

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: November 13, 2008  
Time: 6:30 p.m.  
Place: Lyle Shields Meeting Room  
Brookens Administrative Center  
1776 E. Washington Street  
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING  
FROM WASHINGTON STREET PARKING  
LOT AFTER 4:30 PM.  
Use Northeast parking lot via Lierman Ave.,  
and enter building through Northeast  
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at  
(217) 384-3708*

**EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM**

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes (August 14, 2008, October 16, 2008 and October 30, 2008)
5. Continued Public Hearings

**\*Case 610-S-08: Petitioner: Charles and Mary Ellen Stites**

Request: **Authorize a Major Rural Specialty Business in the CR District.**

Location: **A 5.0 acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1, T18N, R10E of Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1611 CR 2400E, St. Joseph.**

**\*Case 616-V-08: Petitioner: Charles and Mary Ellen Stites**

Request: **Authorize the reconstruction and use of a building to be used as a Major Rural Specialty Business with a side yard of four feet in lieu of the required side yard of 15 feet in the CR District.**

Location: **Same as Case 610-S-08**

*Champaign County Planning and Zoning  
Notice of Regular Meeting  
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**\*Case 619-FV-08** Petitioner: **Larry Peters**

Request: **Authorize as a variance from the Champaign County Special Flood Hazard Areas Ordinance the construction and occupancy of a dwelling in which the top of the garage floor is 0.83 feet below the Flood Protection Elevation of 690.3 instead of being at the Flood Protection Elevation; and the interior grade of the crawlspace is 2.3 feet below the lowest adjacent exterior grade instead of only 2.0 feet below the lowest adjacent exterior grade.**

Location: **An 11 acre tract in the West Half of the Southeast Quarter of the Northeast Quarter of Section 3 of Urbana Township and commonly known as the house at 2501 North Highcross Road, Urbana.**

6. New Public Hearings

**\*Case 631-V-08** Petitioner: **Nancy Mason**

Request: **Authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet.**

Location: **Lot 42 of Lake Park Subdivision No. 3 in Section 36 of Champaign Township and commonly known as the house at 42 Maple Court, Champaign.**

7. Staff Report

8. Other Business

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

10. Adjournment

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**\* Administrative Hearing. Cross Examination allowed.**

*revised  
11-6-08*

**DRAFT**  
**WORKING DOCUMENT**

1  
2 **MINUTES OF REGULAR MEETING**

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4 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

5 1776 E. Washington Street

6 Urbana, IL 61801

8 **DATE:** October 16, 2008

**PLACE:** Lyle Shields Meeting Room

1776 East Washington Street

Urbana, IL 61802

9  
10 **TIME:** 7:00 p.m.

12 **MEMBERS PRESENT:** Eric Thorsland, Debra Griest, Joseph L. Irle, Richard Steeves, Melvin  
13 Schroeder

14  
15 **MEMBERS ABSENT:** Roger Miller, Doug Bluhm

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17 **STAFF PRESENT:** John Hall, JR Knight, Leroy Holliday, Susan McGrath (Senior States  
18 Attorney)

19  
20 **OTHERS PRESENT:** Phillip VanNess, Dennis Wandell, Lucy Whalley, Chuck Stites, Larry  
21 Roderick, Jared Mikules, Lerna Hyatt, Jack Hyatt, Cathe Capel, Bill Hatch,  
22 Laverna Harper, Suzie Roderick, Lawrence Mahoney, Jim Harper, Mary  
23 Ellen Stites

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26 **1. Call to Order**

27 Ms. Griest called the meeting to order at 7:01.

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

30 The roll was called and a quorum was established.

31 **3. Correspondence**

32 Mr. Hall said that there was no correspondence.

33  
34 **4. Approval of Minutes**

35 Mr. Hall said that theses minutes are not for approval tonight. He said that since the last meeting was so  
36 extensive he felt it was better to have a working copy than no copy.

37  
38 **5. Continued Public Hearing**

39 **Mr. Thorsland moved, seconded by Mr. Irle to rearrange the schedule and call Case 619-FV-08 first**  
40 **then call Case 628-V-08 third. Motion carried by voice vote.**

**DRAFT**  
**SUBJECT TO APPROVAL**

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**Case 619-FV-08 Petitioner: Larry Peters Request: Authorize as a variance from the Champaign County Special Flood Hazard Area Ordinance the construction and occupancy of a dwelling in which the top of the garage floor is 0.83 feet below the Flood Protection Elevation of 690.3 instead of being at the Flood Protection Elevation; and the interior grade of the crawlspace is 2.3 feet below the lowest adjacent exterior grade instead of only 2.0 feet below the lowest exterior grade. Location: An 11 acre tract in the West Half of the Southeast Quarter of the Northeast Quarter of Section 3 of the Urbana Township and commonly known as the house at 2501 North Highcross Road, Urbana.**

Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone the opportunity to cross examine any witness. She stated that at the proper time she will ask for a show of hands of those who would like to cross examine and each person will be called upon. She requested that anyone called to cross examine go to the cross examination microphone to ask any questions. She said that those who desire to cross examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. Ms. Griest stated that no new testimony is to be given during cross examination and attorneys who have complied with article 6.5 of the ZBA Bylaws are exempt from cross examination.

Mr. Hall said that this meeting was originally set on July 17, 2008, so this is the second meeting for this case in which the petitioner past away the day before the meeting. He said that he had been trying to get in touch with Ms. Peters for the past couple of weeks she knew the case had been continued. He said that as if turned out the office had a bad telephone number and she finally contacted our office and requested that we continue this case to November 13, 2008, because she was not ready to deal with this tonight. Mr. Hall said that he looked at the Docket and it was something that could be accommodated and she said that she would be able to attend the November 13<sup>th</sup> hearing to represent the property interest at that time.

**Mr. Irle moved, seconded by Mr. Steeves to continue Case 619-V-08 to November 13, 2008. The motion carried by voice vote.**

1 Case 628-V-08 Petitioners: Virgil and Suzie Roderick Request: Authorize the following in the I-1 Light  
2 Industry District: A. The construction and use of an industrial building with two side yards that are  
3 each five feet in width in lieu of the required 10 feet. B. No loading berth in lieu of the requirement  
4 for one loading berth. C. The use of a parking space with a front yard of zero feet in lieu of the  
5 required front yard of 10 feet. D. The use of a parking space with a front yard of five feet in lieu of  
6 the required front yard of 10 feet. Location: Lots 109, 110, 131, and 132 in the Wilbur Heights  
7 Subdivision in Section 31 of Somer Township and commonly known as the house at 311 Paul Avenue  
8 and the vacant lot at 312 Wilbur Avenue in Champaign.

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10 Ms. Griest informed the audience that this is an Administrative Case and as such the County allows anyone  
11 the opportunity to cross examine any witness. She stated that at the proper time she will ask for a show of  
12 hands of those who would like to cross examine and each person will be called upon. She requested that  
13 anyone called to cross examine go to the cross examination microphone to ask any questions. She said that  
14 those who desire to cross examine are not required to sign the witness register but are requested to clearly  
15 state their name before asking any questions. Ms. Griest stated that no new testimony is to be given during  
16 cross examination and attorneys who have complied with article 6.5 of the ZBA Bylaws are exempt from  
17 cross examination

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19 Mr. Hall said that this case was continued from September 25, 2008, in which the site plan show a site  
20 plan that was presented to the Board had a side yard of one foot. He said that in the discussion at that  
21 meeting it was determined that the building could be revised to provide a greater side yard so Mr.  
22 Roderick resubmitted another site plan to show a greater side yard. Mr. Hall said that they had received  
23 the site plan the next morning to provide the five foot side yard and would need a lesser variance. He  
24 said that it did add the need for a variance for loading berth requirement so the case was re-advertised  
25 and the Summary of Evidence had been updated to reflect the new site plan and this case is ready for  
26 final action.

27

28 Ms. Griest asked the Board if there were questions for Mr. Hall and there were none.

29 Ms. Griest said that she have a couple of signatures on the witness register.

1 Ms. Griest called Bill Hatch.

2

3 Mr. Hatch said that he did not have anything to add at this time.

4 Ms. Griest called Larry Roderick.

5 Mr. Roderick said that he did not have anything to add at this time.

6

7 Ms. Griest said that concludes the signatures that she has in this case and asked if anyone wished to  
8 present testimony at this time and there was no other testimony.

9

10 **Summary of Evidence**

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12 Mr. Hall said that there was nothing new to add to the Summary of Evidence.

13

14 **Finding of Facts**

15

16 Ms. Griest said that for the documents of records and the testimony and exhibits received at the public  
17 hearing for zoning case 628-V-08 held on September 25, 2008, and October 16, 2008, the Zoning Board  
18 of Appeals of Champaign County finds that:

19

- 20 **1. Special conditions and circumstances do exist which are peculiar to the land or**
- 21 **structure involved, which are not applicable to other similarly situated land and**
- 22 **structures elsewhere in the same district**

23

24 Mr. Thorsland said that Special conditions and circumstances do exist which are peculiar to the land or  
25 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
26 the same district because the lots was created before October 10, 1973.

27

28 Mr. Steeves said that no land is available for purchase to alleviate variance.

29

1           **2.     Practical difficulties or hardships created by carrying out the strict letter of the**  
2                               **regulations sought to be varied will prevent reasonable or otherwise permitted use**  
3                               **of the land or structure or construction**  
4

5 Mr. Steeves said that Practical difficulties or hardships created by carrying out the strict letter of the  
6 regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or  
7 structure or construction because without the variance the petitioner could not construct the building to  
8 enhance their business.

9  
10           **3.     The special conditions, circumstances, hardships, or practical difficulties don not**  
11                               **result from actions of the applicant**  
12

13 Mr. Thorsland said that the special conditions, circumstances, hardships, or practical difficulties don not  
14 result from actions of the applicant because the use is consistent with the area and the narrow lots was  
15 created prior to October 10, 1973.

16  
17           **4.     The requested variance is in harmony with the general purpose and intent of the**  
18                               **Ordinance**  
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20 Mr. Steeves said that the requested variance is in harmony with the general purpose and intent of the  
21 Ordinance because the property meets all other requirements of the Zoning Ordinance and the variance is  
22 not prohibited by the Zoning Ordinance.

23  
24           **5.     The requested variance will not be injurious to the neighborhood or otherwise**  
25                               **detrimental to the public health, safety, or welfare**  
26

27 Mr. Thorsland said the requested variance will not be injurious to the neighborhood or otherwise  
28 detrimental to the public health, safety, or welfare because the construction of the building will be  
29 consistent with the neighborhood and would allow functional use of the business.

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Mr. Irle said that the Road Commissioner had no problem with construction. Fire Protection District had no comment and the adjacent property owners submitted letters which indicated that they had no problem with construction.

**6. The requested variance is the minimum variation that will make possible the reasonable use of the land/structure or construction**

Mr. Steeves said that the requested variance is the minimum variation that will make possible the reasonable use of the land/structure or construction because five feet is the minimum allowed variance for construction of the building and neighbor’s lot line.

**Mr. Irle moved, seconded by Mr. Thorsland to adopt the Summary of Evidence and Documents of Record. The motion carried by voice vote.**

**Mr. Steeves moved, seconded by Mr. Schroeder to close the public hearing. The motion carried by voice vote.**

Ms. Griest said that there are two members absent this evening and it would take four votes in Mr. Roderick’s and Mr. Hatch’s favor to approve his request.

Ms. Griest asked Mr. Hatch and Mr. Roderick if they wanted to Board to proceed to the Final Determination or to continue this case until such time when all Board members are present.

Mr. Hatch said that the petitioner would like to proceed.

**Final Determination**

**Mr. Steeves moved, seconded by Mr. Thorsland determines that the Champaign County Zoning Board Appeals finds that, based upon the application, testimony, and other evidence received in**



**ZBA**

**DRAFT SUBJECT TO APPROVAL DRAFT**

**10-16-2008**

1 this case, that the requirements of Section 9.1.9C have been met, and pursuant to the authority  
2 granted by Section 9.1.6B of the Champaign County Zoning Ordinance, the Zoning Board of  
3 Appeals determines that the variance request in Case 628-V-08 is hereby granted to the petitioners  
4 Virgil and Susie Roderick, to authorize the following in the I-1 Light Industry District: A. The  
5 construction and use of an industrial building with two side yards that are each five feet in width  
6 in lieu of the required 10 feet. B. No loading berth in lieu of the requirement for one loading  
7 berth. C. The use of a parking space with a front yard of zero feet in lieu of the required front  
8 yard of ten feet. D. The use of a parking space with a front yard of five feet in lieu of the required  
9 front yard of ten feet.

10  
11 The roll was called.

12  
13 **Mr. Bluhm- Absent**                      **Mr. Thorsland – Yes**                      **Mr. Irle – Yes**

14  
15 **Mr. Miller – Absent**                      **Mr. Schroeder – Yes**                      **Mr. Steeves – Yes**

16  
17 **Ms. Griest - Yes**

18  
19 **Case 610-S-08 Request: Authorize a Major Rural Specialty Business in the CR District. Location: A**  
20 **five acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1 T.**  
21 **18 N. R 10 E. of Sidney Township and commonly known as the River Bend Wild Game and**  
22 **Sausage Company at 1161 CR 2400E St. Joseph.**

23  
24 **Case 616-V-08 Request: Authorize the reconstruction and use of a building to be used as a Major**  
25 **Rural Specialty Business with a side yard of four feet in lieu of the required side yard of fifteen**  
26 **feet in the CR District. Location: A five acre tract in the East Half of the Southeast Quarter of the**  
27 **Northeast Quarter of Section 1T. 18 N. R 10 E. of Sidney Township and commonly known as**  
28 **River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph.**

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 stated that at the proper time he will ask for a show of  
3 hands of 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. Ms. Griest stated that no new testimony is to be given during  
7 cross examination and attorneys who have complied with article 6.5 of the ZBA Bylaws are exempt from  
8 cross examination

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10 Mr. Hall said that there is a new memo for case 610-S-08 dated October 10, 2008. Mr. Hall said that  
11 included in that memo is a letter from Mr. Stites dated September 30, 2008, addressing the wastewater  
12 treatment for the business, floor plan of the proposed storage building, and cooler expansion. Mr. Hall said  
13 that also included is an enhance floor plan for the bone barrel storage building and an elevation of the main  
14 building giving a general outline where the proposed cooler addition would be. He said that the last page of  
15 the memo was an after thought and was not listed as an attachment but it should be Attachment D and  
16 Attachment D is a proposed condition that he did not think anyone would object to it since neighbors had  
17 already raised questions about whether or not things had been buried on the subject property so he is  
18 proposing a condition that says: there shall be no burning or burial of any carcass parts on the subject  
19 property to ensure that all carcass parts are removed in the appropriate manner. He said that at a staff level he  
20 did not think that this was going on nor should it be going on and this condition will do nothing other than to  
21 assert what the rules are.

22 Mr. Hall said that new information on the floor plan indicates an area of clean barrel storage an indicates that  
23 it is a 10X30 temperature controlled storage area and that 16 foot wide portion of the building is about 640  
24 square feet. He said that one of the conditions was that no more than 800 square feet of this building would  
25 be used for the Special use Permit and the remainder would be used for personal storage.

26 Mr. Hall said that one of the things he indicated in a previous memo was that he was not certain that the  
27 County Health Department was going to write off on all these floor drains in this building. He said that  
28 in regards to the Special Use Permit a floor drain is needed so that there is a way to wash the bone  
29 barrels. He said that in general the County Health Department do not like to see floor drains in storage

1 buildings like this because someone who is not careful could end up with motor oil or something even  
2 worst going into the septic system. Mr. Hall said that he did not think that this building is exactly what is  
3 going to be approve by County Health Department but he was just making everyone aware so that Mr.  
4 Stites would not be surprised later if all of those floor drains end up being a problem with the County  
5 Health Department but that is between the Health Department and Mr. Stites.  
6 Mr. Hall said that at the last hearing the Board said that they made it clear that they wanted to see a  
7 specific wastewater system and maybe Mr. Stites could explain why that tonight that there is no proposal  
8 for a wastewater system for this Special Use Permit. He said that since they don't know at this point  
9 what all the problems are in getting a wastewater system and he did not propose a condition for that  
10 reason so it is staff's opinion that these cases are ready for final action tonight but it is up to the Board.

11  
12 Ms. Griest asked the Board if there were any questions for Mr. Hall and there were none.

13 Ms. Griest called Chuck Stites.

14  
15 Mr. Stites said he will start with some of the things he had been working through since the last meeting.  
16 He said that one of the concerns had been the use of the smokehouse and that he proposed installing a  
17 filtration system for the exhaust for that. He said that the company that he is dealing with informed him  
18 that the price had went up since the summer but he is ready to purchase it once he gets direction from the  
19 Board. He said that the neighbor said that they had been seeing trash from their facility onto their  
20 property and he thought he had mentioned in earlier testimony that he has an enclosed trash facility a  
21 wooden fence separating their property and the neighbor's property where the business is and fence is six  
22 foot high one by six treated wooden fence because he did not want any dogs or anything getting into  
23 their trash cans so back in 2000-2001 he made a twelve foot long by six wide area where they have their  
24 trash cans sitting in. He said that in the past in the early spring there were times when they would get a  
25 lot of activity around the trash can area by raccoons so he made sure that the children put lids on the  
26 trash cans and that tried strapping them down so a while back he had an idea that he constructed a wire  
27 mesh type roof for that to keep that will keep raccoons out of the trash area. He said that is not on their  
28 site plan but it is in front and to the east of their building at the edge of the asphalt parking lot and should  
29 not have any other problems with animals getting into the trash area.

1 Mr. Stites said that October 1<sup>st</sup> archery deer season had opened up and had not stored clean or full barrels  
2 outside but had kept them inside so that there would not be any issue with regards to proper storage. He  
3 said that for this coming season when they get busy they will not have room in the cooler where they  
4 keep their deer hanging to keep those barrels and the zoning office suggested that they like to see any  
5 full barrels be kept thirty feet from the property line and since he would not have the storage building  
6 built by shotgun season he had contacted a company that has portable storage containers and found out  
7 what the cost of those were, what type of site that he would need to set those on and how much lead time  
8 he needed to get something like that so they can go ahead and get one of those brought in for temporary  
9 storage while waiting for pickup of the bone barrels. He said that as Mr. Hall stated he had submitted a  
10 site plan for that building so they could use to store the barrels in when they need to. He said that the  
11 area for the clean barrels is smaller than what they need for full barrels because they could stack the  
12 empty clean ones.

13 Mr. Stites said that when he contacted the Zoning Office Mr. Hall said that in doing this application  
14 what needs to be looked at is what is it going to be done in five years and make sure what you want to do  
15 is included because you don't want to try to come back later to get approval for something else so that's  
16 why the cooler expansion is on there to ease congestion during our busiest season and it would be an  
17 extension of our existing building and would have been within ten feet from the property line which  
18 would have been the allowed setback until we were informed that they need to go for the Major Rural  
19 Specialty Business so the setback is fifteen feet. Mr. Stites said that it would have the same type of look  
20 as the existing building with vinyl siding and shingled roof.

21 Mr. Stites said that with regards to wastewater, as Mr. Hall said he do not have a specific plan permitted  
22 per the meeting in August. He said that he had contacted Jeff Blackford about what his options were. He  
23 said that Mr. Blackford said that they would like to see a subsurface discharge system or conventional  
24 septic. He said that if they did not have good percolation sand filters or mound systems may be an option  
25 but he would not come out and say this is what he suggests. He said he had asked Mr. Blackford as to  
26 what would be the most desirable and he said that he seen mound systems used and fail and the sand  
27 filters may not be the best but Mr. Blackford would not give a direct answer. Mr. Stites said that he  
28 contacted his plumber and he had good luck in getting specific answer from the Vermillion County  
29 Public Health although he is not in Vermillion County they suggested that he contact Illinois

1 Department of Public Health on South Neil. He said that the gentleman from the Illinois Public Health  
2 said that the best thing he could suggest is instead of worrying about different types of systems maybe  
3 get a soil classifier out to see if a conventional system can go in with a subsurface discharge. Mr. Stites  
4 said that he contacted Lester Bushue to do the soil classification and when he came out to the site he  
5 asked where would the wastewater treatment system be installed. Mr. Stites that it could go in the back.  
6 He said that Zoning Office said that perhaps the soil types may not be the best and may want to look in  
7 the front yard to the east. Mr. Stites said that Mr. Bushue said that that might be a good place too so he  
8 took three cores and said that from the way the soil looks this are could definitely be use for a subsurface  
9 discharge unit. Mr. Stites said that the next Monday he contacted Jeff Blackford at the Health  
10 Department to ask him if he saw the report from Mr. Bushue which he had informed him that he did and  
11 had been in contact with Mr. Hall and is presently waiting to see if there are any flood plane issues. Mr.  
12 Stites said that he stopped by and talked to Mr. Knight and he looked at his maps and said that the way  
13 the scale is it is hard sometimes get the exact but it would be in the general location and would speak to  
14 Mr. Hall to see if there are any concerns. He said that he contacted his plumber and gave him a copy of  
15 the soil report and said that he could come up with a couple of different ways to alleviate concerns  
16 regarding the flood plane. He said that the plumber indicated that the filtration pipe had to go in  
17 undisturbed soil but additional fill can go on the top of that to bring it up to a level so the flood waters  
18 did come up. He said that the plumber said that also a berm to keep flood waters away from the leach  
19 field. He said that when the plumber left he said that he would contact Mr. Blackford at the Public  
20 Health get things rolling. Mr. Stites said that he assumed everything was going well until last Saturday  
21 when the plumber talked to Mr. Blackford at Public Health Department and said that from the  
22 conversations they had with the Zoning Office and the concerns regarding flood plane and the front yard  
23 would be the only place to put it so on Monday the offices were closed so on Tuesday he called Mr.  
24 Bushue to come back out to do soil classification in the front yard. Mr. Stites said that when Mr.  
25 Busshue was there the first time he had asked him if he could do the front as well as the back. He said  
26 Mr. Bushue told that he did not need to go out front and went to his next job. Mr. Stites called the  
27 plumber on Monday but did not get anyone so he called again on Tuesday and talked to him and set up  
28 an appointment for him to come out on Saturday to do cores out front. Mr. Stites said that he called Mr.  
29 Blackford on Tuesday when the office was open to find out what he and the plumber had talked about

1 and Mr. Blackford said that he did not say that it could not be placed back there but it would have to be  
2 deferred to zoning again. Mr. Stites said that he contacted Mr. Knight and he said that they would be  
3 satisfied with what ever Public Health would be satisfied with. Mr. Stites said that he contacted Mr.  
4 Blackford today and asked him to contact Mr. Hall or Mr. Knight to bring everyone is up to speed. He  
5 said that one of the conditions is that there would be a system approved by Public Health and that is  
6 what he is working towards and will have something approved one way or the other. He said that he is  
7 disappointed that he was not able to have a permit from Public Health to bring to the meeting tonight but  
8 with the late developments this week it just did not happen.

9 Mr. Stites asked Mr. Hall if Mr. Blackford contacted him today.

10

11 Mr. Hall said no.

12 Mr. Hall asked Mr. Stites what was Mr. Blackford supposed to contact him about.

13

14 Mr. Stites said that one of the conditions stated was too general and wondered if the condition was it just  
15 for an approved an approved wastewater treatment system installed or if he had to have an approved  
16 wastewater treatment plan in hand.

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18 Mr. Hall said that he remembered that either today or yesterday Mr. Blackford called and he related how  
19 he arrived at this situation and he had clarified with him that until he sees the soil results from an area  
20 where he is going to allow a system to be installed he could not really say anything so once he see the  
21 soils from where ever location he would let it be and he could then know what could happen. Mr. Hall  
22 said that Mr. Blackford is still concerned about the loading that this use is going to generate. He said that  
23 there are two or three pages of standard loadings for different types of uses in the Private Sewage  
24 Disposal Act and butcher shop is not one of them and Mr. Blackford is exceedingly sensitive in letting  
25 someone build a system or invest in a system that may not be adequate.

26

27 Mr. Hall said that he asked Mr. Blackford since the system is designed for a four bedroom home could  
28 another four bedroom system be designed for the business and expand it later if it is needed.

29

1 Mr. Hall said that Mr. Blackford said that if you build it now you might find out later that you can't  
2 expand it because it works on gravity and once you are at a low point you are stuck.

3 Mr. Hall said that he understands that this is an unusual use with significant loadings on certain days but  
4 again we can't say anything for sure until the results from the soils come back.

5  
6 Mr. Stites said that he did not think of it but he has a water softener in the shop and it has a usage meter  
7 on it and when the plumber came out and they were talking about size he was talking about a minimum  
8 size of five hundred gallon a day unit and that is way over what he would be using so it would be  
9 sufficient for what they would be doing. He said that would come out once he files the permit.

10  
11 Mr. Hall said that when subsurface system go in they have an absolute maximum load and they need to  
12 know what the maximum load of that system is versus the current operations and how much growth did  
13 it provide. He said that Mr. Blackford did agreed that with a subsurface system they are better off  
14 building in a lot extra capacity but it all boils down to cost.

