Before the Ogle County Zoning Board of Appeals

Present:

Randy Ocken, Chairman
Michael Reibel, Zoning Administrator

Testimony of Witnesses
Produced, Sworn and
Examined on this 24th day
of October, A.D., 2019,
before the Ogle County
Zoning Board of Appeals

MR. ADAMS:
What's the next order of business?

MR. OCKEN:
Mr. Adams, what's the next order of business?

MR. ADAMS: Mr. Chairman, the next order of business is to consider the petition filed September 16th, 2019, of William Kereven and Arlette Howerton, 3926 West Illinois Route 64, Mt. Morris Township, Ogle County, Illinois, for a Special Use Permit in the AG-1 Agricultural District to allow the operation of a pet-grooming facility on property as follows and owned by the Petitioners:

Part of the Southwest Quarter of the Southwest Quarter of Section 25, Township 24 North, Range 9 East of the 4th P.M., Mt. Morris Township, Ogle County, Illinois, 2.31 acres, more or less.

Property Identification Number:
08-25-300-010.

With the common location of: 3926 West Illinois Route 64.

For the record, a sign was posted along the frontage of the premises indicating that a zoning hearing is to be held regarding this property. All adjoining property owners have been notified of the hearing this evening and the specifics of the petition, and a legal notice was published in the October 7 edition of the Ogle County Life notifying the public of the hearing this evening and the specifics of the petition.

Under the Staff Report, a copy of which is on file and the Board members have received, I will point out that, under General Information, the requested action is the Special Use in the AG-1 District.

The purpose is for an SRB, or a Small Rural Business, for pet grooming, with a 4-foot by 3-foot (or approximately 12-square-foot) sign.

The size of the parcel upon which this Special Use is applied for is 2.3 acres, more or less.

The existing land use, it is the residence of the owners -- of the owners/applicants.

The surrounding land use relative to the proposed Special Use area, land to the north and west is AG-1 and currently a residence. Land to the south is incorporated in the Village of Mt. Morris. There are 32 dwellings within

In Totidem Verbis, LLC (ITV)
one-quarter mile of the proposed Special Use area, and there are 70 dwellings within one-half mile of the area. The closest dwelling to the proposed Special Use area is approximately 440 feet to the west. Just a quick note here. I didn't mention specifically the land to the east, which is heavily wooded, I think it's a drainage ditch.

Comprehensive Plan, the parcel upon which the Special Use is applied for is within a 1.5-mile radius of the Village of Mount Morris, which has an adopted Comprehensive Plan (the Village of Mount Morris Comprehensive Plan 2030).

The Village of Mount Morris Comprehensive Plan 2030, Land Use Plan (map) designates the site and surrounding area for “highway commercial” uses.

The Ogle County Amendatory Comprehensive Plan designates the site and surrounding areas outside the Village of Mt. Morris and the 1.5-mile planning jurisdiction for agricultural and agriculturally-related land uses.

The zoning history, there's none. It's been AG-1 since the adoption of the first Comprehensive Plan in 1965.

The applicable regulations, the AG-1 Agricultural District lists the following use under Special Uses: an SRB Small Rural Business, as of 2003.

The definition of a Small Rural Business is a commercial enterprise conducted in a rural area within the AG-1 Agricultural District that is small in scale, subordinate at all times to established agricultural and/or residential uses, and is owned and operated by a landowner that also resides on the premises where the business is conducted. An SRB would typically (shall): Employ two or fewer persons (other than members of the immediate family residing on the premises; Number 2) be conducted from an accessory building; Number 3) provide a service to the area or an attraction for tourists and travelers; and 4) supplement the County tax base. When an SRB grows to become the dominant use on a zoning lot and is no longer subordinate to the established residential and/or agricultural uses, the owner/operator shall take

action to either rezone the site to an appropriate zoning classification or relocate the business to an area that is properly zoned for the use conducted.

The other applicable regulation is the sign regulations for the 12-square-foot sign. So Division 8 of our Amendatory Ordinance, Signs Section, 7, for Agricultural Signage, Part A, Allowable Signs, Number 2: Commercial identification signs associated with the permitted uses as regulated by relevant Special Use Permit or permits, not exceeding 32 square feet in gross surface area. One such sign shall be permitted on each frontage.

For public utilities, none are available.

For transportation, West Illinois Route 64 is a hot-mix surfaced Illinois State highway functionally classified as minor arterial.

The physical characteristics of the site, this analysis is relative to the proposed Special Use Area. There are no mapped wetlands or floodplain areas present on the site.

