 13 MR. REIBEL: So to answer the question,
 14 the direct answer is, 18 acres zoned
 15 Intermediate AG would only allow one house to be
 16 built on it and probably wouldn't be able to
 17 have a second dwelling.
 18 MR. LOGAN: It would have to be rezoned if
 19 it would want to be subdivided?
 20 MR. REIBEL: Right.
 21 And you probably won't be able to do an
 22 accessory dwelling unit in an accessory
 23 building. You might want to talk to me about
 24 that.
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Page 21	<p>1 MR. FRANKS: Okay.</p> <p>2 MR. LOGAN: All right.</p> <p>3 MR. OCKEN: Okay. You may be seated.</p> <p>4 Anyone else file for an appearance?</p> <p>5 MR. REIBEL: No.</p> <p>6 MR. OCKEN: Is there anyone here who</p> <p>7 wishes to speak in favor of this petition?</p> <p>8 (No verbal response.)</p> <p>9 MR. OCKEN: Anyone who wishes to speak</p> <p>10 against this petition?</p> <p>11 (No verbal response.)</p> <p>12 MR. OCKEN: Hearing none, does the Board</p> <p>13 have any other questions or comments?</p> <p>14 (No verbal response.)</p> <p>15 MR. OCKEN: The Board will now go through</p> <p>16 the findings of fact. For each of the six</p> <p>17 standards we have two prepared statements: one</p> <p>18 to approve this petition and one to deny this</p> <p>19 petition. A Board member will read the</p> <p>20 statement which he believes is most applicable</p> <p>21 in this situation. The Board members will</p> <p>22 either agree or disagree. After the finding of</p> <p>23 fact, I will entertain a motion in regard to</p> <p>24 this petition.</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	Page 23	<p>1 to the low intensity of the development proposed</p> <p>2 and the proximity to public facilities and</p> <p>3 services. I believe that standard is met.</p> <p>4 (All those simultaneously</p> <p>5 agreed.)</p> <p>6 MR. REIBEL: 3) That the proposed</p> <p>7 amendment will not result in significant adverse</p> <p>8 impacts on other property in the vicinity of the</p> <p>9 subject site or on the environment, including</p> <p>10 air, noise, stormwater management, wildlife and</p> <p>11 natural resources.</p> <p>12 MR. REED: No evidence suggests</p> <p>13 significant adverse impacts on other property or</p> <p>14 impact on the environment will result from the</p> <p>15 proposed map amendment. I believe the standard</p> <p>16 has been met.</p> <p>17 (All those simultaneously</p> <p>18 agreed.)</p> <p>19 MR. REIBEL: 4) That the subject property</p> <p>20 is suitable for the proposed zoning</p> <p>21 classification.</p> <p>22 MR. SODERHOLM: The site is suitable for</p> <p>23 the Intermediate AG Zoning District, as</p> <p>24 approximately 66 percent of the soils are not</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>
Page 22	<p>1 Mr. Reibel, please read the first</p> <p>2 standard.</p> <p>3 MR. REIBEL: Amendment Standard 1) That</p> <p>4 the proposed amendment will allow development</p> <p>5 that is compatible with existing uses and zoning</p> <p>6 of nearby property.</p> <p>7 MR. SODERHOLM: The site is located in an</p> <p>8 area that contains predominately residential</p> <p>9 uses and some ag uses. I feel that standard has</p> <p>10 been met.</p> <p>11 (All those simultaneously</p> <p>12 agreed.)</p> <p>13 MR. REIBEL: 2) That the County of Ogle</p> <p>14 and other service providers will be able to</p> <p>15 provide adequate public facilities and services</p> <p>16 to the property, including, but not necessarily</p> <p>17 limited to, schools, police and fire protection,</p> <p>18 roads and highways, water supply and sewage</p> <p>19 disposal, while maintaining adequate public</p> <p>20 facilities and levels of service to existing</p> <p>21 development.</p> <p>22 MR. HAYES: Large-lot residential use of</p> <p>23 the site will not create a burden on the County</p> <p>24 of Ogle and other public service providers due</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	Page 24	<p>1 prime farmland soils, nearly 70 percent of the</p> <p>2 site is in mature timber, and the site conforms</p> <p>3 to the minimum lot size and width for the</p> <p>4 proposed zoning classification. That standard</p> <p>5 is met.</p> <p>6 (All those simultaneously</p> <p>7 agreed.)</p> <p>8 MR. REIBEL: 5) That the proposed zoning</p> <p>9 classification is consistent with the trend of</p> <p>10 development, if any, in the general area of the</p> <p>11 subject property including changes, if any,</p> <p>12 which have taken place since the day the</p> <p>13 property in question was placed in its present</p> <p>14 zoning classification.</p> <p>15 MR. HAYES: The trend of development in</p> <p>16 the general area is of residential uses. The</p> <p>17 proposed zoning classification of Intermediate</p> <p>18 Agricultural District is consistent with this</p> <p>19 trend. I believe the standard is met.</p> <p>20 (All those simultaneously</p> <p>21 agreed.)</p> <p>22 MR. REIBEL: 6) That the proposed</p> <p>23 amendment is consistent with the public interest</p> <p>24 and not solely for the interest of the</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>