15  
16 Mr. Hall said that informally outside of the public hearing they had been circulating drafts of conditions  
17 but in terms of what they have in front of the Board right now they do not have a draft condition for any  
18 kind of a wastewater system.

19  
20 Mr. Stites said that with regards to the proposed condition 12N we dispose of our bi-products through a  
21 company and they hauled it away so there is no burning of any bi-products.

22 Mr. Stites said regarding traffic they intended to adjust their hours on the Monday following the first  
23 shot gun season and instead of opening at 4:00pm which is what is generally done they will open at  
24 9:00am. He said this should eliminate traffic on the road.

25 He said that in regards to the building with the floor drains he thinks of the farm shop having trench  
26 drain type so that is something he would have to fine out and whether it is allowed or not allowed.

27  
28 Mr. Irlle asked Mr. Stites if Mr. Bushue pulled core samples from the back site.

29

1 Mr. Stites said yes and had given the report to Mr. Blackford and the soil conditions are good. He said  
2 that Mr. Bushue would pull core samples from the front if the Public Health Department requests it. He  
3 said that he knew that was one of the issues that he was concerned about if there were percolation in the  
4 back for subsurface discharge.

5  
6 Mr. Irle asked Mr. Hall if Mr. Blackford needed core sample to make a determination but he had core  
7 samples.

8  
9 Mr. Hall said that Mr. Blackford maintained that he would not permit a subsurface system in the flood  
10 plane.

11  
12 Mr. Irle asked Mr. Hall if there is question whether the flood plane is actually there.

13  
14 Mr. Hall said as far as he is concern he knew that for a fact.

15 Mr. Hall said that Mr. Stites had received one or two permits from our office and each time we had to  
16 check the flood plane and his buildings are all out of the flood plane and the flood plane goes up to those  
17 buildings.

18  
19 Mr. Irle asked Mr. Hall if there was a need to collect any additional core samples.

20  
21 Mr. Hall said not according to Mr. Blackford.

22  
23 Mr. Hall said that Mr. Stites mention that his plumber mentioned a couple of alternatives, adding fill or  
24 building a dike and this is on the inside bend of the river and fill in the flood plan is not a problem  
25 depending on how much fill and where is it going but when you are on an inside bend there is a greater  
26 likelihood that you are going to encroach in the floodway and you cannot fill in a floodway. He said that  
27 he encourage Mr. Stites not to pursue filling in a flood plane given that he is on the inside bend where it  
28 is likely to be a problem.

29



1 Mr. Irle asked Mr. Stites if he will locate the storage shed behind the current one.

2

3 Mr. Stites said no it will be out front in the front yard on the south side.

4

5 Mr. Irle asked Mr. Stites if the building is going to be located in the same area as the septic.

6

7 Mr. Stites said that there is enough area to the south for that. He said that the plumber mentioned when  
8 they make those runs they are nine feet apart and fifty feet long and that is with the soil test.

9

10 Mr. Steeves asked Mr. Stites if he was talking about the fifty feet running east and west.

11

12 Mr. Stites said yes.

13

14 Mr. Steeves asked Mr. Stites if driving over the leach field would affect anything.

15

16 Mr. Stites said that there would not be any driving over the leach field.

17

18 Mr. Hall said that they could drive over the line leading to the leach field but no driving over the leach  
19 field. He said that the site plan has to be modified to indicate where the leach field is located.

20

21 Mr. Steeves said that as the site plan is right now Mr. Stites have the proposed driveway and the over  
22 flow parking where the leach field is going.

23

24 Mr. Stites said that when he gave that site plan to Mr. Hall he was looking out what is the worst case  
25 scenario for the next five years and the time that they have the traffic congestion is that one day and what  
26 they proposed is to put in a looped driveway which would take up more traffic on their property and Mr.  
27 Hall mentioned about having an area so people could park if they need to so they decided that an area in  
28 the front yard could be used also if needed. He said that they would not have many vehicles on the  
29 property that they would need to do that but it's there for the Board.

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Mr. Steeves asked Mr. Stites if the doors were facing north on the building.

Mr. Stites said yes.

Mr. Steeves said that the leach field would have to be within area where no one can drive over.

Mr. Hall said that is why they need to know how big it is going to have to be.

Mr. Irle asked Mr. Stites for clarity if all of the improvements will be on the east half of the property.

Mr. Stites said yes.

Mr. Irle said that when he gets the soil classification from Mr. Bushue to Mr. Blackford then the Board could have a better understanding any other area the leach field could go.

Mr. Steeves asked Mr. Stites how far back in the rear were the soil samples taken

Mr. Stites said next to the house.

Mr. Steeves said that it looks like that will overlap the septic system he has for the house.

Mr. Stites said that the type of system they have now is a surface discharge system so it would not interfere with that. He said that it has a septic tank an aeration tank and a chlorinator.

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

Ms. Griest asked staff if there were any other questions for Mr. Stites and there were none.

Ms. Griest asked if there were anyone else who wished to cross examine Mr. Stites.

1 Phil VanNess, attorney for some of the neighbors asked Mr. Stites if the 10 x 30 area of the proposed  
2 storage building will be use for clean barrel storage.

3

4 Mr. Stites said that is an area that could be used for clean barrel storage.

5

6 Mr. VanNess asked Mr. Stites could be used or would be used.

7

8 Mr. Stites said could be if necessary because they could use the other area for clean or full barrels also.

9

10 Mr. VanNess asked Mr. Stites if he would stack the barrels.

11

12 Mr. Stites said yes they would be stacked two high.

13

14 Mr. VanNess asked Mr. Stites if they would be stacked on pallets or by hand.

15

16 Mr. Stites said by hand they are empty barrels.

17

18 Mr. VanNess asked Mr. Stites if the barrels would be clean inside that building.

19

20 Mr. Stites said yes the plans show a hose station where they could go and clean.

21

22 Mr. VanNess asked Mr. Stites if the wash water from that cleaning process will go in those floor drains.

23

24 Mr. Stites said that it would go to the floor drains that are hooked up to the septic to go in the subsurface  
25 discharge.

26

27 Mr. VanNess asked Mr. Stites if he asked Mr. Blackford about that.

28 Mr. Stites said that he did not speak to Mr. Blackford about that specifically but that is that is the way

29 our whole facility is, there is cleaning, and rinsing.

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Mr. VanNess asked Mr. Stites if he uses anything else besides water for cleaning.

Mr. Stites said we use soap.

Mr. VanNess asked Mr. Stites what kind of soap.

Mr. Stites said that foam safe which is a mild detergent.

Mr. VanNess asked Mr. Stites if he shared that information with Mr. Blackford.

Mr. Stites said that he had share with him the types of cleaning product that they use in the facility.

Mr. VanNess asked Mr. Stites if those are three garage type doors along the east side of the building.

Mr. Stites said yes.

Mr. VanNess asked Mr. Stites if those garage doors would be large enough to accommodate the truck that comes in to pick up the bone barrels.

Mr. Stites said no that he would not be able to go inside the building.

Mr. VanNess asked Mr. Stites to describe how the bone barrels would get into the gentleman's truck.

Mr. Stites said that he would back up to the building, open the door and wheel the barrels to the back of the truck then he would dump those into his truck then he would leave.

Mr. VanNess asked Mr. Stites if the barrels would be staged inside the building an once they were

1 emptied they would replace inside the building.

2

3 Mr. Stites said yes.

4

5 Mr. VanNess asked Mr. Stites if at no time the barrels would be left outside the building before and after  
6 pick up.

7

8 Mr. Stites said no they would not be outside.

9

10 Mr. VanNess said regarding the extension of the existing shop Mr. VanNess asked Mr. Stites if the ten  
11 foot extension would put the building six feet over the property line.

12

13 Mr. Stites said no if you have the original picture of the site plan the ten foot extension would be  
14 approximately midway of the lean-to and would not extend further out. He said that one of the first  
15 proposals he talked about was possibly removing the lean-to and having more usable space but yet be ten  
16 foot off of the property line. He said that with the classification of Major Rural Specialty Business they  
17 have a fifteen foot side yard so he would be looking to get a variance for it.

18

19 Mr. VanNess asked Mr. Stites if the proposed septic field would intersect some what with the existing  
20 septic field for his home.

21

22 Mr. Stites said no. He said that from where the soil classifications were done in the back of the property  
23 just physically it looks like it crossroads but if it were to go back there then the pipe would intersect at  
24 different levels.

25

26 Mr. VanNess asked if the plan for the new septic field will be located under the propose parking area.

27

28 Mr. Stites said that area in the front yard could be use as overflow parking if needed however if we site  
29 the leach field there the overflow parking would have to be adjusted.

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Mr. VanNess asked Mr. Hall if there is a parking requirement for seven or so parking spaces for employees.

Mr. Hall said that according to the earlier testimony from Mr. Stites but our only concern is that he has adequate parking.

Ms. Griest asked if there was anyone else to wishes to cross examine Mr. Stites.

Dennis Wandell said that he lives north of Mr. Stites. Mr. Wandell asked Mr. Stites if the area along the south side of the proposed building where he plans to put the septic covered in tress.

Mr. Stites said that he did not say anything about the south side Mr. VanNess said something about the south side and Mr. Irle said something about the south side but it would not be to the south side of the building.

Mr. Wandell asked Mr. Stites if it was to the east side of the building.

Mr. Stites said that there is an open area to the east side of the building, there is an open to the north of that building and there is an open area to the north of that building and then go the road.

Mr. Wandell said that on the plan it looks like he has a proposed building and north of that he has a proposed parking lot.

Mr. Stites said that he has an area available for overflow parking on that plan just like Curtis Orchard have a field that they could used in case he need it.

Mr. Wandell said that he is trying to understand where the septic field would be going.

1 Mr. Stites said that it should be able to go in the front yard area but until he gets the soil classifications  
2 he would not know how large an area that is going to require.  
3  
4 Mr. Wandell asked Mr. Stites if it would be between 2400E and the proposed parking area.  
5  
6 Mr. Stites said that it would be between the road and the house.  
7  
8 Mr. Wandell asked Mr. Stites if it would be under the gravel parking area.  
9  
10 Mr. Stites said that he thinks that Mr. Wandell is making an assumption about the gravel parking area.  
11 He said that he has two different ways to accommodate traffic and one is the circular drive that would  
12 allow more vehicles to be on the property and also the front yard also would be available as needed.  
13  
14 Ms. Griest said that they would have a revised site plan and once the specification of the septic system  
15 are known he would have the information to examine so she recommend that they wait until they have  
16 more information.  
17  
18 Mr. Griest asked if there were anymore questions for Mr. Stites.  
19  
20 Mr. Hall said that when he looked at the elevation he had a question. Mr. Hall asked Mr. Stites if his  
21 intention was to modify the roof.  
22  
23 Mr. Stites said from where the peak of the roof is now coming over the cooler that roof would get torn  
24 off and install new rafters.  
25  
26 Ms. Griest called Mr. VanNess.  
27  
28 Mr. VanNess, Attorney for Dennis Wandell and Lucy Whalley read a prepared statement in opposition  
29 of the River Bend Wild Game and Sausage Company.

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Ms. Griest asked if there were and questions from the Board for Mr. VanNess and there were none.  
Ms. Griest asked if there were question from Staff for Mr. Mr. VanNess and there were none.

Mr. Wandell said that he lives north of Mr. Stites and read a prepared statement in opposition of the River Bend Wild Game and Sausage Company.

Ms. Griest asked the Board if they have any questions for Mr. Wandell and there were none.  
Ms. Griest asked staff if there were any questions for Mr. Wandell and there were none.

Ms. Griest asked if there was anyone who wised to cross examine Mr. Wandell and there was no cross examination.

Ms. Griest asked the petitioner if there were any questions for Mr. Wandell and there were none.

Lucy Whalley said that she lives on 2400E read a prepared statement in opposition to the River Bend Wild Game and Sausage Company.

Ms Griest asked the Board it there were any questions for Ms. Whalley and there were none Ms. Griest asked staff if there were any questions for Ms. Whalley and they there were none.

Ms. Griest asked the petitioner if there were questions for Ms. Whalley and there were none.

Ms. Griest asked if anyone wished to cross examine Ms. Whalley and there was no cross examination.

Ms. Griest said that concluded the signatures on the witness register is there anyone else who wish to sign the register and present testimony and there was no other testimony.

Mr. Irle asked if they could go over everything they have tonight.

The Board said that they concurred.

Mr. Irle said that all new construction and future changes would be on the eastern half of the property



1 including the proposed storage building, the propose leach field, the proposed driveway. He said that the  
2 leach field will be located only after (1) Mr. Lester Bushue finishes the soil classification on the eastern  
3 half of the property (2) Mr. Blackford determines an acceptable area for locating a leach area upon  
4 viewing and accessing the soils samples. He said that in addition, Mr. Blackford would have to  
5 determine the viability of the load range in the propose storage building and how they would be attached  
6 to the septic system. Mr. Irle said that after that the plumbing contractor will locate the best location with  
7 in that acceptable area and what is acceptable to the Health Department then the petitioner would know  
8 where the overflow driveway would be located so that there are no impacts to the leach field area.

9  
10 Ms. Griest said that she thinks that she heard that the exact placement of the building will be determined  
11 by the placement of the leach field. She said that there was also an issue of construction that was in the  
12 original request on the existing building and she heard Mr. Stites talking about putting up new truss and  
13 a new roof on the existing building so she would not narrowly say all construction.

14  
15 Mr. Steeves said that where he is getting a little confused was where they were doing the cooking and  
16 smoking and if the coolers were going in the new building or in the old building.

17  
18 Mr. Hall said that as he understands it there would be two coolers they are proposing a new cooler on the  
19 north side of the existing building which needs a variance because it would be only ten feet from the  
20 property line and it needs to be fifteen and some degree of cooling that is being proposed for the bone  
21 barrel storage. He said that he thinks it is fair to say that it is not clear at this point what that cooling is  
22 supposed to be whether it is an honest to goodness refrigerator unit or some other way of cooling. He  
23 said that it needs to be cooled sufficiently so that in the warmer parts of the hunting season the bone  
24 barrels odors are kept acceptable. He said that maybe Mr. Stites has more information on exactly what  
25 type of cooling that might take.

26  
27 Mr. Steeves said that he found the floor plan on the original building but as this is broken down he  
28 would like to see the new building broken down to show the placement of how things will be working in  
29 there.

1

2 Mr. Hall said that the only thing that is suppose to be happening in the new building in regards to the  
3 Special Use Permit is a place to store bone barrels that are full so that they are completely enclosed,  
4 there is a place to store clean bone barrels and there has to be a place for the bone barrels to be cleaned.

5

6 Mr. Steeves said that he is confused again because he thought that part of the processing that is in the  
7 existing building would be put in the new building to expand it.

8

9 Mr. Hall said absolutely not and what ever led him to think that we need to remove that from the public  
10 hearing because that is not his understanding.

11

12 Mr. Steeves said that if the bone barrel space is 10 X 30 and the building in 40X60 what do they need a  
13 40 X 60 building for if they are using it for bone barrels.

14

15 Mr. Hall said that he thinks and this will be his recommendation from now on is that when we have a  
16 Special Use Permit that proposes new building that building should only be for the Special Use Permit  
17 and if they want a personal storage building it has to be a separate building it is the only way to keep the  
18 two separate. He said that was not the way they started this meeting but it is up to the Board. He said that  
19 Mr. Steeves said the same thing last meeting and Mr. Hall agreed with him 100%. He said that the only  
20 way to make sure that the amount of that building is used for that Special Use is no more than what is  
21 allowed is that it has to be a free standing building and that is big as it is. He said that right now it is on  
22 the word of the petitioner.

23

24 Mr. Irle said that he would hope that by October 30<sup>th</sup> they could half all those items done in the order  
25 which they need to be taken care of so that we could progress from there specifically the site plan,  
26 recommendation from Mr. Blackford and the plumbing contractor.

27

28 Mr. Hall said that he don't think that he will have anything solid because Mr. Blackford doesn't know  
29 the loading of this use is.

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Mr. Irle asked Mr. Hall if he would know the loading once he gets the soil samples.

Mr. Hall said that hydraulic loading has to do with how much water is actually used during processing and unless someone could make a well educated estimate that they all could agree on right on which it could be wrong later we have no bases to design this. He said that again, unless the petitioner is willing to put in a system of a certain size and accept the risk that it might be undersize or it might be oversized or else the neighbors fears are going to be realize that this thing was in operation in peak season with the same wastewater system its been using for ten years and eventually a new system will be installed but in two weeks Mr. Blackford would not know what to approve.

Mr. Irle asked Mr. Hall if there were testimony in previous meeting that it had not been any problem with the current system.

Mr. Hall said that there was testimony indicating that but you can't be that certain. He said that there were testimony about smells and he had smelled those smells and he did not know what it was and never smelled those smells before so he did not think it was that clear.

Ms. Griest said that there were testimony from Mr. Stites regarding a water softener and is there a way to determine water softener usage to determine a load.

Mr. Irle asked Ms. Griest was that when he stated there was a peak 500 gallon per day flow.

Ms. Griest said that it was in that same discussion she would say that it was an actual said that if was a peak 500 gallon per day flow.

Mr. Thorsland said that maybe it would be good to bring Mr. Stites back.

Ms. Griest called Mr. Stites.

1

2 Ms. Griest asked Mr. Stites if he could elaborate on his earlier testimony regarding a water indicator on  
3 the water softener.

4

5 Mr. Stites said that they have two 40 gallon hot water heaters in the plant. He said that when they are in  
6 operation and cleaning the hot water is turned on all the way and the cold water is turned a quarter of a  
7 turned that way he could keep the temperature that he need to to adequately clean things. He said that he  
8 do not run out of hot water when he is cleaning so that is eighty gallons of hot water and the clean up  
9 process takes anywhere from thirty to forty five minutes so it is not like they are sitting there running  
10 there for a long time. He said that when he looked at his water softener there is a water usage indicator  
11 on it but he did not think of looking at it when they did some cutting and cleaned up afterwards. He said  
12 that he could monitor that in the next few days although it will not be accurate to the gallon but it will  
13 give a general idea and whether this minimum of 500 gallon will be adequate marginally adequate or  
14 way overboard as far as the capacity.

15

16 Ms. Griest asked Mr. Stites if the water that he uses for his barrel cleaning which he currently do outside  
17 gets captured.

18

19 Mr. Stites said that the barrel cleaning is done inside and it goes through the septic.

20

21 Mr. Steeves asked Mr. Stites what difference is there in the cleaning he does on light load day versus a  
22 heavy day because the area is the same.

23

24 Mr. Stites said that it is not a lot of difference other than if they are using a lot of fresh trimming because  
25 they would be in tubs or if it was in the freezer it would be in boxes. He said that on a heavy day it may  
26 be twenty tubs versus on a light day about eight tubs.

27

28 Mr. Irle said that his point is if Mr. Stites is using part of the shop or all of the shop they still have to  
29 clean all of it so he is cleaning the same amount of area whether it is archery season or one of the peak

1 periods.

2

3 Mr. Stites said that the water usage on the days during shot gun season would be different than if they  
4 were making product this evening because when they are making product they are using all of the  
5 equipment and when they are cutting deer they are using a couple of tables and some tubs and basically  
6 it is the room that gets clean. He said that the only other thing is that once the deer is skinned it gets  
7 rinsed and the way that they do it they do not get a bunch of contaminates on the carcass. He said that  
8 anything that they may get on it or the hunter may get on it gets trimmed off. He said that as his wife  
9 reminded him of some friends that have a meat processing plant near Salem, Illinois they are a family of  
10 six and their house and their shop which they do beef, sausage, deer and pork and they said that they use  
11 a third less water than they use in the plant than in their house.

12

13 Ms. McGrath said that if you look at page 30 of 46 of the Draft Memorandum dated August 8, 2008,  
14 here they talk about the issue of a onsite wastewater treatment and disposal and what it says is the initial  
15 application was made to the Public Health District was for property only not for business. She said that  
16 the wastewater goes to a 1,250 septic tank not 1,250 gallon per day and also the system is capable of  
17 treating 500 gallon per day and that was said in August. She said that the fact that the initial application  
18 said that it was for private usage only for a residence, the wastewater treatment goes first to a 1,250  
19 gallon septic then passes through a Flo-Rite aerobic treatment plant and then through an infiltrator, a  
20 chlorinator, and another tank before being discharged to the ground and also the system is capable of  
21 treating 500 gallons per day. She said that the Champaign County Public Health Department indicated  
22 on November 21, 2007, that no complaints had been received regarding the onsite private sewage  
23 disposal system. She said that the question that came from that were whether the wastewater treatment  
24 system that is in place can adequately treat the processing plant and other types of uses that is being  
25 performed on that site.

26

27 Mr. Stites said that when he talked to the Public Health Department the statement that Mr. Blackford  
28 made was regardless of whether that unit can handle what they have from the shop that unit was  
29 approved for residential use only. He said that when the application was made with the Health

1 Department they redid their septic with the shop on there.

2

3 Mr. Hall said that if he see a plan that is call a “Shop” and it is on a five acre lot he is thinking an Ag  
4 shop and not thinking a butcher shop.

5

6 Ms. Griest asked Mr. Stites if he could provide those items by October 30<sup>th</sup>.

7

8 Mr. Stites said that the appointment for the soil test is set for this Saturday morning.

9

10 Ms. Griest asked Mr. Stites if they will be doing a perc test.

11

12 Mr. Stites said that his understanding that they soil classifications now.

13

14 Mr. Hall said that soil classifications are superior to perc test.

15

16 Mr. Stites said that as soon as he gets the report and Mr. Bushue sends copy of the report to Jeff  
17 Blackford his plumber is waiting for the of the test also.

18

19 Mr. Irle said also he needs to discuss with Mr. Blackford the hook up of the drainage for the storage  
20 building.

21

22 Mr. Steeves said that the new site plan.

23

24 Ms. Griest said that the plan should also show the leach field, the building, the parking and the  
25 driveways.

26

27 Ms. McGrath said that Mr. Stites have to address the issue regarding the odor from the smoker and see if  
28 he could obtain any specifications on the air purifier from Enviro Kleen.

29

1 Mr. Hall said that there has been a question raised about the design standards for that air purifier and  
2 those comments are correct. He said that he have no idea what the capacity of the air purifier.

3

4 Mr. Stites said that the specifications are 600 cubic feet per minute.

5

6 Mr. Hall asked Mr. Stites how does that compare to what his system would be putting into it.

7

8 Mr. Stites said that the two smoke houses are 120 cubic feet per minute each so this is the smallest size  
9 they have so this could handle the two smoke houses easily.

10

11 Mr. Hall said that the condition that was included in the draft Summary of Evidence on Friday on  
12 August 8, 2008, calls for not only smoke exhaust but any cooking exhaust.

13

14 Mr. Stites said that it is all one unit and it is like your chimney in your fireplace.

15

16 Mr. Hall asked Mr. Stites if there is any cooking outside the smoker.

17

18 Mr. Stites said no that it all comes out of that environmentally controlled unit and it comes out of a four  
19 inch pipe.

20

21 Mr. Hall said that if Mr. Stites had any manufacturer's cut sheets it would be good to have it for the file  
22 that way five years from now they will know Enviro Kleen is a 600 cfm unit and the two smokers put out  
23 about 240 cfm thus there is enough capacity there for a couple of more smokers.

24

25 Mr. Hall asked Mr. Stites if his intention was to wait on the Board to give him a decision before he  
26 installs the smoke cleaner.

27

28 Mr. Stites that there were people on the Board that advised him not to make any major purchases. He  
29 said that he wanted personally go ahead and do that but he was advised not to until things got

1 progressively further.

2

3 Mr. Hall asked Mr. Stites if he intended to smoke sausage this fall before the Board gives him an  
4 approval.

5

6 Mr. Stites said yes it is his intention to do to do that when he has favorable winds.

7

8 Mr. Hall said that he went back to the Mr. Stites original Rural Home Occupation and it did not mention  
9 anything about smoking sausage. He said that if someone came with a Rural Home Occupation  
10 application where they are not suppose to have any odors and they were smoking sausage he thought it  
11 would had been raised as an issue so as a Zoning Administrator he is sympathetic to the neighbors that  
12 they had been putting up with the odor of the sausage smoking and normally would let some one  
13 continue what they are doing but in this case they did not know they would be smoking sausage and he  
14 would like to get a sense from the Board if they think that it is reasonable to allow smoking of that  
15 sausage to continue when they had known for several months what the only solution is to buy this  
16 device.

17

18 Ms. Griest said that she thinks that's accurate but at the same time they as a Board advised Mr. Stites as  
19 they do all the petitioners when they come to them about making an investment prior to final  
20 determination that any investment they make is at their own risk and that is what Mr. Stites is referring  
21 to.

22

23 Mr. Hall said that the Zoning Ordinance does not prohibit this even as a Rural Home Occupation the  
24 only thing it issue as a Rural Home Occupation is the volume or the scale. He said that he as a Zoning  
25 Administrator would not allow smoking of sausage unless there was some way of controlling the odor.  
26 Mr. Hall said that if the Major Rural Specialty Business is denied then the Rural Home Occupation will  
27 still have to control the smoking odor.

