Rebecca Huntley
Ogle County Clerk & Recorder
P.O. Box 357
Oregon, IL 61061

www.oglecountyclerk.org

COUNTY CLERK
(815) 732-1110

RECORDER
(815) 732-1115

FAX
(815) 732-3477

February 26, 2009

The Ogle County Board, at their regular meeting held on Tuesday, February 17, 2009, Chairman Rice and County Clerk Huntley presents the request from David & Paijit Ancona, 12488 E. Utility Rd., Davis Junction, IL for a Special Use Permit to allow a Small Rural Business (dumpster storage & rental/general hauling of non-hazardous materials including furniture, appliances, construction debris, etc.) in the AG-1 Agricultural District on property described as follows and owned 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 E. Utility Rd.

Hopkins moves to concur with the Zoning Board of Appeals and adopt an Ordinance to approve #9-08 Special Use Permit (O-2009-0201) with the following conditions:

1. All proposals and representations made by the applicant and/or their representative shall be conditions of the Special Use Permit, including, but not necessarily limited to, the installation of screening (6' 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 ninety (90) days of the approval of this Special Use Permit.

2. 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, etc. on the site.

3. There shall be no storage on the site of dumpsters containing waste materials in excess of twenty-four (24) hours, provided any dumpster containing waste is completely covered or enclosed.

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

5. This special use permit shall be valid for a period of five (5) years from the date of approval by the Ogle County Board. The Supervisor of Assessments and Planning & 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 (5) 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 its 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 land owners, to the Village of Davis Junction, and to Scott Township.

Saunders seconds. Rice asks Hopkins how long has this facility been in business. Hopkins states it has been in business for 17 ½ years. Janes comments on the grave concerns of the water facility which is within 1000 feet radius of the site. Chairman Rice asks if this information was presented during the hearing. Janes said no sir, it was not. Chairman Rice asks what has happened in the last seventeen years with this business being there. Janes states the well has only been put in a couple of years ago. White asks for a roll call vote. Gouker asks for clarification at the end of the 5 year period? Hopkins states the petitioner would have to come back and ask for an extension. Reibel states he would have to come before the Planning and Zoning Committee to either extend the Special Use Permit or discontinue. The ZBA thought the 5 years would be a good time to re-establish discussion. Hopkins asks if this Special Use Permit can be pulled if any of the conditions are not met. Reibel states yes, if there are outstanding violations on the conditions it can be revoked. Reibel says you have to give the landowner an opportunity to fix any violations. Saunders asks for clarification on the well Janes was referring to in his comments. Janes says the well belongs to the Village of Davis Junction. Saunders states they drilled this well after this business has been at this location for 17 years. Janes states he doesn't think anyone knew this business was located at the location since it wasn't zoned. Barnes states they have had problems with this petitioner cleaning up the place. Chairman Rice asks what the other committee's have recommended from Hopkins. Hopkins states Ogle County Regional Planning Commission was in favor – ZBA was in favor and the Planning & Zoning Committee was a tie vote. Huntley asks if the Township Planning Commission made a recommendation – Hopkins states the Township Planning Commission sent a letter not recommending this petition. Gouker states his concerns regarding this petition and we should deny this request. Colbert has a question regarding condition #3. Hopkins explains the need to possibly keep a container(s) overnight due to the landfill is closed and he will have to wait until morning to deliver the container(s). Hopkins states he would like to find another place out in the country – but due to the economic times he is unable. DeArvil states he has received several warnings as far back as 1997 to clean his location up and he has not made much improvement. He received a zoning violation in November of 2007 and still hasn't tried to make much of an effort. Reibel states the dumpsters were not there at that time and the past violations was for assorted junk. Boes says he voted no on this at the Planning & Zoning Committee because the property owner has continuously ignored the County Ordinances and State's Attorney notices. A Roll Call vote is taken:

YES:	Diehl, Hopkins, Huntley, Kenney, Nye, Saunders, Stahl, Bauer and Rice
NO:	Boes, Bowers, Colbert, Colson, DeArvil, Gouker, Gronewold, Heuer, Horner, Janes, Kilker, White, Williams and Barnes
ABSENT:	Messer

The motion is defeated on a roll call vote.(Placed on file)

(County Seal)

Rebecca Huntley

Rebecca Huntley
Ogle County Clerk

The contents of this letter are a portion of the tentative Ogle County Board minutes pertaining to your zoning request. These minutes are subject to approval at the next Ogle County Board meeting.

