

**MINUTES OF REGULAR MEETING**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

**1776 E. Washington Street**

**Urbana, IL 61801**

**DATE: March 15, 2007**

**PLACE: Lyle Shields Meeting Room  
1776 East Washington Street**

**TIME: 6:30 p.m.**

**Urbana, IL 61802**

**MEMBERS PRESENT:** Doug Bluhm, Dennis Goldenstein, Debra Griest, Joseph L. Irle, Richard Steeves, Melvin Schroeder, Roger Miller

**MEMBERS ABSENT :** None

**STAFF PRESENT :** Connie Berry, John Hall, James R. Knight, Christine Papavasiliou (Assistant State's Attorney), David DeThorne (Assistant State's Attorney)

**OTHERS PRESENT :** Mahendra Desai, Pankaj Panchal, Billie Theide, Mima Deso, Kopila, Mylarassu Sivagnanam, Saravanan, Ravi Kandasamy, May Xiong, Birgit McCall, Ben McCall, Shawn Foley, George Malloch, Savita H. Patel, Nil B. Patel, Prabhau Boddei, Nandimi Topudurti, Kiran Topudurti, Mallu Boddu, Srinivas Nookala, Usha Patel, Nalin Patel, Harish Patel, Mike Desaj, Harsh Panchal, Clyde Kelsner, Judy Swartzendruber, Dave Swartzendruber, Kim McQueen, Bob McQueen, Fran Ray, Don Hittle, Dale Kesler, Kent Weeks, Bob Scott, David Phillippe, S.J. Parker, Tim Taylor, Teena Taylor, Carol Foley, Lynn Stuckey, Kaushik Patel, Ramila Ben Patel, Mohan Panchal, Beth Drewes, Ila Patel, Shah Vilpmati, Eric Thorsland, Sam Chakravorty, Dwipendra Chakravorty, Uma Chakravorty, Peggy Anderson, Tanna Fruhling, Somabhai Panchal, C. Panchal, Matt Deering, Joan Neef, Jean McCall, Carol Owen, Sharon Saunders, Steven Shoemaker, Harish Patel, Mitesh Patel, M. Patel, A. Patel, C. Patel, Joitabhai Patel, Shivani Patel, Manisha Patel, Mary L. Gannaway, James H. Gannaway, Bhadrash Khatri, Veera Boddu, Prabha Boodu, Raju Perecherla, P. Patel, I. Patel, Sharada Panditi, Pallassana Balgopal, Pravin Patel, Kalika Sarma, Ankita Patel, Aradhana Chhajed, Ritesh Patel, B. Patel, Rita Patel, U. Ptel, G. Patel, Bhogibhai Patel, Bhoomiben Patel, Ila Patel, Mykesh Patel, K. Jashi, D. Madhubalan, Don Wauthier, Sidd Purkayastha, Mitali Purkayastha, Sue Purkayastha, Justine Schoeplein, Shyamala Balgopal, Philip Kesler, Susan Kesler, Nani Bhowmik, Srinivasagam Dharmarat, Rajni Govindjee, Ranjit Bhagwat, Steve Parker, Kevin Luebchow

**1. Call to Order**

The meeting was called to order at 6:43 p.m.

**2. Roll Call and Declaration of Quorum**

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The roll was called and a quorum declared present.

**3. Correspondence**

None

**4. Approval of Minutes**

None

**5. Continued Public Hearing**

**Case 549-S-06** Petitioner: **Jeff Scruggs, d.b.a. Cook Portable Warehouses and James Burch, d.b.a James Burch Commercial and Industrial Real Estate** Request: **Authorize the following as a Special Use: A. Authorize the ongoing use of a Real Estate office as a principal use; and B. Authorize the establishment of a Portable Storage Building office as a second principal use and to waive the standard condition requiring 20 feet of separation between two principal structures on one lot. Location: Approximately 6.15 acres, lying North of Anthony Drive in the Northwest Quarter of the Northwest Quarter of Section 2 of Champaign Township and commonly known as the vacant field at 2404 N. Mattis Ave, Champaign.**

Mr. Hall stated that no new information has been received regarding Case 549-S-06. He said that staff sent a letter to the Petitioners advising them they may no longer require a Special Use Permit although it was not clear to staff if they would require a variance. He said that the letter requested that the Petitioner notify staff of their decision and to date no reply has been received. He said that this is the second time that this case has come back to the Board with this type of situation therefore it would be appropriate for the Board to dismiss this case if so desired.

Ms. Griest asked the audience if anyone was present at tonight’s meeting to present testimony for Case 549-S-06 and there were none.

**Mr. Miller moved, seconded by Mr. Irle to dismiss Case 549-S-06: Jeff Scruggs, d.b.a. Cook Portable Warehouses and James Burch, d.b.a. James Burch Commercial and Industrial Real Estate. The motion carried by voice vote.**

**Case 560-S-06:** Petitioner: **The Hindu Temple & Cultural Society of Central Illinois and Shiv Kapoor** Request: **Authorize the establishment and use of a Temple and Cultural Center as a Special Use in the AG-1, Agriculture Zoning District. Location: A 40 acre parcel that is the South ½ of the North ½ of the Southwest ¼ of Section 14 of Hensley Township, except for the North 100 feet of the West 350 feet of said area, and located on the east side of County Highway one and that is commonly known as the field north of the Thor-O-Bred Acres Subdivision.**

3/15/07

AS APPROVED APRIL 26, 2007

ZBA

1 Ms. Griest informed the audience, that this is an Administrative Case and as such the County allows anyone  
2 the opportunity to cross examine any witness. She said that at the proper time she will ask for a show of  
3 hands for those who would like to cross examine and each person will be called upon. She requested that  
4 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that  
5 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
6 state their name before asking any questions. She noted that no new testimony is to be given during the  
7 cross examination.  
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9 Mr. Steeves informed the Board that he must abstain from Case 560-S-06.  
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11 Mr. Hall distributed a Supplemental Memorandum dated March 15, 2007 and a copy of the Champaign  
12 County Farm Bureau's letter of opposition dated March 14, 2007. He said that several of the questions that  
13 were raised at the November 30, 2006, public hearing were addressed in various ways by the Petitioner. He  
14 said that the Supplement Memorandum dated March 15, 2007, includes all of the proposed conditions of  
15 approval and the Petitioner has been given time to review those conditions. He said that the proposed  
16 conditions of approval have also been reviewed by the County Engineer and State's Attorney and it is fair to  
17 say that at this point no one has any serious reservations about those conditions. He said that the  
18 memorandum also includes a letter from the project architect, Riley Glerum, addressing the proposed  
19 parking lot lighting. He said that Mr. Glerum's letter is meant to clarify testimony from the previous  
20 hearing and the letter makes it clear that the parking lot lighting is proposed to be full cut-off luminaries but  
21 it is expected that they will be on top of 30 foot tall poles. He said that this is one of the problems with full  
22 cut-off luminaries because they have such a limited distribution that they need to be 30 feet high. He said  
23 that the letter dated March 14, 2007, from the Champaign County Farm Bureau weighs in on the Special Use  
24 Permit and indicates their opposition to the use of best prime farmland for this Special Use. He said that he  
25 had hoped that the State's Attorney's office might have had time to review this letter because there are some  
26 concerns that he would like to have the State's Attorney address if they are prepared to do so. He said that  
27 staff continues to edit the November 30, 2006, minutes and those minor changes are indicated in the  
28 attached minutes to the Supplemental Memorandum. He said that there is a revised Summary of Evidence  
29 attached to the Supplemental Memorandum that includes everything that has been added since the mailing  
30 and has been updated to include the letter from Mr. Glerum and the CCFB. He noted that the Summary of  
31 Evidence also includes the proposed conditions of approval.  
32

33 Ms. Griest asked the Board if there were any questions for Mr. Hall and there were none.  
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35 Ms. Griest asked if the Petitioner or their designated representative had any questions for Mr. Hall and there  
36 were none.  
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38 Ms. Griest asked the audience if anyone had any questions for Mr. Hall and there were none.  
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40 Mr. Kevin Luebchow, attorney and representative for several homeowners in Thor-O-Bred Acres and other  
41 property owners located in the immediate vicinity of the subject property distributed a General Analysis Of  
42 Criteria To Be Established In Order To Grant A Special Use Permit with attachments dated March 15, 2007.  
43 He said that he is not present at tonight's hearing to state that a proposed Hindu Temple is not necessary in  
44 the Champaign-Urbana area. He said that the issue is what is an appropriate site and location for a Hindu

1 Temple and particularly is this proposed location a proper site for the proposed use. He said that he would  
2 like to present, to the Board, his clients' concerns and objections in light of an analysis of the Champaign  
3 County Zoning Ordinance and specifically the five factors that need to be established in order to grant a  
4 Special Use Permit that Mr. Deering opened his testimony with at the last public hearing. He reminded the  
5 Board that the burden is on the Petitioner to introduce sufficient evidence to satisfy each and every one of  
6 those five requirements and if only one of those requirements is not met then the Special Use Permit should  
7 not be granted.

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9 Mr. Luebchow stated that he would like to discuss the five requirements in reverse order from how they  
10 appear in the Zoning Ordinance and how Mr. Deering handled them in his opening remarks. He said that he  
11 agrees that Special Use Criteria #5: that, in the case of an existing nonconforming use it will make such use  
12 more compatible with its surrounding, is not applicable as the proposed use is not an existing  
13 nonconforming use.

14  
15 Mr. Luebchow read Special Use Criteria #4: that granting the Special Use is in harmony with the general  
16 purpose and intent of this Ordinance. He said that it appears that the only evidence that has been submitted  
17 in relation to this requirement is the statement that the proposed use is designated as a Special Use in the  
18 AG-1, zoning district therefore it is in harmony with the Ordinance. He said that perhaps he is missing  
19 something because you don't get to these five factors unless your special use permit is designated in the  
20 district. He said that analyzing these five factors is part of determining whether the special use permit  
21 should be required. He said that by this logic every special use permit would automatically satisfy Special  
22 Use Criteria #4, therefore there must be some other purpose behind Criteria # 4 other than is it a designated  
23 use in the district. He read Section 5.1.1 of the Champaign Zoning Ordinance. He said that there is plenty  
24 of evidence which indicates that the subject property is "best prime farmland" and if this use is allowed it  
25 prematurely terminates agricultural pursuits. He said that if this use is allowed in this location it clearly  
26 appears to be a mixture of what would typically be an "urban use" combined with a "rural" use. He said that  
27 allowing this special use would directly conflict with the language of Section 5.1.1 of the Champaign  
28 County Zoning Ordinance which defines an AG-1 district. He said that additionally there are other  
29 intentions expressed in the Zoning Ordinance, specifically Section 2.0, which sets forth a whole list of the  
30 intentions of the Ordinance. He read Section 2.0(d) and stated that previous testimony indicates that the use  
31 will create additional runoff and there are significant drainage concerns which effects this tract and his  
32 clients that live adjacent to the tract, to the south, are very concerned about the potential damage that their  
33 property may suffer as a result of additional drainage problems. He read Section 2.0(n) and stated that this  
34 is some of the most productive farmland in Champaign County and the intention is clearly there to protect  
35 the farmland. He said that there is no specific development plan for this AG-1 district because it is an  
36 agricultural district. He read Section 2.0(o) and stated that the subject property is not within the one and  
37 one-half mile jurisdiction of the City of Champaign although it is very close. He said that he would clearly  
38 classify the subject property as an agricultural belt surrounding the urban area and there is an intention in the  
39 Ordinance to protect those areas from development. He said that in a few years the City of Champaign may  
40 extend out to the subject property and the City of Champaign may have a plan that they want to put in place  
41 for development and at that point and time there will be city service available, such as sewer, water and  
42 storm water management facilities which the lack thereof creates a big concern for this location.