28

29 Mr. Thorsland said that Mr. Stites did not say that he was not willing to do this but back in August he



1 was ready to purchase the scrubber but the Board maybe gave him the impression to wait. Mr. Thorsland  
2 said that what Mr. Hall is saying is correct at some point you will have A size or B size but either one of  
3 those would require a filter.

4  
5 Mr. Irle said that when they were talking about specific cost the Enviro Pak was about twenty thousand  
6 dollars and with the leach field, driveway storage buildings etc.. it could be into six figures and do Mr.  
7 Stites want to make that kind of investment and if so do he want to do it all at once or a little at a time  
8 and that' where that came from.

9  
10 Mr. Steeves said that from what Mr. Hall is saying Mr. Stites want to smoke sausage then he would have  
11 to do something about the odor or don't smoke sausage.

12  
13 Mr. Stites said when Mr. Wandell had told him that he did not like the odor anymore it was at the  
14 beginning of the season around Christmas time and he had told him in the past that he appreciate that  
15 they weren't cooking when the wind was coming toward his property so in his conversation with him  
16 outside of an outside isolated incident or two he thought that they were doing a pretty good job of  
17 keeping him happy with regards to the cooking.

18 He said that he is ready to purchase this equipment but he knows that it would not be here immediately  
19 but even if this application is denied he appreciate Mr. Hall allowing them to continue with the Rural  
20 Home Occupation with the appropriate accommodation. He said that what he is getting from this tonight  
21 is that he needs to go ahead and purchase this equipment.

22  
23 Mr. Hall said that what he wanted to make clear is if Mr. Stites exceeded the boundaries of the Rural  
24 Home Occupation the worst case at this point if the Special Use Permit is denied then he would scale  
25 back the operation.

26  
27 Ms. Griest said that she was not clear if that was an option.

28  
29 Mr. Hall said that it was not prohibited by the Zoning Ordinance so there would not be grounds to

1 exterminate this use but there are simple limits employees and on odor.

2

3 Mr. Steeves said that the scale back but it would be because of the number of employees and not the  
4 number of deer.

5

6 Mr. Hall said that is correct. He said that even as a Rural Home Occupation the Zoning Ordinance says  
7 that all new systems has to be approved by the Health Department for that use and the sequence here was  
8 that they had the application for the Rural Home Occupation before the new Septic system was installed  
9 so on paper this was a Rural Home Occupation and when that septic system put in that septic system  
10 should have been designed for the Rural Home Occupation but it did not say that the Rural Home  
11 Occupation Application did not say for a butcher shop.

12

13 Mr. Stites said that he did not get a copy of that until he asked for it this last spring.

14

15 Ms. Griest said that if the Board gave Mr. Stites the impression that it was economically a good  
16 investment to proceed with the Enviro Kleen product that was miss information.

17

18 Mr. Steeves said that his concern still is if he could have any of these things done by the 30<sup>th</sup>.

19

20 Mr. Hall said that he thinks that the Board is mainly concerned about the plan for the septic system and  
21 the overall site plan.

22

23 Ms. Griest said that if Mr. Stites is expecting to smoke sausage could he get the filtering system in  
24 before that process begins.

25

26 Mr. Stites said that he would like to use the wind direction method until he could get that in. he said that  
27 he could tell the office tomorrow or on the 30<sup>th</sup> when they could install the scrubber.

28

29 Mr. Hall said that another thing Mr. Stites needs to be ready for is that all these conditions had a date of

1 November 21, 2008, and the final decision by this Board has to have a date that he agrees to and the  
2 Board agrees to and right now it is November 21, 2008, for everything so Mr. Stites have to tell this  
3 Board what he can and cannot do.

4  
5 Mr. Stites asked Mr. Hall if he could have an idea for a timeline for those conditions that have timelines.

6  
7 Mr. Hall said that he would encourage Mr. Stites to do all he could before November 21, 2008, but if he  
8 over extends himself it would be a direct violation of the Special Use Permit.

9  
10 Ms. McGrath said that all of this started back December 11, 2007, when the Zoning Office had sent a  
11 letter of violation to Mr. Stites because of the expansion of his business exceeded the Rural Home  
12 Occupation Permit. She said that because of the detail description of what the business entailed caused  
13 them to look for suggestions for Mr. Stites to consider which would be the Major Rural Specialty  
14 Business. She said that with the Rural Home Occupation you could only have two non-family non-  
15 resident employees there which again would be a problem as Mr. Stites is currently operating. She said  
16 that also there was some improper construction so staff was then left to consider whether they should  
17 continue as a Rural Home Occupation. She said that it might be helpful if to have that information prior  
18 to the October 30<sup>th</sup> meeting so that information could help determine if the Major Rural Specialty  
19 Business is appropriate for their present operation.

20  
21 Ms. Griest asked Mr. Hall if Mr. Stites could continue to operate until this can be resolved. She said that  
22 her expectation was that he would be able to continue at his current level of operation.

23  
24 Mr. Hall said that he thinks that they still can but he would feel more comfortable that either there is no  
25 smoking or the smoking is controlled and there no uncovered bone barrels and out in the open so the  
26 idea of a temporary storage for that might be excessive unless he has a contractor willing to do that  
27 because it may not be ready in time. He said that regarding temperature control he is less concerned  
28 about that this season but soon as it gets warm Mr. Stites need to take greater precaution in keeping the  
29 bone barrels in a temperature controlled environment. He said that they don't mind the use continuing

1 but if it is an immediate threat to public health they generally take things like that to ELUC so they  
2 would be writing off on that. He said that he is not ready to do that at this time especially if he knew  
3 there will be smoke control as soon as possible and that the bone barrels will be covered and protected at  
4 all times.

5 Mr. Hall said that the other major issue as far as public health is wastewater but the Zoning  
6 Administrator can not take any action that the Public Health would not take so if the public health is not  
7 going to shut them down over wastewater then he is not going to do it.

8

9 Mr. Steeves said that one of major concerns was the number of employees and how can he have X  
10 number of employees without going beyond his scope.

11

12 Mr. Hall some amount of operation can go on and as long as they are making progress he is not inclined  
13 to say that he has to cut back to a Rural Home Occupation he is prepared to wait to see what the decision  
14 is.

15

16 Mr. Hall asked Mr. Stites if he had any questions.

17

18 Mr. Stites said no he would go ahead and double check what the expectation is now or he could talk to  
19 them in their office.

20

21 Mr. Hall said that it could be done in the office.

22

23 Ms. Griest asked if there were any other questions from the Board.

24

25 Mr. Steeves asked if this could be done by October 30<sup>th</sup>.

26

27 Mr. Stites said that he would do all he could. He said that he will go to Mr. Bushue to obtain the  
28 information for Mr. Blackford.

29

1 Mr. Hall said that Mr. Stites might want to impress on Mr. Bushue that time is of the essence.

2

3 Mr. Steeves moved, Mr. Thorsland second to continue case 610-S-08 and 616-V-08 to October 30,  
4 2008. The motion carried by voice vote.

5

6 6. Staff Report

7

8 There was no staff report.

9

10 7. Other Business

11 Mr. Hall said that the Board might want to discuss a Special Meeting of November 13<sup>th</sup> given that would  
12 be the last time this Board actually meets but given the late hour tonight it could wait until the next  
13 meeting.

14

15 Ms. Griest said that next meeting they will talk about it and choose a location and time for the Special  
16 Meeting.

17

18 8. Audience Participation with Respect to Matters other than Cases Pending Before the  
19 Board

20

21 There was no Audience participation

22

23 9. Adjournment

24

25 Ms. Griest adjourned the meeting a 9:40pm.

26

27 Respectfully submitted

28

29 Secretary of Zoning Board of Appeals

# CASE NO. 610-S-08

## SUPPLEMENTAL MEMORANDUM

November 7, 2008

Champaign  
County  
Department of

Petitioners: **Charles and Mary Ellen  
Stites**

Request: **Authorize a Major Rural  
Specialty Business in the CR District.**



Site Area: **approx. 5.0 acres**

Time Schedule for Development:

**Immediate**

Location: **A five acre tract in the East  
Half of the Southeast Quarter of the  
Northeast Quarter of Section 1 T.18 N.  
R 10 E. of Sidney Township and  
commonly known as River Bend Wild  
Game and Sausage Company at 1161  
CR 2400E, St. Joseph.**

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

FAX (217) 328-2426

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

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### STATUS

This is the fifth meeting for this case. This case was continued from the October 30, 2008, ZBA meeting. A letter of opposition received on October 22, 2008, from Lucy Whalley and Dennis Wandell that was not included in the last mailing is attached. A letter of opposition was received on November 6, 2008, from Jim and LaVerna Harper is attached.

The special conditions of approval have been revised based on discussion from the October 30, 2008, public hearing.

The Petitioners do not yet have a proposal for a specific wastewater treatment system for the Public Health Department. However, they have stayed in touch with staff and they are working with the Public Health Department to answer questions.

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### NEW EVIDENCE FOR SUMMARY OF EVIDENCE

The Summary of Evidence has been updated throughout. See the Revised Summary of Evidence dated November 7, 2008.

### ATTACHMENTS

- A Letter of Opposition from Lucy Whalley and Dennis Wandell dated October 22, 2008
- B Letter of Opposition from Jim and LaVerna Harper, received on November 6, 2008
- C Revised Draft Summary of Evidence for Case 610-S-08

1167 County Road 2400 E  
St. Joseph, IL 61873

21 October 2008

Mr. John Hall, Director  
Champaign County Department of Planning and Zoning  
1776 East Washington Street  
Urbana, IL 61802

Dear Mr. Hall,

The purpose of this letter is to reiterate that we oppose the granting of a major rural specialty business permit and variance for an associated building to River Bend Wild Game and Sausage Company (River Bend), owned by Charles and Mary Ellen Stites. After attending the third Zoning Board of Appeals (ZBA) meeting on 16 October 2008 concerning Case No. 610-S-08 and 616-V-08, we have learned that River Bend has been officially out of compliance with their rural home occupation (RHO) permit since the notice of violation from your office dated 11 December 2007. This came as a revelation to us, since we were not aware that this was the start date of an official notice of violation. This means that the owners of River Bend have had approximately 10 months to apply for the major rural specialty business permit and still have not demonstrated how they will address even the issues that led to the notice of violation of their RHO permit. We, along with your office and the ZBA, have spent considerable time, listening to the owners of River Bend not address the outstanding issues brought up in public testimony and by your office in your draft conditions for the major rural specialty business permit.

After retaining an attorney and attending three ZBA meetings, we now understand that the ongoing activities of the owners of River Bend are not only a public nuisance and a public health hazard, but are clearly illegal according to Champaign County planning and zoning and public health code and potentially according to state environmental legislation. Their past behavior gives us no assurance that if granted the major rural specialty business permit the owners of River Bend will conduct their business in a responsible and legal manner. Even if the owners of River Bend must scale back to operate within a RHO permit, their activities have been in violation of Champaign County planning and zoning, and public health permits since at least 2001.

Already, Mr. Stites has ignored several of the draft conditions specified by your office. For example, the location of the refrigeration units has moved from the requested south side of the building to the north side; and storage of household garbage has changed from the requested storage inside the building to the same current outside storage only with a wire mesh across the top. We are not convinced that any conditions attached to the major rural specialty business permit will be observed by the owners of River Bend. Judging from the past history of persistent illegal behavior on the part of the owners of River Bend, we wonder how much more time that we and your office can be reasonably expected to spend on monitoring future violations of permit conditions.

Sincerely,

*Lucy A. Whalley*  
*Dennis N. Wandell*

Lucy A. Whalley

Dennis N. Wandell

RECEIVED

OCT 22 2008

CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED

NOV 06 2008

CHAMPAIGN COUNTY PLANNING & ZONING DEPARTMENT

Jim and LaVerna Harper  
1173 CR 2400E  
St. Joseph, IL 61873  
217.688.2807  
[lharp@egix.net](mailto:lharp@egix.net)

November 6, 2008

Mr. John Hall, Director  
Champaign County Planning and Zoning  
Brookens Administrative Center  
1776 East Washington  
Urbana, IL 61802

Dear Mr. Hall:

Re: CASE NO. 610-S-08 and 610-V-08

The purpose of this letter is to ask that the deer butchering operation at 1161 CR 2400E, St. Joseph, IL be suspended at the November 13, 2008 Zoning Board of Appeals (ZBA) meeting until such time that the Stites have corrected the violations specified in the December 11, 2007 letter from the Champaign County Zoning Administrator.

We are reaffirming our position of being in opposition to CASE NO. 610-S-08 and CASE NO. 610-V-8 brought before the Zoning Board of Appeals by Charles and Mary Ellen Stites who reside at 1161 CR 2400E, St. Joseph, IL. We reside at 1173 CR 2400E, St. Joseph, IL and our house is approximately 350 feet directly north of the buildings being used by the Stites for their expanding deer butchering business.

As you know, we have attended all of the meetings concerning this issue and have been active listeners to the proceedings. It was our understanding that our written communiqué would communicate to the board our concerns regarding the Stites' requests. We were surprised to learn at the October 30<sup>th</sup> meeting that our letter was not recognized as part of the argument against these zoning requests. Mr. Irle stated that there was only one neighbor who had expressed concerns. In fact, there have been several neighbors who are not pleased with the current situation at 1161 CR 2400E and who oppose expansion of the deer butchering operation.

At each meeting we attended the Chairperson reiterated that repeat testimony was not welcomed. Now it is our understanding that we should make a verbal presentation so that our "voice" may be heard. We will make that presentation at the next meeting.



As we mentioned in our original letter, we have lived in our home for 36 years and were a quiet, cohesive community until the Stites' moved in. After they moved in their dogs roamed the community and barked incessantly. Mr. Stites did not address these issues and ignored our requests for corrective action.

Furthermore, in a letter dated December 11, 2007 addressed to Mr. Stites from the Champaign County Department of Planning and Zoning lists five (5) violations of the *Champaign County Zoning Ordinance* (Permanent Index No. 24-28-01-200-013). The letter states **"You must correct these violations within 15 days of this notice and contact me on or before December 27, 2007, regarding this matter."** To our knowledge, none of these violations have been corrected as of November 6, 2008 and yet Mr. Stites is continuing his deer butchering operation.

Mr. Stites has had almost eleven (11) months to take corrective action regarding these violations. It seems to us that a reasonable, caring person, who knows and understands health rules and regulations, would have taken immediate corrective action.

Mr. Stites has a Master's Degree in Meat Science from the University of Illinois. He, of all people, knows better than to leave open barrels of meat and bones sitting outside. This negligence shows a total disregard for the health and well being of our neighborhood. Since these meetings began we have had additional bones in our yard. I mentioned that to Mary Ellen Stites at one of the ZBA meetings.

Our questions/position remains:

- We are in a CR district which states:  
"The CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY."

**How does a butchering business that is in violation of five (5) Champaign County Ordinances and has a 44-space parking area continue to operate in a natural and scenic Conservation-Recreation area?**

- Is our precious water source being adversely affected **today** by Mr. Stites' continuing to butcher deer?
- Is the Salt Fork River being affected **today** in any way by the continued operation of this business? The Salt Fork periodically floods onto the Stites' property.
- There should be no additional noise pollution in our neighborhood.
- The coolers should be placed on the south side of their business structure which is currently located within 3 ½ feet of the north border of their property.

- Will off-road parking be adequate to keep 2400E clear? Does the 44 space parking layout lend itself to a continuous queue of vehicles entering the property from 2400E, passing by a check-in station, and egress onto 2400E?

Our original questions (asked in our letter dated June 27, 2008) remain to be answered by the ZBA:

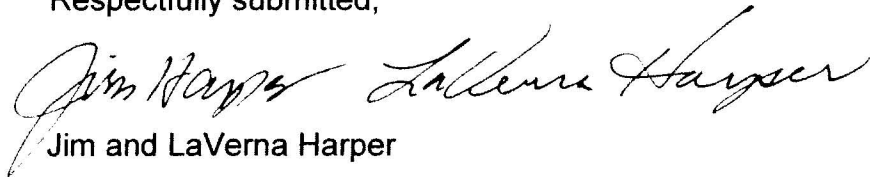
- What is the plan of action if rules are not followed? Who checks? Who enforces?
- What will be our recourse if we continue to have the aforementioned problems?
- What will be our recourse if our drinking water or the Salt Fork River is adversely affected?
- What happens if cars are parked along 2400E and debris is thrown into our yards?
- What will be our recourse if we have to listen to motors/compressors/exhaust fans running while we're on our porch and in our homes? We know of no refrigeration system which does not have an external component to dissipate heat without noise.
- What should we do if we continue to find deer parts in our yard?
- Will an environmental impact study be done?

**I**f the zoning requests are granted in 2008, we respectfully request the following stipulations:

1. That the original date of April 1, 2011 remains as the expiration date for zoning variance. In a letter dated December 11, 2007 to Mr. Stites (Case: ZN-07-24/28) it states that there are five zoning violations. He was given 15 days to correct those violations. To date, these problem areas have not been corrected. Therefore, it seems reasonable and prudent that the Stites' be given specific dates (not moving targets) to correct all of these violations, and that the ZBA reevaluate their operation as originally proposed—in the year 2011. If all the zoning problems have been corrected, and there are not further incidents, it should be a simple matter to then renew the request for a longer period of time.
2. That the ZBA do everything in their power to safeguard the safety, health, and welfare of our CR zoned community.

3. That the waste removal (septic) systems at 1161 CR 2400E, St. Joseph, IL be checked **before** each deer butchering season and **mid-season** of the butchering processing season to ensure that our neighborhood is not being endangered.
4. **That, if any deficiencies/violations are found, the butchering operation be stopped on that day.**
5. That the ZBA formally ask the Zoning Administrator of Champaign County to periodically check the deer butchering operation. Neighbors can assist the ZBA if we observe violations but we would not know, for example, if there are septic problems until it is too late.
6. That the ZBA enforce the proposed special conditions of approval to ensure that this butchering operation does not contribute to water pollution or noise pollution, and does not infringe on the rights of the neighbors to enjoy the natural and scenic areas so designated by the Conservation-Recreation Zoning District.

Respectfully submitted,



Jim and LaVerna Harper

cc:

County Board District 4 Representatives

Greg Knott

W. Steven "Steve" Moser

Stanley S. "Steve" O'Connor

Charles and Mary Ellen Stites

Jeff Blackford, Program Coordinator, C C Environmental Health

Susan McGrath, Senior Assistant State's Attorney

*REVISED DRAFT for November 7, 2008*

**610-S-08**

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

---

Final Determination: { ***GRANTED / GRANTED WITH CONDITIONS / DENIED*** }

Date: November 13, 2008

Petitioners: Charles and Mary Ellen Stites

Request: Authorize a Major Rural Specialty Business in the CR District.

---

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 15, 2008, and August 14, 2008, October 16, 2008, October 30, 2008, and November 13, 2008** the Zoning Board of Appeals of Champaign County finds that:

- \*1. The petitioners, Charles and Mary Ellen Stites, own the subject property.
- \*2. The subject property is a five acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1 T.18 N. R 10 E. of Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph..
- \*3. The subject property is not located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they do receive notice of such cases and they are invited to comment.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

- \*4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. The subject property is zoned CR Conservation-Recreation and is in use as a single family dwelling and River Bend Wild Game and Sausage Company, a home occupation approved by Zoning Use Permit (ZUP) 279-98-02. Related Zoning Case 616-V-08 is also proposed on the subject property.

\*Same evidence as in related Zoning Case 616-V-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 4. CONTINUED

- B. Land to the north of the subject property is zoned CR Conservation-Recreation and is in use as a single family dwelling and Applause Landscape, a home occupation approved by ZUP 72-01-01.
- C. Land to the east, west, and south of the subject property is zoned CR Conservation-Recreation and is in use as single family dwellings.

**GENERALLY REGARDING THE PROPOSED SPECIAL USE**

- 5. Regarding the proposed site plan and operations of River Bend Wild Game and Sausage Company:
  - A. Regarding the history of the subject property:
    - (1) The Petitioners applied for Zoning Use Permit (ZUP) 279-98-02 on October 6, 1998, to establish River Bend Wild Game and Sausage Company as a Rural Home Occupation (RHO) on the subject property. The permit was approved on May 31, 2001, and included a site plan.
    - (2) The Petitioners applied for ZUP 142-01-04 to construct an addition to the detached accessory structure. The ZUP was approved on May 22, 2001.
    - (3) The Department first received a complaint regarding the subject property on September 6, 2006.
    - (4) The Department received another complaint regarding the subject property on November 13, 2007. Investigation of the River Bend website indicated the use had probably grown beyond the limits of a RHO.
    - (5) Another complaint was received on November 20, 2007, and the Zoning Administrator performed a drive-by inspection of the subject property and also reviewed the website of the River Bend Wild Game and Sausage Company. Copies of inspection photographs are included separately. Based on the review of the website and the drive by inspection the Zoning Administrator determined the following:
      - (a) The limit on non-resident, non-family employees for a RHO was exceeded by the River Bend Wild Game and Sausage Company.
      - (b) The processes employed by the River Bend Wild Game and Sausage Company created odor discernible at the property line that was of a nature, quantity, intensity, and duration not customarily associated with agriculture.
      - (c) The owner/operator of the River Bend Wild Game and Sausage Company did not provide off-street parking for all patrons.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 5.A.(5) CONTINUED

- (d) The accessory building was too close to the property line.
  - (6) A First Notice of Violation was given on December 11, 2007.
  - (7) Staff met with the Petitioners on December 17, 2007, and discussed the alternatives to bring the subject property into conformance with the *Zoning Ordinance*.
  - (8) A Final Notice of Violation was given on February 15, 2008.
  - (9) The Petitioner submitted an application for Special Use Permit on March 10, 2008.
  - (10) Staff determined that there was insufficient information included with the application and notified the Petitioners of additional required information in a letter dated April 23, 2008.
  - (11) The required information was received on May 5, 2008.
- B. Two documents were included with the application received on March 10, 2008, as follows:
- (1) A printout of the Weather Underground website ([www.wunderground.com](http://www.wunderground.com)) that shows a wind forecast for the subject property's zip code. The wind direction is indicated at midnight, four AM, seven AM, ten AM, one PM, four PM, and seven PM. The petitioners have indicated on the application that this website is one of the tools they use to determine when the operation of their smokehouse would be less likely to impact their neighbors to the north.
  - (2) A River Bend Wild Game and Sausage Company brochure which lists their products and prices.
- C. A site plan for the subject property was received on May 5, 2008, that indicates the following:
- (1) Three existing structures are indicated, a home and attached garage, the business building, and a barn.
  - (2) The business building is located along the north lot line and is indicated as being four feet from the north lot line 360 feet from the road. This is an inadequate side yard and is the subject of related Zoning Case 616-V-08.
  - (3) The home and attached garage is located just south of the business building.
  - (4) The barn is located west of the business building and appears to be a simple 12 feet by 12 feet building.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 5.C. CONTINUED

- (5) There is an asphalt parking area just in front of the business building. The home and attached garage and the business building access the street by means of an asphalt driveway sixteen feet wide.
  - (6) A proposed driveway is indicated to circle from the west end of the existing drive around an area described as “overflow parking” before rejoining the existing drive at the east end.
  - (7) A proposed storage building is indicated south of the proposed drive. The petitioners indicate on their application that this building would be for personal storage. However, in the additional information submitted on May 5, 2008, the petitioners also state that this building could possibly be used as an enclosed space where the dumping of bone barrels could occur.
- D. A floor plan of the business building was submitted on May 5, 2008, and indicates the following:
- (1) At the east end of the building is an open overhang, this area gives access to the lobby and the hanging cooler.
  - (2) From inside the lobby there is an office, a bathroom, and a storage room.
  - (3) A hallway off the lobby gives access to a packaging room, the cooked meat cooler, the freezer, and the processing area.
  - (4) The processing area contains several pieces of equipment: a stuffer, a stuffing table, a grinder, a mixer, and two smoke houses.
  - (5) A final area at the north and west sides of the building is indicated to be a pole barn type of structure and is used for personal/business storage.
- E. A revised site plan was submitted on May 12, 2008, with one revision. The petitioners indicated a “possible future cooler expansion” on the northeast side of the business building. In the letter accompanying the revised site plan the petitioners indicate the cooler expansion would be a conforming structure and require alteration of the lean-to structure.
- F. At the May 15, 2008, public hearing Chuck Stites, co-petitioner, testified that the coolers would have inside condensers.
- G. A letter from co-petitioner, Chuck Stites, was received on August 8, 2008, regarding the draft conditions for this case. At the end of that letter the petitioner clarified that the proposed storage building shown on the site plan received May 5, 2008, would not be closer to the south property

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 5.G. CONTINUED

line than 30 feet. The petitioners stated it was their intent to locate the proposed storage building outside the floodplain.

