STATE OF ILLINOIS)
)SS
COUNTY OF OGLE)

In the Matter of the Petition
of
David and Paijit Ancona, Scott Township
Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 19th day
of January A.D. 2009
before the Ogle County
Zoning Board of Appeals

Present:
Maurice Bronkema
Randall Anderson
Curtis Freeberg
Maynard Stivers
Bruce McKinney, Chairman
Michael Reibel, Zoning Administrator

INDEX

Witness	Examination
David and Paijit Ancona	14
John Talbot	51
Charles Payne	60
End	83

MR. McKINNEY: Call this meeting of the Ogle County Zoning Board of Appeals for January 29th, 2009 to order.

Please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited.)

MR. McKINNEY: Please be seated.

Roll call, please.

(Roll call was taken and all were present.)

MR. REIBEL: Five present.

MR. McKINNEY: We do have a quorum.

The verbatim transcripts serving as minutes from the last meeting are on file and will not be read at this time. I'll entertain a motion to approve the minutes of the last ZBA meeting.

MR. ANDERSON: So moved.

MR. McKINNEY: Second?

MR. BRONKEMA: Second.

MR. McKINNEY: Moved and seconded. All in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed said no.

Motion passed.

All testimony will be taken under oath. Please come forward to testify and state your name and address to the recording secretary. Please spell your last name. When testifying, please speak clearly and loud enough to be heard. We do have microphones up here in front and please use them so people in the back can hear you. This hearing is the only opportunity to place testimony and evidence on the record. There will not be another opportunity beyond tonight's hearing to submit additional evidence or testimony for consideration. Please turn off all cell phones, pagers and any other electronic devices you may have.

The procedures on hearings that will be followed tonight is as found in the ZBA Rules of Procedures or the Citizens Guide to Zoning Board of Appeals, which are available near the door in the back of the room.

Mr. William Funk is present representing the Ogle County -- Ogle County Planning Commission, if any Board members have any

questions on their action on this petition.
If anyone has trouble hearing please let me know.
Mr. Reibel, what is the first order of business?
MR. REIBEL: First order of business is to consider the request filed December 17th, 2008 of David and Paijit Ancona, 12488 East Utility Road, Davis Junction, Illinois for a Special Use Permit to allow a Small Rural Business for dumpster storage and rental/general hauling of nonhazardous materials including furniture, appliances, construction debris, etcetera in the AG-1 Agricultural District on property described as follows and owned by the Petitioners:
Part of the SE1/4 of the SW1/4 Section 15 Scott Township 42N, R1E of the 3rd P.M., Ogle County, IL, 5.0 acres, more or less.
Property Identification Number: 11-15-300-003.
Common Location: 12488 East Utility Road.
For the record, a sign was posted along the frontage of the premises indicating that a public hearing is to be held. All adjoining property owners to the petition have been

notified by certified mail of the hearing this evening on the specifics of the petition, and a legal notice was published in the January 5th, 2009 edition of the Ogle County Life again notifying the public of the hearing this evening and the specifics of the petition.
I have received notice via e-mail transmission from the Ogle County Highway Department that reads: This office has no comments on Special Use No. 9-08 SU. Granting of this Special Use will not have a measurable impact upon the stormwater impact of the site.
This is received from Curtis D. Cook, P.E., County Engineer.
Under the Staff Report, I will point out under general information -- this is the Staff Report with a revised date of January 26, 2009 -- under general information, David and Paijit Ancona are the owners of the property and the site that's subject to the petition. The site is located on the north side of East Utility Road beginning approximately 54-hundredths of a mile west of North Junction Road. The size of the site is five acres. It's 325 feet by

670.15 feet. The existing land use is residential, former farmstead. Surrounding land use and zoning, the site is surrounded by land that is in agricultural use, cropland. All surrounding land is zoned AG-1, Agricultural District.
No previous zoning history on the site.
Special Information: Public utilities, the site is in close proximity to the Village of Davis Junction; however, sanitary sewer and water service is not available to the site at this time. The site is served with a private, on-site well and septic system. Transportation, East Utility Road is a gravel-surfaced, Township maintained road.
Physical characteristics, the site is located on a well-drained upland side slope. The site is gently sloping, with slopes on-site ranging from 2 to 5 percent. The site is not subject to flooding or ponding of surface water. According to the Ogle County Soil Survey, the soil type present on the site is: 622B - Wyanet silt loam, 2 to 5 percent slopes. This soil type is classified as "prime farmland". This

soil type is rated as having severe limitations for septic fields due to slow water movement.
Under the LESA program, the LESA score of 187 indicates a Low rating for protection. Land Evaluation, 84. Site Assessment, 103.
The following are recommended conditions for approval of this Special Use Permit:
All proposals and representations made by the Applicant and/or their representatives shall be conditions of the Special Use Permit, including, but not necessarily limited to, the installation of screening, 6-foot high fence, as depicted and described on the Concept Plan submitted as part of the petition for Special Use Permit. Said fence/screening shall be installed within 90 days of the approval of this Special Use Permit.
Two: There shall be no outside storage and/or accumulation of junk, as defined by the Ogle County Amendatory Zoning Ordinance, waste, inoperable and/or unlicensed motor vehicles, etcetera on the site.

Three: There shall be no storage on the site of dumpsters containing waste materials in excess of 24 hours, provided any dumpster containing waste is completely covered or enclosed.

Four: All dumpsters shall be stored within the area enclosed by the fence/buildings and out of view from the public road at all times.

Five: This Special Use Permit shall be valid for a period of five years from the date of approval by the Ogle County Board. The supervisor of assessments and Planning and Zoning Committee of the Ogle County Board shall have the delegated responsibility and authority to either extend or discontinue the Special Use Permit upon the expiration of said five-year period giving due consideration to the continued compatibility of the authorized use with the surrounding area and other applicable factors as determined by the committee. The committee shall give notice of his intent to act on this matter as provided herein to the owner of the land to which the Special Use Permit applies, to

all adjacent landowners and to the Village of Davis Junction and to Scott Township.

At the January 22nd, 2009 meeting of the Ogle County Regional Planning Commission Mr. Conn made a motion to approve Petition No. 9-08 Special Use for David and Paijit Ancona with the stipulation that it be reviewed every five years in a way that Mr. Reibel works out with the State's Attorney and subject to the conditions as recommended in the Staff Report. Mr. White seconded the motion to recommend approval. The roll call vote was five in favor of the motion to recommend approval; one opposed.

The Illinois Department of Natural Resources, Illinois Natural Heritage Database contains no record of state listed threatened or endangered species, the Illinois natural area inventory sites, dedicated Illinois nature preserves or registered land or water reserves in the vicinity of the project location. The consultation process with Illinois DNR is terminated.

I have received a letter which is on file

from the Village of Davis Junction dated January 21st, 2009 which reads:

"This letter is to inform you that at our January 13th regular meeting of the Davis Junction Village Board we discussed the request for a Special Use Permit filed with the Ogle County Zoning Board of Appeals by David and Paijit Ancona to allow a Small Rural Business on real estate zoned presently as AG-1.

The Village of Davis Junction specifically lists as goals and objectives in our Comprehensive Plan agricultural to prevent the premature conversion of prime agricultural land to nonagricultural uses. By the use of careful planning, the orderly phasing of development provides for appropriate transitional uses between the existing and planned portions of the community to protect agricultural land and to minimize conflicts between dissimilar uses, commercial development, minimize and mitigate any negative impacts of commercial and business uses at this time upon neighboring land use areas, ensure that appropriate environmental protection provisions are included in all new

commercial developments, require all outdoor storage areas visible to the public and adjacent residential properties to be screened by landscaping, fencing, walls or a combination of these elements.

Village Board Members, residents and developers have voiced their concerns to us about a collection/storage type of business being allowed so close to our 60-acre community park and housing development. There are also plans for a housing development on the south side of Utility Road west of Junction Road.

The Davis Junction Village Board voted to oppose this request and would hope that the Ogle County Planning and Zoning Commission and the Ogle County Board would consider our position as you make your decision.