According to the Ogle County Digital Soil Survey, soil types on the site are: 403F

Elizabeth loam; 412B Ogle silt loam; 412C2 Ogle silt loam eroded.

The identified soil types on the site have the following selected characteristics:

100 percent are well drained to excessively drained;

No flooding or ponding hazards are present;

83 percent are rated suitable for on-site sewage disposal.

The 403F Elizabeth loam, that's as you get closer to that drainage ditch to the east.

The LESA score of 162.6 indicates a Low rating for protection.

The EcoCAT review states: The Illinois Natural Heritage Database contains no record of State-listed or endangered species, Illinois Natural Area Inventory Sites, dedicated Illinois nature preserves, or registered land and water reserves in the vicinity of the project location. Consultation is terminated.

At the October 17th meeting of the Ogle County Planning Commission, Mr. Reising made a motion to recommend approval of Petition Number


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<td>1 10-19SU, and the motion was seconded by Mr. Flanagan. The motion carried unanimously by a roll call vote.</td>
<td>1 switched their &quot;shall&quot; to &quot;must.&quot; Just to avoid some of the confusion we ran into the other night.</td>
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<td>2 I have a letter on file from the Illinois Department of Transportation that reads: Concerning the operation of the pet grooming facility on the property located at 3926 West Illinois Route 64, Mt. Morris, in the near future there are no roadway construction plans for this area that would affect the property at this location or the Special Use Permit. Consequently, we have no objections. Respectively, Masood Ahmad, Region 2 Engineer. I do have some additional comments on this petition to bring to the Board's attention, and these were some things that were brought up in the Regional Planning meeting, some specific definitions that need clarification. In the Staff Report, as I read earlier, we noted an SRB would typically, and in parentheses it mentions &quot;shall.&quot; There was some confusion that night, including myself, as well as some of the Regional Planning Commission members, as to the definition of the word &quot;shall,&quot; especially when prefaced by the word &quot;typically.&quot; At the RPC meeting, the Board took the definition of &quot;shall&quot; to mean the suggested definition of shall similar to, &quot;I shall go fishing.&quot; This, however, was the incorrect interpretation of the word shall. For the Board's reference, the word shall, while not being defined in the Definition section of Division 2 of the Ogle County Zoning Ordinance, is found in the Rules section of the Ordinance and is defined as follows: Rule B, the word &quot;shall&quot; and &quot;must&quot; are mandatory and not discretionary. The words &quot;may&quot; or &quot;should&quot; are permissible. Also, as a point of general information, through a little bit of research, I thought I would mention this, the United States Government Plain Language Group does suggest now that for future contracts be written with the word &quot;must&quot; only as the mandatory language. And several governing bodies, including the FAA, have</td>
<td>2 MR. OCKEN: Petitioners, please come forward.</td>
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<td>3 MR. OCKEN: The other point that was brought up in the Regional Planning Commission is the scope of the Special Use Permit. The current dog-grooming business is permitted as a home occupation, and so long as the scope of the operation continues to fit that standard -- those standards including no, other than immediately -- other than immediate family members employed, less than 30 percent of the residential floor space devoted to the business, it's not the dominate use of the property, et cetera -- it would still be considered a home occupation. The only part as currently operated falls under the scope of this Special Use Permit is the sign located on Route 64. However, if the business were to expand into the definition of a Small Rural Business by hiring an employee, et cetera, the business would have to be moved to a dedicated accessory building which would be allowed under the Special Use Permit. Mr. Chairman, that's all I have. In Totidem Verbis, LLC (ITV)</td>
<td>3 MS. HOWERTON: Are you leaving me by myself?</td>
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<td>4 MR. OCKEN: Please raise your right hand. WILLIAM KEREVEN and ARLETTE HOWERTON, being first duly sworn, testified as follows: MR. OCKEN: Please state your names and addresses for the recorder. MR. KEREVEN: William Kereven. Go ahead. MS. HOWERTON: Arlette Howerton. Both, 3926 West Illinois Route 64, Mt. Morris, Illinois, Ogle County. MR. OCKEN: And tell us why you're requesting a Special Use Permit. MS. HOWERTON: I would like to have my small dog-grooming, cat-grooming business run out of our home at the present time. MR. OCKEN: Okay. And you wouldn't be keeping dogs there then, like, overnight or anything like that? MS. HOWERTON: We do occasionally babysit, but that's babysitting. We treat them as if they're our own pet, which we have our own pets...</td>
<td>4 In Totidem Verbis, LLC (ITV)</td>
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Also.