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44 Mr. Hall clarified that it is actually Section 2.0(q) which encourages the preservation of agricultural belts

1 surrounding urban areas, to retain the agricultural nature of the County and the individual character of  
2 existing communities and not Section 2.0(o).

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4 Mr. Luebchow apologized for the error. He read Special Use Criteria #3. He said that there is still some  
5 parking concerns although according to the latest revision there have been additional spaces made available.  
6 He said that given the fact that there hasn't been any good evidence as to how many people may be  
7 attending or using the facility during its peak times it is hard to state for certainty that there will be adequate  
8 parking provided. He said that if adequate parking is not provided where will the location be for the  
9 overflow parking. He said that at the last public hearing it was stated that people may be bused to and from  
10 the premises therefore the use will not preserve the natural character of the agricultural district. He said that  
11 this is an AG-1 district with residential property located in a peaceful area and bringing this type of use,  
12 when it is undetermined how much activity will be conducted on the property, presents a threat to this  
13 district. He said that there have been proposed temples throughout Illinois and the United States that have  
14 been denied zoning requests because the determination was made that the design of the facility did not  
15 comply or match the characteristics of the district. He said that in this case it is hard to make that type of  
16 determination because no specific plan, regarding the design, has been submitted.

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18 Mr. Luebchow read Special Use Criteria #2. He said that the subject property is considered best prime  
19 farmland and any loss of farmland is injurious to the AG-1 district. He said that his clients have specific  
20 drainage concerns regarding the use of this site. He said that there is no stormwater management facility  
21 proposed for the use and if one of the intentions is to protect potential damage to adjacent property owners it  
22 would seem to make sense that some type of stormwater management be required. He said that there will be  
23 additional runoff from the parking lot and the roof which will add to the drainage problem although there are  
24 no estimates as to how much water there will be. He said that it is not known how the additional runoff will  
25 be handled other than it appears that it will be discharged directly with the ground surface water and enter in  
26 to the natural course of the existing drainage systems. He said that there is a pretty good likelihood that  
27 given the size of the basement there is going to be a lot of water that is going to be discharged from the  
28 basement on to the land. He said that in discussing this with some of the people who live immediately  
29 adjacent to the subject property he found that they have issues with their residential property where their  
30 sump pumps operate very frequently and given the size of the proposed basement and the drainage problems  
31 of the site the adjacent property owners feel that their sump pumps will be running almost everyday when  
32 extremely wet conditions are not present. He said that if this is the case the ground will continually be  
33 saturated and when there is a lot of rain where will the water go.

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35 Mr. Luebchow stated that previous testimony indicated the likelihood that dirt from the premises for the  
36 basement and parking lot areas and land grading would remain on the premises. He said that the current site  
37 plan still does not indicate where the dirt will be disposed of although there are some requirements for that  
38 disposal. He said that there is no way to evaluate the potential impact the disposal of the excess dirt will  
39 have on drainage. He said that the experience of some of the people who reside in Thor-O-Bred Acres  
40 indicates that drainage is a big issue and based upon the testimony and evidence which has been submitted  
41 those people are basically being told that the contours will be changed, additional runoffs will be added to  
42 the site, there will be discharge from the sump pump in the basement, the dirt will be disposed of although it  
43 is not known where it will be located and the Petitioner does not feel that they are required to comply with  
44 any Stormwater Management Policy. He said that at the previous public hearing, Mr. Don Wauthier

1 testified that he believed that the site was not in compliance with the intention of the Stormwater  
2 Management Policy. Mr. Luebchow stated that even though there are some things that can be done to  
3 alleviate some of the drainage concerns the Petitioner is not proposing to install any of the facilities.  
4

5 Mr. Luebchow stated that the experience of some of the residents of Thor-O-Bred Acres created concern  
6 over the ability to maintain a functioning septic system, as proposed, at the subject property. He said that  
7 some of the residents have installed systems which they were told would be sufficient for their residential  
8 purposes only to find out that due to the extreme drainage problems they would have to make modifications  
9 to their system so that it would operate properly. He said that the proposed septic system has a 10,000  
10 square foot leach field and at the last meeting it was pointed out that the leach field and septic system was  
11 located at the low ground rather than the high ground, and that is still the case. He said that no percolation  
12 test results have been submitted to tell whether or not a septic system of this nature should be installed on  
13 this site. He said that some of the lots in Thor-O-Bred Acres did not have percolation tests sufficient to  
14 install traditional septic systems with leach field type systems. He said that there is a concern that they will  
15 not be able to install an operating septic system which functions properly and the people who live  
16 immediately south of the property could find out that there could be pooling on the surface, essentially in  
17 their back yard. He said that soil analysis results have been completed but the results of the tests are not in  
18 compliance with the administrative code regarding private sewage systems and perhaps that is not unusual at  
19 this time. He said that he finds it fascinating that the Champaign County Department of Health would issue  
20 an opinion letter based upon a soil analysis which did not comply with code. He said that Section 905.55 of  
21 the Private Sewage Disposal Code requires that any soil borings extend a minimum of 60 inches below the  
22 natural ground surface and this was not done during the initial testing. He said that Section 905.20.J(1)  
23 indicates that a private sewage disposal system shall not be located in areas where surface water will  
24 accumulate. He said that attached to his distributed memorandum are photos which were taken from the  
25 property located at 1004 Churchill Downs, Champaign, owned by Bob and Kim McQueen. He said that the  
26 McQueen's live directly south of where the proposed septic system is to be located. He said that the  
27 photographs indicate that there is a significant amount of water which flows through the subject property.  
28 He said that Section 904.20.J(1) also indicates that provisions shall be made to minimize flow of surface  
29 water over the private sewage system. He said that the proposed septic system is to be located in the low  
30 ground where water will be drained from the west to the east, across the leach field, as well as an area from  
31 Thor-O-Bred Acres that drains along the eastern edge of the proposed leach field. He asked how there is  
32 going to be a properly functioning septic system when drainage is being converted right over the leach field.  
33 He said that despite the soil analysis it is interesting to note that every one of the soil tests that were taken in  
34 the leach field notes that the soil is somewhat poorly drained and moderately slow and permeable. He said  
35 that the only sample which came back as moderately well drained and moderately permeable was to the west  
36 of the proposed leach field and that is where the water is proposed to drain and cross the leach field.  
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38 Mr. Luebchow stated that the letter from the Thomasboro Fire Protection District indicated that a sprinkler  
39 and alarm system was recommended during construction of the temple. He said that this recommendation  
40 was in lieu of a retention pond. He said that Mr. Kapoor did not commit to installing a sprinkler or alarm  
41 system at this time. He said that during the architect's discussion there was some representation that fire  
42 resistant materials would be used, such as brick, but no architectural design has been submitted therefore it  
43 is unknown what type of materials will be used.  
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3/15/07

AS APPROVED APRIL 26, 2007

ZBA

1 Mr. Luebchow stated that to date his clients have not received good information as to how much activity  
2 will be conducted on the site. He said that this is not a site in town but a site located in the AG-1 district so a  
3 large amount of activity would certainly not preserve the character of the district. He said that Mr. Kapoor  
4 testified that the use will be limited during the week to the effect of ten cars per day and those times would  
5 be early in the morning and early evening. Mr. Luebchow stated that Mr. Kapoor was not able to determine  
6 how many people will be using the facility but those are the exact times when the residents of Thor-O-Bred  
7 Acres will be at their homes trying to enjoy the peace and quiet of their rural residences. He said that there  
8 will be more activity on the weekends and again the residents of Thor-O-Bred Acres will be trying to enjoy  
9 the peace and quiet of their residences. He said that Mr. Kapoor stated that the peak use times would be  
10 during the festivals but again it is unknown how many people will attend these festivals. He said that there  
11 have been estimates of 100 families to 300 families in attendance and it is unknown how many people are  
12 represented in a family unit. He said that he does not believe that Mr. Kapoor can give a proper estimate of  
13 how much incoming traffic will be coming onto the property because there is no history of a temple in  
14 Champaign-Urbana therefore it is hard to tell what that usage is going to be. He said that the fact that  
15 attendance and traffic is unknown makes it much more difficult to grant a special use permit for this  
16 property.  
17

18 Mr. Luebchow stated that he has had the opportunity to do some research on his own and has investigated  
19 several other Hindu Temples throughout the United States. He said that it is clear that there is definitely  
20 larger attendance during a festival or celebration period and it appears that several of the festivals can last  
21 for several days. He said that Mr. Kapoor testified at the last public hearing that during the festival periods  
22 the temple would be open 24 hours per day. He said that his clients are concerned that there will be larger  
23 attendance during the festival periods when the temple is open 24 hours per day and people may be bused to  
24 and from the site. He said that these factors do not appear to be in harmony with the AG-1 district. He said  
25 that Mr. Kapoor discussed the worship practices of the Hindu religion and he provided a lot of good  
26 information and educated many of us about the Hindu's practices and customs. He said that Mr. Kapoor did  
27 not discuss the other uses of the temples such as classes, weddings, funerals, birthdays, graduations and  
28 other celebrations which would create more traffic in the AG-1 district. He said that there are many temples  
29 that he found in his research, which make their facility available to other religious and public groups and  
30 asked if this would be the case with this facility. He said that in 2006 Mr. Kapoor was quoted as following  
31 in the *Daily Illini*, "We would like to see everything from yoga to mythology or language classes." and that  
32 he envisions the community center of the temple to be used for birthday parties, weddings and a good place  
33 for elementary students to tour. Mr. Luebchow stated that these are all good things but is it a good location  
34 for this type of use when one of the concerns is how much activity is going to be conducted in the AG-1  
35 district.  
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37 Mr. Luebchow read Special Use Criteria #1. He said that it would be more convenient for the public if this  
38 location was on the city bus line, if city water and sewer was available and drainage facilities because these  
39 services would alleviate a lot of questions that his clients have about the use. He said that some of the  
40 previous testimony indicated that on the application one of the reasons why this site was chosen is because it  
41 was close to the interstate and the Petitioner wanted to attract students and faculty from central Illinois  
42 universities to the facility. He said that Mr. Kapoor indicated at the last public hearing that their intention  
43 was to serve the Champaign-Urbana area and not the Danville, Indianapolis or Decatur area. He said that if  
44 the previous statement is true it would appear that the location next to the interstate is not as important or

1 necessary and in fact there may be a better location, especially if the intention is to serve the Champaign-  
2 Urbana area only. He said that Mr. Kapoor indicated at the last public hearing that it was their intention to  
3 have the temple located in a rural setting and also stated that they desired to build a new building and was  
4 not interested in purchasing an existing facility. Mr. Luebchow acknowledged that there are a lot of Hindu  
5 Temples which are located in rural settings but there are also Hindu Temples which are located in urban  
6 areas, business districts, storefront businesses and next to one of the largest shopping malls in Georgia. He  
7 said that it might be a preference to locate in a rural setting but it certainly does not appear to be a  
8 requirement. He said that during his research he has found that existing buildings have been purchased,  
9 remodeled and rededicated for a Hindu Temple. He said that in Georgia a Catholic Church was purchased  
10 for use as a Hindu Temple and utilized for several years until a Church of Christ building was purchased.  
11 He said that it may be a preference to build a new facility but it appears that it is not a requirement or  
12 necessity.