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<p>1 Applicant, giving due consideration to the 2 stated purpose and intent of the Amendatory 3 Zoning Ordinance as set forth in Division 1 4 therein, the Land Evaluation and Site Assessment 5 findings, and the recommendation of the Ogle 6 County Regional Planning Commission with respect 7 to the Ogle County Amendatory Comprehensive 8 Plan. 9 MR. REED: The proposed amendment is 10 consistent with the public interest and not 11 solely for the interest of the applicant, as it 12 will allow residential use of the site that is 13 compatible with surrounding uses and trend of 14 development, and the LESA score indicates a Low 15 rating for protection. The proposed amendment 16 is also consistent with the purpose and intent 17 of the Amendatory Zoning Ordinance, and the 18 Zoning Board of Appeals has given due 19 consideration that the Regional Planning 20 Commission has recommended approval. I believe 21 the standard has been met. 22 (All those simultaneously 23 agreed.) 24 MR. REIBEL: And have the Board members In Totidem Verbis, LLC (ITV)</p>	<p>1 MR. SODERHOLM: -- before you turn the 2 animals loose in there. 3 MR. FRANKS: We're excited to see what's 4 in there. 5 MR. SODERHOLM: Good. There's help for 6 you if you want to do that, a site walk or 7 something like that. 8 MR. FRANKS: Are you offering? 9 MR. SODERHOLM: See me later. 10 MR. OCKEN: Any other questions or 11 comments from the Board? 12 (No verbal response.) 13 MR. OCKEN: Hearing none, Mr. Reibel, 14 please call the roll. 15 MR. REIBEL: Reed? 16 MR. REED: Yes. 17 MR. REIBEL: Hayes? 18 MR. HAYES: Yes. 19 MR. REIBEL: Soderholm? 20 MR. SODERHOLM: Yes. 21 MR. REIBEL: Ocken? 22 MR. OCKEN: Yes. 23 (By voice vote four ayes.) 24 MR. REIBEL: Four voted yes. In Totidem Verbis, LLC (ITV)</p>
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<p>1 read and considered the LaSalle Factors as 2 applied to this petition? 3 (All those simultaneously 4 answered in the affirmative.) 5 MR. OCKEN: All of the standards have been 6 met. I will entertain a motion to approve this 7 petition. 8 MR. SODERHOLM: I move that we approve Map 9 Amendment 13-18, in light to the fact that all 10 of the standards have been met and it has been 11 approved by the Regional Planning Commission. 12 MR. OCKEN: Mr. Soderholm moves. Is there 13 a second? 14 MR. HAYES: I'll second. 15 MR. OCKEN: Mr. Hayes seconds. 16 Does the Board have any other questions or 17 comments? 18 MR. SODERHOLM: I just -- I would commend 19 Mr. Franks. I appreciate your wanting to try to 20 preserve the oak hickory nature of that, and I 21 would just ask that you be aware of what's 22 underneath the canopy on the ground. There may 23 be some pretty neat stuff underneath there -- 24 MR. FRANKS: I agree. In Totidem Verbis, LLC (ITV)</p>	<p>1 MR. OCKEN: The motion has been approved 2 by a vote of four to zero. 3 (The hearing was concluded at 4 6:24 p.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 In Totidem Verbis, LLC (ITV)</p>

1 Now on this 24th day of January, A.D., 2019, I
2 do signify that the foregoing testimony was given
3 before the Ogle County Zoning Board of Appeals.