MR. OCKEN: How many dogs might you have on the property at any one time?

MS. HOWERTON: Well, we have two, and if we babysit, it could be up to two, if a family member has two pets also. Most average -- average people own two pets.

MR. OCKEN: And are the animals that you would have there for grooming, they would be kept inside then? That would occur inside your basement; is that right?

MS. HOWERTON: Yeah. During the summer, we have an outside kennel for our dogs, but we also use that as a holding too so that they get fresh air. Otherwise, we have a holding pen for them in the area of our basement designated.

MR. OCKEN: Any questions or comments from the Board?

(No verbal response.)

MR. OCKEN: Okay. Hearing none, you may be seated.

MS. HOWERTON: I also -- there was mention of egress, being able to get out of the basement in case of an emergency. So I provided pictures, showing that we have two egress windows besides the basement stairs. If something would happen, we could get the dogs outside besides using the stairs -- or cats.

MR. OCKEN: Okay.

MS. HOWERTON: They also were worried about parking, and we have put in -- and I have a picture here also. So I would like to be able to give this to all of you. We have put in gravel alongside of our driveway to accommodate four cars. We also have a horseshoe driveway. So we have an entrance on both sides, and so it gives you enough movement or -- to be able to pull in and pull out, though we don't have that many people coming in and out of our driveway.

But if I may give these all to you.

MR. OCKEN: Yes, please.

MR. ADAMS: The parking thing was, I wanted to get a picture of that because if you look at the maps, they're older pictures, and the gravel was newer. So from what my site plan images were, was kind of incomplete.

MS. HOWERTON: You can have my set.

MR. OCKEN: I think we're good.

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MS. HOWERTON: You can have my set.

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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.

MR. WILLIAMS: The proposed Special Use is to remain secondary to the primary residential use of the property, and with only the addition of an advertising sign will not dominate the immediate neighborhood to prevent development and use of the adjacent properties. I believe the standard's met.  

(A all those simultaneously responded.)

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

MR. URISH: The site includes a paved access drive with two highway entrances to prevent backing out onto the public road, provides off-street parking for four spaces, and is not located within 75 feet of an intersection. I believe the standard is met.

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(A discussion was held off the record.)

MR. ADAMS: Standard 4) That adequate utilities, ingress/egress to the site, access roads, drainage and other such necessary facilities have been or will be provided.

MR. BULTHAUS: It has been satisfactorily demonstrated that adequate utilities, ingress/egress to the site from Route 46 and drainage already exists. Standard is met.  

(All those simultaneously responded.)

MR. ADAMS: No. 5) That the -- sorry, 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, 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.

MR. HAYES: The proposed Special Use is located in the AG-1 Agricultural District and

In Totidem Verbis, LLC (ITV)
Mr. Adams, do we have any other business this evening?

MR. ADAMS: Just to let you know that the petition will go before the Ogle County Board for decision on November 19th, 2019, at 5:30 p.m., in this room.

MR. OCKEN: And I assume you received notice that we will not be meeting in November?

MR. WHITE: Is it the 26th of December?

MR. ADAMS: It is.

MR. WHITE: There will be no November meeting?

MR. ADAMS: Nope.

MR. OCKEN: If there is no other business, I declare this meeting adjourned at 6:49.

(The hearing was concluded at 6:49 p.m.)

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

Randy Ocken, Chairman

Michael Reibel,
Zoning Administrator

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

In Totidem Verbis, LLC (ITV)
In the Matter of the Petition

of

7 Stephen E. Leary; and David and Kimberly Luepkes,
Oregon-Nashua Township

8 Ogle County, Illinois

9

Testimony of Witnesses
Produced, Sworn and
Examined on this 24th day
of October, A.D., 2019,
before the Ogle County
Zoning Board of Appeals

Present:
Randall Bulthaus
Mark Hayes
Rob Urish
Dave Williams
Randy Ocken, Chairman
Michael Reibel, Zoning Administrator

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MR. OCKEN: Mr. Adams, what's the next
order of business?

MR. ADAMS: Mr. Chairman, the next order
of business is to consider the petition filed
September 10, 2019, of David and Kimberly
Luepkes, 612 North German Church Road, Oregon,
Illinois, 61061, for an Amendment to the Zoning
District to rezone from AG-1 Agricultural
District to IA Intermediate Agricultural
District on property described as follows, and
owned by Stephen E. Leary, 4493 South Lowden
Road, Oregon, Illinois, 61061:
Part of the South Half of the Southwest
Quarter of Section 27, Township 23 North,
Range 10 East of the 4th P.M.,
Oregon-Nashua Township, Ogle County,
Illinois, 18.6 acres, more or less.