Signed by Sheryl Hawley, Davis Junction Village President."

I also have a letter on file from Scott Township dated January 21st, 2009 which reads:

"This letter is in reference to a petition for a Special Use Permit at a public hearing to be held on January 29, 2009. A petition for a

Special Use Permit has been filed by David and Paijit Ancona. It is the position of the Scott Township Board of Trustees and the Scott Township Long Range Planning Commission to deny this permit. The Township Long Range Planning Commission has implemented a plan that primarily is to protect, strengthen and maintain its economic base that agricultural pursuits provide the Township. It also prevents the conversion of agricultural land to scattered nonfarm development which when unmanaged unnecessarily increases the cost of public services to all citizens and results in the premature disinvestment of agricultural.

Yours Truly, signed by Robert L. Horn, Scott Township Supervisor; and William Haas, Chairman, Scott Township Long Range Planning Commission."

I believe that's all I have, Mr. Chairman.

MR. McKINNEY: Will the Petitioner or whoever's going to be testifying please come forward and be sworn in?

First of all, before we swear you in, this is a public hearing, so entertain a motion to go

into a public hearing.

MR. BRONKEMA: So moved.

MR. FREEBERG: Second.

MR. McKINNEY: Moved and seconded. All those in favor signify by saying aye.

(All those simultaneously responded,)

MR. McKINNEY: Any opposed say no.

Motion passed.

Please step closer to the microphone. Please raise your right hand.

DAVID ANCONA and PAIJIT ANCONA, being first duly sworn, testified as follows:

MR. McKINNEY: Can you give her your names.

MR. ANCONA: David A. Ancona, Sr., A-N-C-O-N-A.

MS. ANCONA: Paijit Ancona.

MR. ANCONA: P A --

MS. ANCONA: P-A-I-J-I-T.

MR. McKINNEY: Step closer to the microphones so people in the back can hear you when you have your back turned to the -- well, can you kind of face us too?

Tell us about your petition.

MR. ANCONA: I live at 12488 East Utility Road. I have been in business for 17 and a half years doing a hauling and dumpster business and I'm just trying to continue my business. I have no place to go at this time, so I'm just trying to buy some time for a five-year Special Use Permit. Hopefully by then I can get some money together and maybe, you know, move out of there if possible, but right now I'm just -- I bought some new equipment and I'm financially strapped right now.

So that's all I'm trying -- I don't feel I'm no worse than a farmer having, you know, corn wagons. You know, I ain't got nothing different than a farmer. I got three trucks and I have got about 15 dumpsters onsite, but like I said, they're no different than if you had corn wagons on wheels, these just don't have wheels, you drop them off and you pick them up with a truck. That's all about I got to say on it.

MR. McKINNEY: Okay. You understand that Scott Township and Davis Junction both have filed letters opposing this petition?

MR. ANCONA: Yes, I just heard it tonight.

MR. McKINNEY: Okay.

MR. ANCONA: I heard the Village, last time I was here I heard about it.

MR. McKINNEY: Okay. About how close are you to the Village limits of Davis Junction, do you know?

MR. ANCONA: No, I don't know.

MR. McKINNEY: About a quarter mile, a half mile?

MR. ANCONA: I would say about a quarter mile.

MR. McKINNEY: Okay. Do you understand and agree to the five recommended conditions Mr. Reibel read?

MR. ANCONA: Yes, I do.

MR. McKINNEY: Okay. Right now you are storing about how many dumpsters?

MR. ANCONA: I got about 15 on-site right now.

MR. McKINNEY: Okay. In this storage how often do you have full dumpsters or dumpsters that have waste in them overnight?

MR. ANCONA: This time of year I'd say

never. In the summertime maybe more often than not because, you know, people call and they want their dumpster picked up at 5 o'clock at night. Well, I can't make it to the dump because they close at 4:30. This time of year I'm slow and so there's no problem picking it up, getting it to the landfill, getting back, dropping it off.

MR. McKINNEY: What time does the landfill close?

MR. ANCONA: Right now it closes at 4. In the summer it closes at 4:30. On Saturdays they're open until usually 11 but now they're backing off their hours so now they're only open until 9 on Saturdays.

MR. McKINNEY: How big an area do you pick up or drop dumpsters off at? Do you go all the way to Oregon?

MR. ANCONA: Yeah, I go to Oregon, Rochelle, Winnebago County, just within a hundred mile radius.

MR. McKINNEY: Okay. I noticed that none of the dumpsters or your trucks doesn't have a name or anything on the --

MR. ANCONA: Right.

MR. McKINNEY: Are you doing business as Dave's Hauling?

MR. ANCONA: Yes, Dave's Hauling and Dumpster Business.

MR. McKINNEY: Are you registered with the State of Illinois?

MR. ANCONA: No, I'm not.

MR. McKINNEY: Okay. Do you have a CDL license?

MR. ANCONA: I don't need a CDL at this time. I just got a Class C.

MR. McKINNEY: So you don't need to have a CDL license?

MR. ANCONA: Well, I got a permit. I need a CDL to drive one of my trucks, but I got a part-time guy that helps me if I need to use that truck. I just bought it. The guy that used to drive it, he passed away in February, so he had a CDL license so I never -- I didn't really need one.

MR. McKINNEY: How many trucks do you have?

MR. ANCONA: I got two roll-off trucks, then I got a 18-foot grain truck.

MR. McKINNEY: Okay. Are you insured?

MR. ANCONA: Yes, I am. I got liability insurance on the farm, I got 2 millions (sic) on my business, and then I got 3 to 500,000 on my truck in case somebody gets hurt or something.

MR. McKINNEY: You stated in your opening statement you have been in business for 17 years?

MR. ANCONA: 17 and a half years where I'm at now. Three and a half years on 7874 Highway 251. I have been in business for almost 25 years.

MR. McKINNEY: So you have been in business at this location on Utility Road --

MR. ANCONA: 17 and a half years.

MR. McKINNEY: And you have never applied for a Special Use Permit?

MR. ANCONA: No, I haven't.

MR. McKINNEY: Okay. Do you know if you need to be regulated by the EPA or anything in trash hauling?

MR. ANCONA: No, I don't know if I have to be or not. They was after my property one time, the EPA from Ogle County, because I was open

burning and they never said anything.

MR. McKINNEY: Were you cited for that open burning?

MR. ANCONA: They told me to quit doing it. They didn't fine me or nothing.

MR. McKINNEY: Have you done any other open burning or anything?

MR. ANCONA: No. I got a pile of brush that I got to burn but it's from a property. They said I could burn, you know, stuff. I had a bunch of trees go down.

MR. McKINNEY: Do you understand what hazardous waste is?

MR. ANCONA: Yes, I do.

MR. McKINNEY: What all that includes?

MR. ANCONA: Yes.

MR. McKINNEY: Have you ever had anybody throw some hazardous waste or anything in your dumpsters?

MR. ANCONA: As far as I know they haven't. Like I said, 99 percent of the time I go to the landfill and dump it, I mean, if they bury something in the middle -- middle of the dumpster I wouldn't know. Same with all the

other -- you know, all the other dumpsters, I
won't know if somebody hides some hazardous
waste in it you're not going to know. I mean
you go through the thing and if it's radiation
it's going to beep and I never have no radiation
on there.
MR. McKINNEY: But things like batteries
or oil --
MR. ANCONA: Right, that's not supposed to
go in there.
MR. McKINNEY: But you don't even check to
see if --
MR. ANCONA: There's no way I can check.
Like I said, if they put it in the middle of the
load I'll never know.
MR. McKINNEY: But do you check at all?
You know, they may not --
MR. ANCONA: When I tarp it I make sure,
you know, there ain't nothing in there because
I'll get in trouble if I go up to the landfill,
they can fine me up to, you know, $300 if
there's stuff in there that's not supposed to be
in there.
MR. McKINNEY: Have you ever been fined by