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Randy Ocken, Chairman

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Michael Reibel,
Zoning Administrator

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In Totidem Verbis, LLC (ITV)

Page 1

1 STATE OF ILLINOIS)
 2 COUNTY OF OGLE) Number 14-18AM
 3
 4
 5 In the Matter of the Petition
 6 of
 7 Michael Reibel, Ogle County Planning and Zoning
 8 Administrator
 9 Ogle County, Illinois
 10
 11 Testimony of Witnesses
 12 Produced, Sworn and
 13 Examined on this 24th day
 14 of January, A.D., 2019,
 15 before the Ogle County
 16 Zoning Board of Appeals
 17 Present:
 18 Paul Soderholm
 19 Maynard Stivers
 20 Cody Considine
 21 Dennis Williams
 22 Randy Ocken, Chairman
 23
 24

Page 2

1 MR. OCKEN: Mr. Reibel, what's the next
 2 order of business?
 3 MR. REIBEL: The next order of business is
 4 to consider the request filed December 19th,
 5 2018, of Michael Reibel, Ogle County Planning
 6 and Zoning Administrator under the direction of
 7 the Planning and Zoning Committee of the Ogle
 8 County Board for an Amendment to the text of the
 9 Ogle County Amendatory Zoning Ordinance by
 10 adding the following paragraph to follow the
 11 existing text in Division 6 (Supplementary
 12 District Regulations), Section 16-6-6G
 13 (Accessory Buildings, Structures and Uses;
 14 Private Swimming Pools):
 15 Where swimming pools are equipped with a
 16 powered safety cover that complies with
 17 ASTM 1346, the areas where those swimming
 18 pools are located shall not be required to
 19 comply with the above barrier
 20 requirements.
 21 For the record, all townships and
 22 municipalities in Ogle County have been notified
 23 by certified mail of this proposed text
 24 amendment, and public notices have been
 In Totidem Verbis, LLC (ITV)

Page 3

1 published in various newspapers throughout the
 2 county, including the Ogle County Life, Oregon
 3 Republican, Byron Tempo, Rochelle Newsleader,
 4 Sauk Valley News, Dixon Telegraph, on various
 5 dates that occurred at least 15 days but not
 6 more than 30 days prior to this hearing.
 7 That's all I have -- oh, no, I'm sorry.
 8 That's not all I have.
 9 The Regional Planning Commission at their
 10 meeting on January 17th, 2019, Mr. Wetzel moved
 11 and Mr. Reising seconded to recommend approval
 12 of the proposed text amendment, as it complies
 13 with the international building codes and
 14 benefits the public. The motion carried
 15 unanimously by roll call vote.
 16 I also have a letter from the City of Polo
 17 received today, January 24th, dated January
 18 22nd, which states, the City -- the Polo City
 19 Council did not have any objections to this
 20 request.
 21 I also have a letter on file from Byron
 22 Township received January 18th, 2019, dated
 23 January 10th, 2019, which states that the Byron
 24 Township Planning Commission ruled against this
 In Totidem Verbis, LLC (ITV)

Page 4

1 petition at the regular Board of Trustees
 2 meeting, January 10, 2019, at 7 p.m. The Board
 3 voted five to zero to approve the Byron Township
 4 Planning Commission recommendation to deny the
 5 petition to omit railings and fences where
 6 automated pool covers are used.
 7 Signed by Terry Reeverts, Supervisor,
 8 Byron Township.
 9 That's all I have.
 10 MR. OCKEN: All right. Questions or
 11 comments from the Board?
 12 I guess my question would be, could you
 13 explain what a powered safety cover is? I'm not
 14 really familiar with that.
 15 MR. REIBEL: Yeah. It goes over an
 16 inground pool.
 17 MR. OCKEN: So this would be a ground-
 18 level pool?
 19 MR. REIBEL: Yes.
 20 MR. OCKEN: Can it be in one above with a
 21 deck around it?
 22 MR. REIBEL: No. It's on an inground
 23 pool. Of course, it's an electric-operated
 24 cover that completely covers and closes and
 In Totidem Verbis, LLC (ITV)