Motion to approve Ordinance 2009-0201 was DEFEATED on a Roll Call Vote

STATE OF ILLINOIS)
) SS
COUNTY OF OGLE)

ORDINANCE NO. 2009-0201

AN ORDINANCE APPROVING A SPECIAL USE PERMIT
ON PROPERTY LOCATED AT 12488 E. UTILITY ROAD

WHEREAS, David & Paijit Ancona have filed a petition for a Special Use Permit in the AG-1 Agricultural District (Petition No. 09-08SU) to allow a Small Rural Business (dumpster storage & rental / general hauling of non-hazardous materials including furniture, appliances, construction debris, etc.) on property located at 12488 E. Utility Road in Scott Township and legally described as shown in Exhibit "A" attached hereto; and

WHEREAS, following due and proper notice by publication in the Ogle County Life at least fifteen (15) days prior thereto, and by mailing notice to all owners of property abutting the subject property, the Village of Davis Junction and Scott Township at least fifteen (15) days prior thereto, the Ogle County Zoning Board of Appeals conducted a public hearing on January 29, 2009, at which the petitioner presented evidence, testimony, and exhibits in support of the requested the requested Special Use Permit, and no member(s) of the public spoke in favor of or against the petition. However, the Village of Davis Junction and Scott Township submitted letters of objection to the requested Special Use Permit, said letters being part of the official record; and

WHEREAS, the Zoning Board of Appeals, having considered the evidence, testimony and exhibits presented has made its findings of fact and recommended that the requested Special Use Permit be granted with conditions as set forth in the *Findings of Fact and Recommendation of the Ogle County Zoning Board of Appeals* dated January 29, 2009, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the Ogle County Board has reviewed the testimony and exhibits presented at the public hearing and has considered the Findings of Fact and Recommendation of the Zoning Board of Appeals, and has forwarded no recommendation to the Ogle County Board regarding the requested Special Use Permit (a motion being made and seconded to recommend approval, with the roll call vote resulting in 3 votes in favor of the motion to recommend approval, and 3 votes against said motion); and

WHEREAS, the Ogle County Board has considered the findings of fact and recommendation of the Zoning Board of Appeals, and has determined that granting the Special Use Permit to allow a Small Rural Business (dumpster storage & rental / general hauling of non-hazardous materials including furniture, appliances, construction debris, etc.) in the AG-1 Agricultural District would be consistent with the requirements established by Section 9.08(C) of the *Ogle County Amendatory Zoning Ordinance*;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF OGLE COUNTY, ILLINOIS, as follows:

SECTION ONE: The report of the Ogle County Zoning Board of Appeals, Exhibit "B" attached hereto, is hereby accepted and the findings set forth therein are hereby adopted as the findings of fact and conclusions of the Ogle County Board.

SECTION TWO: Based on the findings of fact set forth above, the request of David & Paijit Ancona for a Special Use Permit in the AG-1 Agricultural District (Petition No. 09-08SU) to allow a Small Rural Business (dumpster storage & rental / general hauling of non-hazardous materials including furniture, appliances, construction debris, etc.) on property located at 12488 E. Utility Road in Scott Township and legally described as shown in Exhibit "A" attached hereto, is hereby approved.

SECTION THREE: This approval of a Special Use Permit is subject to the following conditions:

1. All proposals and representations made by the applicant and/or their representative shall be conditions of the Special Use Permit, including, but not necessarily limited to, the installation of screening (6' 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 ninety (90) days of the approval of this Special Use Permit.

Motion to approve Ordinance 2009-0201 was DEFEATED on a Roll Call Vote

2. There shall be no outside storage and/or accumulation of junk (as defined by the *Ogle County Amendatory Zoning Ordinance*), waste, inoperable and/or unlicenced motor vehicles, etc. on the site.
3. There shall be no storage on the site of dumpsters containing waste materials in excess of twenty-four (24) hours, provided any dumpster containing waste is completely covered or enclosed.
4. All dumpsters shall be stored within the area enclosed by fence/buildings and out of view from the public road at all times.
5. This special use permit shall be valid for a period of five (5) years from the data of approval by the Ogle County Board. The Supervisor of Assessments and Planning & 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 (5) 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 its 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 land owners, to the Village of Davis Junction, and to Scott Township.

SECTION FOUR: This Ordinance shall be in full force and effect upon its adoption by the County Board of Ogle County, Illinois and attestation by the Ogle County Clerk.

SECTION FIVE: Failure of the owners or other party in interest or a subsequent owner or other party in interest to comply with the terms of this Ordinance, after execution of such Ordinance, shall subject the owners or party in interest to the penalties set forth in Section 9.10 of the *Ogle County Amendatory Zoning Ordinance*.

PASSED BY THE COUNTY BOARD THIS 17TH DAY OF FEBRUARY 2009 A.D.

_____
W. Ed Rice, Chairman of the Ogle County Board

ATTEST:

_____
Rebecca Huntley, Ogle County Clerk and
Ex Officio Clerk of the Ogle County Board

Motion to approve Ordinance 2009-0201 was DEFEATED on a Roll Call Vote

EXHIBIT "A"

Part of the Southwest Quarter (SW1/4) of Section Fifteen (15), Township Forty-two (42) North, Range One (1) East of the Third (3rd) Principal Meridian, Ogle County, Illinois, bounded and described as follows, to-wit: Beginning at a point on the South line of the Southwest Quarter (SW1/4) of said Section Fifteen (15), said point being 276.00 feet West of the Southeast (SE) corner of said Southwest Quarter (SW1/4); thence continuing Westerly along the South line of said Southwest Quarter (SW1/4), a distance of 670.15 feet; thence Northerly perpendicular to said South line, a distance of 325.00 feet; thence Easterly parallel to the South line of said Southwest Quarter (SW1/4), a distance of 670.15 feet; thence Southerly perpendicular to said South line, a distance of 325.00 feet to the point of beginning, situated in Ogle County, State of Illinois