the landfill?
MR. ANCONA: No, I haven't, and I have
been going there ever since they have been open.
They were closed for a few years because their
permit was denied and they had to re-establish
it.
MR. McKINNEY: We have to go -- we have
like six Standards that we have to go through to
determine this Special Use Permit meets
Standards. One of the Standards is that the
proposed Special Use will not be unreasonably
detrimental to the value of the property in the
neighborhood in which it is located or the
public health, safety, morals, comfort and
general welfare at large.
You don't think that this would be
detrimental to the property value?
MR. ANCONA: No, I don't. Like I said,
I'm no different than a farmer that has
equipment. If he has grain trucks, you know,
grain wagons with wheels, that's all these are
but without wheels, but once I put the fence up
you won't even know what I'm doing.
MR. McKINNEY: I was out there I believe

it was last Saturday, and to tell you the truth
your place looked like a dump. You got things
all over the place. I don't -- you know, one of
the requirements is to have a -- I believe a
6-foot fence, you have got some fencing out
there but --
MR. ANCONA: That ain't until after the
Special Use Permit is approved. I mean, I
couldn't put a fence up now even if I tried
because of the snow, I mean the ground is froze.
MR. McKINNEY: You have got right along
the road in your -- I guess you would call it
where you store your dumpsters looks like an old
truck body or something, do you use that for
storage?
MR. ANCONA: Yes, I do, I use it for
storage.
MR. McKINNEY: Okay. Is there any way
some of these dumpsters could be stored inside
some of the barns?
MR. ANCONA: They're not high enough.
MR. McKINNEY: Do you store anything in
the barns?
MR. ANCONA: Yeah, I got stuff that I use,

I got rental property and stuff I use for, you
know, like wood and stuff that I can use in my
rental business.
MR. McKINNEY: I do know that Davis
Junction is a growing community, a lot of people
are moving down from Rockford, and they will
probably be building to the north. You don't
think your place would hurt property values or
even maybe discourage a developer from building
a 300, $400,000 home across the road?
MR. ANCONA: I know they got some down at
the park that's been there two, three years that
they can't sell, and the way the economy is down
now if they're going to build 300, $400,000
houses I don't see in the near future the way
the economy is at least for another year or so.
MR. McKINNEY: One of the other Standards
is that the location and size of the Special
Use, nature and intensity of the operation
involved in or conducted in connection with it
and the location of the site with respect to
streets giving access to it are such that the
Special Use will not dominate the immediate
neighborhood.

You don't think that all these dumpsters stored around there and your trucks that are parked will be a detriment to -- if they build across the road a subdivision?

MR. ANCONA: I don't think so. I don't think they're going to build a subdivision within the next five years. I mean, it's possible, but I don't see it in the near future. Like I said, I have been there 17 and a half years, and most of the growth is across the railroad tracks.

MR. McKINNEY: Off-street parking, I know you have got a big driveway but that's pretty crowded as it is. Can you get anything else in that driveway?

MR. ANCONA: I don't understand your question.

MR. McKINNEY: Well, like parking trucks or cars and whatever else you got stored around your --

MR. ANCONA: Well, that's all on my property, whatever you saw was there. I just got one car, I got a van, you know, and I got my three trucks. I keep one truck in the garage, I

keep it in there so I can --

MR. McKINNEY: Do you have some disabled cars?

MR. ANCONA: No. I got rid of those when they told me I had to get them off the property.

MR. McKINNEY: Uhm, when you bring dumpsters back do you sometimes go through and maybe try to salvage out anything, like copper wire or anything?

MR. ANCONA: If it's on the top. I mean, I don't dump it on the property and go through it. I mean, if I see copper or aluminum, sure, I'll keep it because it's recyclable.

MR. McKINNEY: Where do you store that stuff?

MR. ANCONA: I got one of those barns I keep aluminum and stuff in there.

MR. BRONKEMA: What about your wash-out facilities? What do you have for wash-out facilities? I mean, everybody knows you got to wash dumpsters.

MR. ANCONA: I don't -- what do you mean, as far as spraying them out?

MR. BRONKEMA: Well, cleaning them. You

got to clean them, don't you?

MR. ANCONA: No, I don't. No, I don't. I mean when the landfill is open they got the truck wash and I take them through there.

MR. BRONKEMA: You don't have to clean the boxes?

MR. ANCONA: No, I don't spray them out or anything.

MR. BRONKEMA: You got me on that one.

MR. McKINNEY: How about problems with rodents, varmints, birds in the summertime?

MR. ANCONA: Nope.

MR. McKINNEY: You don't clean out the -- the dumpsters?

MR. ANCONA: No, I don't spray them out.

MR. McKINNEY: And you don't have any problems with --

MR. ANCONA: No.

MR. McKINNEY: -- rodents and birds?

MR. ANCONA: Most of the time there's -- I'd say 99 percent of the time there's not garbage in there. Most of the stuff is like construction debris, shingles, household stuff, so there's -- you know, it's not food stuff per

se.

MR. McKINNEY: Do you have any dumpsters -- any customers with dumpsters like at a restaurant or grocery stores?

MR. ANCONA: Nope. Nope. Mostly I work for like LDR Construction, and they keep them for like couple months at a time. They do a lot of fire damage to houses. I got a couple roofers that I do a lot of roofing for. You know, I drop dumpsters off to them and that's -- but I don't have any per se, you know, like for a restaurant. You mean like a weekly pickup? I don't have that type of service.

MR. FREEBERG: You said roughly 90 percent of the stuff goes to a landfill, what's the other 10 percent do?

MR. ANCONA: I'm talking about when he said garbage, 90 percent of the stuff we don't have garbage in it.

MR. FREEBERG: Huh?

MR. ANCONA: Doesn't have garbage. I mean at the landfill you have to do a house cleanout, you know, when they got food stuff.

MR. FREEBERG: What's the other

10 percent?
MR. ANCONA: I don't understand.
MR. FREEBERG: You made a comment --
MR. McKINNEY: I think you made a comment that 10 percent has to be stored overnight, you said something like 90 percent goes straight to the landfill.
MR. ANCONA: Right.
MR. McKINNEY: You mean the other 10 percent you have to keep overnight?
MR. ANCONA: Right, and take it to the landfill and dump it.
MR. FREEBERG: Besides the dumpster storage and rental you're saying general hauling of nonhazardous materials, is that construction debris and that kind of stuff?
MR. ANCONA: That's correct.
MR. FREEBERG: Do you ever unload that on your property, or how do you work that part of the business?
MR. ANCONA: I -- that's what I got that grain truck for. That's kind of like becoming obsolete because I now use a lot of dumpsters. It's a lot easier to drop a dumpster and load it

up.
MR. FREEBERG: But you don't unload any of that there, it's just you might have to let the truck sit there?
MR. ANCONA: Right.
MR. BRONKEMA: How much truck storage have you got? I could see one barn that would be in the back for a truck.
MR. ANCONA: I just -- I got that garage that I store one truck in.
MR. BRONKEMA: One truck?
MR. ANCONA: The other two are outside.
MR. STIVERS: So what prompted you after 17 years to apply for a permit?
MR. ANCONA: They took me to court.
MR. STIVERS: Who?
MR. ANCONA: Mr. Reebel (phonetic) --
MR. BRONKEMA: Reibel.
MR. ANCONA: -- took me to court, and so I went before the judge and we have been going on for a year, and he was going to make a judgment and I talked to the State's Attorney and they said, well, we'll try for a Special Use Permit first, because I asked that we could be

grandfathered in since I was there 17 and a half years. Instead of letting the judge make a decision I decided to go through a Special Use Permit.
MR. STIVERS: And you're telling us that all those vehicles that we see out there are operable?
MR. ANCONA: Right. I mean, it might take me a day to get them running because it's cold and stuff, but I can get them to move if you want.
MR. FREEBERG: How far are you from the landfill?
MR. ANCONA: About five miles.
MR. ANDERSON: Your dumpsters sit outside?
MR. ANCONA: Correct.
MR. ANDERSON: And if it rains obviously they don't have a seal on them to contain the water?
MR. ANCONA: Right.
MR. ANDERSON: What would happen if you have got something sitting there overnight and it rains and it leeches out through the back end of the dumpster? Are you going to be able to

contain that on your property, whatever leeches out?
MR. ANCONA: Well, where I have got the dumpsters at it's all concrete.
MR. ANDERSON: I understand that, but the water still has to run someplace; where is that going to run, out into the ditch, or is it going to stay on the property?
MR. ANCONA: It should stay on the property because of where it's at. I haven't run across that problem. Like I said, most people, you know, you tell them what to put in there. I hand out a card telling them what they can put in there, what they can't, you know. Most people follow the rules; I'm sure there's a few that don't. I mean, Old Orchard Landfill, they're right there and they're parking all theirs right on the dirt and they have got the Old Gensler Garden down there and they are parking there's over there too, so they have no cement, it's going into the dirt.
MR. ANDERSON: They're in a position they can contain it on their property.
MR. ANCONA: Right. I'm just saying that

it is going into the dirt and mine wouldn't because it is on concrete, and I could get some Oil Dry if it was oil and, you know, clean it up if need be.