H. A letter from co-petitioner, Chuck Stites, was received on October 1, 2008, regarding additional information the ZBA asked for at the August 14, 2008, public hearing. Two pieces of information regarding the site plan were included in the letter, as follows:

- (1) A floor plan of the proposed storage building was included, as follows:
  - (a) The building will be 42 feet by 60 feet overall.
  - (b) There are three overhead doors and one regular door on what appears to be the south side of the building. However, it seems likely that the directions on the floor plan are incorrect since placing the doors on the south side of the building would not allow them to be accessed from the proposed driveway expansion.
  - (c) Inside the building there is a 10 feet by 30 feet temperature controlled storage area for full and/or clean barrels. There is also an area without dimensions indicated for clean barrel storage outside but adjacent to the temperature controlled storage area.
  - (d) There is a hose station indicated in the corner near the temperature controlled storage area. There are also three floor drains indicated outside the storage area and one inside the storage area. A note indicates the floor drains will be tied into a subsurface private sewage system. The Public Health Department does not generally approve of floor drains inside garages. The petitioners will have to obtain special approval for the floor drains, and that special approval should be a part of the special condition for private sewage disposal.
  - (e) An elevation was also provided for the proposed building and seems to indicate the building will look like a typical metal building in the rural districts.
- (2) Mr. Stites also indicated that the cooler expansion proposed on the May 12, 2008, site plan would alleviate congestion that occurs during their busiest times. He also states that all his refrigeration units are located inside and they have no intention of installing any future units on the exterior of the building.

I. A letter from co-petitioner, Chuck Stites, was received on October 12, 2008, with additional information regarding the proposed site plan, as follows:

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed



ITEM 5.I. CONTINUED

- (1) A revised floor plan for the proposed bone barrel storage building was included that indicated a six feet by 30 feet area outside the temperature controlled storage that would be used for clean barrel storage. Also, a north arrow on the revised site plan made it clear that the overhead doors would be accessible from the proposed driveway expansion.
  - (2) A view of the entrance to the River Bend facility was included that indicates the proposed cooler expansion. It will be 10 feet wide with a four foot wide door on the front. The drawing seems to indicate that the petitioner will put a new roof on the building which will encompass the cooler expansion.
  - (3) Item 3 in the letter indicates that the “fenced in trash area” has now been totally enclosed to keep raccoons out of the businesses trash cans. However, there is no fenced in trash area indicated on any site plan received to date. This makes it unclear what fenced in area the petitioners are referring to.
- J. The petitioners submitted a revised site plan on October 29, 2008, with the following changes from the site plan submitted on May 12, 2008:
- (1) A six foot by 12 foot enclosed trash area is indicated at the east end of the asphalt parking area near the business building.
  - (2) The area encircled by the proposed driveway is now indicated as the proposed leach field.
  - (3) Overflow parking is now indicated to occur alongside the proposed driveway on either side, as well as along the south side of the existing driveway.
  - (4) There is a temporary barrel storage location proposed on east side of west portion of the proposed driveway.
- K. At the August 14, 2008, public hearing, co-petitioner, Chuck Stites testified that there could be as many as seven or eight employees working at the business in addition to his family members.
- L. At the October 16, 2008, public hearing Chuck Stites, co-petitioner, testified that he made a twelve foot long by six foot wide area where they have their trash cans sitting. He said that is not on their site plan but it is in front and to the east of their building at the edge of the asphalt parking lot and should not have any other problems with animals getting into the trash area.

\*Same evidence as in related Zoning Case 614-S-08

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**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for a Major Rural Specialty Business as a Special Use in the CR Zoning District in the *Zoning Ordinance*:
- A. Section 5.2 authorizes Major Rural Specialty Businesses as a Special Use in the CR, AG-1, and AG-2 Districts and by-right in the B-1, B-3, and B-4 Districts.
  - B. Section 6.1.3 establishes the following standard conditions for any Major Rural Specialty Business authorized as a Special Use:
    - (1) A minimum Lot Area of 5 acres.
    - (2) The total BUILDING AREA devoted to sales DISPLAY or recreational commercial use shall not exceed 5,000 square feet.
    - (3) Outdoor entertainment requiring the use of sound amplification equipment shall be permitted not more often than 5 consecutive or non-consecutive days in any three-month period and only if a recreation & Entertainment License shall have been obtained as provided in the Champaign County Ordinance No. 55 *Regulation of Business Offering Entertainment and/or Recreation*.
    - (4) The site shall not be located within 500 feet of a residential Zoning District.
    - (5) Business located in the CR, AG-1, or AG-2 Districts shall not access streets located in a recorded subdivision.
    - (6) Alcoholic beverages not produced on the premises shall not be sold.
  - C. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to findings (1) that the waiver is in accordance with the general purpose and intent of the ordinance and (2) will not be injurious to the neighborhood or to the public health, safety, and welfare.
  - D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
    - (1) “ACCESSORY BUILDING” is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 6.D. CONTINUED

- (2) "ACCESSORY USE" is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
- (3) "AREA, BUILDING" is the total area taken on a horizontal plane at the largest floor level of the MAIN or PRINCIPAL BUILDING and all ACCESSORY BUILDINGS on the same LOT exclusive of uncovered porches, terraces, steps, or awnings, marquees, and non permanent CANOPIES and planters.
- (4) "AREA, LOT" is the total area within the LOT LINES.
- (5) "DISPLAY" is the placement or arrangement of products or materials for sale or lease excluding items which are being stored while awaiting maintenance, or repair or other STORAGE.
- (6) "DWELLING UNIT" is one or more rooms constituting all or part of a DWELLING which are used exclusively as living quarters for one FAMILY, and which contains a bathroom and kitchen.
- (7) "HOME OCCUPATION, RURAL" is any activity conducted for gain or support by a member of members of the immediate FAMILY, residing on the premises, as an ACCESSORY USE on the same LOT as the resident's DWELLING UNIT.
- (8) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (9) "PREMISES" are a LOT or tract of land and any STRUCTURE located thereon.
- (10) "RURAL SPECIALTY BUSINESSES" are establishments that sell, principally at retail, agricultural products, foods or traditional handicrafts produced on the PREMISES together with ACCESSORY recreational or educational activities and which may also sell related goods produced off of the PREMISES provided that sale of such goods constitute less than 50 percent of the total gross business income, that such goods constitute less than 50 percent of the total stock in trade, that less than 50 percent of the total LOT AREA is devoted to commercial BUILDING AREA, parking or loading areas or outdoor sales DISPLAY.
- (11) "SPECIAL CONDITION" is a condition for the establishment of the SPECIAL USE.
- (12) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 6.D. CONTINUED

- (13) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- E. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
  - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
  - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION**

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has included a lengthy statement with the application which is included with the Preliminary Memorandum (See Attachment B) and can be summarized as follows:
- (1) River Bend Wild Game and Sausage Company has been in operation at its current location for 13 years.
  - (2) The need for this type of business in this area is evident by the growth of their customer base.
  - (3) The Petitioners have made a substantial investment to make their facility efficient.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 7.A. CONTINUED

- (4) Their primary customer base lives within a sixty mile radius of their facility.
  - (5) Their customers are familiar with the location and it is conveniently located near highway roads.
- B. The proposed Special Use appears to be the only business of its kind operating in Champaign County.
- C. Regarding the increase in the size of the existing use since the petitioners began operations, the petitioners maintain a River Bend related blog at [http://createwithme.typepad.com/river\\_bend\\_wild\\_game\\_saus](http://createwithme.typepad.com/river_bend_wild_game_saus) which describes the growth of the current use as follows:
- (1) During the 1999/2000 hunting season the petitioners dressed approximately 50 carcasses.
  - (2) During the 2003/2004 hunting season the petitioner dressed approximately 600 carcasses.
  - (3) During the 2006/2007 hunting season the petitioners dressed approximately 1,160 carcasses by mid-January.
  - (4) During the 2007/2008 hunting season the petitioners dressed approximately 1,174 carcasses by mid-December.
  - (5) The petitioners indicate their business seems to double every four seasons.
  - (6) At the August 14, 2008, public hearing Phil Van Ness, attorney representing neighbors of the subject property, testified that Mr. Stites handled 1,270 animals last year.
- D. In an October 23, 2008, telephone conversation with Zoning Administrator John Hall, Thomas Miciticich, Statewide Deer Project Manager for the Illinois Department of Natural Resources, stated there were 1,227 deer hunting permits (quota) available for Champaign County in the 2008/ 2009 hunting season (firearms, archery, landowner, etc.) and an unlimited number of “over the counter” archery permits.
- E. An email of support was received from Travis Burr, customer of River Bend Wild Game and Sausage Co., on October 27, 2008, that indicated Mr. Burr has been a client of River Bend for approximately 15 years. He has found their processing to be very professional and sanitary.
- F. At the May 15, 2008, public hearing Chuck Stites, co-petitioner, testified regarding the availability of other businesses like River Bend as follows:

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 7.F. CONTINUED

- (1) There are some commercial lockers in the state that work the deer season pretty hard. They take in as much as they can get, but there are others that are accustomed to doing the pork, beef and lamb and view processing deer an inconvenience.
  - (2) Mr. Stites said that they are the only ones in the county that offer this level of service.
  - (3) Mr. Stites said that there is one meat locker in Vermillion County that does wild game north of Danville.
  - (4) Mr. Stites said that there is a place in Decatur that process deer, one near Arthur and one near the Chenoa area.
  - (5) He said that the industry as far as meat lockers has been dying off for a number of reasons.
  - (6) He said that his business grew last year mainly due to the hunters who had more of an opportunity due to the Department of Natural Resources expanding some of the hunting seasons to issue more permits
  - (7) Mr. Stites said that the increase in his numbers could also be the result of the increased deer population.
- G. A letter was received from Phil Van Ness, attorney for neighbors of the subject property, on October 29, 2008, that indicated that the neighbors believe that the proposed special use permit should be denied due to the length of the public hearing and the lack of a clear proposal from the petitioners.
- H At the May 15, 2008, public hearing Robert Decker testified that he has hunted deer since 1958 and been to processing places throughout the state including Chesterville, Illinois, Eldorado, Illinois, Danville, Illinois, Goreville Illinois and Mr. Stites's business is one of the best places overall that he had visited.
- I. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors to the subject property, testified that the proposed special use is not necessary for the public convenience at this location because there is inadequate parking and the Stites' property is reached via a rural residential road system.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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**GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE**

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
- A. The Petitioner has included a lengthy statement with the application which is included with the Preliminary Memorandum (See Attachment B) and can be summarized as follows:
- (1) The proposed Special Use is operated by the Petitioners and their children.
  - (2) Mr. Stites has a Master's degree in Meat Science from the University of Illinois.
  - (3) The Petitioners have improved their facilities as their customer base has grown.
  - (4) The Petitioners take pride in the efficiency of their process, the quality of their products, and the cleanliness of their facility.
  - (5) Regarding the dressing of carcasses:
    - (a) The deer carcasses come to the facility already field dressed with internal organs removed.
    - (b) Deer carcasses are stored under refrigeration inside an enclosed building.
    - (c) The carcasses are dressed by removing the meat and cutting and packaging any steaks or roasts the hunter has ordered. The meat which is not used for steaks or roasts is used to make sausages.
    - (d) During the busiest times the meat to be used for sausages is packaged and frozen to be defrosted later to be made into sausage.
    - (e) Some sausages are prepared using a smokehouse.
    - (f) Once the sausages are made and packaged the hunters are contacted for pick up.
  - (6) Regarding the number of employees:
    - (a) Their need for employees is seasonal.
    - (b) Archery deer season runs from October 1 until the middle of January. During Archery season they generally cut deer one evening per week. At this time they may have seven people working.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.A.(6) CONTINUED

- (c) Firearm deer season is traditionally the three day weekend before Thanksgiving and a four day weekend the second weekend after Thanksgiving. The busiest time is the first Firearm deer season. In order to quickly receive deer they may have four people outside taking care of the paperwork and receiving deer. For the cutting and packaging of the meat they like to have eight people during the heaviest days.
- (d) Other than people receiving deer, all workers are inside the business building.
- (7) Regarding the hours of operation and traffic:
  - (a) During their processing season they maintain regular business hours for customers to bring or pick up product. They are Monday through Friday 5 PM to 8 PM; Saturday 9 AM to 5 PM; and Sunday 2 PM to 5 PM.
  - (b) During the Archery hunting season, they may have around 40 customers each week.
  - (c) During the Firearm deer season they are open to receive deer 9 AM to 7 PM or until their space fills up. During the two weekend firearm seasons they will have significantly higher traffic those days. The Saturday and Sunday traffic volume for the last two and a half months has been between three and 15 customers on any given day.
  - (d) They have been limiting the time for drop-offs on the Monday following the first Firearm Deer season to their regular 5 PM to 8PM hours. This last season resulted in some traffic congestion on the roadway leading to their property. By opening earlier on the Monday after the first Firearm deer season this should alleviate the traffic congestion.
  - (e) Most customers pick up their meat right after work between 5-6 PM or on Saturdays.
  - (f) Other than setting business hours they do not have control of when the customers arrive at their business.
  - (g) They also have not used the front yard area for customer parking/staging in the past. However, in the interest of preventing traffic congestion in the street, they can open that area up and provide traffic control to direct them to that area if traffic begins to back up into the road.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.A.(7) CONTINUED

- (h) Prior to the 2008/2009 hunting season additional driveway to handle traffic can be installed.
  
- (8) Regarding the control of odor:
  - (a) The barrels containing the bones, fat, and scrap from processing the carcasses will be stored in an enclosed building awaiting pick up by the rendering company.
  - (b) The rendering company is a licensed hauler of animal by-products and is available 2 to 3 times per week as needed.
  - (c) They generally have less than 10 bone barrel pick ups each year.
  - (d) The bone barrels containing these products will be kept in an enclosed building in order to control any odor. The bone barrels can be loaded into the rendering truck at the proposed storage building shown on the site plan. Allowing the truck to load in front of the building rather than designing the building to allow the truck to load inside with the engine running is the best option for them. It is not necessary to load the bone truck inside.
  - (e) The bone barrels are cleaned using soap and water and the wastewater from cleaning the barrels goes into the floor drains which are connected to the septic system.
  - (f) Their smokehouses are vented outside the facility. They monitor the weather forecasted wind direction when they decide to monitor the smokehouse. Aroma from the smoking/cooking meat is controlled from being detectable from across the property line by adjusting their cooking schedule to coincide with wind direction that is not blowing from the south and southeast (toward their closest neighbor). The neighbor to the north has expressed concern about the aroma of cooking meat when they are outside working during the day.
  - (g) Their smokehouses use atomized liquid smoke to provide smoke flavor to the sausages. This portion of the cooking cycle only lasts for about five minutes.
  - (h) An alternative to controlling the aroma from the smokehouses is to install some type of filtering or cleansing device to the vents. Such devices are quite expensive or may not be able to be adapted to the small size of our vents.
  - (i) Prior to the 2008/2009 hunting season, they can install odor abatement equipment on the smokehouse. They can also erect the new storage building to handle barrel storage.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8. CONTINUED

- B. Regarding surface drainage, the subject property is adjacent to the Salt Fork and appears to drain to the west. The amount of impervious area on the subject property does not trigger any requirement for stormwater detention under the *Champaign County Stormwater Management Policy*.
- C. The subject property is accessed from CR 2400E on the east side of the property. Regarding the general traffic conditions on CR 2400E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
- (1) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data, in the vicinity of the subject property, is from 2006, as follows:
    - (a) Along CR 2400E where it passes the subject property the ADT is 200 trips.
    - (b) CR 1050N has 2700 ADT west of the intersection with 2400E and 2500 ADT east of 2400E.
    - (c) The proposed Special Use has already been in operation since 1999, so the 2006 ADT already takes into account the average impact of the use on traffic in the area. However, as the Petitioners have testified the business is seasonal and produces heavier traffic than indicated by the ADT count during hunting seasons.
  - (2) Complaints about the existing business have been received from one adjacent property owner and have included the following regarding traffic:
    - (a) On some days there are 40 or so trucks with dead game parked on one or both sides of CR2400E. There are times when the driveway to an adjacent property is blocked and occasionally a game truck is parked in the driveway to that adjacent property.
    - (b) There is traffic of customers almost every evening going sometimes very late. Saturday and Sunday are usually very busy all day long and late into the evening.
  - (3) The Petitioner has proposed an area of “overflow parking” and a long circle drive that could be used to queue customers vehicles so there would be no vehicles waiting in the public right-of-way.
  - (4) The petitioners submitted information regarding customer traffic at the subject property on May 12, 2008. A detailed analysis has not been done but the data can be characterized as follows:

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.C.(4) CONTINUED

- (a) Numbers of customers served in a given day were provided for January 1, 2008, through April 30, 2008.
  - (b) Saturdays appear to be the busiest days with most having a number of customers equal to or greater than 10.
  - (c) The highest number of customers in a given day was 15 on March 8, 2008, a Saturday.
- (5) At the May 15, 2008, public hearing Chuck Stites, co-petitioner, testified that he has expanded the type of equipment they use so they could better handle the volume of product coming through.
- (6) The Township Road Commissioner has been notified of this case, and the Petitioner has contacted him regarding the possibility of an additional driveway entrance to the subject property. John Chestnut, Sidney Township Road Commissioner, in a phone conversation with J.R. Knight, Associate Planner, on May 12, 2008, indicated that he had no concerns with the proposed Special Use and could work with the petitioners if an additional driveway entrance was necessary.
- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Sidney Fire Department and is located approximately five road miles from the fire station. The Village Fire Chief has been notified of this request, but no comments have been received at this time.
- E. The subject property is partially located within a Special Flood Hazard Area, as indicated by Flood Insurance Rate Map Panel No. 1708940225B.
- F. Regarding outdoor lighting on the subject property, there is no information on the current site plan regarding outdoor lighting for any purpose. According to the hours of operation and the times of the year when the proposed use receives most of its business some outdoor lighting near the business building would appear to be necessary.
- G. Regarding subsurface drainage, the subject property does not appear to contain any agricultural field tile.
- H. Regarding odor generated by the proposed Special Use Permit:
- (1) Complaints about the existing business have been received from one adjacent property owner and have included the following regarding odor:
    - (a) They have a strong odor of animal blood and parts at times.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.H.(1) CONTINUED

- (b) They also have days when the strong odor of the sausage operation of smoking covers our outdoor living space.
  - (c) During the butchering part of the year they have many dogs and wild animals burying deer and other animal parts on their property.
  - (d) They are unable to fully enjoy their outdoor activities with this butchering and sausage smoking operation next door. It is difficult to think about much else when the strong smell of death is upon us.
  - (e) They have noticed a raw, metallic blood-like smell near their property line.
- (2) During a drive by inspection on Tuesday, November 20, 2007, that was in response to a complaint, the Zoning Administrator found that a rendering truck was on the property and emptying bone barrels. Copies of photographs of the bone barrels were included with the Preliminary Memorandum. Approximately 50 open barrels containing bones and other remnants of deer carcasses were being emptied into the truck. After more than an hour of emptying the truck was full and not all barrels had been emptied. The Zoning Administrator verified that a detectable odor from the bone barrels was present on adjacent property.
- (3) The petitioners have indicated on the application that the deer carcasses are stored in a refrigerated portion of the facility and will stay there to await unloading by the rendering company truck. They also indicate in the additional information submitted on May 5, 2008, that it would be possible for the carcasses to be stored in the proposed storage building. The petitioners indicate they do not think loading inside should be necessary if the loading takes place at the proposed storage building away from any lot lines.
- (4) The Petitioners have indicated on their application that they have adjusted their cooking schedule so their smokehouses are not running during the day when the wind is from the south or southeast to prevent the odor of the smoking meat from blowing over the property to the north. Most of the complaints received by the Department indicate that the Petitioners have not been entirely successful at minimizing odor in this fashion.
- (5) On May 12, 2008, the petitioners submitted information regarding the Enviro-Pak "Enviro-Kleen" Air Treatment System, which they propose to utilize to mitigate odor from the smokehouses, as follows:
- (a) The engineering specifications for the Enviro-Kleen system indicate that it cleans air with 95% efficiency as determined by the DOP test method, an industry standard for determining filtration efficiency.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.H.(5) CONTINUED

- (b) The petitioners, in a letter dated May 12, 2008, indicate that the Enviro-Kleen system will cost approximately \$20,000 and cost between \$50 and \$60 per month to operate.
- (6) At the May 15, 2008, public hearing Chuck Stites, co-petitioner, testified that that for much of the time the smokehouse is running the exhaust is mainly water vapor and carrying the odor from cooking sausage. He said that the amount of liquid smoke that is use in the smokehouse is eight ounces per batch and most all of that is contained in the smokehouse.
- (7) At the May 15, 2008, public hearing Dennis Wandell, neighbor to the subject property, testified that they could smell horrendous smell of death coming from those barrels and to the south of his house which is behind their building on the flood plain in the summer we would often smell the southerly breeze he could smell a terrible smell.
- (8) At the May 15, 2008, public hearing Lucy Whalley, neighbor to the subject property, testified that the smell of the bones, blood and empty barrels when they are outside goes over half of their property and is overwhelming.
- (9) At the August 14, 2008, public hearing Dennis Wandell, neighbor to the subject property, testified as follows:
- (1) He said that he would like for that whole operation to be done in such a way to where they do not smell it.
- (2) He said that the prevailing winds are out of the south and they blows towards their property.
- (3) He said that he a and his wife had spent most of their money fixing up their house and out buildings with landscaping and it is nice to set outside to listen to nature sounds but to smell sausage cooking or smoking is very disconcerting.
- (10) On October 23, 2008, the petitioners submitted an email from Gretchen Hopkins on behalf of Gil Martini of Enviro-Pak, which indicated the following:
- (a) The exhaust from a [the petitioner's smokehouses] is about 200 Cubic Feet per Minute (CFM) at most.
- (b) The smaller model of the Enviro-Kleen Air Treatment System has a 600 CFM capacity.
- (c) The inlet for the device can be provided with two inlets to allow both smokehouses to exhaust through the unit.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.H. CONTINUED

(11) At the October 30, 2008, public hearing Dennis Wandell and Lucy Whalley, neighbors to the subject property, testified regarding the special conditions for odor. {TESTIMONY WILL BE AVAILABLE AT THE MEETING.}

I. Regarding storage of deer carcasses on the subject property:

- (1) The Petitioners have indicated on their application that deer carcasses are stored under refrigeration in an enclosed building. They are placed in barrels to await pick up by a licensed rendering company.
- (2) The Petitioners have indicated on their application that the rendering company is available to make pick ups 2-3 times per week as needed. However, in the additional information submitted on May 5, 2008, they indicate they only have ten pick ups per year. It is unclear from this information if the Petitioners only have the rendering company pick up carcasses 5-6 weeks out of the year or if the 2-3 times per week is simply an available level of service that the Petitioners have not required as yet.
- (3) In the additional information submitted on May 5, 2008, the Petitioners have indicated it would be possible to load the carcasses into the rendering company truck at the proposed storage building to provide greater separation and screening for adjacent properties from both the sight of the loading process and the odors that would result from the loading not taking place in an enclosed building.
- (4) At the August 14, 2008, public hearing Mr. Hall distributed for all Board members color photos dated November 29, 2007, showing the bone barrels being emptied.
- (5) At the August 14, 2008, public hearing Chuck Stites, co-petitioner, testified regarding River Bend's procedures for processing the deer carcasses as follows:
  - (a) When people bring in their deer they hang it up and put it in the cooler. He said that it has the hide and the head on, which they can leave because they do not have any other amenable product in their facility and they are not required to skin the carcasses prior to hanging them in the cooler. He said that works well for them because that way the carcass stays clean.
  - (b) He said that when they are ready to cut a carcass they pull it out of the cooler, skin it, and rinse off the carcass. This is done in the skinning area where there is a floor drain so any rinse water from rinsing off the hair that may come off from skinning will go down the floor drain. Then the carcass goes around to be cut.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.I.(5) CONTINUED

- (c) He said that the way they do the skinning operation there is very little contamination on the carcass because the only place where they open up the hide is right down the back leg and the rest is like taking a sock off.
- (6) Mr. Stites said that it is not a slaughter house so you won't have all the bodily fluids just bones, fat and meat scraps so there is very little left when they dump it out.
- (7) At the August 14, 2008, public hearing Chuck Stites, co-petitioner, testified that deer heads with antlers or heads with the spinal column attached on their property did not come from the subject property because that is not how they process the deer. He said that the heads are removed in the processing area. He said that sounds like deer that may have died of natural causes or unrecovered deer rather than something that came from their facility.
- (8) At the May 15, 2008, public hearing Chuck Stites, co-petitioner testified regarding the pick-up of bone barrels by the rendering company as follows:
- (a) He said that it took a typical Friday through Sunday weekend to accumulate approximately 50 barrels.
- (b) He said that at that time there were 320 or so carcasses in house.
- (9) At the October 16, 2008, public hearing Chuck Stites, co-petitioner, testified regarding the procedures in the proposed bone barrel storage building as follows:
- (a) He said they use water and soap for cleaning out the bone barrels. The type of soap they use is a foaming soap which is a mild detergent.
- (b) Mr. Stites said that he shared that information with Mr. Blackford.
- (c) Mr. Stites said that the rendering truck would back up to the building, open the door and the driver would wheel the barrels to the back of the truck then he would dump those into his truck then he would leave.
- (d) Mr. Stites said the barrels would be staged inside the building and once they were emptied they would replace inside the building, and that at no time the barrels would be left outside the building before and after pick up.
- (10) At the August 14, 2008, public hearing Dennis Wandell, neighbor to the subject property, testified that he also has concerns about the storage of the barrels of animal parts on the subject property. He said that he would like to have a thermostat to where the barrels are kept so they remain a consistent temperature.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.I. CONTINUED

- (11) At the October 30, 2008, public hearing Dennis Wandell and Lucy Whalley, neighbors to the subject property, testified regarding the special conditions for storage of bone barrels and cooling of carcasses. {TESTIMONY WILL BE AVAILABLE AT THE MEETING.}
- J. Regarding hours of operation of the proposed Special Use Permit:
- (1) Complaints about the existing business have been received from one adjacent property owner and have indicated that there is traffic related to the business use that sometimes continues heavily all day long and late into the night.
  - (2) The petitioners have indicated on their application that their hours of operation are seasonal. During the hunting season they are open Monday through Friday 5PM to 8PM, Saturdays 9AM to 5PM, and Sunday 2PM to 5PM. They also indicate that during Firearm Deer Season they are open from 9AM to 7PM or until they run out of space, these expanded hours are presumably only applicable on Saturdays.
  - (3) The petitioners have indicated in the additional information received on May 5, 2008, that they are unsure of what the complaints could be referring to because the hours of operation from the application are accurate. They indicate that during the Archery season they may have 40 customers per week. They also indicate that for the last two months there have been between three and 15 customers on Saturdays and Sundays.
- K. Regarding wastewater treatment and disposal on the subject property:
- (1) The Champaign County Public Health Department received the application for the private sewage disposal system on the subject property in permit #99-076-19 on June 28, 1999. A copy of the application was included as an attachment to the Preliminary Memorandum in this zoning case. The private sewage disposal system application indicated it was for a four bedroom residential dwelling. The private sewage disposal system that is indicated on the application is a 500 gallon capacity Whitewater aerobic treatment unit (Class I) with chlorinator unit that discharges to the surface of the ground.
  - (2) The applicant had applied to the Champaign County Department of Planning and Zoning for a Rural Home Occupation on October 6, 1998. A Rural Home Occupation is an accessory use and so the dwelling remained the principal zoning use on the subject property.
  - (3) A letter from the Champaign County Public Health Department dated August 27, 1999, indicated that the private sewage disposal system on the subject property had been already been backfilled and was not available for inspection on August 23, 1999, when the subject property was visited by a Sanitarian for normal inspection. The letter did not indicate that any follow-up action was required by the owner (the petitioner). A copy of

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.K.(3) CONTINUED

this letter was included as an attachment to the Preliminary Memorandum in this zoning case.