Property Identification Number: Part of
16-27-300-009.

Common Location: 4493 South Lowden Road,
Oregon, Illinois, 61061.

For the record, a sign was posted along
the frontage of the premises indicating that a
zoning hearing is to be held regarding this
In Totidem Verbis, LLC (ITV)

property. All adjoining property owners have
been notified of the hearing this evening and
the specifics of the petition, and a legal
notice was published in the September 30th
edition of the Ogle County Life notifying the
public of the hearing this evening and the
specifics of the petition.

Under the Staff Report, a copy of which is
on file and the Board members have received, I
will point out that, under General Information,
the current existing land use is cropland,
currently hay, and mature trees.

The surrounding land use and zoning
includes a mixture of agricultural, State park,
and residential uses. There are four dwellings
within one-quarter mile of the site, and there
are seven dwellings within one-half mile of the
site. The closest livestock management facility
not owned by the Petitioner is approximately
5,000 feet to the east.

The parcel adjacent to the north is zoned
AG-1 Agricultural District and is in residential
use. Land to the east is in agricultural use
and zoned AG-1 Agricultural District. The land
In Totidem Verbis, LLC (ITV)
adjacent to the south is in agricultural use and
zoned AG-1 Agricultural District. Lowden Miller
State Park is adjacent to the west of the
parcel.
For the Comprehensive Plan, the subject
parcel is not located within a one-and-a-
half-mile radius of a municipality and is
subject to the Amended Comprehensive Plan
2012 Update of Ogle County, Illinois.
The Ogle County Comprehensive Plan
designates the property for agricultural and
open space uses with only limited residential
uses permitted.
For the zoning history, the parcel had
been zoned AG-1 from the adoption of the first
Ogle County Zoning Ordinance in 1965.
The applicable regulations would include
IA Intermediate Agricultural District. The
purpose and intent of this district is intended
to help -- the district is intended to help
implement the goals and objectives of the Ogle
County Comprehensive Plan and is established to
preserve the integrity of the AG-1 District by
clearly indicating that in the AG-1 District
In Totidem Verbis, LLC (ITV)

Agriculture is the primary use of land.
Agriculture in the IA District, while important,
is not regarded as necessarily the primary use.
The IA District is intended to be an
intermediate zoning district between the AG-1
District and the R-1 Rural Residential District.
It is the intent that this district be
designed so that land less suitable for
agricultural use (but which still represents a
valuable economic base), that otherwise might
remain idle or unused out of “spot zoning”
consideration, may be utilized for residential
purposes. All activities within this district
shall be compatible with surrounding
agricultural operations, and shall maintain,
preserve and enhance agricultural land.
Agricultural activities are allowed in this
district; however, the raising of livestock
shall be in compliance with the Ogle County
Health Code and the Illinois Environmental
Protection Agency requirements regarding
agriculture-related pollution.
Public utilities, none are available at
the parcel.
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For transportation, South Lowden Road is a
seal-coat County highway functionally classified
as a major collector.
The physical characteristics of the site,
the site is located in an area of sloping
terrain. There are no floodplain or wetland
areas on the site. According to the Ogle County
Digital Soil Survey, the soil types on the site
are: 3.1 percent 105B Batavia Silt Loam; 7.9
percent 119C2 Elco Silt Loam, eroded; 24.5
percent 175C Lamont Sandy Loam; 17.7 percent
L280B Fayette Silt Loam; 24.9 percent 570D2
Martinsville Silt Loam, eroded; 2.3 percent
618D2 Senachewine Silt Loam, eroded; 19.4
percent 675B Greenbush Silt Loam.
These soil types identified on the site
have the following selected characteristics:
100 percent of the soils are classified as
being well to excessively drained;
100 percent of the soils are classified as
suitable for septic fields.
The LESA score of 204.5 indicates a Medium
Rating for protection.
I do have a letter on file from the
In Totidem Verbis, LLC (ITV)

Illinois Department of Natural Resources that
reads in part:
This letter is in reference to the
project you recently submitted for
consultation. The Natural Resource Review
Provided by EcoCAT identified protected
resources that may be in the vicinity of
the proposed action. The department has
evaluated this information and concluded
that adverse effects are unlikely;
therefore, the consultation is terminated.
Just to note, the resources that they are
talking about obviously is the State Park
immediately to the west.
I also have a letter on file from the Ogle
County Highway Department that reads:
The Applicant has contacted our
office in regards to a residential access
point to Parcel 16-27-300-009 from Lowden
Road. It is possible to revert an
existing field entrance to a residential
entrance at this location; however the
Applicant will need to coordinate with
Ogle County Highway Department for an
In Totidem Verbis, LLC (ITV)

In Totidem Verbis, LLC (ITV)
815.453.2260
Mr. Chairman, that's all I have.