MR. BRONKEMA: What are you proposing to do -- I mean, I know you're going to put up a fence but, I mean, are you going to organize? I mean, it's definitely not organized. I mean, you have got one here and here.

MR. ANCONA: I mean it's all snowed out. My snowplow needs a starter on it, I need to get that on it, and since I can't plow I just got to work around the snow. I had to shovel all that out by hand so I could get in there. But usually in the summertime I can line them all up and I don't have a problem, but when there's snow and stuff in there, ice, I can't -- it's hard for me to, you know, line them up.

Like I said, once there's a fence there you won't even notice I have them in there. That gate there, I'm going to reenforce that and make that a fence too so it will be one solid fence over to the area.

MR. BRONKEMA: I guess I'm kind of used to

the kind of garbage haulers in my town: he has adequate facilities for trucks; if there's a loaded truck it's in the building; and there may be two dumpsters outside like you got but they're cleaned, they're power washed; he has a facility that it goes into a tank, they don't run on the ground and into the sewer system or anything, it's all contained and redone; and I just got a problem with looking at yours and you don't clean the tanks, I don't know how you do without cleaning the tanks, I really don't.

MR. ANCONA: I don't know, I don't think Old Orchard cleans theirs out, I mean I could be wrong. I know several dumpster companies --Rockford Transport, he don't clean his. I mean there's a lot of them. I didn't know they sprayed them out, to tell you the truth, I have never heard of it. When you pick up a dumpster with construction debris with plaster and stuff, all that stuff is going to come out of there; and in the wintertime when it freezes you get water and ice in there, they use a big backhoe and, you know, break the ice and get what they can get out of there.

MR. BRONKEMA: Do you have a facility to wash your trucks or don't you do that?

MR. ANCONA: I usually don't but, I mean, if I do I just wash it on that concrete there, I power wash it. In the summertime they usually got a truck wash when it's real muddy out so you can run through that truck wash -- I don't know if you have been out to the landfill there -- and it shoots up all over the place.

MR. BRONKEMA: Yeah, it's all recycled water.

MR. ANCONA: Right. Sometimes I don't know if it's any good or not, it's so dirty.

MR. McKINNEY: My biggest concern is going back to this hazardous waste material. You said you do a lot of tear outs of buildings which means that there could be a lot of asbestos, especially on these old buildings, and then you don't really check to see if you have got any asbestos in there, you dump it, you know, the landfill may not catch it either, you dump it, you still have remnants in your containers. Like the question was asked about sitting out in the rain and that stuff washes out, heads from

your concrete down to the ditch and I have no idea where it goes. Same way with maybe used oil. My biggest concern, like I said, was you're not really checking to see what's even in your containers.

MR. ANCONA: Well, I check it but, like I said, if you're going to hide something with a load in it there's no -- I see Old Orchard coming in there and they're dumping tires in there. Now, whoever put those tires in there they weren't supposed to, because the landfill can't accept tires. So, I mean, that guy, he brought his in and he didn't know or if he did he didn't care. I mean, they dump the tires and then they have to get them out of there. I mean, there's no way to -- you know, I can't open up the gate and open the stuff and see what's in there.

MR. McKINNEY: Well, going back -- my big concern -- you know, that's stuff that's in the landfill that's not supposed to be in the landfill but it's there in the landfill. You're storing stuff that maybe a quarter of a mile and maybe in the future within five years may be

just right across the street from some houses where kids will be playing.

MR. ANDERSON: Mike, is there anything in the County regarding Health Department inspections or EPA inspections for something like this?

MR. REIBEL: The Solid Waste Management Department has delegated authority from IEPA to enforce the Environmental Protection Act.

MR. ANDERSON: What would be inspections?

MR. REIBEL: What would the inspections be?

MR. ANDERSON: Would there be an inspection of this facility at different intervals during the year?

MR. REIBEL: This isn't -- what Mr. Ancona is proposing isn't a regulated activity, just the hauling of this nonhazardous waste material, so there are no inspections per se.

MR. ANDERSON: No concerns with regards to runoff or anything?

MR. REIBEL: Solid Waste Department didn't say they had any concerns regarding that, no.

MR. FREEBERG: Now, as far as asbestos or

motor oil, anybody that picks up at any house the homeowner can throw it in the middle of his plastic bag and they can throw it in the truck and not know it. I mean, do you expect him to go through all his stuff? Nobody does that I don't think in the industry.

MR. McKINNEY: Any other questions for right now?

MR. ANDERSON: No.

MR. McKINNEY: I believe we have one letter of appearance.

MR. REIBEL: We do. We have an appearance entered by John Talbot, Village Trustee from the Village of Davis Junction.

MR. McKINNEY: Let me explain this. A letter of appearance means that this person can come and ask you questions. They cannot make any testimony at this time, he will not be sworn in. He can ask you questions, you can answer it, and then when he's done then we will go and take testimony of people that are either in favor or opposed to the petition.

Mr. Talbot, do you want me to come forward?

For the recording secretary, please give her your name and address.

MR. TALBOT: John Talbot, 147 Harvest Glen Drive, Davis Junction, Illinois 61020.

MR. McKINNEY: And your connection with Davis Junction?

MR. TALBOT: I'm the Village Trustee with Ordinance Enforcement.

MR. McKINNEY: Okay.

MR. TALBOT: Actually I had a couple sheet's worth of questions but you have asked most of my questions already, so I would just pick up with a few that I have that he didn't answer.

There are long white semi trailers parked sporadically on the property, what are those used for?

MR. ANCONA: That's just -- I got one semi, 40-foot box.

MR. TALBOT: Is it licensed?

MR. ANCONA: No, that's just one of the -- I brought that there 17 and a half years ago. It's still got some of my furniture from the last house I moved from.

MR. TALBOT: Okay. As far as appliances, is there the opportunity that you may be bringing refrigerators onto the property?

MR. ANCONA: Yes, there is, and I have -- I told the Board last week I have recover -- I got a recovery machine to, you know, pump it out if need be.

MR. TALBOT: You have a Freon license -- you have the appropriate license to remove Freon from refrigerators?

MR. ANCONA: Yes, I do, from Rockford College.

MR. TALBOT: I noticed two boats on the property; are those part of the junk business or are those recreational use?

MR. ANCONA: Well, is there two or one?

MR. TALBOT: I thought I had seen two.

MR. ANCONA: I think there's only one. I got that from my horse trailer guy, for hauling stuff he gave me that boat.

MR. TALBOT: Is there --

MR. ANCONA: Oh, there is two boats. The other one down there is my son's.