- (4) In a letter received on June 27, 2008, Jeff Blackford, Champaign County Public Health Department Program Coordinator, stated that Section 905.10 of the *Illinois Private Sewage Disposal Licensing Act and Code* defines a “residential property” as a single-family home or multi-family unit intended for occupation as living quarters that is not used to conduct any business that generates wastewater or domestic sewage. A copy of this letter was included as an attachment to the Supplemental Memorandum dated August 8, 2008.
- (5) Subsection 4.3.5 of the Zoning Ordinance requires that any new installation of private sewage disposal systems shall be designed, constructed, operated, and maintained in conformity with the *Illinois Private Sewage Disposal Code* (77 Ill. Admin. Code Part 905).
- (6) Regarding the volume of wastewater that may be discharged from the subject property on a given day during the deer hunting season:
  - (a) Chuck Stites has testified to staff that the dwelling on the subject property is a two bedroom dwelling. The Illinois Private Sewage Disposal Act requires a minimum 400 gallon capacity Class I unit for a 2 bedroom residential property and a 500 gallon capacity Class I unit for a 4 bedroom residential property. Thus, the existing treatment unit may have 100 gallons of treatment capacity for the non-residential wastewater that it receives.
  - (b) According to the River Bend Wild Game and Sausage Company weblog, there were 123 deer carcasses dressed on November 21, 2007. The Illinois Private Sewage Disposal Act does not even provide design requirements for a “wild game processor” so it is not clear how much non-residential wastewater loading is received by the existing wastewater treatment system.
  - (c) It is not clear if the existing operations can be conducted within the 100 gallons of treatment capacity for the non-residential wastewater that remains for the current Class I system but it seems likely that the current system could not support further growth in the number of dressed carcasses.
  - (d) It is not clear where the bone barrels are currently washed and sanitized or even how the processing equipment is cleaned. There are no sinks indicated on the flood plan of the River Bend Wild Game Building received on May 5, 2008.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8.K. CONTINUED

- (7) The sanitizers used in cleaning the game processing equipment can also create a problem in the private sewage disposal system if the sanitizers kill off the bacteria that are a necessary part of the private sewage disposal system.
- (8) Based on the available evidence, the existing private sewage disposal system was neither designed to accommodate the existing flows of non-residential wastewater nor was it authorized and approved and inspected to accommodate the existing flows of non-residential wastewater. It also seems unlikely that the current system could support further growth in the number of dressed carcasses.
- (9) A letter from Chuck Stites was received on August 8, 2008, in response to a letter from the Zoning Administrator. At the end of the petitioner's response they indicated the following regarding their wastewater system:
  - (a) All of the plumbing (lines, sinks, floor drains, toilet) were installed by James Plumbing, Heating, and Air Conditioning out of Homer, Illinois.
  - (b) That company also installed their wastewater system.
  - (c) The toilet drain line and the plant floor and sink drains are separate lines until they join outside of the plant.
  - (d) There is a backflow preventer in the floor and sink drain line to prevent sewer backup into the plant.
  - (e) When the wastewater system was installed the shop and residence were shown as being connected on the drawings submitted to the County Health Department.
  - (f) The surface discharge line of the system has a backflow preventer installed after the chlorinator to prevent backup of floodwater into the system if the river floods that area of the property. Because of this wastewater should still flow in one direction through the chlorinator even in the event of flooding.
- (10) A letter from co-petitioner, Chuck Stites, received on October 1, 2008, indicates the following:
  - (a) Soil testing on the subject property has been completed.
  - (b) Both Lester Bushue of Bushue Soil Consulting and Jeff Blackford of Champaign County Health Department have stated that given the results of the tests the soils are suitable for a traditional septic tank and subsurface leach field.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.K.(10) CONTINUED

- (c) The contractor will be submitting permits to the County Health Department in a few weeks.
  
- (11) At the August 14, 2008, public hearing Chuck Stites, co-petitioner, testified regarding the amount of wastewater generated during the cleaning procedure. He said that in his shop there are two forty gallon hot water heaters and when they clean up from making sausage or when they are cutting it takes them about an hour to finish clean up and they do not run out of hot water.
  
- (12) Regarding the floor plan for the proposed bone barrel storage building that was received on October 1, 2008, there are several floor drains indicated inside the building and a hose station as well. The floor drains are indicated to be connected to a subsurface private sewage system. The Public Health Department does not generally approve floor drains in garages. The petitioners will have to work with the Health Department to design a space that can be used for cleaning bone barrels without creating a problem for any proposed septic system.
  
- (13) Neighbors have indicated their concerns about the private sewage disposal system on the subject property.
  - (a) In testimony at the public hearing on May 15, 2008, and in a letter dated June 22, 2008, neighbors Lucy Whalley and Dennis Wandell who live at 1167 CR2400E, testified in part that they have experienced occasional malodors emanating from the area where the Stites' septic system discharges into the floodplain of the Salt Fork River and they are concerned about the effects of the liquid wastes from the meat processing operation on the quality of water in the Salt Fork River.
  
  - (b) In a letter dated June 27, 2008, neighbors Jim and LaVerna Harper who live at 1173 CR2500E stated in part they are concerned about whether the current septic system is adequate to handle all of the wastewater from the Stite's home and business and the effects on water quality in the neighborhood and concerns about future expansion of the business.
  
  - (c) In a letter dated August 3, 2008, Brenda Below who lives at 2374 CR1150N stated that one of her concerns is the effects of the wastewater from the Stites's business on water quality in the Salt Fork River and about possible future expansion.
  
  - (d) Attorney Phillip R. Van Ness who represents Ms. Whalley and Mr. Wandell submitted a Memorandum In Opposition To Grant Of The Special Use and Variance that was received on August 6, 2008. Attorney Van Ness states in part

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.K.(13)(D) CONTINUED

that the Stites have not demonstrated that the current or any planned septic system or other wastewater treatment system has been adequately designed, sized, located or operated to successfully handle the current or expected levels of wastewater volume, biological oxygen demand (BOD), bactericides or other cleaning agents resulting from meat processing and disinfection of work spaces. Attorney Van Ness also suggests that for this reason alone the proposed special use is not so designed, located, and proposed to be operated so that it will not be injurious to the district.

- (14) Section 905.110 of the *Illinois Private Sewage Disposal Licensing Act and Code* requires that if the flow from any number of discharging Class I units is combined and exceeds 1,500 gallons per day the owner of the property shall provide a copy of the construction permit obtained in accordance with 35 Ill. Admin. Code 309.202(a) and (b) and a National Pollutant Discharge Elimination System (NPDES) permit from the Illinois Environmental Protection Agency to the Public Health Department or local authority to demonstrate that the effluent from the private sewage disposal system can discharge at that location. Approvals for large surface discharge systems require extensive engineering and are generally considered impractical for all but the largest developments.
- (15) The proposed new storage building indicated on the Revised Site Plan received on May 12, 2008, is proposed to be the location of storage of the bone barrels. A special condition has been proposed requiring that the bone barrels be cleaned and sanitized when necessary to maintain sanitary conditions and all such cleaning and sanitizing shall occur in a closed and secure building and all wash water from cleaning of the bone barrels shall be treated in the approved wastewater treatment and disposal system for the Special Use and not disposed of in an untreated condition and any solid waste from the cleaning bone barrels shall also be properly disposed of and not dumped on the surface of the ground. Thus, the proposed new storage building should also be required to have a potable water supply and floor drains that drain to an approved private sewage disposal system.
- (16) The Champaign County Soil Survey indicates that soils on the western half of the subject property are Sawmill silty clay loam, 0 to 2 percent slopes (map unit 3107A; formerly Colo silty clay loam and formerly map unit 402) and soils on the eastern half of the subject property are Kendall silt loam, 0 to 3 percent slopes (map unit 242A) and Camden silt loam, 1 to 5 percent slopes (map unit 134B). An excerpt of the Soil Survey indicating the subject property was included as an attachment to the Supplemental Memorandum dated August 8, 2008.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.K. CONTINUED

- (17) The pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). The soil on the western half of the subject property is rated as having very low potential for subsurface soil absorption wastewater systems (septic tank leach fields). On the eastern half of the subject property the Kendall silt loam, 0 to 3 percent slopes (map unit 242A) soil is rated as having “medium” suitability for subsurface soil absorption wastewater systems (septic tank leach fields) and requiring corrective measures generally of subsurface drainage or fill and a curtain drain. The Camden silt loam, 1 to 5 percent slopes (map unit 134B), soil is rated as having “very high” suitability for subsurface soil absorption wastewater systems (septic tank leach fields) and requiring no corrective measures. Excerpts of the worksheets for the Kendall and Camden soils were included with the Supplemental Memorandum dated August 8, 2008.

~~No soil percolation test results or soil investigation results have yet been provided to verify if the soils on the eastern half of the subject property in the vicinity of the proposed new storage building are in fact suitable for subsurface soil absorption wastewater systems (septic tank leach fields).~~

- (18) The existing non-residential wastewater system drains to the west of the subject property and it is not clear how feasible it might be to re-route this sanitary drainage to a new subsurface system that might be constructed on the eastern half of the subject property. Even if soil data were submitted indicating that the soils on the eastern half of the subject property are suitable for subsurface soil absorption wastewater systems (septic tank leach fields) there is some question about the engineering feasibility of modifying the existing wastewater drainage system to drain to the east so that none of the non-residential wastewater would be treated by the existing Class I aerobic treatment unit.
- (19) Any private sewage disposal system will have a finite capacity for treatment and disposal of wastewater. Any non-residential use must be operated within the limits of the capacity of a private sewage disposal system.
- (20) Any subsurface soil absorption wastewater system (septic tank leach fields) will have a finite lifetime and will eventually need to be replaced by a new system in suitable undisturbed earth. Although the *Illinois Private Sewage Disposal Licensing Act and Code* does not require reserve areas to be set aside for replacement of failed subsurface soil absorption wastewater systems (septic tank leach fields) it is a commonly understood best practice.

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ITEM 8.J. CONTINUED

(21) At the October 30, 2008, public hearing Chuck Stites, co-petitioner, testified that on October 24, 2008, he received the results of the soil investigations performed by Lester Bushue on October 18, 2008. The results indicated the soils were good and there were no floodplain issues.

L. Regarding compliance with state and federal meat processing regulations:

- (1) The Illinois Meat and Poultry Inspection Act (225 ILCS 650/) does not apply to the existing business or the proposed Special Use, as follows:
  - (a) The Act prohibits anyone from operating an establishment, as defined in the Act without obtaining a license from the State Department of Agriculture.
  - (b) An establishment as defined in the Act is all premises where **animals** (emphasis added)...are slaughtered or other prepared...for custom food purposes.
  - (c) An animal is defined in the Act as cattle, calves, American bison (buffalo), catalo, cattalo, sheep, swine, domestic deer, domestic elk, domestic antelope, domestic reindeer, ratites, water buffalo, and goats.
- (2) On August 1, 2008, staff received a forwarded email from the petitioners in which they forwarded an email they received from Kris Mazurczak DVM, Bureau Chief of the Bureau of Meat and Poultry Inspection in the Illinois Department of Agriculture, that stated, "Wild game is not amenable to our Act and therefore IDOA doesn't have any regulatory authority over businesses processing wild game **only**." (emphasis original)
- (3) Staff contacted the Federal Food Service Inspection Service Tech Center and received a reply on August 5, 2008, that indicated that facilities that process only wild game are not subject to 9 CFR 416, and state regulations can exempt an establishment from federal regulations.
- (4) A letter from Chuck Stites was received on August 8, 2008, in response to a letter from the Zoning Administrator dated July 3, 2008, which asked the petitioners to explain how it is that they are not regulated under the Illinois Meat and Poultry Act or the Federal Meat Inspection Act. The reasoning used in the letter is not totally clear to staff. However, staff does agree with the petitioners that they are not regulated by any local, state, or federal agencies.
- (5) As explained above "custom processing" of wild game is a regulated activity, and the existing business and the proposed Special Use are not "custom processing" under the law, they should only be described as final dressing or butchering of field dressed wild game.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8. CONTINUED

- M. Dennis Wandell and Lucy Whalley, neighbors to the north of the subject property, in a letter received on June 23, 2008, indicated the following:
- (1) They believe that River Bend Wild Game and Sausage Company will be injurious to the district and will not conform to applicable regulations or preserve the essential character of the district.
  - (2) As immediate neighbors to the Stites they have been subject to the Stites' disregard for the impact of the business on the neighborhood.
  - (3) They believe that enabling a three-fold expansion of the business will result in a three-fold increase in the magnitude of the nuisances already inflicted upon them.
  - (4) Despite the fencing along the south property line plastic food wrappers marked with the River Bend company name continue to appear on their property.
  - (5) Mr. Wandell did not request that Mr. Stites put up the wooden fence that screens the barrel storage from observation.
  - (6) Other examples of negative impacts on quality of life that result from the Stites' business include: constant odor of sausage cooking; overwhelming and persistent odor of rotting animal parts and blood; ever present noise of cooling units; persistent trash and animal scraps appearing on their property; occasional malodors emanating from the Stites' septic system; blocked road and driveway during peak processing season; and Stites' customers driving down their driveway and through their property.
  - (7) They also object to the noise of the cooling units on the subject property.
  - (8) Mr. Wandell states that he has witnessed backhoe activity and burning in the floodplain on Mr. Stite's property, and then questions whether the petitioner is properly disposing of the waste and hides from the existing business.
  - (9) They question the adequacy of the Stites' wastewater system, and its ability to function while located in the floodplain.
  - (10) They question whether the Stites' septic system may have negative environmental impacts due to its location in the floodplain of the Salt Fork River.
  - (11) Attached to the letter were photographs illustrating the flooding of Mr. Stites property, (See Attachment G)

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.M. CONTINUED

- (12) Also attached to the letter was an example of the trash that is typically found on Mr. Wandell's property, as follows:
- (a) A note with the item stated, "Trash picked up 6-22-08 on Lucy Whalley and Dennis Wandell's property. This was one of many trash wrappers belonging to the Stites."
  - (b) The item was a clear plastic wrapper with bits of dirt and plant matter stuck to it in various places.
  - (c) There was a sticker on the wrapper which indicated that it came from River Bend Wild Game & Sausage company and the wrapper was intended for Jalapeno & Cheese Summer Sausage. It also indicated the item was not for sale.
- N. Jim and LaVerna Harper, 1173 CR 2400E, in a letter received on June 30, 2008, indicated the following:
- (1) The purpose of the letter was to ask for further study before a final decision was made in Case 610-S-08.
  - (2) Their house is approximately 350 feet north of the business building.
  - (3) Their request is based on past history of issues in their neighborhood.
  - (4) Since the Stites' have been butchering deer they indicate the following issues:
    - (a) The appearance of deer body parts on their property on several occasions and one appearance of a package of meat wrapped in white butcher paper. These appearances have increased in frequency in recent years. They assume these items are coming from neighborhood dogs, and other scavengers.
    - (b) They have five grandchildren who visit them and they feel that these items create an unhealthy environment.
    - (c) They were disappointed with how careless the Stites' are with the bone barrels after viewing the pictures of the uncovered barrels. They feel that this explains the source of the meat and bones that appear in their yard.
    - (d) They state that any responsible person would recognize the open barrels as an immediate problem and take immediate corrective action.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.N.(4) CONTINUED

- (e) During the deer season customers park along CR 2400E for up to a quarter-mile and frequently park in their lane. Beverage cans and trash are discarded along this road and in their yard. Sometimes the vehicles pull off to the side of the road to keep it clear for traffic, but in so doing they leave deep ruts in areas that the Harpers mow.
- (5) They indicate two additional issues that are of concern to them:
  - (a) They question whether the Stites' septic system is adequate to handle the home and the business building. They question where the water goes and whether it is endangering any neighborhood water wells.
  - (b) They also indicate they do not want to hear the sound of motors and compressors running all the time because it prevents them from enjoying the sound of birds and nature as they sit on their porch. They would like some assurance that noise pollution will not be an issue.
- (6) Part of the Harpers overall concern is that they have not experienced a positive interaction with the Stites'. In past years Mrs. Harper has called the petitioners to request that they do something about their dogs incessant barking and keep the dogs on their own property. The Stites' did not address these concerns in a timely manner and raised concerns about their responsiveness in the future.
- (7) The Harpers indicate that they believe a good compromise would be to require the petitioners to address all the issues mentioned in the letter before they are granted any further leniency.
- (8) An environmental impact study should be done to determine where the waste water goes; is it adequate for both the home and business; is the Salt Fork River being impacted in any way; what will be the impact of additional motors/compressors on the subject property.
- (9) A plan of action if the rules are not followed, which will give them some recourse if their drinking water or the Salt Fork River are adversely affected; or if there is a large amount of noise pollution; or if deer parts continue to appear in their yard.
- O. Brenda Below, 2374 CR 1150N, in a letter received on August 4, 2008, indicated the following:
  - (1) She lives directly across the river from the Stites, and does not suffer as severe repercussions as their more direct neighbors.
  - (2) She does end up with unwanted, disgusting, and biologically hazardous deer parts frequently.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8.O. CONTINUED

- (3) These parts range from whole legs with hooves attached to whole heads with racks intact clear down to the cervical spine.
  - (4) She used to wonder if they came from the subject property but she does not wonder anymore after seeing the photographs of dozens of open bone barrels full of deer parts.
  - (5) She has a concern regarding the draw that the open barrels create for unwanted vermin.
  - (6) Another concern she has is the waste being placed in shared water sources. She is highly concerned about any business that might be putting her water supply at risk.
  - (7) She has several acres of floodplain behind her house that floods several times per year, and she is concerned that whatever the petitioners may be releasing into the water could end up in her backyard. With the level of E-Coli already present in the Salt Fork she does not want to increase any pollutants.
  - (8) She does not believe Mr. Stites is currently running a responsible, safe operation, and she does not believe that letting him increase it will make it any better.
  - (9) She is concerned that the increase in business would lead to an increase in traffic congestion.
  - (10) She is also concerned that the petitioner could move off the subject property and make it purely a business site.
  - (11) She asks the zoning board to make sure the petitioners are running the current business in a responsible manner that does not negatively impact the surrounding neighborhood as well as the environment.
- P. Sheila Paul, 2425A CR 1225N, St. Joe, in a letter received on August 14, 2008, indicated the following:
- (1) Her dogs bring deer body parts to the door (heads, legs, spinal cords, etc.). She couldn't figure out where they were coming from because they looked like butchering left-overs.
  - (2) She was recently told about the River Bend facility.
  - (3) A place like [River Bend] does not seem to belong in a rural residential neighborhood.

ITEM 8. CONTINUED

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 8. CONTINUED

- Q. Lucy Whalley and Dennis Wandell, 1167 CR 2400E, neighbors of the subject property, in a letter of opposition received on October 22, 2008, and in testimony at the October 30, 2008, public hearing indicated they are not convinced that any of the proposed special conditions will be observed by the owners of River Bend.
- R. Jim and LaVerna Harper, 1173 CR 2400E, in a letter of opposition received on November 6, 2008, indicate the following:
- (1) They request that the deer butchering operation at the subject property be suspended until the petitioners have corrected the violations specified in the First Notice sent to them on December 11, 2007.
  - (2) They reaffirm their opposition to the proposed Special Use Permit, and state that they live only 350 feet north of the business building.
  - (3) They have attended all the meetings regarding this case.
  - (4) There are several neighbors who oppose the proposed Special Use Permit.
  - (5) They plan to testify at the next meeting.
  - (6) They have lived in this area for 36 years and they found it to be a quiet, cohesive community until the Stites moved in.
  - (7) To their knowledge, none of the violations from the First Notice have been corrected as of November 6, 2008, and Mr. Stites is continuing his deer butchering operation.
  - (8) Mr. Stites' negligence at leaving open barrels of meat and bones outside shows a total disregard for the health and well being of the neighborhood.
  - (9) They have many questions regarding how the proposed SUP will be operated and how special conditions will be enforced.
  - (10) They request that the proposed date for expiration of the SUP remain April 11, 2011.
  - (11) They also request that the septic system for the proposed SUP be checked before each deer butchering season and at the mid-season point as well. If any deficiencies are found they request that the proposed SUP be shut down on that day.
  - (12) They request that the Zoning Administrator periodically check the proposed the SUP for compliance with the proposed conditions.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 8. CONTINUED

- S. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors to the subject property, testified that the proposed special use is not so designed, located, and proposed to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare because the proposed SUP is served by a residential septic system which the Champaign County Health Department has stated does NOT meet the standards for the type of use required to process hundreds if not thousands of animal carcasses.
- T. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

**GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT**

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application, **“Hunting takes place in rural areas. It makes sense to have a venison processing business in a rural area near to where hunting takes place. The requested use is allowed within the District under a Special Use Permit as a [Major] Rural Specialty Business. Therefore, the proposed use should be allowed.”**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) Regarding whether the proposed use meets the definition of a MAJOR RURAL SPECIALTY BUSINESS:
- (a) River Bend is selling a service that consists of butchering (final dressing) of field dressed deer carcasses that can be considered a “traditional handicraft” and cutting the carcass into cuts of meat and making sausage that appears to qualify as food made on site River Bend cannot lawfully sell food or food products but sells the service of dressing field dressed deer carcasses into items capable of use as human food that can only be used by the owner of each deer carcass.
- (b) The Webster’s Ninth New Collegiate Dictionary defines the noun “retail” as the sale of commodities or goods in small quantities directly to the ultimate consumer. At the proposed Special Use the dressed deer meat cannot be sold to anyone other than the hunter who brought in the deer to be dressed.