<p style="text-align: right;">Page 5</p> <p>1 seals off the pool.</p> <p>2 I do have a little information I'll share</p> <p>3 with you. Some of the qualifications for the</p> <p>4 ASTM F346-91 standard, which is required to be</p> <p>5 met -- you know, any safety cover installed has</p> <p>6 to meet that standard -- the standard was</p> <p>7 developed to reduce the risk of drowning of</p> <p>8 children under five years of age. The standard</p> <p>9 is used by many states and cities as mandated by</p> <p>10 the pool barrier code, as well as referenced</p> <p>11 nationally by daycare, adoption and fostering</p> <p>12 agencies.</p> <p>13 Some of the qualifications for the ASTM</p> <p>14 specification F1346-91 include a static load</p> <p>15 test for weight support. The cover should be</p> <p>16 able to hold a weight of at least 485 pounds,</p> <p>17 the estimated average weight of two adults and</p> <p>18 one child, to permit rescue operation.</p> <p>19 Perimeter deflection test for entry or</p> <p>20 entrapment between the cover and the site of the</p> <p>21 pool. The cover must demonstrate that any</p> <p>22 opening is sufficiently small and strong enough</p> <p>23 to prevent the test object being passed through.</p> <p>24 Surface drainage test that safeguards</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	<p style="text-align: right;">Page 7</p> <p>1 of a surface.</p> <p>2 MR. OCKEN: Okay.</p> <p>3 MR. REIBEL: It may vary. I don't know</p> <p>4 what the exact --</p> <p>5 MR. OCKEN: It would support the weight of</p> <p>6 two adults --</p> <p>7 MR. HAYES: There are various</p> <p>8 differentials in the covers. I went on a few</p> <p>9 websites, and there are different styles.</p> <p>10 MR. REIBEL: Different looks.</p> <p>11 MR. HAYES: Different looks, beams.</p> <p>12 MR. REED: My brother had one, Randy, on</p> <p>13 his pool, and they guaranteed that a thousand-</p> <p>14 pound cow could walk across it and not punch</p> <p>15 through any holes. So, I mean, they're going</p> <p>16 more than what the rate was there.</p> <p>17 MR. OCKEN: So if somebody has one of</p> <p>18 these installed, do you go out and inspect that</p> <p>19 then? Does somebody look at that to see that it</p> <p>20 meets these certifications? Or do they get that</p> <p>21 certificate from the installer?</p> <p>22 MR. REIBEL: If they come in for a pool</p> <p>23 permit and they tell me they're going to use a</p> <p>24 safety cover in lieu of the required barrier</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>
<p style="text-align: right;">Page 6</p> <p>1 against a dangerous amount of the water</p> <p>2 collecting on the cover surface.</p> <p>3 And labeling requirements must include</p> <p>4 basic consumer, such as the warranty</p> <p>5 information, the appropriate warnings as</p> <p>6 described in the standard, and acknowledge the</p> <p>7 product has a safety cover.</p> <p>8 So the pool cover company's website,</p> <p>9 literature and brochures will state ASTM</p> <p>10 F1346-91 safety cover compliance, and the pool</p> <p>11 cover itself will have the correct labels</p> <p>12 attached, and the company will be able to show</p> <p>13 lab tests, reports to further prove that their</p> <p>14 covers comply with the standards.</p> <p>15 MR. OCKEN: So if a child had walked out</p> <p>16 onto this cover, two adults could go out there,</p> <p>17 as long as the total weight didn't exceed 400</p> <p>18 pounds?</p> <p>19 MR. REIBEL: Right. 485 pounds is the</p> <p>20 test weight.</p> <p>21 MR. OCKEN: So there are -- are there</p> <p>22 metal beams that go across there and the cover</p> <p>23 goes over that? How does that work?</p> <p>24 MR. REIBEL: It's a solid cover, some type</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	<p style="text-align: right;">Page 8</p> <p>1 fence, then I would require them to submit</p> <p>2 documentation that their cover is compliant with</p> <p>3 the ASTM F1346-91 standard, and then we do an</p> <p>4 inspection as well. And once it's installed, we</p> <p>5 will look for that labeling, like it says, like</p> <p>6 I read to you that there is labeling on it, on</p> <p>7 the cover, and then documentation would indicate</p> <p>8 that it's compliant with the standard.</p> <p>9 MR. SODERHOLM: What was the problem that</p> <p>10 the Byron Council had?</p> <p>11 MR. REIBEL: You know, I called Terry</p> <p>12 Reeverts, the supervisor, and asked him why they</p> <p>13 recommended denial, and he said that they just</p> <p>14 didn't have enough information, didn't know</p> <p>15 about the covers.</p> <p>16 MR. SODERHOLM: Thank you.</p> <p>17 MR. OCKEN: I will note that this was</p> <p>18 discussed at the Lincoln Township Board, of</p> <p>19 which I am a trustee, but since we don't know</p> <p>20 anybody in Lincoln Township with a swimming</p> <p>21 pool, we made no recommendations.</p> <p>22 Any other questions or comments from the</p> <p>23 Board?</p> <p>24 (No verbal response.)</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>