MS. LUEPKES: Well, you certainly have a wide variety of soils on this parcel. We don't often see that many soils in one parcel. It's an interesting assortment.

MS. LUEPKES: It's definitely an interesting parcel.

MR. OCKEN: Any questions or comments from the Board?

MR. ADAMS: (No verbal response.)

MR. OCKEN: Hearing none, you may be seated. Thank you.

Has anyone filed for an appearance?

MR. OCKEN: No.

MR. OCKEN: Is there anyone here who wishes to speak in favor of this petition?

MS. LUEPKES: Yes.

MR. OCKEN: And you intend to leave the trees, except for a few perhaps?

MS. LUEPKES: Yeah, most of the trees will remain. We won't be really disturbing anything because it slopes down really far where the trees are, so it's not really suitable for building right there.

MR. OCKEN: Well, you certainly have a wide variety of soils on this parcel. We don't often see that many soils in one parcel. It's an interesting assortment.

MS. LUEPKES: It's definitely an interesting parcel.

MR. OCKEN: Any questions or comments from the Board?

MR. ADAMS: (No verbal response.)

MR. OCKEN: Hearing none, the Board will now go through findings of fact. Mr. Adams, please read the first standard.

MR. ADAMS: The first standard, that the proposed amendment will allow development that is compatible with existing uses and zoning of nearby property.

MR. URISH: The site is currently zoned AG-1 Agricultural District, and rezoning part of the parcel to IA Intermediate Agricultural District will ensure that the use of the site remains compatible with the existing agricultural and residential uses of nearby parcels. I believe the standard is met.

(All those simultaneously responded.)

MR. ADAMS: Standard 2) That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property, including, but not in Totidem Verbis, LLC (ITV)
MR. HAYES: I think you’re on the wrong one.

MR. BULTHAUS: I’m on the wrong one?

MR. HAYES: Oh, yeah, you’re on Terhark.

MR. BULTHAUS: Rezoning to the Intermediate Agricultural District is consistent with the trend of low density residential development to the north, as well as the open spaces of the State Park to the west and agricultural uses to the east and south.

Standard met.

MR. ADAMS: Standard 6) That the proposed amendment is consistent with the public interest and not solely for the interest of the Applicant, giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as set forth in Division I therein, the Land Evaluation and Site Assessment

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MR. ADAMS: Standard 3) That the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment, including air, noise, stormwater management, wildlife and natural resources.

MR. WILLIAMS: Little or no adverse impacts on other property in the vicinity of the subject site or on the environment, including air,

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MR. WILLIAMS: Due to the low density of the proposed development, an existing driveway access to Lowden Road located on a seal-coat, paved County highway, and soils suitable for on-site sewage disposal, Ogle and other service providers will be able to provide adequate services to the property. I think the standard's been met.

All those simultaneously responded.

MR. ADAMS: Standard 4) That the subject property is suitable for the proposed zoning classification.

MR. WILLIAMS: The proposed site meets the lot area, lot width, and road frontage requirements of Intermediate Agricultural District and is not located on soils classified as Prime. I believe the standard is met.

All those simultaneously responded.

MR. ADAMS: Standard 5) That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

MR. BULTHAUS: Trend of development in the

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findings, and the recommendation of the Ogle County Regional Planning Commission with respect to the Ogle County Amendatory Comprehensive Plan.

MR. URISH: The proposed amendment is consistent with the public interest and the purpose and intent of the Amendatory Zoning Ordinance. The Zoning Board of Appeals has given due consideration that the Regional Planning Commission has recommended approval. I believe the standard is met.

All those simultaneously responded.

MR. ADAMS: Have the Board members read and considered the LaSalle Factors as they apply to this petition?

All those simultaneously responded in the affirmative.

MR. OCKEN: All of the standards have been met. I will entertain a motion to approve this petition.

MR. HAYES: Mr. Chairman, I will make a motion to approve this petition, File 09-19 AM on the basis that all the standards have been met.