13 Mr. Luebchow said that Illinois has some case law that guides and gives direction as to what is looked at in  
14 determining whether or not this use is necessary at this location especially in light of a religious  
15 organization. He said that he included as an attachment the case summary for the South Side Move of God  
16 Church, Plaintiff-Appelle, v. Zoning Board of Appeals of the City of Chicago et. Al., Defendants –  
17 Appellants. He said that this is the leading case at the appellant court level in determining whether this use  
18 is necessary. He reviewed some of the factors in this case in determining the necessity of the site. He said  
19 that one of the issues that were reviewed during this case was whether this religious organization had a  
20 history in the vicinity or in other words had they been located in the area that they were required to move  
21 from or abandoned and would it make sense to allow them to relocate in the desired vicinity so that they  
22 could stay in the same area that they established a history. He said that in Case 560-S-06, there is no history  
23 in the area. He said that in the attachment it is reviewed whether the petitioner had made a showing that the  
24 proposed site is in close proximity to the petitioner’s membership or centrally located to its membership. He  
25 said that in Case 560-S-06, there is no evidence of where the membership is located and it is unknown  
26 whether that membership is centrally located or within close proximity. He submitted that if the subject  
27 property is in close proximity to the membership then the same thing would apply to every tract of land  
28 within a ten mile radius of Champaign-Urbana. He said that in the attachment it was reviewed if the  
29 petitioner had submitted any evidence as to efforts to locate a site where the requested use is already a  
30 permitted use and a special use permit is not required. He said that in Case 560-S-06, no evidence has been  
31 presented that indicates that a different location has been attempted in areas where a special use permit  
32 would not be required. He said that there is a facility available in the Champaign-Urbana area that is already  
33 zoned for use as a church, has city sewer and water, is on the bus line and has several acres included. He  
34 said that it is not a requirement that the facility must be a newly constructed building yet there is no  
35 evidence that the purchase of existing buildings for a use as a Hindu Temple has been investigated. He  
36 asked how it could be stated that this site is necessary for the public convenience if there are other optional  
37 locations available which meet some of the concerns and does not require a special use permit and those  
38 facilities have not been considered. He submitted that this site cannot be necessary by definition.

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40 Mr. Luebchow stated, in conclusion, that in his analysis of the factors under the Zoning Ordinance, the  
41 Petitioner has failed to introduce sufficient evidence on four of the five requirements and the burden is upon  
42 the Petitioner to meet all the requirements. He requested, on behalf of his clients, that the evidence is  
43 insufficient on those factors and that the appropriate action would be to deny the special use permit request  
44 for Case 560-S-06.



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Ms. Griest asked the Board if there were any questions for Mr. Luebchow and there were none.

Ms. Griest asked if staff had any questions for Mr. Luebchow.

Mr. Hall asked Mr. Luebchow if it is his testimony that he has reviewed all of the proposed conditions and none of those conditions protect his clients or would he like more time to review those conditions.

Mr. Luebchow acknowledged that he has not had time to review the conditions that were included in the Supplemental Memorandum dated March 15, 2007. He said that he does believe that some of the proposed conditions may relate to some of the issues that have been raised but whether those conditions adequately address those issues is unknown at this time.

Mr. Hall noted that many of Mr. Luebchow's concerns were drainage related and his clients are upstream of the proposed use. He asked Mr. Luebchow, that given this information, how could the proposed use, provided that it does not block drainage, have any affect on his clients.

Mr. Luebchow stated that in regards to drainage it appears that almost the entire tract of Thor-O-Bred Acres, specifically the area south of the proposed leach field, drains directly on to the proposed site and any additional increase of water that is discharged upon the surface will dramatically effect the flow of drainage as well as the possibility of changing the contours may effect the ability of the drainage to flow in the direction that it would normally flow. He said that this is a more technical question for the engineers and admitted that he is not an engineer but in looking to the site and listening to his client's concerns it really appears that there are some drainage concerns that the use will effect.

Mr. Hall stated that Mr. Luebchow referenced the strategy and thought that the Zoning Ordinance incorporates to date and asked Mr. Luebchow if he had reviewed the requirements of the Rural Residential Overlay (RRO) district which actually requires a higher level of suitability on best prime farmland. He said that to date there is nothing like these requirements for a special use permit on best prime farmland.

Mr. Luebchow stated that he has not reviewed the requirements for an RRO however under the current Zoning Ordinance and the current evaluation of this land the soil qualifies as best prime farmland which the current Champaign County Zoning Ordinance clearly has an intention to protect.

Mr. Hall asked Mr. Luebchow if he believes that the Zoning Ordinance has the intention to protect best prime farmland even in regards to special use permits. He requested that Mr. Luebchow refer to any portion of the Zoning Ordinance which would appear to have that goal.

Mr. Luebchow stated that the Zoning Ordinance refers to premature termination of agricultural pursuits therefore he would say that the Zoning Ordinance does reflect the intention to protect best prime farmland.

Mr. Hall stated that Mr. Luebchow testified that some of his clients have had bad experiences with their septic systems in Thor-O-Bred acres. He asked Mr. Luebchow if any of his clients have gone to the trouble of installing curtain drains to lower the ground water level where they were building their septic systems as

1 is proposed on the subject property.

2  
3 Mr. Luebchow stated that he does not know specifically what his client's technical requirements were for  
4 their individual systems and he cannot testify whether they did have or now do have curtain drains installed.  
5 He said that if there are specific questions regarding their private systems then his clients could better  
6 answer those questions.

7  
8 Mr. Hall stated that Mr. Luebchow referred to the *Illinois Administrative Code* which requires that soil  
9 investigation go to 60 inches. He asked Mr. Luebchow if it is his opinion that the submitted investigations  
10 which appear to only go to 57 inches were not in compliance with the *Illinois Administrative Code* which  
11 requires a depth of 60 inches.

12  
13 Mr. Luebchow stated that he does not believe that the submitted investigations would comply with the  
14 language of the *Illinois Administrative Code*. He said that he cannot answer from a technical standpoint  
15 whether or not those investigations are sufficient at this point and time during the process and if soil  
16 investigations analysis are done later he could not answer whether they are appropriate now. He said that  
17 currently the soil analysis results that have been provided do not comply with the exact language of the  
18 *Code*.

19  
20 Mr. Hall asked Mr. Luebchow if he thought that it was unusual that Sarah Michaels, Champaign County  
21 Health Department did not refer to the fact that the soil investigations that had been submitted to her for  
22 comments were inadequate.

23  
24 Mr. Luebchow stated that since he does not routinely review the Champaign County Health Department's  
25 letters he could not answer this question. He said that he found it very interesting himself and from a legal  
26 position that it is not referenced therefore perhaps it is not a concern. He said that it certainly appears that  
27 there has to be some requirement at some point and time that the analysis and test results are in compliance  
28 with the *Code* and to date this has not been done.

29  
30 Mr. Hall asked Mr. Luebchow if he was aware how much area in the Thor-O-Bred Acres drains over the  
31 area where the septic system is proposed.

32  
33 Mr. Luebchow stated that it is his understanding that there are generally four outlets from the Thor-O-Bred  
34 Acres Subdivision. He said that the western most outlet is the one that drains directly over the eastern  
35 portion of the proposed leach field and that outlet does cover several tracts.

36  
37 Mr. Hall stated that Mr. Luebchow recalled that Mr. Kapoor testified that the facility would stay open as  
38 long as 24 hours during festivals yet that testimony is not included in the minutes.

39  
40 Mr. Luebchow acknowledged that Mr. Kapoor's testimony regarding the facility being open for 24 hours  
41 during festival events is not in the minutes as they were drafted but in comparison to his notes there are  
42 several other inaccuracies or statements included in the minutes which were not exactly correct.

43  
44 Mr. Hall stated that staff would be happy to review the public hearing tape again to assure that all

1 information is correctly included in the minutes.  
2  
3 Mr. Luebchow stated that he recalls Mr. Kapoor specifically indicating that the facility would be open 24  
4 hours during festival periods only and not during the week. He said that it is possible that he misunderstood  
5 Mr. Kapoor during his testimony but this was his understanding.  
6  
7 Mr. Hall stated that in regards to the *Illinois Case Law*, which was included as an attachment to his handout,  
8 Mr. Luebchow focused on the fact that in that case the Hindu religion had an existing facility yet he did not  
9 elaborate on what that may mean in an instance for a membership which does not have a facility.  
10  
11 Mr. Luebchow stated that where there has been no history it would open up more options of where to locate.  
12  
13 Ms. Griest asked the Petitioner's representative if he had any questions for Mr. Luebchow.  
14  
15 Mr. Matt Deering, attorney and representative for the Petitioner asked Mr. Luebchow if he represents 80 or  
16 more people.  
17  
18 Mr. Luebchow stated approximately yes.  
19  
20 Mr. Deering asked Mr. Luebchow if these 80 people signed the petition or are these individuals in addition  
21 to those 80 clients.  
22  
23 Mr. Luebchow stated that there are additional individuals who signed the petition although most of his  
24 clients signed the petition.  
25  
26 Ms. Griest requested that, as a courtesy, everyone place their cell phones on silent mode or turn them off.  
27  
28 Mr. Deering asked Mr. Luebchow if he acknowledges that the proposed site is immediately adjacent to a 29  
29 lot residential subdivision.  
30  
31 Mr. Luebchow stated that there are 29 homes in the vicinity but he is not technically sure if it is considered a  
32 subdivision.  
33  
34 Mr. Deering stated that the subject property is located next to a development which includes 29 homes.  
35  
36 Mr. Luebchow stated yes.  
37  
38 Mr. Deering asked Mr. Luebchow if the 29 home development is located next to small commercial uses.  
39  
40 Mr. Luebchow stated yes.  
41  
42 Mr. Deering asked Mr. Luebchow how he would define haphazard development.  
43  
44 Mr. Luebchow stated that he would define haphazard development as a variety of different uses in an

1 immediate area. He said yes, there are commercial uses located next to the residential area and by locating  
2 the proposed use to the north of the residential area would surround the residential area with commercial and  
3 other uses. He said that this would be considered haphazard because the residential development that  
4 currently exists was in compliance with the AG-1 district at the time it was developed and there were no  
5 special zoning issues which needed resolved. He said that in his mind that development would not be  
6 considered haphazard because it was in compliance with the AG-1 zoning requirements at that time.