MR. TALBOT: Are either of the boat

licensed with the state?
MR. ANCONA: No, the one ain't. My son did have a license. It's been sitting there a year, I don't know if he's going to get rid of it or what. He lives in Machesney Park and he has no place to store it so he stored it over there.
MR. TALBOT: The red GMC pickup or Chevy pickup that's right when you come into the property with the white hood --
MR. ANCONA: Yes.
MR. TALBOT: -- does that vehicle run?
MR. ANCONA: Yeah, it does.
MR. TALBOT: Even though it's buried in the snow?
MR. ANCONA: Yeah. I mean, I can't go nowhere with it now.
MR. TALBOT: But it is licensed by the state?
MR. ANCONA: No, it's not licensed, but it does run. I am going to get rid of that, that's going.
MR. TALBOT: Do you file taxes with the state and federal --

MR. ANCONA: Yes.
MR. TALBOT: -- from the business you are running?
MR. ANCONA: Yes, I do.
MR. TALBOT: Okay. That's all I have that really differs from the questions you have asked earlier.
MR. McKINNEY: Okay. Do you have any further statements you want to make right now?
MR. ANCONA: No.
MR. McKINNEY: Okay. Go ahead and sit down. If you want to sit down here in front.
Is there anybody here that wishes to come forward and testify in favor of the petition?
Seeing none, is there anybody here that wishes to come forward to testify opposing this petition? No one wants to come forward to oppose?
Okay. With that, we will go back into open session.
MR. BRONKEMA: So moved.
MR. REIBEL: Make closing statements.
MR. McKINNEY: Okay. Do you have any closing statements you want to make?

MR. ANCONA: Just ask that the Board reconsider, you know, my petition. Like I said, I have been there 17 and a half years, trying to raise my four grandchildren. I bought some new equipment and I'm financially strapped right now, and I don't have no place to go and I'm just trying to make ends meet and that's all I'm trying to do is operate a business.
Like I said, I have been doing this for 17 and a half years. I'm not trying to violate the law. I did -- when I was doing the business I didn't realize that, you know, it was illegal to Mr. Reebel (phonetic) until Mr. Reebel made mention that it was, so then we went to the court. Like I said, I'm not trying to pull any wool over anybody's eyes, you know, I'm just trying to make a living.
Like I said, I work -- I have been doing it for 20 something years, and this is going to devastate me if I have to leave. It would be a hardship for me. You know, I work 12 hours a day, five, six days a week every day, I get up usually between 5, 6 o'clock, and in the wintertime I get done, you know, 4 or 5, but in

the summer I work sometimes 8, 9 o'clock at night. Like I said, I'm just trying to raise my grandchildren, I'm not trying to do anything illegally, and stuff that needs to -- you know, there's other stipulations that you want to put maybe we can see if we can work something out. Like I said, I'm not trying to do anything illegally.
I know the Village wants to grow but, like I said, there's some houses down at the end of the road that are priced high and they haven't sold, and I don't foresee in the near future they're going to be across from me. Like I said, in five years maybe by then I'll be able to get a piece of property and, you know, not even have to worry about it, maybe just park my trucks there and not worry about having dumpsters there.
That's all I have got to say. Thank you.
MR. McKINNEY: Thank you. With that, entertain a motion to close this public hearing.
MR. STIVERS: Mike, what's the shortest time a permit can be issued for this one; for five years? What's the shortest amount of time?

MR. REIBEL: There's no limitation on how short a period you can issue it for.
MR. BRONKEMA: I really have a problem with the five years. That's a long time away, and I really think it ought to be regulated a little quicker than that, I feel like three years. Five years you can get out of hand pretty bad.
MR. STIVERS: It can get out of hand in 16 months.
MR. ANDERSON: Yeah, a year.
MR. FREEBERG: I don't know, I -- five years can go by pretty fast. I think with the economy being what it is, especially if there are houses there that they haven't already sold -- when I was out there it seemed like there was quite a bit of space in there that they can build houses before they have to build one across the road from him.
MR. McKINNEY: We are still in a public hearing. Mr. Ancona?
MR. ANCONA: Yes.
MR. McKINNEY: Would you have any objections to lowering that five years to say

three years?
MR. ANCONA: Well, if I had to I would. It's just, like I said, I'm in a situation right now and I'm just kind of -- I mean, if we had to I would but I just -- five years seems like it's adequate time to do what I need to do and then if there's growth or by that time if I secured a different piece of property, you know, it wouldn't be no problem, but like he said, five years is going to go by fast. I mean, three years is going to go by extremely fast, and then I got to start the whole process over again.
MR. FREEBERG: You mention you bought new equipment; are you increasing the size of the business?
MR. ANCONA: No.
MR. FREEBERG: Or do you envision to?
MR. ANCONA: I bought one truck and it's just --
MR. FREEBERG: So your plan is to sort of be what it's been?
MR. ANCONA: Right. I don't plan on growing. I had one truck that kept breaking down so I got this other truck, and this truck

ain't doing any better than the other truck. It's got all that pollution control stuff on it and it's got to get so hot and it doesn't work properly otherwise. I would have only had the one dumpster truck but I needed a backup, otherwise I would have been out of business.
MR. McKINNEY: Any other questions before we close the public hearing?
MR. BRONKEMA: What about the Planning Commission, what was their feeling on it?
MR. McKINNEY: Mr. Funk?
MR. FUNK: Yes?
MR. McKINNEY: Mr. Bronkema wants to know about the Planning Commission's discussion on this petition.
MR. FUNK: Can I make a statement from here or do you want me to be sworn in?
MR. McKINNEY: Yeah. Does he need to be sworn in?
MR. REIBEL: Not -- he's representing the Planning Commission, just telling you what they did.
MR. FUNK: Well, there was discussion in regards to -- similar along the lines of you

folks this evening, and the statements that the Petitioner made were the same at our meeting. I think that they were concerned about a businessman being put out of business; however, there is definitely some development in the works there, and then the one member made a motion -- or made a suggestion of the five year limit, that seemed to take hold pretty well, and that was basically what put the thing over on approval and it went 5 to 1 vote.
I have to tell you that I voted against it, because the Village of Davis Junction has a Comprehensive Plan that's come up to the Planning Commission and through the ZBA and up to the County Board that's been approved, and I believe that there should be some support of that Comprehensive Plan. Development is definitely going to go north in that Village and you can see by their plans, and if you saw the plan -- I saw the map, and there is development there directly across the road to the -- and slightly to the east in back of the -- or along the recreational area there, the park. There's a proposal or a possibility of some apartment

buildings to be built in there that's in a planning stage at this point in time.

I think, as I said, we were concerned about a businessman and the five year limit was put down on that.

MR. BRONKEMA: Did they also feel that there's some room for improvement?

MR. FUNK: Oh, yes, definitely.

MR. BRONKEMA: On his part I mean to --

MR. FUNK: It's not a credit to the area.

MR. BRONKEMA: -- upgrade it?

MR. FUNK: Yeah, it needs to be upgraded, the appearance and everything.

MR. STIVERS: I don't believe that that all entails your business. I mean, like the Chairman spoke earlier, I mean, that's your whole 5 acres that you have there, I mean, that's an eyesore, it doesn't only include your business, you follow me? He's suggesting what the whole place looked like in general.

MR. ANCONA: I don't understand what you're trying to --

MR. BRONKEMA: You should have sort of spruced it up a little before we looked at it,

plain and simple.

MR. McKINNEY: Basically your property looked like a junk yard.

MR. STIVERS: Excluding the business.

MR. McKINNEY: I mean, not just the feed lot area but the whole area. We had a place up south of Byron a couple years ago that was a little bit worse than your property, but just storing a lot of things that don't need to be stored on your property.

I think that's what you were getting to here.

MR. STIVERS: Exactly.

MR. McKINNEY: We are still in a public hearing and I -- Mr. Funk brought up something that if Mr. -- is it Talbot?

MR. TALBOT: Talbot, yes.

MR. McKINNEY: If you don't mind, can I swear you in and ask you questions? You did say you are the zoning official? You are a trustee but also in charge of zoning?

MR. TALBOT: Zoning ordinance enforcement.

MR. McKINNEY: Do you mind if I swear you in and we ask you some questions?

MR. TALBOT: Sure.

MR. McKINNEY: And Mr. Ancona would be able to rebuttal and ask you questions too after your statements.

So if you can come forward.

MR. TALBOT: All right.

JOHN TALBOT,

being first duly sworn, testified as follows:

MR. McKINNEY: Okay, and you have already given her your name and address.

Davis Junction is an incorporated Village, correct?

MR. TALBOT: Yes.

MR. McKINNEY: Okay. You have passed a Comprehensive Plan?