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ITEM 9.B.(1) CONTINUED

- (c) The proposed Special Use consists principally of butchering (final dressing) deer carcasses into food products that are then returned to the hunter except in the case of ground meat which is made into sausage. The labor and handicraft of dressing the carcass is similar to a retail service.
- (d) The Champaign County Zoning Ordinance does not exclude “service” as a type of retail business as evidenced by the inclusion of several “service” businesses under the category of “Business Uses: Retail Trade” in Section 5.2 Table of Authorized Principal Uses. Retail service businesses included under Retail Trade are the following:
  - i. Electrical or gas appliance sales and service
  - ii. Photographic studio & equipment sales and service
  - iii. Antique sales and service
  - iv. Used furniture sales and service
  - v. Bicycle sales and service
  - vi. Sporting goods sales and service
  - vii. Heating, ventilating, air conditioning sales and service
  - viii. Lawnmower sales and service
- (e) Footnote 1 to Section 5.2 authorizes that when a proposed principal use is not specifically included in Section 5.2, the Zoning Administrator shall interpret in what district the use is permitted by comparing the proposed use to the most similar use listed in the Ordinance. Thus, the Zoning Administrator should presumably authorize a business that only services lawnmowers in the same manner in the same zoning districts as a business that does both lawnmower sales and service. Likewise, the proposed Major Rural Specialty Business that provides only a retail service conducted on the premises should be authorized in the same manner in the same districts as a Major Rural Specialty Business that sells products produced on the premises.
- (f) Slaughterhouse is not an authorized use in the CR District but is authorized as a Special Use Permit in the AG-1, AG-2, and B-1 Rural Trade Center Districts and the I-1 Light Industry District and authorized By Right in the I-2 District. The proposed Special Use is not a slaughterhouse because no live deer are brought to the property and all carcasses are field dressed and there is no offal handled on the property.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 9.B.(1) CONTINUED

- (g) “Meat preparation and packing” is not an authorized use in the CR District but is authorized as a Special Use Permit in the I-2 Heavy Industry District under the authorized use “Meat, Fish and Poultry Preparation and Packing”. The Zoning Administrator has determined that the proposed Special Use is not a “meat preparation and packing” business because it only dresses wild game and is not subject to the requirements of the Meat and Poultry Inspection Act (225 ILCS 650/ et seq). This decision of the Zoning Administrator may be appealed to the Zoning Board of Appeals.
  - (h) The Petitioners have indicated in the additional information received on May 5, 2008, that they are also a Traeger Barbecue Pellet Grill dealer and they sold 7 grills in 2007 and have sold 6 so far in 2008. The sales of these grills and pellets appear to constitute less than 50 percent of the total gross business income and less than 50 percent of the total stock in trade but no specific comparison of sources of income has been submitted.
  - (i) The total area used by the Special Use includes the total commercial building area on the site which is 3,587 square feet and the total parking area which is approximately 11,150 square feet. This is less than 2.5 acres.
  - (j) Phil Van Ness, attorney representing neighbors to the subject property, has testified in the public hearing and in a Memo of Opposition received on August 6, 2008, that River Bend cannot be authorized as a Rural Specialty Business of any kind due to the Zoning Ordinance containing a use classification that better describes the activities of River Bend. “Meat Preparation and Packaging” which is an industrial use.
  - (k) If approved, the proposed Special Use must continue to remain compliant with the definitional requirements of a Major Rural Specialty Business but a special condition does not seem warranted.
- (2) The proposed Major Rural Specialty Business complies with all area and placement requirements for the CR District in Section 5.3, with the exception of the minimum side yard on the north side of the business building, which is the subject of related Zoning Case 616-V-08. When River Bend was previously authorized as a Rural Home Occupation it was considered an accessory use to the dwelling on the subject property. However, the proposed Special Use Permit will make River Bend and the business building to be the principal use and structure on the lot and the dwelling will be considered a caretaker’s dwelling for zoning purposes. The most relevant impact of this

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 9.B.(2) CONTINUED

change is that it increases the required side yard for the business building thus increasing the amount of variance in related Zoning Case 616-V-08.

- (3) Regarding parking on the subject property,
  - (a) Paragraph 7.4.1C.3.e requires that commercial uses with no other specific requirement provide one parking space for every 200 square feet of floor area or portion thereof.
  - (b) The floor plan of the business building indicates it is 3,587 square feet in area, which requires 18 parking spaces.
  - (c) The site plan shows an area of “asphalt parking” that is 70 feet deep from the business building to the edge of the pavement and 70 feet deep from the north lot line to the beginning of the driveway for the dwelling. The parking area is irregularly shaped but an estimate of the available space indicates there may be as much as 2450 square feet of total parking area.
  - (d) According to the *Zoning Ordinance* standard of 300 square feet for each parking space, which includes parking spaces and maneuvering area, the asphalt parking area could provide as many as eight spaces.
  - (e) However, the site plan also indicates an “overflow parking” area that could be estimated to be as much as 8700 square feet in area, which could provide up to another 29 spaces.
  - (f) At the August 14, 2008, public hearing Chuck Stites, co-petitioner, testified that the heavy traffic on the Monday evening after the first shotgun season occurred because of the way they were doing business. They were not open during the day. He said that now they are open on Sunday all day with a couple of check-in stations, and they do not have the high volume of traffic.
  - (g) At the August 14, 2008, public hearing Phil Van Ness, attorney representing neighbors of the subject property, testified that one of the letters received from a neighbor stated that sometimes trucks are strung along 2400E for a distance of a quarter of a mile. He said that he did some math and looked up the length of a Ford F150 and added ten feet to give adequate room to separate themselves from the next vehicle and came up with 48 trucks.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 9.B.(3) CONTINUED

- (g) At the August 14, 2008, public hearing Dennis Wandell, neighbor to the subject property, testified that he wonders if the parking would be adequate.
- (h) Staff completed a Parking Analysis for the subject property based on the proposed site plan and an aerial photograph of the subject property on October 24, 2008. The analysis indicated that as many as five employee spaces and 33 customer parking spaces could be accommodated based on the proposed site plan. It also indicated that 11 spaces could be accommodated if the fruit trees north of the driveway were trimmed to allow for customer parking for a total of 44 spaces.
- (4) Regarding compliance with standard conditions of approval for Major Rural Specialty Businesses indicated in Section 6.1.3, as follows:
- (a) The total BUILDING AREA devoted to sales DISPLAY or recreational commercial USE shall not exceed 5,000 square feet.
- A waiver of this standard condition does not appear to be necessary because the only building area that might be considered DISPLAY area is the lobby of the business building and that is only 350 square feet.
- (b) Outdoor entertainment requiring the use of sound amplification equipment shall be permitted not more often than five consecutive or non-consecutive days in any three-month period and only if a Recreation & Entertainment License shall have been obtained as provided in the Champaign County Ordinance No. 55 *Regulation of Business Offering Entertainment and/or Recreation.*
- A waiver of this standard condition does not appear to be necessary because the Petitioners have not proposed any outdoor entertainment.
- (c) The site shall not be located within 500 feet of a residential zoning district.
- A waiver of this standard condition does not appear to be necessary because there is no land in any R districts within 500 feet of the subject property.
- (d) Businesses located in the CR, AG-1, or AG-2 Districts shall not access streets located within a recorded subdivision.
- A waiver of this standard condition is not necessary because the subject property accesses a Township Highway.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 9.B.(4) CONTINUED

- (e) Alcoholic beverages not produced on the premises shall not be sold.

A waiver of this standard condition is not necessary because the Petitioners do not sell alcoholic beverages of any kind.

C. Regarding compliance with the *Stormwater Management Policy*:

- (1) Regarding the requirement of stormwater detention:

(a) Paragraph 4.3A.5. of the *Stormwater Management Policy* states that no stormwater detention is required on lots more than 2.0 acres in area but not more than 6.25 acres in area provided that the total amount of impervious area is not greater than one acre.

(b) The total impervious area on the site plan appears to be less than 35,000 square feet, which is less than one acre. However, this information is a very rough estimate. The Petitioners should consider whether the overflow parking area will be paved with gravel or any other surface, and how big the loop drive will actually be.

- (2) Regarding the requirement to protect agricultural field tile, there does not appear to be any field tile on the subject property.

D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:

- (1) The proposed storage building appears to be very close to or possibly in the Special Flood Hazard Area.

- (2) The subject property complies with the Subdivision Regulations.

E. Regarding the requirement that the Special Use preserve the essential character of the CR Zoning District: ~~Rural Specialty Businesses are by definition rural uses that sell agricultural goods or traditional handicrafts and trade in a rural setting.~~

- (1) There will only be minor encroachment into the floodplain.

- (2) The only wooded area that will be lost due to the proposed site plan is a quarter-acre remnant of a tree plantation and contains only small trees less than 12 inches in diameter.

- (3) It appears the subject property will only conform more closely to the appearance of the adjacent property to the north.

- (4) The subject property will be unchanged in appearance from the public street.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 9. CONTINUED

- F. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings. The Petitioners have indicated on their application that there is a marked handicapped accessible space, though this is not indicated on the site plan. They also state that there is pavement and no steps all the way to the front door of the business building which has a threshold less than a quarter-inch high with two 36 inch doors.
- G. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
    - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
    - (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
    - (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
    - (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
    - (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.

\*Same evidence as in related Zoning Case 614-S-08

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ITEM 9.G.(1) CONTINUED

- (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
  - (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
  - (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
  - (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
  - (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits are provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked. The current review is only sufficient to verify life safety for small and simple buildings.
- H. Regarding public health concerns related to the final dressing that occurs at the proposed Special Use:
- (1) The proposed Special Use is to butcher (final dressing) field dressed deer carcasses. There is no public agency that licenses or inspects establishments that only butcher (final dressing) deer carcasses and do not process any meat or meat food products covered by the Illinois Meat and Poultry Inspection Act provided that the wild game is dressed only for the hunter who kills the game and provided that the dressed products are returned to the hunter and not sold to the general public.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 9.H. CONTINUED

- (2) Co-petitioner Charles Stites has a Master's Degree in Meat Science from the University of Illinois and has been employed as a Research Animal Scientist at the University of Illinois Meat Science Laboratory since 1984. He is also the manager of the Federal Inspected meat processing plant at that location and is familiar with public health and sanitation concerns related to meat processing.
  - (3) If approved, the proposed Special Use could be sold to another owner who might not be as familiar with the public health and sanitation concerns related to meat processing. A special condition of approval has been proposed to require a new special use permit if any change of ownership or location takes place.
- I. Regarding public health concerns related to the onsite wastewater treatment and disposal:
- (1) The subject property uses a private onsite sewage disposal system that was installed in 1999 under Champaign-Urbana Public Health District Permit No. 99-076-19.
  - (2) Information the Petitioners submitted from the Champaign County Public Health Department indicates the following:
    - (a) The application for the private sewage disposal system permit did not indicate that the system could serve anything other than a four bedroom residence.
    - (b) Wastewater from the house and business building goes first to a 1250 gallon septic tank. It then passes through a Flo-Rite aerobic treatment plant and then through an infiltrator, a chlorinator, and another tank before being discharged to the ground.
    - (c) The system is capable of treating 500 gallons per day.
  - (3) The Petitioners have submitted a copy of their service agreement with Berg Tanks for the annual maintenance of their septic system.
  - (4) The Champaign County Public Health Department indicated on November 21, 2007, that no complaints had been received regarding the onsite private sewage disposal system.
  - (5) It is not clear that the existing onsite private sewage disposal system is adequate for either the existing use or any business growth that is likely to occur.
  - (6) At the August 14, 2008, public hearing Chuck Stites, co-petitioner, testified that the well is approximately ten feet from the front of the house and he is not sure what the requirements are.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 9.I. CONTINUED

- (7) At the August 14, 2008, public hearing Dennis Wandell, neighbor to the subject property, testified that he lives north of the Stites and distributed pictures dated June 5, 2008, to the board for their review. He said that these pictures show that water on that day was covering a great deal of that property including the backyard, play equipment, and comes fairly close to his property. He said that he keeps fairly accurate records as to how high the water comes up and the flood they had early this spring was 18 plus inches higher than this flood.
- J. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors to the subject property, testified that the proposed special use does not conform to the applicable regulations and standards of, or preserve the essential character of the DISTRICT in which it shall be located because the proposed SUP at this location is wholly incompatible with the applicable regulations and standards of the CR district.
- K. At the October 30, 2008, public hearing John Hall, Zoning Administrator, testified regarding the removal of trees on the subject property as follows:
- (1) Mr. Hall and J.R. Knight, Associate Planner, visited the subject property on October 30, 2008.
- (2) The grove of trees on the east half of the subject property appears to be the remnants of a tree plantation.
- (3) It is approximately a quarter of an acre in area.
- (4) There are no trees in the grove that have a diameter greater than 12 inches and most are smaller

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
- A. Major Rural Specialty Businesses may be authorized in the CR Conservation-Recreation Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived.
- B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 10.B. CONTINUED

- (1) Subsection 5.1.8 of the Ordinance states the general intent of the CR District and states as follows (capitalized words are defined in the Ordinance):

The CR, Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.

- (2) The types of uses authorized in the CR District are in fact the types of uses that have been determined to be acceptable in the CR District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

- (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
  - (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan is in partial compliance with those requirements. The side yard for the business building along the north lot line is less than the minimum required side yard, but is the subject of related Zoning Case 616-V-08.
  - (b) There have also been complaints about the existing business regarding odor.
- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
  - (a) In regards to the value of nearby properties, the proposed Special Use Permit will authorize the expansion of a use that has been in place for several years already. Also, there is at least one other adjacent property which also has a business being operated on it.
  - (b) With regard to the value of the subject property, without the Special Use Permit authorization the current use of the property would have to be scaled back dramatically.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 10.C.(3) CONTINUED

The current IDOT traffic count is from 2006, and therefore takes into consideration the impact of the current use. However, the fluctuating traffic levels generated by the current use do require some improvements be made to the subject property to handle peak traffic. A condition will be proposed to require necessary improvements.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is partially outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit. The proposed storage building must be analyzed further to establish its conformance with the Special Flood Hazard Areas Ordinance.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (c) At the August 14, 2008, public hearing Lucy Whalley, neighbor to the subject property, testified that she does not understand how the proposed Special Use Permit conditions conforms with 2.0(e) of the Ordinance. She said that if all of the driveway construction and infrastructure proposed for the Special Use Permit are implemented this will create a significant built up area adjacent to the Salt Fork River and its floodplain forest. She said that many people choose to live in this area primarily because of its wooded river habitat. She said that a built up area would only be of value to someone who wants to continue a major business. She said that to turn this property back to wooded area would be very costly. However, the area occupied by Mr. Wandell's rural home business could easily be restored to natural landscape.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway;

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 10.C.(6) CONTINUED

and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan requires a variance to be in full compliance with those requirements. The petitioners have applied for a variance in related Zoning Case 616-V-08.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

This purpose is not relevant to the proposed Special Use Permit because it relates to nonconforming buildings, structures, or uses that existed on the date of the adoption of the Ordinance and none of the current structures or the current use existed on the date of adoption.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 10.C. CONTINUED

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The types of uses authorized in the CR District are in fact the types of uses that have been determined to be acceptable in the CR District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

This proposed Special Use Permit does not propose any construction in natural areas or near the Salt Fork.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

This purpose is not relevant to the proposed Special Use Permit because the CR District is not for urban development.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

The types of uses authorized in the CR District are in fact the types of uses that have been determined to be acceptable in the CR District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

D. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors to the subject property, testified that the proposed special use is not in harmony with the general purpose and intent of the Ordinance because the River Bend property is located in a CR District, surrounded on four sides by single-family residences.

E. At the October 30, 2008, public hearing John Hall, Zoning Administrator, testified regarding the removal of trees on the subject property as follows:

- (1) Mr. Hall and J.R. Knight, Associate Planner, visited the subject property on October 30, 2008.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 10.E. CONTINUED

- (2) The grove of trees on the east half of the subject property appears to be the remnants of a tree plantation.
- (3) It is approximately a quarter of an acre in area.
- (4) Most of the trees in the grove have a diameter less than 12 inches.

*GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE*

11. The proposed Special Use is not an existing NONCONFORMING USE because the proposed Special Use is an expansion of the Rural Home Occupation authorized in Zoning Use Permit 279-98-02. The Petitioner has testified on the application, “**Not Applicable.**”

*GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL*

12. Regarding proposed special conditions of approval:
  - A. The testimony and evidence presented by the petitioners in this case has been in support of a request to conduct final dressing of field dressed wild game on the subject property as a Major Rural Specialty Business as required by the following condition:

**The Special Use Permit authorized herein is only for the final dressing of field dressed wild game and none of the following shall occur on the subject property:**

- (1) **No slaughtering of wild game or animals of any kind is authorized except for the final dressing (i.e., further processing) of field dressed wild game carcasses.**
- (2) **No meat preparation or packaging that is subject to the Meat and Poultry Inspection Act is authorized except for the final dressing and packaging of field dressed wild game carcasses.**
- (3) **There shall be no sales to the general public of products made from wild game that has been dressed onsite.**
- (4) **The sale of goods produced off the premises must constitute less than 50 percent of the gross annual business income and less than 50 percent of the total annual stock in trade.**

The special condition stated above is required to ensure the following:

**The continued operation of the Special Use Permit authorized herein shall be in conformance with the testimony and evidence presented and shall continue to qualify as a Rural Specialty Business in the CR District.**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

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ITEM 12. CONTINUED

- B. There is no public health regulation of the proposed special use. The Champaign County Public Health Department would have jurisdiction should a public health crisis arise from the operations of the proposed Special Use. In this Special Use Permit the Zoning Board of Appeals has not attempted to supplant the existing system of public health regulation for dressing of wild game but has only added relevant safeguards to ensure compliance with the Champaign County Zoning Ordinance. The following condition is the minimum requirement necessary to minimize risks to public health and safety by the proposed special use:

**The petitioner shall provide reasonable access to both the subject property and all relevant business records, including employee work records; the location where food supplies were purchased; food lot numbers; the identity of food purchasers; and other as may be requested by the Champaign County Public Health Department pursuant to any complaint of food borne illness that is made after ingestion of products from the proposed special use.**

the special condition stated above is required to ensure the following:

**The Champaign County Public Health Department shall be provided necessary access to property and records to respond to any relevant complaints of food borne illness.**

- C. The petitioner's existing web page on the World Wide Web describes the business as a "custom wild game processor". The petitioner also maintains and has provided evidence that the business is completely exempt from regulation under the Illinois Meat and Poultry Inspection Act (225 ILCS 650/ *et seq*). "Custom processing" is a type of regulated activity under the Illinois Meat and Poultry Inspection Act (225 ILCS 650/ *et seq*) and "custom preparation" is also a term used in similar federal regulations. The existing advertising could confuse customers about whether or not the proposed special use is subject to regulation. The following condition requires the petitioner's advertising to be in concert with the degree of public health regulation that applies to the proposed special use:

**The following condition shall apply until such time that the petitioner is regulated by and has a license authorized by the Illinois Department of Agriculture:**

- (1) **the phrases "custom wild game processor" and "custom wild game processing" and the words "custom processor" and "custom processing" shall not be used in any advertising or description of services provided by the petitioner about the proposed special use; and**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12.C CONTINUED

- (2) **the petitioner's existing advertising and presence on the world wide web shall be revised to conform to this requirement and copies of revised advertising materials and description of services provided shall be submitted to the Zoning Administrator no later than November 13, 2008; and**
- (3) **The petitioner shall conspicuously display a sign stating "NO SALES OF WILD GAME PRODUCTS PERMITTED" in the public areas of the proposed special use;**

the special condition stated above is required to ensure the following:

**The public has clear expectations of the types of services that may be provided at the proposed special use and the degree of public health regulation required of the petitioner.**

- D. There is no public health regulation of the proposed special use and co-petitioner Chuck Stites has a Master's Degree in Meat Science from the University of Illinois and years of experience in meat processing. Because of Mr. Stites' expertise the proposed Special Use is atypical in the low risk to public health. Operation under a different owner with less experience or training could have much different public health consequences. The following condition will ensure that public safety is considered if the proposed Special Use is ever sold to a different owner:

**The Special Use Permit in Case 610-S-08 shall only be valid for the current owners, Chuck and Mary Ellen Stites, on the subject property and if the business is ever transferred to new ownership a new Special Use Permit shall be required.**

the special condition stated above is required to ensure the following:

**the risk to public health is adequately considered in management of the proposed Special Use.**

- E. Complaints have been received regarding heavy customer traffic at the subject property and the amount of parking currently available does not appear to be sufficient for the proposed use. Onsite parking improvements are required and need to be completed in time for use during the coming hunting season. Completion of the parking improvements needs to allow ample time for Zoning Administrator inspection and any follow up corrections that may be required prior to the start of hunting season. The following condition will ensure that there is adequate parking at the proposed Special Use:

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12.E CONTINUED

Before the 2008 firearm deer hunting season begins on November 21, 2008, the Petitioner shall upgrade the current driveway and parking as follows:

- (1) The driveway surfaces shall be a minimum of 16 feet wide and consist of at least a six inch thickness of gravel. No unattended vehicles shall be parked in the driveway but the driveway may be used as a vehicle queuing area provided that ample care is taken to ensure emergency vehicle access when necessary.
- (2) The proposed driveway parking access lane shown on the approved site plan ~~received on May 5, 2008~~, shall be ~~constructed~~ established by, at a minimum, clearing the existing trees with the west end of the loop at least 40 feet from the center of CR 2400E. If necessary to accommodate customer vehicles the parking access lane shall be paved with a gravel surface at least six inches thick and a minimum of 16 feet wide.
- (3) ~~An overflow parking area shall be provided inside the proposed driveway~~ A parking access lane shall be provided as shown on the approved site plan received on May 5, 2008, and ~~a minimum amount of gravel paving shall be provided in the parking area~~ traffic access lanes sufficient to ensure all weather use.
- (4) ~~The Zoning Administrator shall verify the completion of the driveway and parking upgrade in a compliance inspection no later than {November 13, 2008}.~~
- (5) There shall be no parking allowed on top of either the active or reserve septic tank leach field and both the active and reserve leach fields shall be clearly marked to prevent accidental parking.
- (6) All parking and queuing areas shall be screened from adjacent properties by a Type A screen as defined in paragraph 4.3.3 H. 1. a. of the Zoning Ordinance.

*{Note: These changes to required parking were discussed by the Board at the October 30, 2008, public hearing.}*

The special condition stated above is required to ensure the following:

**There is adequate ~~all-weather~~ parking on the subject property for the proposed Special Use.**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12. CONTINUED

- F. Complaints have been received regarding heavy customer traffic at the subject property and in the past customers have on occasion parked in the right of way of CR2400E. On-street parking is not acceptable in this rural location because it results in risks to public safety. The following condition will clarify that it is the Petitioner's responsibility to ensure that no parking occurs in the right of way:

**The Petitioner is responsible to ensure that there shall be no queuing of customer traffic in the public right-of-way of CR 2400E and that no parking related to the Special Use Permit shall occur within any street right of way or on nearby properties.**

the special condition stated above is required to ensure the following:

**There is no unreasonable risk to public safety caused either by on-street parking or long lines of standing traffic.**

- G. There is no public health regulation of the proposed special use, but the proposed special use should not allow the creation of insanitary conditions, adulteration of product, or nuisance conditions for the neighborhood. Neighbors have for sometime complained about the appearance of carcass parts in the neighborhood and the carcass parts apparently come from the subject property. The following condition should help reduce the possibility that carcass parts are accessible by dogs, wildlife, and vermin:

**Before the 2008 firearm deer hunting season begins on November 21, 2008, and on a permanent basis thereafter, the Petitioners shall ensure that all buildings, including the structures, rooms, and compartments used in the Special Use Permit are of sound construction and are kept in good repair to allow for processing, handling, and storage of product and waste materials in a manner that will not result in insanitary or nuisance conditions;**

the special condition stated above is required to ensure the following:

**The proposed Special Use poses no risk to public health in general or to the immediate neighborhood.**

- H. Complaints about the odor of the smoking of wild game have been received from neighbors. The petitioners have proposed to use an air scrubber system for their smokehouse ventilation. The scrubber needs to be operational in time for use during the coming hunting season and installation needs to allow ample time for Zoning Administrator inspection and any follow up corrections that may be required. The condition is as follows:

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12.H. CONTINUED

In regards to the odors caused by the smoking and cooking of wild game products at the proposed Special Use, the Petitioners shall do the following:

- (1) The Petitioners shall install and make operational the proposed Enviro-Pak “Enviro-Kleen” Air Treatment System to treat the odor from the smokehouses and any cooking, including if necessary a carbon filter and provisions for fire detection and prevention.
- (2) The Zoning Administrator shall verify the operation of the Enviro-Pak “Enviro-Kleen” Air Treatment System in a compliance inspection no later than January 5, 2009.
- (3) The Air Treatment System shall be used at all times during cooking and when the smokehouses are in operation.
- (4) The Enviro-Pak “Enviro-Kleen” Air Treatment System is not expected to eliminate all odors from the smoking and cooking related to the Special Use Permit and some minimal odor may still be present at the property line. However, if complaints about smoking and cooking odors from the SUP are received by the Zoning Administrator and upon investigation by the Zoning Administrator the complaints are determined to be valid and the odor at the property line is determined to be more than barely perceptible the applicant stop all smoking and cooking of wild game.

*{Note: This condition was not requested by the Board but some version of this condition is recommended to describe the expectations of the Board regarding the required control of odors.}*

- (5) This condition does not exempt the proposed Special Use Permit from whatever Illinois Pollution Control Board or Environmental Protection Agency air pollution regulations are applicable or are later found to have been applicable and this Special Use Permit shall remain valid so long as the Petitioners comply with whatever air pollution regulations are found to be applicable.