7  
8 Mr. Deering asked Mr. Luebchow if it was his position that religious use is not compatible with residential  
9 use.

10  
11 Mr. Luebchow stated no.

12  
13 Mr. Deering asked Mr. Luebchow if it was his position that religious or temple use is not compatible with  
14 agricultural use.

15  
16 Mr. Luebchow stated that he does not believe that the use is compatible to the extent when there is an issue  
17 of termination of agricultural pursuits at issue and protection of the farmland.

18  
19 Mr. Deering asked Mr. Luebchow if he believed that inclusion of a particular use as a permitted special use  
20 in a particular area does not amount to a legislative determination that the use is compatible.

21  
22 Mr. Luebchow stated no. He said that the legislative purpose is stating that it is compatible, only if,  
23 conditions are met and proved and if those conditions are met and proved then yes it is compatible.

24  
25 Mr. Deering asked Mr. Luebchow if it is his position that there is a prohibition of development on best  
26 prime farmland in the Zoning Ordinance.

27  
28 Mr. Luebchow stated that there is not a blanket prohibition however there is a clear intent.

29  
30 Mr. Deering stated that there has been a lot of discussion regarding the number of parking spaces relative to  
31 varying statements of the number of families in membership currently and in the future. He asked Mr.  
32 Luebchow that regardless of the number of people that might want to attend an activity in the building the  
33 building will still have limited seating capacity.

34  
35 Mr. Luebchow stated yes, every building will have a limited seating capacity.

36  
37 Mr. Deering stated that regardless of how many people may want to attend the facility it may not be possible  
38 to accommodate everyone.

39  
40 Mr. Luebchow stated yes.

41  
42 Mr. Deering asked Mr. Luebchow if he sees a lack of sufficient parking based on the seating capacity of the  
43 proposed building.

44

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AS APPROVED APRIL 26, 2007

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- 1 Mr. Luebchow stated from the technical code and the conditions that have previously been mentioned, yes.  
2  
3 Mr. Deering asked Mr. Luebchow based upon what.  
4  
5 Mr. Luebchow stated that based upon potential attendance and use of the facility.  
6  
7 Mr. Deering asked Mr. Luebchow if it is his position that a number of parking spaces is required by a code  
8 or other regulation based on potential attendance rather than seating capacity.  
9  
10 Mr. Luebchow stated no.  
11  
12 Mr. Deering stated that Mr. Luebchow had an issue with what would happen with the dirt that is to be  
13 moved or excavated on the property. He asked Mr. Luebchow if he was in the room at the last public  
14 hearing when the architect for the Petitioner testified.  
15  
16 Mr. Luebchow stated yes.  
17  
18 Mr. Deering asked Mr. Luebchow if he recalled the architect stating that it would be the intention to use the  
19 dirt on the property to the extent possible but at the extent that the dirt could not be used on the property it  
20 would be removed.  
21  
22 Mr. Luebchow stated that he does remember some statement to that effect however there is no information  
23 on the site plan which indicates where or how.  
24  
25 Mr. Deering asked Mr. Luebchow if it is his position that a site plan needs to indicate if dirt will be removed  
26 from the site and is requesting that it must be specified at this point in the proceeding.  
27  
28 Mr. Luebchow stated that if the intention is to leave the dirt on site and dispose of it on site then one of the  
29 issues would be where and how this process will occur to make sure that it will not affect drainage.  
30  
31 Mr. Deering stated that the architect stated that if the dirt cannot be used on site then it would be removed.  
32  
33 Mr. Luebchow stated that he did hear the architect's testimony but there is still no answer as to where on site  
34 or how the dirt will be disposed.  
35  
36 Mr. Deering asked Mr. Luebchow if it was his position that site plans are typically required to indicate this  
37 information.  
38  
39 Mr. Luebchow stated that he cannot not say what is typically required on draft site plans.  
40  
41 Mr. Deering stated that Mr. Luebchow stated that without a history of use or knowledge of the volume of  
42 use it would be difficult to grant a special use without knowledge of how many people will attend.  
43  
44 Mr. Luebchow stated that in this case without this knowledge it would be difficult to grant a special use.

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Mr. Deering asked Mr. Luebchow if he believes that it would be difficult or impossible to grant a special use without this information, what type of standard is he proposing.

Mr. Luebchow stated that he is not proposing any standard. He said that he is proposing that the evidence at this point and time is insufficient to show that this will not affect the nature and character of this district.

Mr. Deering asked Mr. Luebchow what evidence would be sufficient.

Mr. Luebchow stated that if reasonable estimates as to attendance on weekends and festival occasions were submitted it would be helpful.

Mr. Deering asked Mr. Luebchow in whose opinion would the estimates be reasonable.

Mr. Luebchow stated that this would be up to the Board to determine what is reasonable. He said that at this point and time there are no estimates submitted. He said that it is his understanding that the attendance to the festival events is considerably higher than throughout the week.

Mr. Deering stated that he would not disagree with there is increased attendance during festival events although this is not the question that is on the table. He asked Mr. Luebchow if he was in the room at the last public hearing when Mr. David Phillippe, engineer for the Petitioner, testified.

Mr. Luebchow stated yes.

Mr. Deering asked Mr. Luebchow if he heard Mr. Phillippe testify that the site plan, as proposed, would not disrupt flow across the subject property.

Mr. Luebchow stated yes.

Ms. Griest asked the audience if anyone in the audience had any questions for Mr. Luebchow.

Mr. Pallassana Balgopal stated that Mr. Luebchow stated a number of times that the architecture of the temple will not preserve the nature of the neighborhood and the district. He asked Mr. Luebchow to elaborate on this statement.

Mr. Luebchow stated that he did not make a determination that the temple will not preserve the nature of the neighborhood and the district but only stated that the architecture is currently unknown therefore a determination cannot be made.

Mr. Balgopal asked Mr. Luebchow in what way would the temple disrupt the nature of the neighborhood.

Mr. Luebchow stated that he has personally reviewed several cases in regards to zoning matters, in different jurisdictions, where a proposed Hindu Temple was denied zoning approval because of the elaborate

1 architecture which did not mesh with the surrounding community.  
2  
3 Mr. Balgopal asked Mr. Luebchow if he is speaking about the California case.  
4  
5 Mr. Luebchow stated that there are several cases which he referenced and he is not sure specifically which  
6 California case he is speaking about.  
7  
8 Mr. Balgopal stated that the reason why he is asking Mr. Luebchow to clarify is because it was not the  
9 architecture but the height of the temple which was in question during some of the zoning cases. He asked  
10 Mr. Luebchow if there were any churches located in the AG-1 district.  
11  
12 Mr. Luebchow stated that personally he does not have that knowledge but he does believe that there are  
13 churches in the AG-1 district.  
14  
15 Mr. Balgopal asked Mr. Luebchow if these churches disrupt the nature of the neighborhood or district.  
16  
17 Mr. Luebchow stated that he does not know how many churches are adjacent to residential areas.  
18  
19 Mr. Balgopal stated that Mr. Luebchow discussed the history of the membership and the closeness of the  
20 proximity of the residents. He asked Mr. Luebchow if he was familiar with the history of the immigrants  
21 coming from India to this part of the country.  
22  
23 Mr. Luebchow stated that the only history that he was referring to was the fact that there has not been a  
24 Hindu Temple previously located in Champaign-Urbana and because of that there is no framework to know  
25 exactly what the use and attendance will be at various times.  
26  
27 Mr. Balgopal stated lack of history.  
28  
29 Mr. Luebchow stated the lack of a prior history of a Hindu Temple located in the Champaign-Urbana area.  
30  
31 Mr. Balgopal asked Mr. Luebchow if, based on his extensive research, is he aware of what type of activities  
32 the Hindu Temple carries out.  
33  
34 Mr. Luebchow stated that he did read about several of the activities but he does not claim to be an expert on  
35 those activities.  
36  
37 Mr. Balgopal asked Mr. Luebchow to describe those activities.  
38  
39 Ms. Griest informed Mr. Luebchow that he is not required to answer Mr. Balgopal's question because he did  
40 not testify to such.  
41  
42 Mr. Balgopal stated that Mr. Luebchow discussed funerals, weddings, etc.  
43  
44 Ms. Griest stated that this is a fair question therefore Mr. Luebchow should answer Mr. Balgopal's question.

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Mr. Luebchow stated that there are obviously worship ceremonies that will be conducted in the temple as well as various types of festivals some of which also involve not only activity in the facility but also on the grounds outside of the facility.

Mr. Balgopal asked Mr. Luebchow to clarify his statement that the temple may be rented to other organizations.

Mr. Luebchow stated that in reviewing several other Hindu Temples he found that it is the practice of some of the other temples to rent the facility out. He said that he has a copy of a rental policy from a Hindu Temple located in Pennsylvania, which seemed to have a very similar design to the proposed temple with an upper level dedicated to worship and a lower level dedicated as a community hall and they have a very extensive policy on leasing and renting out their community hall to other public and private groups which would like to use their facility.

Mr. Balgopal asked Mr. Luebchow if in his research did he review or examine any of the Hindu Temples built in similar neighborhoods such as the proposed temple.

Mr. Luebchow stated that he does not understand what Mr. Balgopal means by similar environments or similar areas.

Mr. Balgopal asked Mr. Luebchow if he only limited his research to urban areas because the references were mainly geared towards Atlanta, Chicago and Pennsylvania.

Mr. Luebchow stated no. He said that he will acknowledge that there are many Hindu Temples which are located in rural areas.

Mr. Balgopal asked Mr. Luebchow which ones he studied.

Mr. Luebchow stated that he cannot specifically name which temples were in the rural areas.

Mr. Balgopal stated that he is merely trying to find out the similarities between this neighborhood and the ones that he studied.

Ms. Griest stated that the minutes will note Mr. Balgopal's interest.

Mr. Balgopal requested that the minutes note that most of the references were for urban areas.

Ms. Griest stated that Mr. Luebchow made that point.

Ms. Lynn Stuckey stated that Mr. Luebchow stated that during his discussion of his research of the converted facilities he indicated that many of those facilities were sold by congregations traditionally considered Christian. She asked Mr. Luebchow if he researched what happened to those congregations and where they moved to or were they dissolved and for what reason was the facility for sale.