MR. TALBOT: Yes.

MR. McKINNEY: And have you filed that with the County?

MR. TALBOT: Yes.

MR. McKINNEY: About how long ago did you pass this Comprehensive Plan?

MR. TALBOT: That would have been around 2007. We started in 2006, completed it about 13 months later.

MR. McKINNEY: So it's only about not even two years old?

MR. TALBOT: (Nods head.)

MR. McKINNEY: Can you tell us in this Comprehensive Plan what your plans are for the north -- let me back up.

What's your plans for growth? Is it to the north, south, east, west?

MR. TALBOT: Well, I mean, the Comprehensive Plan spells out what type of growth we would take to the north. I mean, depending on how far north you would want to go you -- what that would be would change.

I mean, certainly we are -- on Utility Road I don't know that it was apartment buildings but I believe it was the talk of multi-family development, not an apartment building. There's also talk of a north park entrance in the works as well on the north that would face Utility Road.

As you would get down further the type of what you would want further down would change. Certainly as you got closer to the landfill you wouldn't be building residential, you would be

1 looking for more commercial type, as spelled out
2 in the plan.
3 MR. McKINNEY: Where are you trying to
4 grow your Village right now? Is it to the
5 north, or are you still looking to the east
6 along Route 72?
7 MR. TALBOT: Well, quite frankly there's
8 been discussion of annexing toward 39, towards
9 the 39 corridor as far as, you know, recruiting
10 for retail, sales tax revenue.
11 MR. McKINNEY: Do you currently have any
12 developers looking in the northwest area to
13 possibly start building?
14 MR. TALBOT: Over on Utility Road you're
15 saying?
16 MR. McKINNEY: Yes.
17 MR. TALBOT: Parking Subdivision
18 (phonetic), the builder that is already there,
19 there's talk of a multi-family on Utility Road.
20 MR. McKINNEY: Have you annexed that in
21 yet?
22 MR. TALBOT: I believe it is part of the
23 Village, because they own all that land in the
24 area.

1 MR. McKINNEY: How close is this property
2 to Mr. Ancona's? I'm picturing where the park
3 is, that fence along --
4 MR. TALBOT: The end of the fence on the
5 west.
6 MR. McKINNEY: Yeah, so it would be on the
7 west side of that park area?
8 MR. TALBOT: It would be probably an
9 eighth of a mile. I mean, I think you can
10 see -- if you were standing on that last fence
11 post on Utility Road on the west I believe you
12 can probably see his house.
13 MR. McKINNEY: How many acres is this
14 developer looking at?
15 MR. TALBOT: I'm not quite sure what the
16 acres are that he owns.
17 MR. FREEBERG: You said there's talk, I
18 mean there's talk of all kind of things. What
19 are the odds there's going to be any land broken
20 there in the next three to five years?
21 MR. TALBOT: It would depend on the
22 economy. I certainly can't talk for the
23 developer.
24 MR. BRONKEMA: To the west of the park at

1 this point there's nothing there, I mean I see
2 no sewer lines, no nothing there.
3 MR. TALBOT: This development would
4 actually be -- in a sense it would be north of
5 the park.
6 MR. BRONKEMA: North and east of the park?
7 MR. TALBOT: Well, right behind the park,
8 north of the back end of the park, so it would
9 be northwest.
10 MR. FREEBERG: Most of Davis Junction
11 development has been south.
12 MR. TALBOT: The majority of the
13 residential construction has, yes.
14 MR. FREEBERG: Is he right to say that
15 there's houses sitting out there that have been
16 for sale for a couple years?
17 MR. TALBOT: I don't -- I mean, there's
18 been houses that have been for sale. To say
19 two, three years, I really can't answer that.
20 MR. FREEBERG: The information that we got
21 shows it in what you call a secondary growth
22 area, and this says here that this secondary
23 growth area shall not be a near term priority
24 for the Village of Davis Junction. What is not

1 be near term? Does that mean you don't have any
2 plans for this area for awhile?
3 MR. TALBOT: Once again, the only thing
4 would be north on Utility Road and then the
5 north park entrance. I mean, we certainly
6 discussed what we would like to see in those
7 areas eventually, but as far as sitting down
8 with a developer for somebody to do it, no.
9 MR. FREEBERG: It says the primary growth
10 area is better positioned for near term
11 predominately residential development. Where's
12 the primary growth area?
13 MR. TALBOT: For residential would be on
14 the south side of the tracks.
15 MR. FREEBERG: Okay. Development in a
16 secondary growth area should be discouraged
17 until the primary growth area is well on its way
18 to being developed and built on.
19 So, I mean, it says this is in the
20 secondary growth area and the way I read that
21 you don't really have any plans for this area
22 for awhile except for maybe some talk, but
23 apparently there's nothing concrete going on?
24 MR. TALBOT: Well, once again --

MR. FREEBERG: Is that correct?
MR. TALBOT: You're referring to the residential development -- the secondary residential development you're referring to?
MR. FREEBERG: Yeah.
MR. TALBOT: That would be, you know, depending on the economy as far as when the houses would sell.
MR. McKINNEY: But you do have a developer looking at it now?
MR. TALBOT: The developer owns it, and one of the representatives from the developer is here this evening as well.
MR. McKINNEY: Have you started any type of infrastructure in that north section of town, northwest side?
MR. TALBOT: I can't speak if there is infrastructure already on Utility Road. I know there certainly is where the houses are. I can't give you an honest answer where that infrastructure is.
MR. REIBEL: I'm not sure we're all on the same page.
MR. McKINNEY: On this map, this is where

your park is?
MR. TALBOT: Yes.
MR. McKINNEY: Where is this developer looking at?
MR. TALBOT: It would be along Utility Road. I believe it would be here. I'm not quite sure how much land they own all the way down.
MR. McKINNEY: How far to the west are they going to go? Just in this area?
MR. TALBOT: Would we be able to get the developer up here to answer that, because I would just be guessing?
MR. McKINNEY: Yeah. He would have to be sworn in.
He's indicated on this map it would be up in this area just north. Want to pass that down.
Has your Village started budgeting or anything for infrastructure in that area?
MR. TALBOT: Well, we're building a multi -- excuse me, the waste water treatment plant out to the east of town.
MR. McKINNEY: East of town.

MR. TALBOT: That would actually be so we could encourage -- be able to take on the growth, whether it be residential or commercial, and we have made the commitment to the waste water treatment plan which will be done, I believe in May of this year.
MR. McKINNEY: Any other questions of Mr. Talbot?
MR. ANDERSON: No.
MR. McKINNEY: Do you have any questions of Mr. Talbot?
MR. ANCONA: No, sir.
MR. McKINNEY: Okay. Unless you have anything else --
MR. TALBOT: Can I sit down?
MR. McKINNEY: Yeah.
Is -- since we're still in public hearing, is there anybody else that wishes to come forward to oppose the petition or in favor of the petition?
MR. PAYNE: I'm the developer.
MR. McKINNEY: Come forward and I'll swear you in.