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met, and the Regional Planning Commission has approved it, as long as the EcoCAT recommendations are followed.

MR. URISH: Second.

MR. OCKEN: Mr. Hayes moves; Mr. Urish second.

Does the Board have any questions or comments?

(No verbal response.)

MR. OCKEN: Hearing none, Mr. Adams, please call the roll.

MR. ADAMS: Dave Williams?

MR. WILLIAMS: Yes.

MR. ADAMS: Randy Bulthaus?

MR. BULTHAUS: Yes.

MR. ADAMS: Mark Hayes?

MR. HAYES: Yes.

MR. ADAMS: Rob Urish?

MR. URISH: Yes.

MR. ADAMS: Randy Ocken?

MR. OCKEN: Yes.

(By voice vote five ayes.)

This motion has been approved by a vote of five to zero.

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

Randy Ocken, Chairman

Michael Reibel,
Zoning Administrator

Callie S. Bodmer
Certified Shorthand Reporter
Registered Professional Reporter
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P.O. Box 381
Dixon, Illinois 61021

In Totidem Verbis, LLC (ITV)

In Totidem Verbis, LLC (ITV)
815.453.2260
STATE OF ILLINOIS  
COUNTY OF OGLE  
08-19 AM

In the Matter of the Petition  
of  
Dan Terhark, Marion Township  
Ogle County, Illinois

Testimony of Witnesses  
Produced, Sworn and  
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of October, A.D., 2019,  
before the Ogle County  
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Present:
Randall Bulthaus  
Mark Hayes  
Rob Uriah  
Dave Williams  
Randy Ocken, Chairman  
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It is the purpose of the Zoning Board of Appeals to follow the Ogle County Zoning Ordinance in order to determine appropriate use for the land of Ogle County, while balancing individual property rights with the rights and interests of the general public to a health, safe, and orderly living environment. While there are many factors which affect each situation, the function of this Board is to determine appropriate use of the land. The decision that is made will be based on the evidence and testimony presented at this hearing.

Mr. Adams, what's the first order of business?

MR. ADAMS: Mr. Chairman, the first order of business is to consider the petition filed August 22nd, 2019, of Dan Terhark, 3997 North Pear Road, Polo, Illinois, for an Amendment to the Zoning District to rezone from AG-1 Agricultural District to R-1 Rural Residence District on property described as follows and owned by the Petitioner:

Part of the Southwest Quarter of Section
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27, Township 25 North, Range 11 East of the 4th PM., Marion Township, Ogle County, Illinois, 5.0 acres, more or less
Property Identification Number: Part of 05-27-300-011.
Common Location: 8248 North Kishwaukee Road.

For the record, a sign was posted along the frontage of the premises indicating that a zoning hearing is to be held regarding this property. All adjoining property owners have been notified of the hearing this evening and the specifics of the petition, and a legal notice was published in the September 2nd edition of the Ogle County Life notifying the public of the hearing this evening and the specifics of the petition.

Under the Staff Report, a copy of which is on file and the Board members have received, I will point out that, under General Information, the site is located approximately 2,000 feet north of the intersection of Hales Corner Road. The existing land use of the 5-acre portion of the parcel proposed for rezoning, in Totidem Verbis, LLC (ITV)

approximately 3.4 acres are currently an abandoned limestone quarry covered by a mix of mature and scrub trees. The remainder of the 52.6-acre parcel is cropland used for row crop production.

For the surrounding land use and zoning, the site is located in an area of mixed agricultural and residential uses. There are five dwellings within one-quarter mile of the site. There are 19 dwellings within one-half mile of the site. The closest livestock management facility is approximately two miles to the west. The parcel to the north and west is zoned AG-1 and is in agricultural row crop production. The parcel to the south and east is also zoned AG-1 and in agricultural use (row crop production).

For the Comprehensive Plan, the subject parcel is located within a one and a half mile radius of the city of Byron, which has an adopted comprehensive plan (the Greater Area -- the Greater Byron Area Comprehensive Plan, 2003). It designates the property for agricultural and open space uses.

The parcel to the south and east is zoned AG-1 and in agricultural use (row crop production). The parcel to the south and east is also zoned AG-1 and in agricultural use (row crop production).

The zoning history of this parcel, it has been zoned AG-1 from the adoption of the first Ogle County Zoning Ordinance in 1965.

For applicable regulations, the R-1 zoning district is intended to help implement the goals and objectives of the Ogle County Amendatory Comprehensive Plan and is established for low-density residential uses. It is designed for areas with few or no public improvements and where general conditions are not conductive to other than low-density development. Includes a minimum lot size of three acres and a minimum lot width of 300 feet.