1  
2 Mr. Luebchow stated that he did not know why the facility was for sale and he is not sure if it is relevant to  
3 the issue.  
4  
5 Ms. Griest stated that Ms. Stuckey's question is why those facilities were for sale.  
6  
7 Mr. Luebchow stated that he does not know the specific reason why those buildings were for sale. He said  
8 that he does know that in prior cases Hindu Temples have acquired existing properties and remodeled,  
9 reconverted and rededicated those buildings for their use. He said that the point that he is trying to make is  
10 that when he left the last public hearing he was under the impression that reuse of an existing building was  
11 not a possibility although it does appear that other Hindu Temples do this.  
12  
13 Ms. Stuckey stated that she would applaud those temples for reusing those buildings however we don't  
14 know, based on Mr. Luebchow's present testimony, where those other congregations went to.  
15  
16 Ms. Griest informed Ms. Stuckey that the issue of where those other congregations went to is not relevant to  
17 this case. She said that the fact that the buildings were for sale is relevant but not where the previous  
18 occupants went or why they left.  
19  
20 Ms. Stuckey stated that Mr. Luebchow discussed a site that is for sale in the Champaign-Urbana area and is  
21 allegedly within the perimeters that Mr. Kapoor earlier discussed. She asked Mr. Luebchow if he notified  
22 Mr. Deering of this facility.  
23  
24 Mr. Luebchow stated that he has not notified Mr. Deering specifically and does not know if it is his position  
25 to do so.  
26  
27 Ms. Stuckey asked Mr. Luebchow if this facility was placed on the market before or after the public  
28 hearings started for this case.  
29  
30 Mr. Luebchow stated that the facility was placed on the market early last Spring therefore it was on the  
31 market before the public hearings began on this case.  
32  
33 Ms. Stuckey asked Mr. Luebchow if his clients have had their engineer study how the site may be re-  
34 contoured to improve drainage since drainage is such a concern.  
35  
36 Mr. Luebchow requested clarification of the question.  
37  
38 Ms. Stuckey stated that Mr. Luebchow stated that there were concerns about drainage on the site. She said  
39 that at the last public hearing his clients had an engineer testify.  
40  
41 Mr. Luebchow stated yes, an engineer did testify.  
42  
43 Ms. Stuckey asked Mr. Luebchow if, at the best of his knowledge, any engineering studies have been done  
44 either by his clients or by the Petitioner as to how the site may be re-contoured or otherwise changed to

1 improve drainage for the Thor-O-Bred Acres neighborhood plus the subject property.  
2  
3 Mr. Luebchow stated that he is not aware of any studies that have been completed although he can state that  
4 the engineer that testified on behalf of his clients at the last public hearing was testifying as to the plan that  
5 was submitted and not to plans that he would suggest. He said that the engineer was only reviewing the site  
6 plan that had been submitted and whether or not, in his opinion, it was adequate.  
7  
8 Ms. Stuckey asked Mr. Luebchow if he knows whether the Thor-O-Bred Acres subdivision was created first  
9 or was the commercial development created first.  
10  
11 Mr. Luebchow stated that he does not specifically know what was created first.  
12  
13 Ms. Stuckey stated that there has been discussion about the very strong feeling from the people of the  
14 neighborhood and others throughout the County that farmland should be preserved. She asked Mr.  
15 Luebchow if agricultural pursuits were prematurely terminated when the development of 29 residential  
16 homes were built in a small neighborhood less than 40 acres.  
17  
18 Mr. Luebchow stated no. He said that this is a question which was addressed at the time. He said that it is  
19 his understanding that this corner of the 40 acres where the subdivision is located had previous structures  
20 which were destroyed and remnants of foundation and other material was still located in the area and this  
21 particular corner of the site was not constituted as best prime farmland.  
22  
23 Ms. Stuckey asked Mr. Luebchow if he knew what type of farmland it was considered.  
24  
25 Mr. Luebchow stated that he does not know what type of farmland it was considered.  
26  
27 Ms. Stuckey stated that Mr. Luebchow indicated that the soil analysis did not comply with the *Code*. She  
28 asked Mr. Luebchow if it would be possible for the soil analysis to be redone in a manner that would  
29 comply.  
30  
31 Mr. Luebchow stated yes.  
32  
33 Ms. Stuckey asked Mr. Luebchow how it can be determined what is an appropriate architectural design  
34 given the farmhouses and other facilities which have been built in the neighborhood in the last 30 years.  
35  
36 Mr. Luebchow stated that he did not understand the question.  
37  
38 Ms. Stuckey stated that Mr. Luebchow testified that there is concern that the architecture proposed for the  
39 temple may or may not be compatible to the neighborhood.  
40  
41 Mr. Luebchow stated that he did not testify that there is a concern but did testify that there is a lack of  
42 evidence to that regard.  
43  
44 Ms. Stuckey asked Mr. Luebchow that once the evidence is submitted who would be the judge as to whether

1 the architecture is compatible.  
2  
3 Mr. Luebchow stated that the decision of whether the architecture is compatible rests in the hands of this  
4 Board.  
5  
6 Mr. Don Hittle asked Mr. Luebchow if the AG-1 district's primary use is for agriculture.  
7  
8 Mr. Luebchow stated yes.  
9  
10 Mr. Hittle asked Mr. Luebchow if it would be fair to say that the land is zoned as AG-1 primarily for  
11 agricultural use.  
12  
13 Mr. Luebchow stated yes.  
14  
15 Mr. Hittle asked Mr. Luebchow if one of his major concerns was that the land that the Hindu Temple will be  
16 utilizing will be taken out of agricultural production.  
17  
18 Mr. Luebchow stated yes and it would appear to conflict with the current language of the Zoning Ordinance.  
19  
20 Mr. Hittle asked Mr. Luebchow if the Thor-O-Bred Acres subdivision is located within the AG-1 district.  
21  
22 Mr. Luebchow stated yes.  
23  
24 Mr. Hittle asked Mr. Luebchow if he is correct in that it was previously mentioned that the Hindu Society  
25 intends to retain approximately 85% of the land for agricultural use.  
26  
27 Mr. Luebchow stated yes.  
28  
29 Mr. Hittle asked Mr. Luebchow if any of his clients have retained any portion of their property for  
30 agricultural use other than for a vegetable garden.  
31  
32 Mr. Luebchow stated that it his understanding that Thor-O-Bred Acres complied with the definition of an  
33 AG-1 district.  
34  
35 Mr. Hittle stated that was not his question. He asked Mr. Luebchow if, to his knowledge, does any of the  
36 properties in Thor-O-Bred Acres reserve a portion of their property for agricultural use.  
37  
38 Mr. Luebchow stated that by definition if, at the time the subdivision was created, it fell within the  
39 definitions of an AG-1 district then yes it meets the requirements of agricultural pursuits.  
40  
41 Mr. Hittle asked Mr. Luebchow if anyone is growing crops on their land.  
42  
43 Mr. Luebchow stated no and the lots would be classified as rural homesteads.  
44

1 Mr. Hall stated that during a previous statement it sounded like Mr. Luebchow was questioning whether the  
2 site plan that has been submitted is in compliance with the Champaign County Stormwater Management  
3 Policy in regards to whether it meets detention. He asked Mr. Luebchow if this was the point that he was  
4 trying to make during this discussion.

5  
6 Mr. Luebchow stated yes. He said that Mr. Don Wauthier testified at the last public hearing about his  
7 concerns regarding that. He said that one of the intentions of the Zoning Ordinance is to protect neighboring  
8 properties from potential damage and if that means requiring stormwater management facilities, even if it is  
9 technically not required by the policy, may be a reasonable condition to consider.

10  
11 Mr. Hall asked Mr. Luebchow what relevance is that to properties that are upstream to the subject property.  
12 He said that the Thor-O-Bred Acres Subdivision is upstream of the proposed development and anything that  
13 is done on the subject property in regards to drainage, as long as it does not block drainage, is acceptable.  
14 He said that the proposed condition regarding drainage is for no change in topography within 70 feet of the  
15 property line because 70 feet appeared to be the dimension which that area drains. He said that the only way  
16 that property could be affected is if they change the contours within 70 feet of the south property line but if  
17 they do not change those contours they are not affecting the drainage.

18  
19 Mr. Luebchow stated that he will let Mr. Hall's comments stand.

20  
21 Mr. Bob McQueen asked Mr. Luebchow if he builds a dam in a river what happens to the water coming  
22 from upstream.

23  
24 Mr. Luebchow stated that the water level will rise.

25  
26 Mr. McQueen asked Mr. Luebchow where the water will rise.

27  
28 Ms. Griest informed Mr. McQueen that Mr. Luebchow did not testify to such a dam.

29  
30 Mr. McQueen stated that his property is the property that is in question in regard to drainage. He said that  
31 the subject property's water runs off on to their property and if some structure impedes the flow of that  
32 water off of his property and across their property to where it currently flows what would happen to that  
33 water.

34  
35 Mr. Luebchow stated that the water would back up to a point where it would remain on Mr. McQueen's  
36 property.

37  
38 Mr. McQueen stated that Mr. Kapoor had testified that most of the activity would occur during the early  
39 morning hours and the early evening hours of the day plus the weekends. He asked Mr. Luebchow if these  
40 hours meet the characteristic of the neighborhood.

41  
42 Mr. Luebchow stated no.

43  
44 Mr. McQueen asked Mr. Luebchow if he was aware of the hours of operation for the commercial businesses

1 adjacent to Thor-O-Bred Acres.

2  
3 Mr. Luebchow stated that it is his understanding that the businesses that are located in that vicinity are  
4 operated on an 8:30 a.m. to 5:00 p.m. basis, only through the weekdays and is not open during the evening  
5 or weekends.

6  
7 **Mr. Irle moved, seconded by Mr. Goldenstein to recess the public hearing for a five minute break.**  
8 **The motion carried by voice vote.**

9  
10 **The Board recessed at 8:26 p.m.**

11 **The Board resumed at 8:35 p.m.**

12  
13 Ms. Griest informed the audience that it is her desire to complete the witness register and give everyone,  
14 who signed the witness register, the opportunity to speak. She noted that the public hearing will be ending  
15 at 9:30 p.m., and reminded everyone that the time spent in cross examining any witness jeopardizes the  
16 opportunity that everyone will be able to present testimony at tonight’s hearing.

17  
18 Ms. Griest called Lowell Osterbur.

19  
20 Mr. Osterbur was not present.

21  
22 Ms. Griest called Mr. Eric Thorsland.

23  
24 Mr. Eric Thorsland, who resides at 480E CR 2500N, Mahomet stated that he is only representing himself  
25 and has no vested interest for profit in this case. He said that this is a difficult case for him because the ZBA  
26 is aware of his adamant, opposing position on any growth on best prime farmland. He said that he is  
27 absolutely thrilled to hear that so many people are interested in preserving farmland and asked the audience  
28 where they were during the Comprehensive Zoning Review hearings. He said that he would love to see this  
29 much support for every case that comes before this Board. He said that truthfully this is probably the least  
30 harmful development that he has seen in the last three to four years. He said that it appears that the  
31 Petitioner has worked hard to accommodate the requirements and this type of use is inevitable when  
32 development has already taken place in this area and more will follow. He said that the area is close enough  
33 to Champaign that the urban creep is going to happen and if he were here when Thor-O-Bred Acres was  
34 developed he would have fought its approval with a lot of vigor. He said that the ZBA has a decision that is  
35 fairly simple in a zoning sense as this applies to a special use but emotionally there are a lot of people who  
36 feel very strongly on both sides of this issue and he is worried that the adamant opposition, by some of the  
37 parties involved, for development on farmland won’t continue past this meeting. He said that Champaign  
38 County is a changing county and it has grown and this is not the worst use of this land.

39  
40 Ms. Griest asked the Board if there were any questions for Mr. Thorsland and there were none.

41  
42 Ms. Griest asked if staff had any questions for Mr. Thorsland and there were none.

43  
44 Ms. Griest asked the Petitioner’s representative if there were any questions for Mr. Thorsland and there were

1 none.