CHARLES PAYNE,
being first duly sworn, testified as follows
MR. McKINNEY: Give her your name and address.
MR. PAYNE: Charles Payne, P-A-Y-N-E, 29397 Church Road, Sycamore, Illinois, 60178.
MR. McKINNEY: Okay. Mr. Payne, if you would step closer to the mic. You say you're the developer?
MR. PAYNE: I'm a partner.
MR. McKINNEY: Okay, and you own about how many acres of land is there?
MR. PAYNE: There's probably 70 there.
MR. McKINNEY: What are your plans for this?
MR. PAYNE: Well, I thought my partner wrote a letter, Roy Stiphanda (phonetic).
MR. REIBEL: No, sir.
MR. PAYNE: He's an attorney and I know he told me he wrote a letter to you, and I wasn't going to respond, you know.
MR. REIBEL: Haven't received anything.
MR. PAYNE: Anyhow, I mean, we already have infrastructure, the infrastructure's all

in. We have water and sewer services.
MR. McKINNEY: Can you show me on this map where this 70 acres is?
MR. PAYNE: Sure.
MR. BRONKEMA: It's all on the east side of the park?
MR. PAYNE: Pardon?
MR. BRONKEMA: It's on the east side of the park?
MR. McKINNEY: This is north. This is the park.
MR. PAYNE: Right. Right, so we have this here, this is Park View West, then we own all the way down to -- down to the end here, which we have, you know, this is owned up to here. We put 16 -- we improved this with a 16-inch water main all the way down to Utility Road. I mean we put a lot -- lot of improvements and we put all -- we improved all this with water and sewer.
MR. McKINNEY: This is annexed into the City. Is this strip of land annexed into the City?
MR. PAYNE: I know this is all annexed

here.
MR. REIBEL: It is.
MR. PAYNE: In fact, I was wondering why we didn't get a notice myself because we were --
MR. REIBEL: It doesn't touch.
MR. PAYNE: Pardon?
MR. REIBEL: Because it doesn't touch.
MR. McKINNEY: They own here --
MR. PAYNE: Oh, doesn't touch, no, the road is in between.
MR. McKINNEY: -- to the north side of the park.
MR. BRONKEMA: He's a quarter mile or so from that.
MR. McKINNEY: Looks like from the edge it might be an eighth -- about how far away are you from the Petitioner?
MR. PAYNE: Oh, looking at that I'd just estimate probably, what, 500 feet.
MR. REIBEL: Yeah, close to that.
MR. McKINNEY: What type of homes are you building?
MR. PAYNE: We usually do trade-up but we -- in other words, I'm a developer, we

usually have feature builders, and right now sure there's no building but there's no building in the United States, so I mean.
MR. McKINNEY: When you would build it would be building hundred thousand dollar homes or $500,000 homes or higher?
MR. PAYNE: No, they're, you know, 350 or 300.
MR. McKINNEY: Are you looking at any property even farther west?
MR. PAYNE: Not at this time.
MR. McKINNEY: You don't have any options or anything on your property?
MR. PAYNE: No, I don't. I don't have any further options. We put the roads and sewers all in but, I mean, we have a substantial amount of money in the property.
MR. McKINNEY: Mr. --
MR. PAYNE: We put high back curbs and, you know, we usually try to do pretty nice things.
MR. McKINNEY: Mr. Ancona said that you built quite a few homes there but they're empty?
MR. PAYNE: Oh, I know at the time, I

mean, we're right on the edge of when, you know, the economy changed in the house building and, you know, we're one of those things where you're caught. I have done other -- I have done developments all my life, one was -- just like in Sycamore we did Fox Point, which I know I did where Farm & Fleet put all the houses behind. I mean, sure everything went good till -- till now and, I mean, that's just part of the times.
MR. FREEBERG: Do you personally want this operation shut down and out of there in the next five years?
MR. PAYNE: Well, I don't think that's the place for one. I mean, there's a place for everything, I don't think it's the place right by the park, I mean, with Davis Junction putting that park in, a gorgeous park.
MR. FREEBERG: How old is the park?
MR. PAYNE: I don't know, probably -- I'm just guessing --
MR. BRONKEMA: I would say 10 years.
MR. PAYNE: Yeah, probably 10 years.
MR. FREEBERG: How long have you owned this property?

MR. PAYNE: Probably five years.
MR. FREEBERG: So he was there first. Have you offered to buy his property? Fine if you don't like it there and you don't like the looks of it. Have you offered to buy his property?
MR. PAYNE: His property?
MR. FREEBERG: Yeah.
MR. PAYNE: Why should I?
MR. FREEBERG: Well, I don't know, somebody apparently doesn't want him there.
MR. PAYNE: I can't go around buying every property, I mean, that's why you're here, zoning.
MR. FREEBERG: Sometimes people try to use the Government to achieve their --
MR. PAYNE: Oh, I'm not.
MR. FREEBERG: -- what they want.
MR. PAYNE: But I think the Government should respect, you know, other people.
MR. McKINNEY: Any other questions of Mr. Payne?
Mr. Ancona, do you have any questions of the developer?

MR. ANCONA: Do you own those two -- those houses down there that ain't selling that have been there, I think at least two years?
MR. PAYNE: No, I do not.
MR. ANCONA: That big white house that's on the corner by the park?
MR. PAYNE: No, I don't own it, no.
MR. ANCONA: That's not part of your --
MR. PAYNE: That is part of the development, but I don't own the house.
MR. ANCONA: Excuse me, it's part of the development but your company owns it?
MR. PAYNE: No. No. No.
MR. ANCONA: A contractor just built it there, he just bought the property off of you?
MR. PAYNE: Right.
MR. ANCONA: And he's trying to sell it but he can't sell it?
MR. PAYNE: Correct, uh-huh.
MR. ANCONA: That's all I have.
MR. McKINNEY: Okay. Thank you.
MR. PAYNE: I mean, there's a lot of people in the United States that can't sell their homes, we all know that.

MR. McKINNEY: Is there anybody else that wishes to testify either in favor or opposing this petition?
Seeing none, I ask for a motion to close the public hearing.
MR. BRONKEMA: So moved.
MR. FREEBERG: I'll second.
MR. McKINNEY: Been moved and seconded to close the public hearing. All those in favor signify by saying aye.
(All those simultaneously responded.)
MR. McKINNEY: Any opposed said nay.
Motion passed. We're back into open session.
Before we go into our finding of facts, did you guys want to discuss this five year, three year?
MR. ANDERSON: Stick with five.
MR. BRONKEMA: Well, he brought up a good point, three years don't give you much breathing room, and five years ain't the end of the earth I guess, but I'd like to see some improvement before he -- ahead --

MR. ANCONA: I will. I will.
MR. BRONKEMA: -- ahead of time, I mean.
MR. ANCONA: I'll do my best. Like I say, the weather ain't cooperating much either, it's been cold and snow.
MR. BRONKEMA: I'm talking more than a fence.
MR. ANCONA: Excuse me?
MR. BRONKEMA: I want to see more than a fence.
MR. ANCONA: Right. Okay.
MR. FREEBERG: You got a couple buildings that appear to be falling down.
MR. ANCONA: That just happened a month ago.
MR. FREEBERG: Maybe you can throw it in your dumpster.
MR. ANCONA: I'm dealing with the insurance company, hopefully they'll give me some money.
MR. McKINNEY: Nothing else, we'll go through the finding of facts.
MR. REIBEL: Special Use Standard No. 1) That the proposed Special Use will not be

unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or public health, safety, morals, comfort or general welfare at large.

MR. FREEBERG: I think considering the five year limit that's been agreed to and the current state of the economy as far as construction, I think the proposed Special Use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is located or the public health, safety, morals, comfort or general welfare at large due to the low intensity of the proposed use and the proposed use is completely surrounded by agricultural uses and is well buffered from residential uses and per agreement will be -- have a fence built around it to limit the sight.

MR. STIVERS: Standard met.

MR. FREEBERG: Okay, so I think the Standard is met on that.

MR. McKINNEY: Okay. I don't quite agree. I think even right now it's a detriment to Davis Junction the way it stands right now. I'm very

concerned about him even storing waste overnight, especially if there is a possible chance whether it has some hazardous waste in there, could be asbestos, could be used oil or something, it's not being checked, could be bringing in rodents, birds, you know.

MR. ANDERSON: But that's why I asked if there was anything in the County that can regulate IEPA, we don't have anything that's for nonhazardous waste and that's what he got, so we don't have any way to --

MR. BRONKEMA: Regulate.

MR. ANDERSON: So I agree with the Standard being met.

MR. STIVERS: I agree.

MR. BRONKEMA: I'll agree too, but I'd still like to see the improvements before.

MR. ANDERSON: I agree.

MR. McKINNEY: So four agree, one feels Standard not met.

Next.

MR. REIBEL: Standard 2) That the location and size of the Special Use, nature and intensity of the operation involved in or

conducted in connection with it and the location of the site with respect to streets giving access to it are such that the Special Use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the Special Use will so dominate the immediate neighborhood considerations shall be given to, A) The location, nature and height of the buildings, structures, walls and fences on the site and B) The nature and extent of the proposed landscaping and screening on the proposed site.