For public utilities, there are none available at this parcel.

For transportation, North Kishwaukee Road is a hot-mix surfaced road under the jurisdiction of Ogle County functionally classified as a major collector.

The physical characteristics of the site, it is majority on a former limestone quarry and includes approximately 1.6 acres of cropland in an area of gently sloping terrain. There are no floodplain or wetlands on the site. According to the Greater Area, it is designated as low-density development, making it conducive to utility and transportation infrastructure.

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to the Ogle County Digital Soil Survey, the soil types on the site are: 72 percent 503C Rockton; 14 percent 622C3 Wyranet; and 14 percent 8073A Ross.

The soil types identified on the site have the following characteristics:

- 100 percent of the soils are classified as being well drained;
- And 88 percent of the soils are classified as being very limited for septic fields.
- The LESA score of 189.9 indicates a Low Rating for Protection.

I have a letter on file from the Illinois Department of Natural Resources that reads:

The EcoCAT indicated records for the State- and federally-listed northern long-eared bat in the vicinity of the rezoning area. If tree-clearing is required, the Department recommends no tree-cutting between the dates of April 1st and October 14th. If this cannot be accommodated, a bat habitat assessment should be conducted in the project area by a qualified biologist to determine if

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habitat trees are present. Suitable habitat trees are defined as trees greater than 5 inches in diameter at breast height with exfoliating barks, holes, cracks, or crevices.

Suitable habitat and tree species include, but are not limited to, shagbark and shellbark hickory, butternut hickory, green ash, American elm, slippery elm, Eastern cottonwood, silver maple, sugar maple, white oak, red oak, post oak, and shingle oak. This includes trees that are dead, dying, broken, or damaged, with slabs or plates of loose or peeling bark on the trunks or limbs.

If suitable habitat or trees are found within the project area, those trees should be clearly flagged or marked and not cut between April 1st and October 14th. All non-suitable trees may be cut at anytime. Suitable habitat trees may potentially be cut during this time if a qualified biologist determines that the trees are not currently occupied by a

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listed bat species and upon further coordination with the Department.

The EcoCAT system also identifies the Douglas E. Wade Memorial Prairie INAI site and Nature Preserve in the protected area.

Upon review of the parcel identified for rezoning, the Department determined rezoning and construction of a future single-family residence is not likely to adversely impact this natural area.

consultation on the part of the Department is closed unless the Applicant desires additional information or advice related to this proposal.

At the October 24th meeting of the Ogle County Regional Planning Commission, Mr. Wetzel made a motion to recommend approval of Petition 8-19AM. The motion was seconded by Mr. Reising. The motion carried unanimously by roll call vote.

I also have a letter on file from the Ogle County Highway Department that reads in part:

This office has completed its review of the above rezoning request, and offers

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Rural Residential District.

MR. TERHARK: This piece of land, the three and a half acres isn't being used for anything. There has been some interest in people wanting to put a house in that area. I had no objections to it. I wasn't using it for anything. I own the ground around it, the farm behind it, the three and a half acres. So we had to change that to the five acres for this rule, to make it work.

The three and a half acres, if we want to do it that way, had to be a conventional Beech Hill system, which we cannot do because it's on a gravel area. So we had to change that. That's why I asked for an extension last month, to incorporate the five acres. But that's not really part of the location for the house anyway.

It doesn't flood at all. There's access to it. The actual house location of the people that have been interested are up on top. There is a road that actually -- or path that goes up there now, so there wouldn't be a whole lot of excavating for that.

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And one other thing that they mentioned was it's not suitable for a basement. Although, 40 feet from the edge back it does drop off 6 to 8 feet, so they can -- that would be able to be used that way. So we just had to change everything with the survey to make sure we weren't in conflict with the possible solar that would be on the left-hand side of the property there.

And the other areas, there's nobody living right next to it. There's no impact that way. The other ground around it is R-1 also. So it just seemed like a win-win situation.

MR. OCKEN: And do you plan to sell this property then, or are you going to build a house there yourself?

MR. TERHARK: Well, I talked about it with my wife, but we like where we are at so much, and our neighbors are the best neighbors in the world. So we're going to stay where we're at. But there's been other people that have been interested in it, some people that I work with and other people that have heard about it. So, yeah, it will be sold.