The special condition stated above is required to ensure the following:

**Odor from the cooking and smoking of wild game shall not be detectable at the property line so far as is practicable and the Special Use shall comply with any Illinois air pollution regulations that are later found to be applicable.**

- I. Complaints have been received regarding the odor of the bone barrels when they are stored outdoors and the appearance of trash from the subject property appearing on neighboring properties. The proposed special use permit should not be allowed to operate in a such a fashion

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12.I. CONTINUED

that allows the creation of insanitary conditions, nuisance conditions, or the adulteration of products in the neighborhood. The following condition will ensure that bone barrels and trash are stored in such a way to minimize insanitary conditions and nuisance conditions for the neighborhood:

**In regards to the bone barrels and trash containers for the proposed Special Use, the Petitioners shall do the following:**

- (1) No bone barrels shall be stored within 30 feet of any property line, except if stored within the walk-in cooler.**
- (2) No bone barrels shall be emptied within 70 feet of any property line.**
- (3) Before the 2008 firearm deer hunting season begins on November 21, 2008, the Petitioners shall construct a temporary storage building for bone barrels. Before the 2009 firearm deer hunting season begins the Petitioners shall construct the proposed new permanent storage building as shown on the ~~proposed~~approved site plan submitted ~~May 12, 2008~~.**
- (4) The Zoning Administrator shall verify the completion of the temporary storage building in a compliance inspection no later than November 13, 2008. The Zoning Administrator shall verify the completion of the permanent storage building in a compliance inspection no later than October 1, 2009.**
- (5) No more than 800 square feet of the proposed new storage building shall be used for storage of bone barrels, or any storage related to the proposed special use.**
- (6) All bone barrels shall be stored in a closed and secure building at all times except when being emptied into a rendering truck or a garbage truck for removal from the property.**
- (7) The bone barrels shall be stored in a cooled environment when necessary to maintain sanitary conditions.**
- (8) When the bone barrels and trash containers are not stored in a cooled environment they shall be covered adequately to prevent access by vermin.**
- (9) The bone barrels and trash containers shall be cleaned and sanitized when necessary to maintain sanitary conditions and all such cleaning and sanitizing shall occur in a closed and secure building and all wash water from cleaning of the bone barrels shall be treated in the approved wastewater treatment and disposal system for the Special Use and not disposed of in an untreated condition and any solid**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed



ITEM 12.I.(9) CONTINUED

**waste from the cleaning bone barrels shall also be properly disposed of and not dumped on the surface of the ground.**

the special condition stated above is required to ensure the following:

**The bone barrels and trash containers shall be handled and used in a manner that does not create insanitary or nuisance conditions in the neighborhood.**

- J. Complaints have been received regarding the noise of compressors used for the refrigeration units used by the River Bend Wild Game and Sausage business. The following condition requires that any new compressors must be located so as to minimize noise effects on neighbors who are concerned about noise:

**Any new refrigeration units shall have all condensers located inside the building except that the temporary and permanent bone barrel storage buildings may be cooled by a through-the-wall air conditioner if necessary.**

The special condition stated above is required to ensure the following:

**There is maximum noise shielding for neighboring residences.**

- K. The Petitioners have been operating the River Bend Wild Game and Sausage Company as a Rural Home Occupation since it was permitted in 2000. The proposed Special Use will authorize River Bend as a Major Rural Specialty Business which will require the Petitioners to obtain a Change of Use Permit and make specific improvements to the property. The following condition clarifies the need for the permit and when the improvements should occur:

**Within one month of the Zoning Board of Appeals decision in Case 610-S-08 the petitioners must submit a Zoning Use Permit/ Change of Use Application for River Bend Wild Game and Sausage Company and all required improvements must be installed and completed and verified by the Zoning Administrator in a compliance inspection not later than November 13, 2008 except as later dates are specifically authorized by other special conditions.**

The special condition stated above is required to ensure the following:

**The proposed Special Use shall fully comply with the approval in Case 610-S-08 in the 2008/ 2009 hunting season.**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12. CONTINUED

- L. The subject property is only five acres in area and is surrounded by other residential lots. The proposed Special Use has been in operation since the 1999/ 2000 hunting season. Since the business started at least two neighbors have complained to the petitioner about certain nuisance aspects of the business and the neighbors have testified that they have not been satisfied with the response from the petitioner. Conditions have been included in Case 610-S-08 to require improvements related to traffic, pest conditions, odors, noise, and wastewater treatment and disposal but it remains to be seen how effective those improvements may be. A time limit on this Special Use Permit approval and a requirement that the petitioner must seek a new approval would allow the Board an opportunity to review the effectiveness of these conditions. The following condition limits the length of time for this Special Use Permit as follows:

**The Special Use Permit authorized in Case 610-S-08 shall expire as outlined below:**

- (1) The Special Use Permit in Case 610-S-08 shall expire on April 1, ~~2011~~, 2014 and no processing of wild game shall be authorized to occur thereafter on the subject property unless a complete application for a new Special Use Permit is received by ~~April 1, 2011~~ November 15, 2013.**
- (2) Provided that a new Special Use Permit application is received by April 1, ~~2011~~, 2014, the Special Use Permit in Case 610-S-08 shall remain valid and wild game processing is authorized in the ~~2011/2012~~ 2014/2015 hunting season.**
- (3) In any event, the Special Use Permit in Case 610-S-08 shall expire and shall not be valid for processing of any wild game after the ~~2011/2012~~ 2014/2015 hunting season. Processing of wild game on the subject property after the ~~2011/2012~~ 2014/2015 hunting season may only occur as it may be authorized in a new Special Use Permit that may have additional conditions that are more restrictive than Case 610-S-08.**
- (4) The Special Use Permit in Case 610-S-08 shall expire upon the failure of the private sewage disposal system serving the business and the petitioner is obligated to notify the Zoning Administrator in the event of such failure.**

*{Note: These revised dates were discussed by the Board at the October 30, 2008, public hearing.}*

The special condition stated above is required to ensure the following:

**Any nuisance conditions or necessary limits on the Special Use that are not adequately addressed in the approval for Case 610-S-08 shall be reconsidered in a future Special Use Permit.**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12. CONTINUED

- M. The following is a preliminary condition for the disposal of wastewater from the proposed special use permit. It has not been reviewed by the Public Health Department. It includes requirements relevant to the approval of a new wastewater disposal system for the proposed use; maintenance of the new system; and the consequences should the new system ever fail.

**The Special Use Permit authorized in Case 610-S-08 shall be served by a new wastewater disposal system as follows:**

- (1) A new private sewage disposal system with subsurface discharge to serve the Special Use Permit activities shall be constructed in general conformance with the approved site plan and subject to approval by the Champaign County Health Department including any special conditions imposed thereby and all Special Use Permit activities must be disconnected from the existing private sewage disposal system as follows:**
  - (a) A complete application for the new private sewage disposal system shall be submitted with fees to the Champaign County Health Department not later than November 12, 2008, and a duplicate of said application shall be submitted to the Zoning Administrator not later than November 12, 2008; and**
  - (b) The new private sewage disposal system shall be inspected by both the County Health Department and the Zoning Administrator prior to being covered with soil and both inspections shall verify that the Special Use Permit activities have been disconnected from the existing residential private sewage disposal system; and**
  - (c) The new private sewage disposal system shall be operational by January 5, 2009, unless weather causes unavoidable delay in which case the applicant shall notify the Zoning Administrator and the new system shall be operational as soon as weather allows; and**
  - (d) Failure to meet any of the application or approval deadlines will constitute a violation of this Special Use Permit approval and the Zoning Administrator shall immediately refer the violation to the Champaign County State's Attorney for legal action.**
- (2) The new private sewage disposal system serving the Special Use Permit shall be maintained as necessary or as recommended by the County Health Department but maintenance shall occur on at least an annual basis and all maintenance reports shall be filed with both the County Health Department and the Zoning Administrator. Failure to provide annual maintenance reports shall constitute a**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12.M.(2) CONTINUED

**violation of this Special Use Permit approval and the Zoning Administrator shall refer the violation to the Champaign County State's Attorney for legal action.**

- (3) **This Special Use Permit approval shall become void if the new private sewage disposal system with subsurface discharge fails and cannot be repaired or if the system is repaired or modified later without the approval of both the County Health Department and the Zoning Administrator, as follows:**
- (a) **The owner is obligated to provide notice of the failed system to both the Zoning Administrator and the County Health Department as soon as failure is suspected; and**
  - (b) **The Zoning Administrator and the County Health Department in consultation or individually may make a determination that the private sewage disposal system serving the Special Use Permit has failed and the owner shall provide necessary access to the private sewage disposal system for the purpose of necessary inspections pursuant to such a determination; and**
  - (c) **Provided that all necessary permits are received from the County Health Department, repairs that can result in lawful ongoing use of the private sewage disposal system with subsurface discharge may be made subject to approval by the Champaign County Health Department including any special conditions imposed thereby and provided that the Zoning Administrator is provided copies of all applications and approvals and is allowed to conduct inspections; and**
  - (d) **In the event of failure of the Special Use Permit private sewage disposal system that cannot be repaired or in the event of unresponsiveness by the owner in repairing a failed system, the Zoning Administrator shall provide written notice to the owner that the Special Use Permit is void and there shall be no more Special Use Permit activities conducted however any deer carcasses that are onsite at the time of failure may be dressed subject to any necessary conditions that may be imposed by either the County Health Department or the Zoning Administrator.**

- N. Neighbors have seen activities on the subject property that have made them wonder whether carcasses from the existing business have been burned and/or buried on the subject property. The following condition makes it clear that those activities should not be part of the proposed Special Use.

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

ITEM 12.N. CONTINUED

**There shall be no burning or burial of carcass parts on the subject property.**

The special condition stated above is required to ensure the following:

**All carcass parts are removed from the subject property in an appropriate manner.**

- O. The following condition clarifies which Documents of Record constitute the official proposed site plan for Case 610-S-08.

**The approved site plan for Case 610-S-08 consists of the following Documents of Record:**

- (1) The revised site plan received on October 29, 2008**
- (2) The floor plan of the business building received on May 5, 2008**
- (3) The revised floor plan of the proposed storage building received on October 12, 2008**
- (4) The elevation of the proposed storage building received on October 1, 2008**
- (5) The elevation of the front view of the business building received on October 12, 2008**

The special condition stated above is required to ensure the following:

**It is clear which Documents of Record constitute the proposed site plan for enforcement purposes.**

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikethrough text~~ denotes evidence to be removed

**DOCUMENTS OF RECORD**

1. Special Use Permit Application from Charles and Mary Ellen Stites, received on March 10, 2008, with attachments:
  - A Statement explaining fulfillment of SUP criteria
  - B Existing site plan
  - C Proposed site plan
  - D Legal Description of subject property
  - E Printout of Weather Underground website (www.wunderground.com)
  - F River Bend Wild Game and Sausage Company brochure
  
2. [Petitioner] Response to April 23, 2008, letter from Zoning Office received May 5, 2008, with attachments:
  - A Proposed site plan
  - B Proposed floor plan of business building
  - C Letter from Gary Bird dated August 27, 1999
  - D Service Agreement with Berg Tanks
  
3. Preliminary Memorandum for Case 610-S-08, with attachments
  - A Zoning Case Maps for Cases 610-S-08 and 616-V-08
  - B Application for RHO 279-98-02
  - C Site plan for RHO 279-98-02
  - D Site plan for ZUP 142-01-04
  - E Inspection photographs from November 20, 2007 (included separately)
  - F Proposed site plan received on May 5, 2008
  - G Proposed floor plan of business building received on May 5, 2008
  - H Statement explaining fulfillment of SUP criteria received on March 10, 2008
  - I Statement of additional information received on May 5, 2008
  - J Printout of Weather Underground website received on March 10, 2008
  - K River Bend Wild Game and Sausage Company brochure received on March 10, 2008
  - L Letter from Garry Bird dated August 27, 1999
  - M Service Agreement with Berg Tanks
  - N IDOT traffic map of vicinity of subject property
  - O Flood Insurance Rate Map Panel No. 1708940225B
  - P Draft Summary of Evidence for Case 610-S-08
  
4. Letter from Chuck Stites received on May 12, 2008, with attachments:
  - A Customer Traffic at River Bend
  - B Revised Site Plan received on May 12, 2008
  - C Enviro-Pak "Enviro-Kleen" Air Treatment System Engineering Specifications

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

DOCUMENTS OF RECORD, CONTINUED

5. Supplemental Memorandum for Case 610-S-08, dated May 15, 2008, with attachments:
  - A Letter from Chuck Stites dated May 12, 2008
  - B Customer Traffic at River Bend received on May 12, 2008
  - C Revised Site Plan received on May 12, 2008
  - D Enviro-Pak "Enviro-Kleen" Air Treatment System Engineering Specifications
6. Letter of Concern from Lucy A. Whalley and Dennis Wandell, received on June 23, 2008, with attachments:
  - A Letter from Dennis Wandell to Chuck Stites, dated March 29, 2004
  - B Letter from Dennis Wandell and Lucy Whalley to Champaign County Animal Control, dated April 15, 2007
  - C Photographs of subject property on June 5, 2008, during a Salt Fork River flood event
  - D Article of trash with name of River Bend Wild Game and Sausage Company found on Mr. Wandell's property
7. Letter from Jeff Blackford, Champaign County Public Health Department, received on June 27, 2008
8. Letter of Concern from Jim and LaVerna Harper, received on June 30, 2008, with attachments:
  - A Annotated Land Use Case Map indicating Mr. and Mrs. Harper's property.
  - B Excerpt of Inspection photographs from November 20, 2007
9. Email from Kris Mazurczak, Illinois Department of Agriculture Bureau of Meat and Poultry Inspection, to Chuck Stites received August 1, 2008
10. Letter of Concern from Brenda Below, received August 4, 2008
11. Email from Food Safety and Inspection Service Technical Service Center to John Hall, received on August 5, 2008, with attachment:
  - A FSIS Directive 5930.1
12. Memorandum of Opposition from Phil Van Ness, representing Dennis Wandell and Lucy Whalley, received on August 6, 2008, with attachments:
  - A Excerpt of River Bend Wild Game and Sausage Company website
  - B Excerpt of River Bend Wild Game and Sausage Company website
  - C Excerpt of River Bend Wild Game and Sausage Company website Guestbook
  - D Photographs of River Bend/Stites property from North property line
13. Letter from Chuck Stites in response to Zoning Administrator letter dated July 3, 2008, received August 8, 2008, with attachment
  - A Revised site plan received August 8, 2008

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

DOCUMENTS OF RECORD, CONTINUED

14. Letter from Chuck Stites, received on August 8, 2008, regarding draft conditions
15. Supplemental Memorandum for Case 610-S-08, dated August 8, 2008, with attachments:
- A Minutes of ZBA Meeting on May 15, 2008, (included separately)
  - B Revised site plan received on May 12, 2008
  - C Proposed floor plan of business building received on May 5, 2008
  - D Letter from Dennis Wandell and Lucy Whalley, received on June 23, 2008
  - E Letter from LaVerna Harper received on June 30, 2008
  - F Letter from Brenda Below received on August 4, 2008
  - G Memo of Opposition from Phil Van Ness, representing Dennis Wandell and Lucy Whalley, received on August 6, 2008 (included separately)
  - H Soil Potential Ratings and Soil Map of subject property
  - I Revised Draft Summary of Evidence for Case 610-S-08
16. Supplemental Memorandum for Case 610-S-08, dated August 14, 2008, with attachments:
- A Letter from Jeff Blackford, Program Coordinator, Champaign County Public Health Department, received on June 27, 2008
  - B Letter from Chuck Stites received on August 8, 2008, in response to Zoning Administrator letter of July 3, 2008
  - C Letter from Chuck Stites received on August 8, 2008, regarding draft conditions
  - D Email from Chuck Stites received on August 1, 2008, forwarding response from Illinois Department of Agriculture Bureau of Meat and Poultry Inspection
  - E Soil Map of subject property (included separately)
17. Letter of Concern from Sheila Paul, received on August 14, 2008
18. Letter from Chuck Stites, received on October 1, 2008, with attachments:
- A Floor plan of the proposed bone barrel storage building received on October 1, 2008
  - B Elevation of proposed bone barrel storage building received on October 1, 2008
19. Supplemental Memorandum for Case 610-S-08, dated October 10, 2008, with attachments:
- A Letter from Chuck Stites received on October 1, 2008
  - B Floor plan of proposed bone barrel storage building received on October 1, 2008
  - C Elevation of proposed bone barrel storage building received on October 1, 2008
20. Supplemental Memorandum for Case 610-S-08, dated October 16, 2008, with attachments:
- A Letter from Chuck Stites received on October 12, 2008
  - B Revised Floor plan of proposed bone barrel storage building received on October 12, 2008
  - C Drawing illustrating front view of River Bend facility received on October 12, 2008

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed



DOCUMENTS OF RECORD, CONTINUED

21. Letter of Opposition from Lucy Whalley and Dennis Wandell, dated October 22, 2008
22. Email from Gretchen Hopkins on behalf of Gil Martini, Enviro-Pak received on October 23, 2008
23. Supplemental Memorandum for Case 610-S-08, dated October 24, 2008, with attachments:
  - A First Notice of Violation of the Champaign County Zoning Ordinance dated December 11, 2007 (Enforcement Case ZN-07-24/28)
  - B Parking Analysis dated October 24, 2008
  - C Email from Gretchen Hopkins on behalf of Gil Martini, Enviro-Pak received on October 23, 2008
  - D Revised Conditions for Zoning Case 610-S-08
  - E Minutes of October 16, 2008, For Information Only; Not For Approval (included separately)
24. Email of Support from Travis Burr, received on October 27, 2008
25. Letter of Opposition from Phil Van Ness, Attorney representing neighbors Dennis Wandell and Lucy Whalley, received on October 30, 2008
26. Revised Site Plan received on October 29, 2008
27. Supplemental Memorandum for Case 610-S-08, dated October 30, 2008, with attachments:
  - A Revised Site Plan received on October 29, 2008
  - B Email from Travis Burr received on October 27, 2008
  - C Letter from Phil Van Ness received on October 29, 2008
28. Letter of Opposition from Jim and LaVerna Harper, received on November 6, 2008
29. Supplemental Memorandum for Case 610-S-08, dated November 7, 2008, with attachments:
  - A Letter of Opposition from Lucy Whalley and Dennis Wandell dated October 22, 2008
  - B Letter of Opposition from Jim and LaVerna Harper, received on November 6, 2008
30. Variance application from Charles and Mary Ellen Stites, received on May 5, 2008, with site plan
31. Preliminary Memorandum for Case 616-V-08, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Draft Summary of Evidence for Case 607-V-08See also the Attachments to the Preliminary Memorandum for related Zoning Case 610-S-08
32. Supplemental Memorandum for Case 616-V-08, dated October 10, 2008
33. Supplemental Memorandum for Case 616-V-08, dated November 7, 2008, with attachment:

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

DOCUMENTS OF RECORD, CONTINUED

A Revised Summary of Evidence for Case 616-V-08

34. Revised Parking Analysis dated October 30, 2008
35. B2 Alternative Parking Analysis
36. Aerial photograph showing subject property and adjacent property to the North

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **610-S-08** held on **May 15, 2008, August 14, 2008, October 16, 2008, October 30, 2008, and November 13, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* *{ IS / IS NOT }* necessary for the public convenience at this location because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* is so designed, located, and proposed to be operated so that it *{ WILL / WILL NOT }* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has *{ ADEQUATE / INADEQUATE }* traffic capacity and the entrance location has *{ ADEQUATE / INADEQUATE }* visibility.
  - b. Emergency services availability is *{ ADEQUATE / INADEQUATE }* *{because:¹}* \_\_\_\_\_  
\_\_\_\_\_
  - c. The Special Use will be designed to *{ CONFORM / NOT CONFORM }* to all relevant County ordinances and codes.
  - d. The Special Use *{ WILL / WILL NOT }* be compatible with adjacent uses *{because:¹}* \_\_\_\_\_  
\_\_\_\_\_
  - e. Surface and subsurface drainage will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* \_\_\_\_\_  
\_\_\_\_\_
  - f. Public safety will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* \_\_\_\_\_  
\_\_\_\_\_
  - g. The proposed septic system will be *{ ADEQUATE / INADEQUATE }* because: \_\_\_\_\_  
\_\_\_\_\_
  - h. The provisions for parking will be *{ ADEQUATE / INADEQUATE }* because: \_\_\_\_\_  
\_\_\_\_\_

\*Same evidence as in related Zoning Case 614-S-08  
Underline text denotes evidence to be added  
~~Strikeout text~~ denotes evidence to be removed

FINDINGS OF FACT, CONTINUED

- i. The provisions for the control of odors from the smoking and cooking of deer products will be *{ADEQUATE / INADEQUATE}* because: \_\_\_\_\_  
\_\_\_\_\_
- j. The provisions for the storage and disposal of bones and management of bone barrels will be *{ADEQUATE / INADEQUATE}* because: \_\_\_\_\_  
\_\_\_\_\_
- k. The provisions for public health will be *{ADEQUATE / INADEQUATE}* because: \_\_\_\_\_  
\_\_\_\_\_

3a. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }* conform to the applicable regulations and standards of the DISTRICT in which it is located.

3b. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }* preserves the essential character of the DISTRICT in which it is located because:

- a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
- b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
- c. Public safety will be *{ADEQUATE / INADEQUATE}*.
- d. The Special Use *{WILL / WILL NOT}* conserve the natural and scenic area along the Salt Fork River because: \_\_\_\_\_  
\_\_\_\_\_

4. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { IS / IS NOT }* in harmony with the general purpose and intent of the Ordinance because:

- a. The Special Use is authorized in the District because: \_\_\_\_\_  
\_\_\_\_\_
- b. The requested Special Use Permit *{ IS / IS NOT }* necessary for the public convenience at this location because: \_\_\_\_\_  
\_\_\_\_\_

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

FINDINGS OF FACT, CONTINUED

- c. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* is so designed, located, and proposed to be operated so that it *{ WILL / WILL NOT }* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* *{ DOES / DOES NOT }* preserves the essential character of the DISTRICT in which it is located.
  - e. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
- 
- 
- 

- 5. The requested Special Use *{ IS/ IS NOT }* an existing nonconforming use.
- 6. ***{ NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW: }***

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.11B. *{HAVE / HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **610-S-08** is hereby *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the petitioners **Charles and Mary Ellen Stites** to authorize a **Major Rural Specialty Business in the CR District**.

*{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS},*

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

\*Same evidence as in related Zoning Case 614-S-08

Underline text denotes evidence to be added

~~Strikeout text~~ denotes evidence to be removed

# CASE NO. 616-V-08

## SUPPLEMENTAL MEMORANDUM

November 7, 2008

Champaign  
County  
Department of

Petitioners: **Charles and Mary Ellen  
Stites**

**PLANNING &  
ZONING**

Site Area: **approx. 5.0 acres**

Time Schedule for Development:

**N/A**

Request: **Authorize the reconstruction and use of a building to be used as a Major Rural Specialty Business with a side yard of four feet in lieu of the required side yard of 15 feet in the CR District.**

Location: **A five acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1 T.18 N. R 10 E. of Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph.**

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

FAX (217) 328-2426

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

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### *STATUS*

This is the fifth meeting for this case. It was continued from the October 30, 2008, public hearing along with related Zoning Case 610-S-08. A letter of opposition received on October 22, 2008, from Lucy Whalley and Dennis Wandell that was not included in the last mailing is attached to the Supplemental Memorandum for Case 610-S-08 dated November 7, 2008. A letter of opposition received on November 6, 2008, from Jim and LaVerna Harper is attached to the Supplemental Memorandum for Case 610-S-08 dated November 7, 2008.

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### **NEW INFORMATION FOR SUMMARY OF EVIDENCE**

The Summary of Evidence has been updated throughout. See the Revised Summary of Evidence dated November 7, 2008

### **ATTACHMENT**

A Revised Summary of Evidence for Case 616-V-08





*REVISED DRAFT for November 7, 2008*

616-V-08

**FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

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Final Determination: *{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}*

Date: November 13, 2008

Petitioners: Charles and Mary Ellen Stites

Request: Authorize the reconstruction and use of a building to be used as a Major Rural Specialty Business with a side yard of four feet in lieu of the required side yard of 15 feet in the CR District

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 15, 2008, August 14, 2008, October 16, 2008, October 30, 2008, and November 13, 2008**, the Zoning Board of Appeals of Champaign County finds that:

- \*1. The Petitioners, Charles and Mary Ellen Stites, own the subject property.
- \*2. The subject property is five acre tract in the East Half of the Southeast Quarter of the Northeast Quarter of Section 1 T.18 N. R 10 E. of Sidney Township and commonly known as River Bend Wild Game and Sausage Company at 1161 CR 2400E, St. Joseph..
- \*3. The subject property is not located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they do receive notice of such cases and they are invited to comment. No comments have been received from the Village at this time.

**GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY**

- \*4. Land use and zoning on the subject property and in the vicinity are as follows:
  - A. The subject property is zoned CR Conservation-Recreation and is in use as a single family dwelling and River Bend Wild Game and Sausage Company, a home occupation approved by Zoning Use Permit (ZUP) 279-98-02. Related Zoning Case 610-S-08 is also proposed on the subject property.
  - B. Land to the north of the subject property is zoned CR Conservation-Recreation and is in use as a single family dwelling and Applause Landscape, a home occupation approved by ZUP 72-01-01.

\*Same evidence as in related Zoning Case 610-S-08

- C. Land to the east, west, and south of the subject property is zoned CR Conservation-Recreation and is in use as single family dwellings.