MR. ANDERSON: The location and size of the Special Use, the nature and intensity of the operation involved in or conducted in connection with it and the location of the site with respect to streets giving access to it are such that the Special Use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the Ag Zoning District regulations. The proposed Special Use is

surrounded by cropland and screened by a solid wood fence 6 feet high and will provide service to the area.

I feel that Standard is met.

MR. STIVERS: I agree.

MR. FREEBERG: I agree.

MR. BRONKEMA: I'll have to agree. He's the only driveway on that road to start with, plus he's providing a service.

MR. McKINNEY: I'll agree.

MR. REIBEL: Standard 3) That off-street parking and loading areas will be provided in accordance with the Standards set forth in the zoning regulations.

MR. BRONKEMA: Well, the site's large enough for adequate off-street parking and loading area and it could be provided. At this point I don't feel that the off-street parking and loading is adequate, so I'll have to disagree with that one.

Standard not met.

MR. McKINNEY: I also feel that with everything that's stored in that parking lot and feed lot there's not really much room to even

move around right now, so he doesn't have really too much adequate space.

MR. BRONKEMA: He's got plenty of property but at this point there's just -- it's not adequate.

MR. STIVERS: I agree.

MR. McKINNEY: You agree that the Standard is not met or met?

MR. STIVERS: Not met.

MR. FREEBERG: The way -- the way this reads it says the site is large enough. I mean, it may not be used now but I think there's plenty of space there, so I think Standard is met.

MR. REIBEL: The reason we provide off-street -- or require off-street parking is so that we don't have parking on the road or in the road right-of-way. Is there enough room right there so that there's not congestion on the road or parking on the road or encroachment on road right-of-ways?

MR. ANDERSON: He doesn't have problems with getting stuff off the road, he's got everything on the property. Whether we like the

fact that it's organized or not is probably irrelevant.

MR. McKINNEY: Maury, do you want to change your --

MR. STIVERS: Yeah, that's a different -- I mean, he does have enough to accommodate what he does with the dumpsters.

MR. ANDERSON: Yeah.

MR. BRONKEMA: I still disagree. He's got adequate enough space but it's just not provided.

MR. McKINNEY: I also agree it's not met.

So three agree it's met, two not met.

MR. REIBEL: Standard 5) That the proposed use can be operated in a manner that is not detrimental to the permitted developments and uses in the zoning district and can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area and is deemed essential or desirable to preserve and promote --

MR. McKINNEY: Mike, I think you missed No. 4, didn't you?

MR. REIBEL: I'm sorry. I'm sorry. Yeah.

Back up, strike that.

No. 4) That adequate utilities, ingress, egress to the site, access roads, drainage and other such necessary facilities have been or will be provided.

MR. BRONKEMA: I -- utilities, ingress, egress to the site, access road, drainage and other such necessary facilities have been or will be provided.

I feel that Standard is met.

MR. ANDERSON: I agree.

MR. FREEBERG: I agree.

MR. STIVERS: Agree.

MR. McKINNEY: Agree.

MR. REIBEL: Standard 5) That the proposed use can be operated in a manner that is not detrimental to the permitted developments and uses in the zoning district and can be developed and operated in a manner that is visibly compatible with the permitted uses in the surrounding area and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of Ogle County.

MR. ANDERSON: The proposed use can be operated in a manner that is not detrimental to the permitted developments and uses in AG-1 Zoning District, which are primarily agricultural related uses, with the recommendations that have been put in place.

I feel that Standard is met.

MR. BRONKEMA: I'll agree.

MR. FREEBERG: I agree.

MR. STIVERS: I agree.

MR. McKINNEY: I feel that it's not met. We have letters from both Davis Junction and -- what, Scott Township?

MR. REIBEL: Yes.

MR. McKINNEY: Requesting that we deny this, the County Board deny it because it doesn't fit into their Comprehensive Plan for this area.

MR. STIVERS: I think it is like someone said, he's been there 17 years. This developer knew that man had that piece of property at the time that he developed that, he didn't bring that up to the County at that point -- at that stage. He was there first.

MR. ANDERSON: And everything we're talking about with development is speculation, that's why there's a five-year limit on the Special Use Permit, at that time then it can be reviewed and if there's development going on that it's not -- then it becomes detrimental, but at this point it's not detrimental.

MR. McKINNEY: Okay. I still feel it's not met.

So four say it is met and one not met.

MR. REIBEL: Standard 6) That the proposed Special Use complies with all provisions of the applicable district regulations.

MR. FREEBERG: The proposed Special Use appears to comply with all provisions of AG-1 District regulations.

I think the Standard is met.

MR. ANDERSON: I agree.

MR. STIVERS: I agree.

MR. BRONKEMA: I agree.

MR. McKINNEY: Agree.

Going through the six Standards, Standard 1: Four felt that Standard was met, one not met; Standard 2, all five agreed that the

Standard was met; No. 3, three stated Standard was met, two not met; No. 4, all agreed the Standard was met; 5, four people -- four of us agreed that the Standard was met, one not met; and 6, all agreed the Standard met.

So I will entertain a motion.

MR. FREEBERG: I think we have sort of a compromise here which we don't see very often. On the one hand I can appreciate the City doesn't want something like that long term as development grows out there. On the other hand Mr. Ancona has agreed to the five-year limit. So I think there's been sort of a compromise.

So I'll make a motion that we recommend to the County Board that they grant the Special Use Permit 9-08 to the Anconas with the -- what is it -- five restrictions that have been agreed to.

MR. STIVERS: Right.

MR. ANDERSON: I'll second that.

MR. McKINNEY: Been moved and seconded to recommend approval of Special Use No. 9-08 for David and Paijit Ancona.

Ready for roll call.

MR. BRONKEMA: I have a comment to make. I got an idea that this City probably uses this man for some of their business.

MR. McKINNEY: I'm just -- my concern is once he's there legally for five years with the Special Use Permit it's going to be very hard when they want to start developing to be taking this away from him.

MR. STIVERS: Mr. Ancona, you well understand what the Board has done? Most of this we're expecting you to follow those five rules.

MR. ANCONA: Right, I understand that.

MR. FREEBERG: One thing I thought about, and there hasn't been any discussion, that he's not going to put up a permanent investment, like a building or something, that five years down the road we're saying, okay, now you got to tear the thing down, it's going to stay pretty much like it is, so I don't see any problem reconsidering this if anything like that would change over the five years.

MR. McKINNEY: Anything else, or are you ready to vote?

Roll call.

MR. REIBEL: Bronkema?

MR. BRONKEMA: Yes.

MR. REIBEL: Stivers?

MR. STIVERS: Yes.

MR. REIBEL: Anderson?

MR. ANDERSON: Yes.

MR. REIBEL: Freeberg?

MR. FREEBERG: Yes.

MR. REIBEL: McKinney?

MR. McKINNEY: No.

(By voice vote four ayes, one nay.)

MR. REIBEL: Four voted yes, one no.

MR. McKINNEY: Motion passed.

Do you want to inform them about the next meetings?

MR. REIBEL: Yes. This petition will go to the Planning and Zoning Committee on February 11th, and that's at 1 o'clock in the afternoon right here in this room. You're welcome to attend. To the County Board for decision on February 17th, that's at 5:30 in the evening, also right here.

MR. McKINNEY: Okay. We have got some more business but it doesn't need to be -- Callie doesn't need to take verbatim minutes, does she?

MR. REIBEL: No, not if the only thing we have is the resolution to adopt the schedule of meetings for this calendar year.

MR. McKINNEY: Okay, so you can go off the record.

(A discussion was held off the record.)

MR. McKINNEY: Motion to adjourn.

MR. FREEBERG: So moved.

MR. BRONKEMA: Second.

MR. McKINNEY: Moved and seconded. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay.

(The hearing was concluded at 8:22 p.m.)

Now on this 29th day of January, A.D. 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

Callie S. Fleming
Certified Shorthand Reporter
Registered Professional Reporter
IL License No. 084-004489
P.O. Box 381
Dixon, Illinois 61021