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of the six standards, we have two prepared statements: one in support of this petition and one in opposition. For each standard, the Board member will read the statement which he believes is most applicable in this situation. The Board members will either agree or disagree. All six standards must be met in order to approve this petition. After the finding of fact, I will entertain a motion in regard to this petition.

Mr. Adams, please read the first standard.

MR. ADAMS: The first standard for Terhawk 8-19 AM, That the proposed amendment will allow development that is compatible with existing uses and zoning of nearby property.

MR. HAYES: The site is located within an area that contains many dwellings within a one-half mile radius of the site, and rezoning of the site from AG-1 to R-1 will ensure that the site remains compatible with the existing mixed agricultural and residential uses of the surrounding area. I believe the standard is met.

(All those simultaneously responded.)

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MR. ADAMS: That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property, including, but not necessarily limited to, schools, police and fire protection, roads and highways, water supply and sewage disposal, while maintaining adequate public facilities and levels of service to existing development.

MR. WILLIAMS: The proposed low density of the Residential-1 development and proximity to local service providers will not create a burden on the County of Ogle or other service providers. I believe the standard's met.

MR. ADAMS: That the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment, including air, noise, stormwater management, wildlife and natural resources.

MR. URISH: Little or no adverse impacts on other property in the vicinity of the subject site or on the environment, including air, In Totidem Verbis, LLC (ITV)

noise, stormwater management, wildlife and natural resources, are anticipated from the rezoning of the site provided the conditions presented by the Illinois Department of Natural Resources, EcoCAT consultation are followed. I believe the standard is met.

MR. ADAMS: 4) That the subject property is suitable for the proposed zoning classification.

MR. BULTHAUS: The site is located on a County-maintained major collector and fits minimum requirements of both lot width and area, and the general topographical characteristics of a majority of the site are unsuitable for row crop use. I agree.

MR. ADAMS: 5) That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

MR. HAYES: The trend of development in the surrounding area has shown a gradual increase in residential uses over time. The proposed zoning classification of R-1 is consistent with this trend. I believe the standard is met.

MR. ADAMS: That the proposed amendment is consistent with the public interest and not solely for the interest of the Applicant, giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as set forth in Division 1 therein, the Land Evaluation and Site Assessment findings, and the recommendation of the Ogle County Regional Planning Commission with respect to the Ogle County Amendatory Comprehensive Plan.

MR. WILLIAMS: The proposed amendment is consistent with the public interest and the purpose and intent of the Amendatory Zoning Ordinance. The Zoning Board of Appeals has given due consideration that the Regional Planning Commission has recommended approval. I believe the standard's met.

MR. ADAMS: Have the Board members read and considered the LaSalle Factors as applied to this petition?

MR. OCKEN: All of the standards have been met. I will entertain a motion to approve the petition.

MR. WILLIAMS: Mr. Chairman, I'll make a motion to approve Amendment 8-19 to rezone AG-1 to R-1, based on the standards have been met, the Regional Planning Commission recommended approval, and the Marion Township Planning recommended approval, also with the condition that they follow the IDNR recommendations.

MR. OCKEN: Is there a second?

MR. HAYES: I'll second.

MR. OCKEN: Mr. Hayes seconds.

Mr. Williams moves; Mr. Hayes seconds. In Totidem Verbis, LLC (ITV)

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1 Does the Board have any other questions or
2 concerns?
3 (No verbal response.)
4 MR. OCKEN: Hearing none, Mr. Adams,
5 please call the roll.
6 MR. ADAMS: Rob Urish?
7 MR. URISH: Yes.
8 MR. ADAMS: Randy Bulthaus?
9 MR. BULTHAUS: Yes.
10 MR. ADAMS: Mark Hayes?
11 MR. HAYES: Yes.
12 MR. ADAMS: Dave Williams?
13 MR. WILLIAMS: Yes.
14 MR. ADAMS: Randy Ocken?
15 MR. OCKEN: Yes.
16 (By voice vote five ayes.)
17 MR. OCKEN: This motion has been approved
18 by a vote of five to zero.
19 MR. ADAMS: This petition will now go
20 before the Ogle County Board for decision on
21 November 19th, at 5:30 in this room. Thank you,
22 Mr. Terhark.
23 (The hearing was concluded at 6
24 6:10 p.m.)
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Now on this 24th day of October, A.D.,
2019, I do signify that the foregoing testimony
was given before the Ogle County Zoning Board of
Appeals.

Randy Ocken, Chairman

Michael Reibel,
Zoning Administrator

Callie S. Bodmer
Certified Shorthand Reporter
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