2  
3 Ms. Griest asked the audience if there were any questions for Mr. Thorsland and there were none.

4  
5 Ms. Griest called Ms. Sharon Saunders.

6  
7 Ms. Saunders declined to speak at this time.

8  
9 Mr. Don Hittle, who resides at 725 S. Prairie St, Champaign stated that he is a lifelong resident of  
10 Champaign County and is an agricultural professor at the University of Illinois therefore he has an  
11 appreciation of the County's good soil. He said that a lot of the issues that have been raised have been  
12 answered. He said that there was discussion regarding the character of the district and the character of the  
13 district is why the Petitioner desires to be at this location. He said that the other issues such as drainage,  
14 septic, etc. are issues that can be resolved by relocation. He requested that the opposing parties meet with  
15 the Hindu Society to discuss their concerns because the members of the Society are a group of good,  
16 responsible citizens of our community. He said that he is sure that there are enough university professors in  
17 attendance to hold a faculty meeting at tonight's public hearing therefore these are valuable members of our  
18 community and he would hope that everyone will work with them to allow them to exercise their freedom of  
19 religion. He said that he is sure that the Society would be glad to meet with anyone to educate them on how  
20 they practice their religion. He said that it has been mentioned that this is not about building a Hindu  
21 Temple but he wonders if this was a request for a Methodist Church would everyone be working together to  
22 resolve these issues. He said that he would hope that as members of this community that we would extend  
23 ourselves to include this new experience and religion that we are not familiar with.

24  
25 Ms. Griest asked Mr. Hittle if he is testifying as a representative for the Petitioner or is his testimony to be  
26 taken as a representation of his personal experience.

27  
28 Mr. Hittle stated that he is not present at tonight's meeting as a representative of the Society. He said that he  
29 is only testifying based upon his own personal opinion or experience.

30  
31 Ms. Griest asked the Board if there were any questions from the Board.

32  
33 Mr. Goldenstein asked Mr. Hittle if any testimony has been given during the public hearings against the  
34 Hindu religion.

35  
36 Mr. Hittle stated no. He clarified that the testimony appears to reflect a lot of confusion about what would  
37 or might happen therefore that is why he suggested that if it were a use that we were more comfortable or  
38 familiar with, like a Methodist Church, the issues might be different. He said that his hope was that we  
39 could extend our own comfort zone to look at this request in a different way.

40  
41 Mr. Goldenstein assured Mr. Hittle that the questions which are being asked are asked in every case that  
42 comes in front of this Board therefore the questions are not unusual.

43  
44 Ms. Griest asked if staff had any questions for Mr. Hittle and there were none.

1  
2 Ms. Griest asked the Petitioner's representative if there were any questions for Mr. Hittle and there were  
3 none.  
4  
5 Ms. Griest asked the audience if there were any questions for Mr. Hittle.  
6  
7 Mr. Tom Courson asked Mr. Hittle if he lived in the City of Champaign or the County.  
8  
9 Mr. Hittle stated that he lived in the City of Champaign.  
10  
11 Ms. Griest asked the audience if anyone else had any questions for Mr. Hittle and there were none.  
12  
13 Ms. Griest called Mr. Steven Shoemaker.  
14  
15 Mr. Steven Shoemaker, who resides at 1148 CR 1500E, Urbana stated that he is a former member of the  
16 County Board, former member of the Environment and Land Use Committee, a rural resident and a  
17 Presbyterian minister. He said that he has been the President of the Ministerial Association in the County  
18 that represents mainly various Christian groups but also includes representatives from other religions. He  
19 said that what he is most concerned about with this issue is that we follow our deepest commitments to  
20 openness and to the free expression of religion guaranteed in our Constitution at this level of government.  
21 He said that the people who sit on the Board are very aware that the community is very aware of this case  
22 and the comments that have been made to the press by representatives of Thor-O-Bred Acres have been very  
23 unfortunate. He requested that the Board listen to their conscience and be hospitable.  
24  
25 Ms. Griest asked the Board if they had any questions for Mr. Shoemaker and there were none.  
26  
27 Ms. Griest asked if staff had any questions for Mr. Shoemaker and there were none.  
28  
29 Ms. Griest asked the Petitioner's representative if there were any questions for Mr. Shoemaker and there  
30 were none.  
31  
32 Ms. Griest asked the audience if there were any questions for Mr. Shoemaker.  
33  
34 Mr. Luebchow stated that Mr. Shoemaker referred to unfortunate comments made by the residents of Thor-  
35 O-Bred Acres to the press. He asked Mr. Shoemaker if any of the residents from Thor-O-Bred Acres have  
36 made comments directly to him.  
37  
38 Mr. Shoemaker stated that he heard these comments on television.  
39  
40 Mr. Luebchow asked Mr. Shoemaker if any of the comments that have been heard have been filtered  
41 through the press.  
42  
43 Mr. Shoemaker stated yes.  
44

- 1 Mr. Luebchow stated that Mr. Shoemaker mentioned that the freedom of religion was constitutionally  
2 guaranteed and he would certainly agree to that statement. He asked Mr. Shoemaker if he was aware if  
3 Illinois law allows the restriction on the placement of a religious institution.  
4
- 5 Mr. Shoemaker stated that people involved in real estate have informed him that a church can be placed  
6 almost anywhere.  
7
- 8 Mr. Luebchow asked Mr. Shoemaker if he is aware whether Illinois law restricts the placement of a religious  
9 institution.  
10
- 11 Mr. Shoemaker stated that he is not aware of Illinois law.  
12
- 13 Mr. Luebchow asked Mr. Shoemaker if his answer is no.  
14
- 15 Mr. Shoemaker stated that his answer is no.  
16
- 17 Ms. Griest called Mr. Dale Kesler.  
18
- 19 Mr. Dale Kesler, who resides at 811 W. Washington, Champaign stated that he is a lifelong resident of  
20 Champaign County and grew up on a farm in Champaign County. He said that currently his family farm is  
21 called Ashland Park Subdivision which houses a Wal-Mart, a furniture store and several other businesses  
22 which are to be developed in the future. He said that he attended Hensley School, which was located near  
23 the Thor-O-Bred Acres Subdivision. He said that having grown up on a farm he was a little surprised to  
24 hear the term "best prime farm ground" and what that means. He said that he completed some research and  
25 discovered that the most recent copy of the *United States Department of Agriculture Soil Survey for*  
26 *Champaign County* states that 613,440 acres were in the survey area for the County. He said that 96% of  
27 the total acreage meets the soil requirements for prime farm ground therefore it is hard to build a new  
28 building and not place it on prime farm ground in Champaign County. He said that the subject property is a  
29 40 acre parcel of land which represents .0065% of the acreage in the County which is prime farm ground.  
30 He said that the Hindu Society is only proposing to develop less than five acres which puts us down to  
31 8/1000% of one percent of the prime farm ground in Champaign County. He said that everybody in the  
32 room will recognize that prime farm ground is a limited resource but the Champaign County Soil and Water  
33 Conservation District states, fairly accurately, that the District recognizes the need to protect the productive  
34 soils of Champaign County likewise it recognizes the need to create a positive growth environment for our  
35 urban areas. He said that the CCSWCD's goals are to coordinate activities with local units of government to  
36 help organize development and deal with smaller sized lots. He said that it has been a long, long time ago  
37 since 40 acres and a mule was enough to sustain an average American family.  
38
- 39 Ms. Griest asked Mr. Kesler if he was making his citation for prime farm ground or best prime farm ground.  
40
- 41 Mr. Kesler stated that the statistics that he quoted from the survey are for prime farm ground.  
42
- 43 Ms. Griest asked the other members of the Board if they had any questions for Mr. Kesler and there were  
44 none.



1  
2 Ms. Griest asked if staff had any questions for Mr. Kesler and there were none.  
3  
4 Ms. Griest asked the Petitioner's representative if there were any questions for Mr. Kesler and there were  
5 none.  
6  
7 Ms. Griest asked the audience if there were any questions for Mr. Kesler.  
8  
9 Mr. Luebchow asked Mr. Kesler if he or any of his immediate family members had a financial interest in the  
10 subject property.  
11  
12 Mr. Kesler stated that his father owns the subject property.  
13  
14 Mr. Luebchow asked Mr. Kesler if his father would be the seller of the land assuming that the sale is  
15 completed.  
16  
17 Mr. Kesler stated yes.  
18  
19 Mr. Luebchow stated that he would assume that this farmland, even though it represents a very minute  
20 fraction of the County's best prime farmland, represents a very significant asset to his family.  
21  
22 Mr. Kesler stated that he is not sure what is considered significant. He said that it is an asset that his father  
23 desires to convert.  
24  
25 Mr. Luebchow asked Mr. Kesler if his father stands to gain financially if the sale is completed.  
26  
27 Mr. Kesler stated that it is a trade off because his father is going to convert the assets.  
28  
29 Ms. Griest called Mr. Pradeep Khanna.  
30  
31 Mr. Pradeep Khanna was not present.  
32  
33 Ms. Griest called Mr. Pallassana Balgopal.  
34  
35 Mr. Balgopal declined to speak at this time.  
36  
37 Ms. Griest called Mr. Mike Kukreti.  
38  
39 Mr. Kukreti was not present.  
40  
41 Ms. Griest called Mr. Somabhai Panchal.  
42  
43 Mr. Panchal declined to speak at this time.  
44

1 Ms. Griest called Mr. Matt Deering.  
2  
3 Mr. Deering declined to speak at this time but reserved the right to speak later.  
4  
5 Ms. Griest stated that she will call Mr. Deering at later time during the meeting.  
6  
7 Ms. Griest called Mr. Kevin Luebchow.  
8  
9 Mr. Luebchow declined to speak at this time.  
10  
11 Ms. Griest called Mr. David Phillippe.  
12  
13 Mr. Phillippe declined to speak at this time.  
14  
15 Ms. Lynn Stuckey, who resides at 806B West Healey Street, Champaign stated that she moved to the  
16 community in 1989. She said that in 1989 when you looked north of Prospect Avenue there was  
17 Marketview Drive and Marketplace Mall and that was it. She said that since 1989 there has been a lot of  
18 growth and it is going to continue. She said that there has been a lot of discussion regarding drainage issues  
19 and the haphazard intrusion of urban use on our prime farm ground. She said that concerns have been  
20 voiced about future development and how the City of Champaign may prefer to see areas outside of the  
21 Champaign however that development is already happening. She said that if we want to be concerned about  
22 future development and the creep of the City of Champaign into our rural areas we should discuss the  
23 subdivision that is located east of the mall. She said that this subdivision was developed in the 1920's for  
24 employee housing for the Clifford-Jacobs Company. She said that this development is in the County even  
25 though it is surrounded by the County. She said that the City of Champaign does not want to annex this  
26 development because there are concerns about how the roads have been built and maintained over the years  
27 and the fact that the development was built completely on septic systems and the City of Champaign would  
28 have to pay expenditures to connect to public utilities. She said that she can remember when Thor-O-Bred  
29 Acres was in the area by itself except for the small businesses but unfortunately this area will not continue to  
30 stay that way. She said that eventually the City of Champaign will extend to Thor-O-Bred Acres and The  
31 Hindu Temple at this point and time may desire to build in the country but she cannot guarantee that this  
32 area will remain a rural area in the next 50 years. She said that many of her concerns may have been  
33 addressed by the Supplemental Memorandum dated March 15, 2007, although she has not had a chance to  
34 thoroughly review the memo. She said that at the last meeting there was great discussion about whether the  
35 Petitioner would agree to specific restrictions on the use of their property. She said that she would like to  
36 remind the County Board that the 14<sup>th</sup> Amendment of the *United States Constitution*, commonly known as  
37 the *Equal Protection Clause*, indicates that everyone does have equal rights under the law and those equal  
38 rights extend to religious institutions and if we chose at the County Board to place restrictions on this  
39 property or the use after the property is developed she will respectfully request that we be very cautious  
40 when we do so. She said that any restrictions that are placed on this property would be restrictions that  
41 would have to be placed on future developments and failure to do so could open Champaign County up to a  
42 law suit and she does not desire to pay those types of taxes.  
43  
44 Ms. Griest informed Ms. Stuckey that this Board is the Zoning Board of Appeals and not the County Board.