Page 9	Page 11
<p>1 MR. OCKEN: So I assume we just need a</p> <p>2 motion then, is that --</p> <p>3 MR. REIBEL: Yes.</p> <p>4 MR. OCKEN: And we have the motions</p> <p>5 listed.</p> <p>6 MR. REIBEL: Yes. So, you know, I have</p> <p>7 given you some guidance on -- if you find in</p> <p>8 favor of the proposed text amendment, some</p> <p>9 guidance there on the findings and a motion, and</p> <p>10 if you find --</p> <p>11 MR. OCKEN: What's the difference between</p> <p>12 modification and the proposed text amendment?</p> <p>13 MR. REIBEL: Well, in this case -- well,</p> <p>14 the way we worded the text amendment, it says</p> <p>15 ASTM 1346. I would just recommend that you</p> <p>16 amend that to be consistent with the standard,</p> <p>17 which is actually F1346-91. That's the only</p> <p>18 amendment I would recommend. Otherwise I</p> <p>19 wouldn't recommend any amendments. So it would</p> <p>20 just be an approval.</p> <p>21 MR. OCKEN: Okay.</p> <p>22 MR. REIBEL: But the way we worded the</p> <p>23 text amendment, we left off the F in front of</p> <p>24 the 1346 and then we left off the dash 91. So</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	<p>1 be in order, I guess.</p> <p>2 MR. OCKEN: Okay.</p> <p>3 MR. REIBEL: And it is consistent with the</p> <p>4 public interest, you say?</p> <p>5 MR. HAYES: Yes.</p> <p>6 MR. REIBEL: And in the best interest of</p> <p>7 the citizens of Ogle County?</p> <p>8 MR. HAYES: Sounds great.</p> <p>9 MR. REIBEL: Consistent with the goals and</p> <p>10 objectives of the Comprehensive Plan?</p> <p>11 MR. HAYES: Sounds good.</p> <p>12 MR. OCKEN: Motion has been made to</p> <p>13 approve this text amendment. Is there a second?</p> <p>14 MR. SODERHOLM: Second.</p> <p>15 MR. OCKEN: Mr. Soderholm seconds.</p> <p>16 Any other questions or comments from the</p> <p>17 Board?</p> <p>18 (No verbal response.)</p> <p>19 MR. OCKEN: Hearing none, Mr. Reibel,</p> <p>20 please call the roll.</p> <p>21 MR. REIBEL: Reed?</p> <p>22 MR. REED: Yes.</p> <p>23 MR. REIBEL: Soderholm?</p> <p>24 MR. SODERHOLM: Yes.</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>
Page 10	Page 12
<p>1 that should be addressed.</p> <p>2 MR. OCKEN: So we should be looking at the</p> <p>3 one with the modifications?</p> <p>4 MR. REIBEL: Right, to add the complete</p> <p>5 F1346-91.</p> <p>6 MR. OCKEN: Okay.</p> <p>7 MR. RON WHITE: So what is it? You</p> <p>8 changed the numbers for it?</p> <p>9 MR. REIBEL: No, we just said ASTM 1346 in</p> <p>10 the public notice, but it should be F1346-91, is</p> <p>11 the complete standard reference.</p> <p>12 MR. OCKEN: Any other questions or</p> <p>13 comments from the Board?</p> <p>14 (No verbal response.)</p> <p>15 MR. OCKEN: If there are no objections, I</p> <p>16 will entertain a motion to find in favor of the</p> <p>17 proposed text amendment with modifications, if</p> <p>18 someone would like to make a motion.</p> <p>19 MR. HAYES: I will make a motion to</p> <p>20 approve, with modification, Text Amendment F1346</p> <p>21 dash --</p> <p>22 MR. REIBEL: 91.</p> <p>23 MR. HAYES: -- 91 on the basis that all</p> <p>24 seems to be in order and -- yeah, all seems to</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>	<p>1 MR. REIBEL: Hayes?</p> <p>2 MR. HAYES: Yes.</p> <p>3 MR. REIBEL: Ocken?</p> <p>4 MR. OCKEN: Yes.</p> <p>5 (By voice vote four ayes.)</p> <p>6 MR. REIBEL: Four voted yes.</p> <p>7 MR. OCKEN: Motion has been approved by a</p> <p>8 vote of four to zero.</p> <p>9 Mr. Reibel, any other business this</p> <p>10 evening?</p> <p>11 MR. REIBEL: No further business.</p> <p>12 MR. OCKEN: As we have no other business,</p> <p>13 I call this meeting adjourned at 6:34 p.m.</p> <p>14 (The hearing was concluded at</p> <p>15 6:34 p.m.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p style="text-align: center;">In Totidem Verbis, LLC (ITV)</p>

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Zoning Administrator

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