P.I.N.: 11-15-300-003

Motion to approve Ordinance 2009-0201 was DEFEATED on a Roll Call Vote

EXHIBIT "B"

FINDINGS OF FACT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS

Motion to approve Ordinance 2009-0201 was DEFEATED on a Roll Call Vote

Ogle County Zoning Board of Appeals

911 W. Pines Road
Oregon, IL 61061
815.732.1190
Fax: 815.732.2229

FINDINGS OF FACT AND RECOMMENDATION
OF THE OGLE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Ogle County Zoning Board of Appeals concerning an application of David & Paijit Ancona, 12488 E. Utility Rd., Davis Junction, IL, in case #09-08SU. The applicants are requesting a Special Use Permit to permit a Small Rural Business (dumpster storage & rental / general hauling of non-hazardous materials including furniture, appliances, construction debris, etc.) in the AG-1 Agricultural District on Parcel Identification No. 11-15-300-003, a 5.0 acre parcel which is part of Section 15, Township 42N, Range 1E of the 3rd Principal Meridian and is located in Scott Township at 12488 E. Utility Road.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on January 29, 2009 in the County Board Room, 3rd Floor, Ogle County Courthouse, Oregon, Illinois and hereby report their findings of fact and their recommendation as follows:

SITE INFORMATION: See Staff Report (attached herewith).

ANALYSIS OF SEVEN STANDARDS: After considering all the evidence and testimony presented at the public hearing, this Board makes the following analysis of the six standards listed in Section 9.08(C) (Standards for Special Use Permits) of the *Ogle County Amendatory Zoning Ordinance* that must all be found in the affirmative prior to recommending granting of the petition.

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 the public health, safety, morals, comfort or general welfare at large. **Considering the five-year limitation on the Special Use Permit and the current state of the economy as far as construction, 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 the public health, safety, morals, comfort or general welfare at large due to the low intensity of the proposed use, the proposed special use is completely surrounded by agricultural uses and is well-buffered from residential uses, and will be screened from sight. STANDARD MET.**

2. That 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 applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to:

    a. The location, nature and height of building, structures, walls and fences on the site; and,

    b. The nature and extent of proposed landscaping and screening on the proposed site.

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-1 zoning district regulations. The proposed special use is surrounded by crop land, will be screened with a solid wood fence six feet in height, and will provide a service to the area. STANDARD MET.

3. That off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations. **The site is large enough that adequate off-street parking and loading areas can be provided. STANDARD MET.**

4. That adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided. **Adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided. STANDARD MET.**

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; 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 the public health, safety and general welfare of Ogle County. **With conditions that have been recommended, the proposed use can be operated in a manner that is not detrimental to the permitted developments and uses in the AG-1 zoning district, which are primarily agricultural and agriculturally-related uses. STANDARD MET.**

6. That the proposed special use complies with all provisions of the applicable district regulations. **The proposed special use appears to comply with all provisions of the AG-1 district regulations. STANDARD MET.**

RECOMMENDATION: After considering all the evidence and testimony presented, this Board finds that the application meets all the standards as found in Section 9.08(C) of the *Ogle County Amendatory Zoning Ordinance.*

Therefore, the Zoning Board of Appeals hereby recommends that a Special Use Permit be granted to allow a Small Rural Business (dumpster storage & rental / general hauling of non-hazardous materials including furniture, appliances, construction debris, etc.) in the AG-1 Agricultural District subject to the following conditions:

1. All proposals and representations made by the applicant and/or their representative shall be conditions of the Special Use Permit, including, but not necessarily limited to, the installation of screening (6' 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 ninety (90) days of the approval of this Special Use Permit.
2. There shall be no outside storage and/or accumulation of junk (as defined by the *Ogle County Amendatory Zoning Ordinance*), waste, inoperable and/or unlicenced motor vehicles, etc. on the site.
3. There shall be no storage on the site of dumpsters containing waste materials in excess of twenty-four (24) hours, provided any dumpster containing waste is completely covered or enclosed.

4. All dumpsters shall be stored within the area enclosed by fence/buildings and out of view from the public road at all times.
5. This special use permit shall be valid for a period of five (5) years from the data of approval by the Ogle County Board. The Supervisor of Assessments and Planning & 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 (5) 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 its 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 land owners, to the Village of Davis Junction, and to Scott Township.

ROLL CALL VOTE: The roll call vote was 4 members for the motion to recommend granting, 1 opposed.

Respectfully submitted this 29th day of January 2009 by the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman
Maurice Bronkema
Maynard Stivers
Randall Anderson
Curtis Freeberg

Bruce McKinney, Chairman

ATTEST:

Michael Reibel, Secretary