1  
2 Ms. Griest asked the Board if they had any questions for Ms. Stuckey and there were none.  
3  
4 Ms. Griest asked if staff had any questions for Ms. Stuckey and there were none.  
5  
6 Ms. Griest asked the Petitioner's representative if they had any questions for Ms. Stuckey and there were  
7 none.  
8  
9 Ms. Griest asked the audience if they had any questions for Mr. Stuckey.  
10  
11 Mr. Luebchow asked Ms. Stuckey if she stated that over a period of time this area may not be considered  
12 rural.  
13  
14 Ms. Stuckey stated that she testified that there are no guarantees that this area will not change significantly  
15 in 50 years.  
16  
17 Mr. Luebchow asked Ms. Stuckey if she would agree that development and expansion of the City of  
18 Champaign for additional development would be preferable if it were done in an orderly basis.  
19  
20 Ms. Stuckey stated that she would not dispute this statement but she and Mr. Luebchow may have a  
21 differing definition of what is acceptable.  
22  
23 Mr. Luebchow asked Ms. Stuckey if when the City of Champaign expands its territory and allows  
24 development is it typical for the City of Champaign to require infrastructure such as a sewer system and  
25 public water system.  
26  
27 Ms. Stuckey stated that she is not an urban planner, zoning attorney or an employee of the City of  
28 Champaign or Champaign County therefore she cannot state what the City of Champaign may require. She  
29 said that from her experience the City of Champaign seems to prefer that developers are required to place  
30 this infrastructure as part of their development.  
31  
32 Mr. Luebchow asked Ms. Stuckey if it is her testimony that it is her recommendation that no restriction be  
33 placed on the property for fear of a potential law suit.  
34  
35 Ms. Stuckey stated no. She said that she would prefer that judicious restrictions were placed with the  
36 knowledge that said restrictions may have to be applied to future developments within the County.  
37  
38 Mr. Luebchow asked Ms. Stuckey if she is aware if Illinois law allows reasonable restrictions to be placed  
39 on religious institutions as to where they may be located.  
40  
41 Ms. Stuckey stated that she has not gone to law school therefore she cannot answer Mr. Luebchow's  
42 question.  
43  
44 Ms. Griest called Ms. Sue Purkayastha.

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Ms. Sue Purkayastha, who resides at 2601 Robeson Park Drive, Champaign stated that she is a former Unit #4 School teacher as well as she is currently teaching at the University of Illinois Math Department. She said that she would like to read a letter from a member of the community which has requested that she read it to the Board.

Ms. Griest stated that Ms. Purkayastha may read the letter and if she would like to submit the letter as testimony she could provide staff with a copy of the letter as written testimony. She informed Ms. Purkayastha that she is not required to submit the letter.

Ms. Purkayastha stated that she would need to ask the person who wrote the letter whether or not she could submit a copy to staff as written testimony. She said that she is reading the letter in behalf of Ms. Mangrad, who is unable to attend tonight's meeting because she is in Michigan. She read the letter as follows:

I wanted to attend this meeting but I am now in Michigan taking care of my infant grandson. I have lived with my family in Urbana since 1978. We raised two daughters in this town and I wanted to teach my children about my religion that is Hindu, my culture and my country that I left behind. I wanted to teach them many family values which are what our religion emphasizes. I noticed that as the Indian community grew there were many children who needed to know about our religion, so I wanted to teach them what I taught my own children. I started teaching in 1986 at the Orchard Downs Community Center and getting the key to the Center was a big hassle. We had to pick up the key from the curator's apartment before 8:00 a.m. for our 10:00 a.m. class. My husband went every Sunday before 8:00 a.m. to pick up the key and no one would answer the door. The key was thrown out from the kitchen window out in the yard in rain, snow or whatever for him to pick up. Some Sundays they were not at home at all to throw out the key and I had the class at my house under short notice or cancel the class. I put up with the difficulties since my aim was to teach the children our religion and this went on for a year and one fine day I was told that the 10:00 a.m. time slot was given to a Bible study and no other time was available for us therefore like nomads we wondered from church basements to private homes for many years. Now I am teaching at the University organized by the International Student's Office on the condition that I give up my classroom because it is needed for a course. It is high time that we have a temple to pray and a cultural center in which we can teach our religion culture, various Indian languages and most importantly family values for our children, the future families of this town and this country. It is a common practice in America that when a new town is formed a church is built. There is a mosque in the middle of campus and most of us have lived in this community for over 20 years therefore why shouldn't we have a temple of our own where we can also practice our religion. A religion is more a way of life and we do not believe in conversion. I am married to a European husband for the last 35 years. We respect each other's religions and we do not convert each other. We like to go to the temple to just pray. Please consider the reasons that I have given and grant us permission to build our own house of worship. Thank you.

Ms. Purkayastha stated that she would like to add that she did not have the chance growing up in this country to learn about her heritage. She said that when she moved to this town her children knew more than she did, through this lady's efforts, about her religion and her culture. She said that her children do teach her and she does read and has taken college courses to learn about her religion although as a youth she did not have this advantage. She said that they need a place so that the Hindu religion can say it is their's so that

1 they can do what they need to do.

2  
3 Ms. Griest asked the Board if there were any questions for Ms. Purkayastha and there were none.

4  
5 Ms. Griest asked if staff had any questions for Ms. Purkayastha and there were none.

6  
7 Ms. Griest asked the Petitioner's representative if they had any questions for Ms. Purkayastha and there  
8 were none.

9  
10 Ms. Griest asked the audience if there were any questions for Ms. Purkayastha.

11  
12 Mr. Luebchow stated that he appreciates the passion which is expressed in the letter that was read and the  
13 passion that Ms. Purkayastha expressed in her testimony. He asked Ms. Purkayastha if she has heard any  
14 testimony which would indicate that there should not be a Hindu Temple located in the Champaign-Urbana  
15 area.

16  
17 Ms. Purkayastha stated no.

18  
19 Ms. Justine Schoplein, who resides at 2208 South Lynn Street, Urbana stated that she lives near Yankee  
20 Ridge School which was formerly prime farmland. She said that she works at the Chapel for St. John the  
21 Divine and she is on the executive committee on the University of Illinois Campus Religious Worker's  
22 Association. She said that she is at tonight's meeting to indicate that she is very supportive of the Hindu  
23 Temple plan to build the temple where they desire. She said that she has had a long time association as  
24 President and member of the Board of the Channing Murray Foundation to work with many members of the  
25 Hindu community with the annual festival. She said that she has been entertained in their homes and has  
26 learned a great deal, over the years, about their culture and was invited to attend their spring festival which  
27 was held at the Urbana Civic Center. She said that there were several hundred people there and the service  
28 was very beautiful, the celebration lasted most of the day, the food was fabulous and she had no problem  
29 parking what so ever. She said that she would also say that it has been her experience that there is a high  
30 level of concern with aesthetics and beauty and love of nature and that the plans which are being developed  
31 and articulated for the temple will be ones which will be consistent with normally expected development in  
32 Champaign County. She said that a high priority has been placed on preserving a large portion of land for  
33 agricultural use and she knows these people well enough to know that they would welcome their neighbors  
34 in Thor-O-Bred Acres to become their friends.

35  
36 Ms. Griest asked the Board if they had any questions for Ms. Schoeplein and there were none.

37  
38 Ms. Griest asked if staff had any questions for Ms. Schoeplein and there were none.

39  
40 Ms. Griest asked the Petitioner's representative if they had any questions for Ms. Schoeplein and there were  
41 none.

42  
43 Ms. Griest asked the audience if there were any questions for Ms. Schoeplein.

44

1 Mr. Luebchow asked Ms. Schoeplein if she was able to attend one of the festival celebrations that have been  
2 discussed at this hearing.

3  
4 Ms. Schoeplein stated yes. She said that she has been a member of the Board of the Channing Murray  
5 Foundation for some time and has attended the annual Indian festival for 16 years. She said that her life has  
6 been enriched by her association and she has learned a great deal. She said that this is one of the fine  
7 qualities of Champaign-Urbana in that we are a very diverse population and we have done a beautiful job in  
8 accommodating and welcoming all of these differences within our mist.

9  
10 Mr. Luebchow asked Mr. Schoeplein if it is her opinion that when the Petitioners build the temple there will  
11 be even more participation than what she has previously experienced during the festival celebrations.

12  
13 Mr. Deering objected to Mr. Luebchow's question because Ms. Schoeplein would have no way of knowing  
14 the answer to his question.

15  
16 Ms. Griest agreed.

17  
18 Ms. Griest called Mr. Ranjit Bhagwat.

19  
20 Mr. Bhagwat was not present.

21  
22 Ms. Griest called Mr. Ben McCall.

23  
24 Mr. Ben McCall, who resides at 1085 CR 2200N, Champaign stated that he is a landowner in the area  
25 surrounding the proposed site but not in the Thor-O-Bred Acres subdivision. He said that he lives on five  
26 acres, of which some is farmed, and is within one mile of the proposed site within the same section. He said  
27 that he would like to correct what he believes is a factual error in previous testimony that this is a  
28 developing area. He said that there is an aerial photograph included in Mr. Luebchow's distributed packet  
29 which shows the area in question and it is true that there is a small residential development there and that  
30 there is some commercial uses to the south of Thor-O-Bred Acres. He said that if you look at the rest of the  
31 property within the surrounding area you will find that it is all agricultural and farmsteads. He said that it is  
32 a gross misrepresentation that this is a developing area. He suggested that a lot of the discussion has been  
33 focused in the wrong area. He said that this is not a question whether a Hindu Temple is a good thing for  
34 our community because there is no question that it is good thing for the community. He said that it isn't a  
35 question whether a Hindu Temple is desirable or necessary in general. He said that personally he believes  
36 that there a compelling need for a Hindu Temple but with this compelling need do we abandon the Zoning  
37 Ordinance or all of its requirements to accommodate that need. He said that the proposed use of this site  
38 is not allowed unless this Board determines that the five conditions have been met to allow a special use on  
39 the subject property. He said that he does not feel that those five conditions have been met. He said that the  
40 Special Use Criteria that the special use is necessary for the public convenience at this location is a fairly  
41 strict requirement and the Petitioner has not submitted evidence that this particular use is necessary for  
42 public convenience at this location and has only demonstrated that they would like to use the subject  
43 property for their use. He said that the aerial photograph that was included in Mr. Luebchow's  
44 memorandum indicates, by pink stars, the landowners who signed the petition opposing this requested use.

3/15/07

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1 He said that the public, in the sense of the public who lives near the subject property, does not seem to find  
2 the use convenient therefore he can not see how it could be necessary for the public convenience at this  
3 location. He said, imagine that the University of Illinois wanted build a recreational facility on this site. He  
4 said that it could be very convenient for the University of Illinois' purposes to place it there because it is  
5 inexpensive, there is highway access, etc, but does that make it necessary for the public convenience at that  
6 location. He said that if the proposed use represents necessity for public convenience at that particular  
7 location it seems that about any use which a particular group found convenient at that location would satisfy  
8 Special Use Criteria #1. He said that there is essentially no teeth in that requirement and almost any special  
9 use that is proposed would satisfy that condition. He emphasized that he does not believe that this is an  
10 issue whether the temple is a good thing or a bad thing but is a technical question about whether these five  
11 conditions are satisfied for approving a special use which is not allowed unless the Board decides that the  
12 five conditions have been met. He said that it is his opinion the evidence has not been submitted.

13

14 Ms. Griest asked the Board if there were any questions for Mr. McCall.

15

16 Mr. Irle asked Mr. McCall if he characterized the two mile radius around Thor-O-Bred Acres to be a non-  
17 developing agricultural area.

18

19 Mr. McCall stated that he might have been a little bit unspecific about exactly the area that he was referring  
20 to.

21

22 Mr. Irle stated that he wondered how Mr. McCall would characterize the development which is one mile to  
23 the west, around the Hensley Township building, and the development to the east with the commercial  
24 development.

25

26 Mr. McCall stated that he is not familiar with the exact development that Mr. Irle is referring. He said that  
27 from viewing the aerial photograph and living in the area this is a very agricultural environment with very  
28 few structures and parking lots. He said that this is not an area that is rapidly expanding in terms of  
29 development and that is all he meant to say.

30

31 Ms. Griest asked the Board if there were any additional questions for Mr. McCall and there were none.

32

33 Ms. Griest asked if staff had any questions for Mr. McCall.

34

35 Mr. Hall stated that in looking at the aerial photograph that Mr. Luebchow submitted the development which  
36 is one mile to the west of the subject property can be viewed as well as the development around the  
37 interchange of Interstate 57, which is one mile to the east. He said that he can report on how many zoning  
38 cases staff and the Board has worked on within that one mile radius of the subject property. He said that he  
39 believes that the aerial photograph is evidence that this is a developing area unless Mr. McCall could  
40 convince him otherwise.

41

42 Mr. McCall stated that he can only offer his testimony as someone who lives in the area and drives around it  
43 on a daily basis and he does not see this area as developing. He said that when he thinks of a developing  
44 area he thinks of the North Prospect area that has been testified about as having a lot of commercial and

1 residential development. He said that there are houses springing up like mad and businesses are coming into  
2 that area constantly. He said that the area around the subject property is not that type of area. He said that  
3 he is sure that there have been cases where some structure has been built in the area and he did not mean to  
4 say that there has been absolutely no building within some radius of the subject property. He said that this is  
5 not a rapidly developing area.

6  
7 Mr. Hall stated that he would agree that the area is not developing like Prospect Avenue.

8  
9 **Mr. Goldenstein moved, seconded by Mr. Bluhm to extend the March 15, 2007, public hearing to 9:40**  
10 **p.m. The motion carried by voice vote.**

11  
12 Ms. Griest asked the Petitioner's representative if they had any questions for Mr. McCall.

13  
14 Mr. Matt Deering asked Mr. McCall if he initially testified that he would not qualify this area as a  
15 developing area but then later corrected his testimony in stating that he did not believe that this was a  
16 rapidly developing area.

17  
18 Mr. McCall stated yes. He said that he would construe the area as not rapidly developing and would also  
19 construe it as not a developing area in the sense to active growth in the number of structures, companies and  
20 residential structures.

21  
22 Mr. Deering stated that during Mr. McCall's testimony he acknowledged that there is a residential  
23 development in the immediate area.

24  
25 Mr. McCall stated that he may have misspoken. He said that there is a residential rural subdivision in the  
26 area with a number of houses.

27  
28 Mr. Deering asked Mr. McCall if he would agree that there are 29 houses in the subdivision.

29  
30 Mr. McCall stated that he hasn't counted the number of houses.

31  
32 Mr. Deering asked Mr. McCall if he would acknowledge that there are some small commercial uses in the  
33 area of the residential subdivision.

34  
35 Mr. McCall stated that this information has been included in previous testimony and he does acknowledge  
36 their existence.

37  
38 Mr. Deering asked Mr. McCall if the commercial development and the subdivision are located on adjacent  
39 parcels.

40  
41 Mr. McCall stated that without having a map in front of him he cannot say for certain but he does believe  
42 that they are in close proximity to each other.

43  
44 Mr. Deering asked Mr. McCall if the subject property immediately abuts the residential subdivision.



1  
2 Mr. McCall stated that there has been previous testimony which indicates that the subject property does abut  
3 some of the residences in Thor-O-Bred Acres.  
4  
5 Mr. Deering asked Mr. McCall if he presented testimony indicating that this use would not meet the public  
6 convenience and necessity.  
7  
8 Mr. McCall stated that he testified that it is not necessary for the public convenience at this location.  
9  
10 Mr. Deering asked Mr. McCall what evidence he based his determination upon.  
11  
12 Mr. McCall stated that he is not an attorney. He said that attorneys have spoken about this issue during  
13 previous testimony. He said that he does not consider this as an area of his expertise.  
14  
15 Mr. Deering asked Mr. McCall if he is stating that he is not qualified to make the legal determination that  
16 the use is not necessary at this location.  
17  
18 Mr. McCall stated that this determination is the responsibility of the ZBA.  
19  
20 Ms. Griest asked the audience if anyone else desired to cross examine Mr. McCall.  
21  
22 Ms. Lynn Stuckey asked Mr. McCall if he lived north, south, east or west of the proposed facility.  
23  
24 Mr. McCall stated that he lives to the north and east of the proposed location of the facility. He said that his  
25 property is located in the Northeast corner of Section 14.  
26  
27 Ms. Stuckey asked Mr. McCall how long he has lived at his residence.  
28  
29 Mr. McCall stated that he has personally lived at his residence for approximately three years.  
30  
31 Ms. Stuckey asked Mr. McCall if he lived in Section 14 or within Hensley Township before he moved to his  
32 present home.  
33  
34 Mr. McCall stated that he does not believe that this is relevant to his previous testimony.  
35  
36 Ms. Griest agreed with Mr. McCall.  
37  
38 Ms. Stuckey asked Mr. McCall if he defines public convenience being the convenience of the neighbors  
39 who live within one mile of the subject property or to the greater public who reside in Champaign County.  
40  
41 Mr. McCall stated that he would leave that decision up to the attorney's and the ZBA however the argument  
42 that he was trying to make is that it does not seem to be necessary to the public convenience at that location.  
43 He said that it is certainly publicly convenient to have a Hindu Temple and Cultural Center constructed in  
44 the Champaign-Urbana area but it is not necessary to have that convenience at this location. He said that

1 there has been testimony that there may be other locations which would be better suited for this use and a  
2 special use permit would not be required.

3  
4 Ms. Stuckey asked Mr. McCall if he would consider the ease or availability of transportation to the subject  
5 property to be possibly a factor in the public convenience.  
6

7 Mr. McCall stated yes, it would be a consideration in a general sense. He said that in his understanding of  
8 the word "convenience" there is a certain amount of being able to travel to and from the facility. He said  
9 that in this particular case he does not feel that it has been demonstrated that this is an advantage of the  
10 subject property or at all necessary for the site.

11  
12 Ms. Griest called Mr. Steve Parker.

13  
14 Mr. Steve Parker was not present.

15  
16 Ms. Griest thanked everyone for being concise and orderly.

17  
18 Ms. Griest requested a continuance date.

19  
20 Mr. Hall indicated that the earliest possible date on the docket for a continued case would be April 26, 2007.

21  
22 Ms. Griest asked Mr. Deering if he would be available on April 26<sup>th</sup>.

23  
24 Mr. Deering stated yes.

25  
26 Ms. Griest stated that there has been a lot of information presented and suggested that perhaps everyone  
27 would like the opportunity to digest that information and review the proposed conditions. She said that  
28 since the Board has only had the opportunity to review the proposed conditions at tonight's meeting they are  
29 not prepared to move forward.

30  
31 Mr. Deering stated that he and the Petitioner have reviewed the proposed conditions and have determined  
32 that those conditions are acceptable.

33  
34 Ms. Griest stated that she appreciates Mr. Deering's comments but she does not believe that the Board is  
35 prepared to take final action at tonight's public hearing.

36  
37 **Mr. Bluhm moved, seconded by Mr. Steeves to extend the March 15, 2007, public hearing to 9:50 p.m.**  
38 **The motion carried by voice vote.**

39  
40 Ms. Griest informed Mr. Deering that there is a provision in the Zoning Ordinance which would permit him  
41 to request a final determination within two meetings. She stated that these would be two meetings in which  
42 he is scheduled to appear and not two meetings on the Board's docket. She said that if this request is made  
43 the April 26<sup>th</sup> meeting would be the first of the two meetings and if the case was continued a final  
44 determination would be required regardless of what information is presented.

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Mr. Deering stated that on behalf of the Petitioner he would like to request a final determination within two meetings. He noted that April 26<sup>th</sup> is an acceptable date.

**Mr. Irle moved, seconded by Mr. Goldenstein to continue Case 560-S-06 to the April 26, 2007, ZBA meeting. The motion carried by voice vote.**

**6. New Public Hearings**

None

**7. Staff Report**

None

**8. Other Business**

**A. Meeting Room conflict for October 25, 2007, ZBA Meeting**

Mr. Hall stated that this issue was discussed at the last public hearing. He informed the Board that Meeting Room Two is available on October 25, 2007.

**Mr. Bluhm moved, seconded by Mr. Goldenstein to reschedule the October 25, 2007, meeting to Meeting Room Two. The motion carried by voice vote.**

**B. Review of Closed Session Minutes for November 22, 2005**

Mr. Hall stated that the November 22, 2005, Closed Session Minutes will require approval by the Board prior determining whether they should remain closed or be opened to the public for review. He said that the Closed Session Minutes will be placed on the April 12, 2007, meeting for approval and then will appear again on the agenda in September as part of a biannual review of Closed Session Minutes.

**9. Audience Participation with respect to matters other than cases pending before the Board**

None

**10. Adjournment**

The meeting was adjourned at 9:45 p.m.

**ZBA**

***AS APPROVED APRIL 26, 2007***

**3/15/07**

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Respectfully submitted

Secretary of Zoning Board of Appeals

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