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

- 5. Generally regarding the proposed site plan and the history of the subject building:
  - A. Regarding the history of the subject building:
    - (1) The subject building was originally authorized as part of Zoning Use Permit (ZUP) 106-74-01 on April 16, 1974.
    - (2) A review of the Supervisor of Assessments aerial photographs from 1988 seems to indicate that the building had been expanded by that time.
    - (3) There are no records of permits for expansion of the building until ZUP 142-01-04 was approved on May 22, 2001.
    - (4) The subject building is proposed to be used as River Bend Wild Game and Sausage Company as a Major Rural Specialty Business in related Zoning Case 610-S-08.
  - B. Regarding the proposed site plan, the subject building is located along the north lot line and is indicated as being four feet from the north lot line 360 feet from the road.
  - C. An expansion for the cooler that is part of the subject building was proposed as part of related Zoning Case 610-S-08. This cooler expansion is proposed to have a side yard of 10 feet, as follows:
    - (1) Proposed special condition 12.A. prohibits the lean-to portion of the subject building from being rebuilt if it is ever damaged to greater than 50% of its replacement value.
    - (2) Should the lean-to need to be torn down, the cooler expansion would still require a variance.
    - (3) Special condition 12.B. is proposed to make it clear that the only encroachments into the required side yard authorized in this case are the existing nonconforming lean-to portion of the subject building and the cooler expansion proposed as part of related Zoning Case 610-S-08.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. In Section 5.3 of the *Zoning Ordinance* the side yard requirement for the CR Conservation-Recreation Zoning District is indicated to be 15 feet.
  - B. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance):

\*Same evidence as in related Zoning Case 610-S-08

- (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE or the main or principal USE, either detached from or attached to the MAIN OR PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN OR PRINCIPAL STRUCTURE, or the main or principal USE.
  - (2) "BUILDING, MAIN or PRINCIPAL" is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
  - (3) "BUILDING RESTRICTION LINE" is a line usually parallel to the FRONT, side, or REAR LOT LINE set so as to provide the required YARDS for a BUILDING or STRUCTURE.
  - (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
  - (5) "LOT LINES" are the lines bounding a LOT.
  - (6) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
  - (7) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
  - (8) "YARD" is an OPEN SPACE, other than a COURT, of uniform depth on the same LOT with a STRUCTURE, lying between the STRUCTURE and the nearest LOT LINE and which is unoccupied and unobstructed from the surface of the ground upward except as may be specifically provided by the regulations and standards herein.
  - (9) "YARD, SIDE" is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- C. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- D. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the

hearing officer unless a written application for a variance is submitted demonstrating all of the following:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
  - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
  - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- E. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

**GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT**

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application that, **“Lean-to was built onto existing building prior to our purchasing the property in 1993. Zoning Office thinks it may have been built in the early 1980’s. The lean-to has about 4 feet set back from the north side of property.”**
  - B. The subject property is a large lot in a wooded area which might have made it difficult for the person who did construct the lean-to to determine where their lot lines were located.
  - C. The lean-to appears to have originally been constructed without a permit.
  - D. All the buildings on the subject property were constructed off center towards the north half of the lot. This is due to the extent of the floodplain across the southwestern part of the lot.
  - E. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors of the subject property, testified that there are no special conditions or circumstances

peculiar to this parcel because the only special conditions are that River Bend has been allowed to operate in non-compliance with the Ordinance for a period of years, the only consequence of which is that it is now being encouraged to legitimize its non-compliance by increasing it.

**GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE**

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application that, **“No additional land is available for purchase to expand width of lot.”**
  - B. The lot to the north of the subject property is already developed as a single family dwelling with a rural home occupation.
  - C. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors of the subject property, testified that reasonable and otherwise permitted use of the land is not being prevented by any difficulties or hardships created by lawful regulations because neither the Administrator nor the Stites identify any difficulty or hardship created by the existing Ordinance for the present use of the current parcel, either as a single-family residence or as a Rural Home Occupation.

**GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT**

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, **“We were not aware of any nonconformity of structures in any zoning regulation when we purchased the property. We have not altered the size of this structure since we have owned the property.”**
  - B. The lean-to was originally constructed by a previous owner with a permit, but it was apparently expanded at some time without a permit.
  - C. The subject property were created and developed sometime during the 1980’s before the Petitioner purchased the subject property.
  - D. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors of the subject property, testified that in the event that the special conditions, circumstances, hardships, or practical difficulties are found, these exist as a result of the applicant’s actions and disregard of the County Ordinances because the record before the ZBA discloses that the Stites outgrew their RHO status some time ago and yet continued to expand their business.

**GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application that, **“The building is existing and is not in any location that causes any traffic congestion or any environmental impact. There is no congestion of other buildings next to the lean-to that would affect light and air for adjoining properties.”**
  - B. The Zoning Ordinance does not clearly state the considerations that underlay the side yard requirements. In general, the side yard is presumably intended to ensure the following:
    - (1) Adequate light and air: The subject property is located on the shore of Spring Lake and will receive adequate light and air from the open space provided by the lake. The proposed dwelling will not affect any of the lots nearby it for the same reasons.
    - (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Cornbelt Fire Protection District and the station is approximately 3.2 road miles or eight minutes from the subject property. However, the subject property does not have another building lot behind it, so more than adequate separation is provided between the proposed dwelling and the nearest building to the rear of the subject property.
    - (3) Aesthetics may also play a part in minimum yard requirements.
  - E. The side yard of four feet is 26.7% of the minimum required 15 feet for a variance of 73.3%.
  - F. The requested variance is not prohibited by the *Zoning Ordinance*.
  - G. The subject building is proposed to be used as a Major Rural Specialty Business in related Zoning Case 610-S-08.
  - H. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors of the subject property, testified that granting this variance directly contravenes the general purpose and intent of the Ordinance because the ordinance from which the Stites seek a variance is clear: the policy of Champaign County is that building near watercourses is to be discouraged. The Stites propose to do the opposite; the area is near a watercourse and largely in the floodplain.

**GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE**

\*Same evidence as in related Zoning Case 610-S-08

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
  - A. The Petitioner has testified on the application that, **“We are not aware of any detrimental factors that would come from granting a variance for this existing structure. It is over 350 feet from the road. No construction is proposed that would make the structure more nonconforming.”**
  - B. The Fire Protection District has received notice of this variance, but no comments have been received at this time.
  - C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.
  - D. The subject building is proposed to be used as a Major Rural Specialty Business in related Zoning Case 610-S-08. It is not clear from the floor plan of the subject building (see Preliminary Memorandum for Case 610-S-08) how the lean-to portion of the subject building will be used because it is labeled “Personal/Business Storage.”
  - E. A letter of opposition was received from Lucy Whalley and Dennis Wandell on October 22, 2008
  - F. A letter of opposition was received from Jim and LaVerna Harper on November 6, 2008
  - G. In a Memo of Opposition received on August 6, 2008, Phil Van Ness, attorney representing neighbors of the subject property, testified that granting this variance may be injurious to the neighborhood and possibly detrimental to the public health, safety, and welfare because the land upon which the Stites seek to expand their business operations lies alongside a river; a substantial portion of that property lies within the floodplain

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

12. Regarding proposed special conditions of approval:
  - A. The lean-to portion of the subject building is an illegal nonconforming structure, and while the variance would authorize its continued use, the petitioners should not be allowed to rebuild it if it is greatly damaged.

**If the lean-to portion of the River Bend Wild Game and Sausage Company business building is ever destroyed by any means to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed.**

The special condition stated above is required to ensure the following:

\*Same evidence as in related Zoning Case 610-S-08

**The lean-to portion of the subject building is not rebuilt and used for business storage.**

- B. In conjunction with the previous condition the following condition makes it clear that the lean-to cannot be improved (i.e. by pouring a concrete floor if one does not exist already).

**The lean-to portion of the subject building may not be subject to any improvements, but only minor repairs that do not exceed 10% of the current replacement value of the lean-to structure in any period of 365 days.**

The special condition stated above is required to ensure the following:

**The lean-to portion of the subject building is not improved but only subject to minor repairs to keep it a safe building.**

- C. The following condition restates a similar condition from related Zoning Case 610-S-08, which requires any new condensers be placed inside the subject building. The noise from condensers is a relevant concern in both cases and so the condition is included in both.

**Any new refrigeration units shall have all condensers located inside the building.**

The special condition stated above is required to ensure the following:

**There is maximum noise shielding for neighboring residences.**

- D. The following condition clarifies which Documents of Record constitute the official proposed site plan for Case 610-S-08.

**The approved site plan for Case 610-S-08 consists of the following Documents of Record:**

- (1) The revised site plan received on October 29, 2008**
- (2) The floor plan of the business building received on May 5, 2008**
- (3) The elevation of the front view of the business building received on October 12, 2008**

The special condition stated above is required to ensure the following:

**It is clear which Documents of Record constitute the proposed site plan for enforcement purposes.**



**DOCUMENTS OF RECORD**

1. Variance application from Charles and Mary Ellen Stites, received on May 5, 2008, with site plan
2. Preliminary Memorandum for Case 616-V-08, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Draft Summary of Evidence for Case 607-V-08See also the Attachments to the Preliminary Memorandum for related Zoning Case 610-S-08
3. Supplemental Memorandum for Case 616-V-08, dated October 10, 2008
4. Supplemental Memorandum for Case 616-V-08, dated November 7, 2008, with attachment:
  - A Revised Summary of Evidence for Case 616-V-08
5. Special Use Permit Application from Charles and Mary Ellen Stites, received on March 10, 2008, with attachments:
  - A Statement explaining fulfillment of SUP criteria
  - B Existing site plan
  - C Proposed site plan
  - D Legal Description of subject property
  - E Printout of Weather Underground website (www.wunderground.com)
  - F River Bend Wild Game and Sausage Company brochure
6. [Petitioner] Response to April 23, 2008, letter from Zoning Office received May 5, 2008, with attachments:
  - A Proposed site plan
  - B Proposed floor plan of business building
  - C Letter from Gary Bird dated August 27, 1999
  - D Service Agreement with Berg Tanks
7. Preliminary Memorandum for Case 610-S-08, with attachments
  - A Zoning Case Maps for Cases 610-S-08 and 616-V-08
  - B Application for RHO 279-98-02
  - C Site plan for RHO 279-98-02
  - D Site plan for ZUP 142-01-04
  - E Inspection photographs from November 20, 2007 (included separately)
  - F Proposed site plan received on May 5, 2008
  - G Proposed floor plan of business building received on May 5, 2008
  - H Statement explaining fulfillment of SUP criteria received on March 10, 2008
  - I Statement of additional information received on May 5, 2008
  - J Printout of Weather Underground website received on March 10, 2008
  - K River Bend Wild Game and Sausage Company brochure received on March 10, 2008
  - L Letter from Garry Bird dated August 27, 1999

\*Same evidence as in related Zoning Case 610-S-08

- M Service Agreement with Berg Tanks
- N IDOT traffic map of vicinity of subject property
- O Flood Insurance Rate Map Panel No. 1708940225B
- P Draft Summary of Evidence for Case 610-S-08

8. Letter from Chuck Stites received on May 12, 2008, with attachments:
  - A Customer Traffic at River Bend
  - B Revised Site Plan received on May 12, 2008
  - C Enviro-Pak "Enviro-Kleen" Air Treatment System Engineering Specifications
  
9. Supplemental Memorandum for Case 610-S-08, dated May 15, 2008, with attachments:
  - A Letter from Chuck Stites dated May 12, 2008
  - B Customer Traffic at River Bend received on May 12, 2008
  - C Revised Site Plan received on May 12, 2008
  - D Enviro-Pak "Enviro-Kleen" Air Treatment System Engineering Specifications
  
10. Letter of Concern from Lucy A. Whalley and Dennis Wandell, received on June 23, 2008, with attachments:
  - A Letter from Dennis Wandell to Chuck Stites, dated March 29, 2004
  - B Letter from Dennis Wandell and Lucy Whalley to Champaign County Animal Control, dated April 15, 2007
  - C Photographs of subject property on June 5, 2008, during a Salt Fork River flood event
  - D Article of trash with name of River Bend Wild Game and Sausage Company found on Mr. Wandell's property
  
11. Letter from Jeff Blackford, Champaign County Public Health Department, received on June 27, 2008
  
12. Letter of Concern from Jim and LaVerna Harper, received on June 30, 2008, with attachments:
  - A Annotated Land Use Case Map indicating Mr. and Mrs. Harper's property.
  - B Excerpt of Inspection photographs from November 20, 2007
  
13. Email from Kris Mazurczak, Illinois Department of Agriculture Bureau of Meat and Poultry Inspection, to Chuck Stites received August 1, 2008
  
14. Letter of Concern from Brenda Below, received August 4, 2008
  
15. Email from Food Safety and Inspection Service Technical Service Center to John Hall, received on August 5, 2008, with attachment:
  - A FSIS Directive 5930.1
  
16. Memorandum of Opposition from Phil Van Ness, representing Dennis Wandell and Lucy Whalley, received on August 6, 2008, with attachments:
  - A Excerpt of River Bend Wild Game and Sausage Company website
  - B Excerpt of River Bend Wild Game and Sausage Company website

\*Same evidence as in related Zoning Case 610-S-08

- C Excerpt of River Bend Wild Game and Sausage Company website Guestbook
- D Photographs of River Bend/Stites property from North property line

17. Letter from Chuck Stites in response to Zoning Administrator letter dated July 3, 2008, received August 8, 2008, with attachment  
A Revised site plan received August 8, 2008

18. Letter from Chuck Stites, received on August 8, 2008, regarding draft conditions

19. Supplemental Memorandum for Case 610-S-08, dated August 8, 2008, with attachments:

- A Minutes of ZBA Meeting on May 15, 2008, (included separately)
- B Revised site plan received on May 12, 2008
- C Proposed floor plan of business building received on May 5, 2008
- D Letter from Dennis Wandell and Lucy Whalley, received on June 23, 2008
- E Letter from LaVerna Harper received on June 30, 2008
- F Letter from Brenda Below received on August 4, 2008
- G Memo of Opposition from Phil Van Ness, representing Dennis Wandell and Lucy Whalley, received on August 6, 2008 (included separately)
- H Soil Potential Ratings and Soil Map of subject property
- I Revised Draft Summary of Evidence for Case 610-S-08

20. Supplemental Memorandum for Case 610-S-08, dated August 14, 2008, with attachments:

- A Letter from Jeff Blackford, Program Coordinator, Champaign County Public Health Department, received on June 27, 2008
- B Letter from Chuck Stites received on August 8, 2008, in response to Zoning Administrator letter of July 3, 2008
- C Letter from Chuck Stites received on August 8, 2008, regarding draft conditions
- D Email from Chuck Stites received on August 1, 2008, forwarding response from Illinois Department of Agriculture Bureau of Meat and Poultry Inspection
- E Soil Map of subject property (included separately)

21. Letter of Concern from Sheila Paul, received on August 14, 2008

22. Letter from Chuck Stites, received on October 1, 2008, with attachments:

- A Floor plan of the proposed bone barrel storage building received on October 1, 2008
- B Elevation of proposed bone barrel storage building received on October 1, 2008

23. Supplemental Memorandum for Case 610-S-08, dated October 10, 2008, with attachments:

- A Letter from Chuck Stites received on October 1, 2008
- B Floor plan of proposed bone barrel storage building received on October 1, 2008
- C Elevation of proposed bone barrel storage building received on October 1, 2008

24. Supplemental Memorandum for Case 610-S-08, dated October 16, 2008, with attachments:

- A Letter from Chuck Stites received on October 12, 2008

\*Same evidence as in related Zoning Case 610-S-08

- B Revised Floor plan of proposed bone barrel storage building received on October 12, 2008
  - C Drawing illustrating front view of River Bend facility received on October 12, 2008
- 25. Letter of Opposition from Lucy Whalley and Dennis Wandell, dated October 22, 2008
- 26. Email from Gretchen Hopkins on behalf of Gil Martini, Enviro-Pak received on October 23, 2008
- 27. Supplemental Memorandum for Case 610-S-08, dated October 24, 2008, with attachments:
  - A First Notice of Violation of the Champaign County Zoning Ordinance dated December 11, 2007 (Enforcement Case ZN-07-24/28)
  - B Parking Analysis dated October 24, 2008
  - C Email from Gretchen Hopkins on behalf of Gil Martini, Enviro-Pak received on October 23, 2008
  - D Revised Conditions for Zoning Case 610-S-08
  - E Minutes of October 16, 2008, For Information Only; Not For Approval (included separately)
- 28. Email of Support from Travis Burr, received on October 27, 2008
- 29. Letter of Opposition from Phil Van Ness, Attorney representing neighbors Dennis Wandell and Lucy Whalley, received on October 30, 2008
- 30. Revised Site Plan received on October 29, 2008
- 31. Supplemental Memorandum for Case 610-S-08, dated October 30, 2008, with attachments:
  - A Revised Site Plan received on October 29, 2008
  - B Email from Travis Burr received on October 27, 2008
  - C Letter from Phil Van Ness received on October 29, 2008
- 32. Letter of Opposition from Jim and LaVerna Harper, received on November 6, 2008
- 33. Supplemental Memorandum for Case 610-S-08, dated November 7, 2008, with attachments:
  - A Letter of Opposition from Lucy Whalley and Dennis Wandell dated October 22, 2008
  - B Letter of Opposition from Jim and LaVerna Harper, received on November 6, 2008

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **616-V-08** held on **May 15, 2008, August 14, 2008, October 16, 2008, October 30, 2008, and November 13, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_
  
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_
  
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_
  
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: \_\_\_\_\_  
\_\_\_\_\_
  
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_
  
6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_  
\_\_\_\_\_
  
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

\*Same evidence as in related Zoning Case 610-S-08

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **616-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Charles and Mary Ellen Stites**, to authorize **the reconstruction and use of a building to be used as a Major Rural Specialty Business with a side yard of four feet in lieu of the required side yard of 15 feet in the CR District.**

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

\*Same evidence as in related Zoning Case 610-S-08

# CASE NO. 619-FV-08

## SUPPLEMENTAL MEMORANDUM

Champaign County  
November 7, 2008

Department of  
Petitioner: **Larry L. Peters**

**PLANNING &  
ZONING**

Site Area: **11 acres**

Time Schedule for Development:

**N/A**

Brookens

Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802

(217) 384-3708

FAX (217) 328-2426

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

Request: **Authorize as a variance from the Champaign County Special Flood Hazard Areas Ordinance the construction and occupancy of a dwelling in which the top of the garage floor is 0.83 feet below the Flood Protection Elevation of 690.3 instead of being at the Flood Protection Elevation; and the interior grade of the crawlspace is 2.3 feet below the lowest adjacent exterior grade instead of only 2.0 feet below the lowest adjacent exterior grade.**

Location: **An 11 acre tract in the West Half of the Southeast Quarter of the Northeast Quarter of Section 3 of Urbana Township and commonly known as the house at 2501 North Highcross Road, Urbana.**

---

### *STATUS*

This is the third meeting for this case. It was continued from the October 16, 2008, ZBA meeting. At that time the petitioner had passed away recently and there was no representative available to appear for the case.

Staff had a discussion with the deceased's widow at the time of the last hearing, and she agreed to reschedule the case for November.

Included below are the background and other information usually included in the Preliminary Memorandum for a Zoning Case.

---

### **BACKGROUND**

Zoning Use Permit Application (ZUPA) 46-06-01FP was received on February 15, 2006, for a dwelling with an attached garage on the subject property. The dwelling and garage were proposed to comply with the *Special Flood Hazard Areas Ordinance* (SFHA). However, Berns, Clancy, and Associates completed a FEMA Elevation Certificate for the subject property and dwelling in February 2008, which indicated that the dwelling had not been constructed as proposed. The as-built elevations indicate the garage floor is lower than the flood protection elevation, and the crawlspace floor was too far below the lowest adjacent exterior grade. The living space for the dwelling was actually constructed higher than was proposed.

---

**FLOODPLAIN VARIANCE REQUIREMENTS**

As amended on February 6, 2003, the *Champaign County Special Flood Hazard Areas Ordinance (SFHA Ordinance)* requires a public hearing and recommendation by the Champaign County Zoning Board of Appeals (ZBA) for any proposed variance with the final determination by the Champaign County Board. The *SFHA Ordinance* also identifies seven conditions that must be met for any requested variance. See the Summary of Evidence. The ZBA can recommend any condition it determines necessary in order to meet the required conditions.

**ATTACHMENTS**

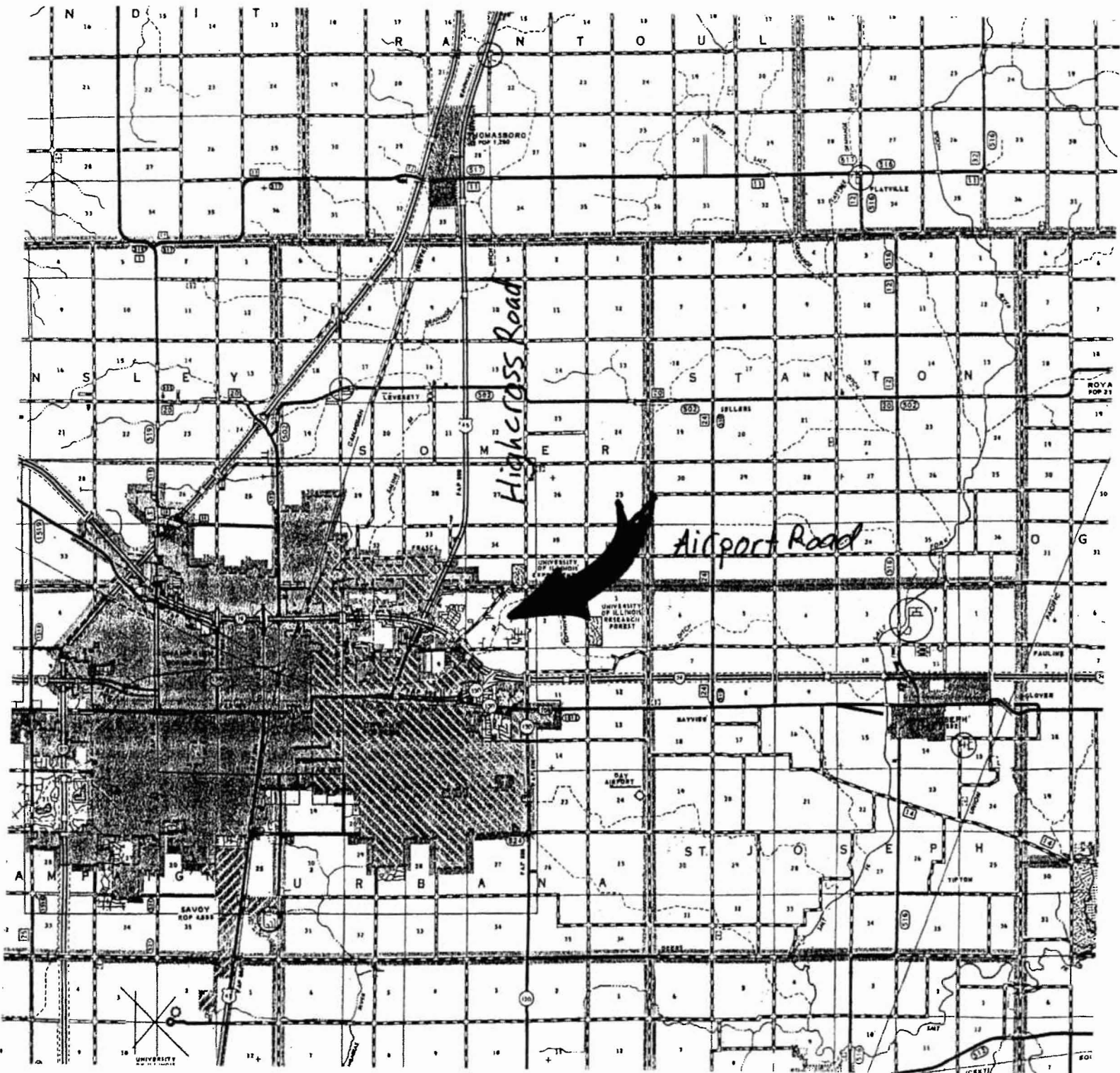
- A Zoning Case Maps for Case 619-FV-08 (Location, Land Use, and Zoning)
- B Excerpt from Flood Insurance Rate Map No. 1708940125B
- C Excerpt from proposed site plan for Zoning Use Permit 46-06-01FP
- D Photographs of crawlspace inspection on June 13, 2006
- E Elevation Certificate Letter from Ed Clancy dated February 12, 2008
- F Letter from Ken Carter received on June 9, 2008
- G Draft Finding of Fact for Case 619-FV-08



ATTACHMENT A. LOCATION MAP

Case 619-FV-08

OCTOBER 10, 2008



Champaign  
County  
Department of

**PLANNING &  
ZONING**

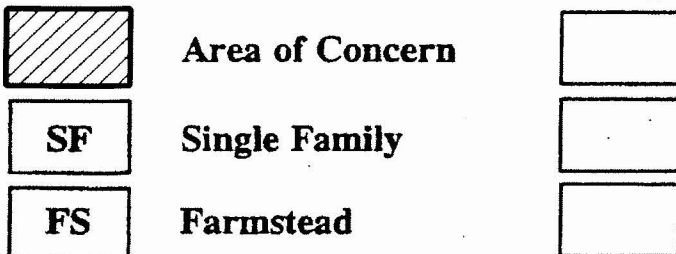
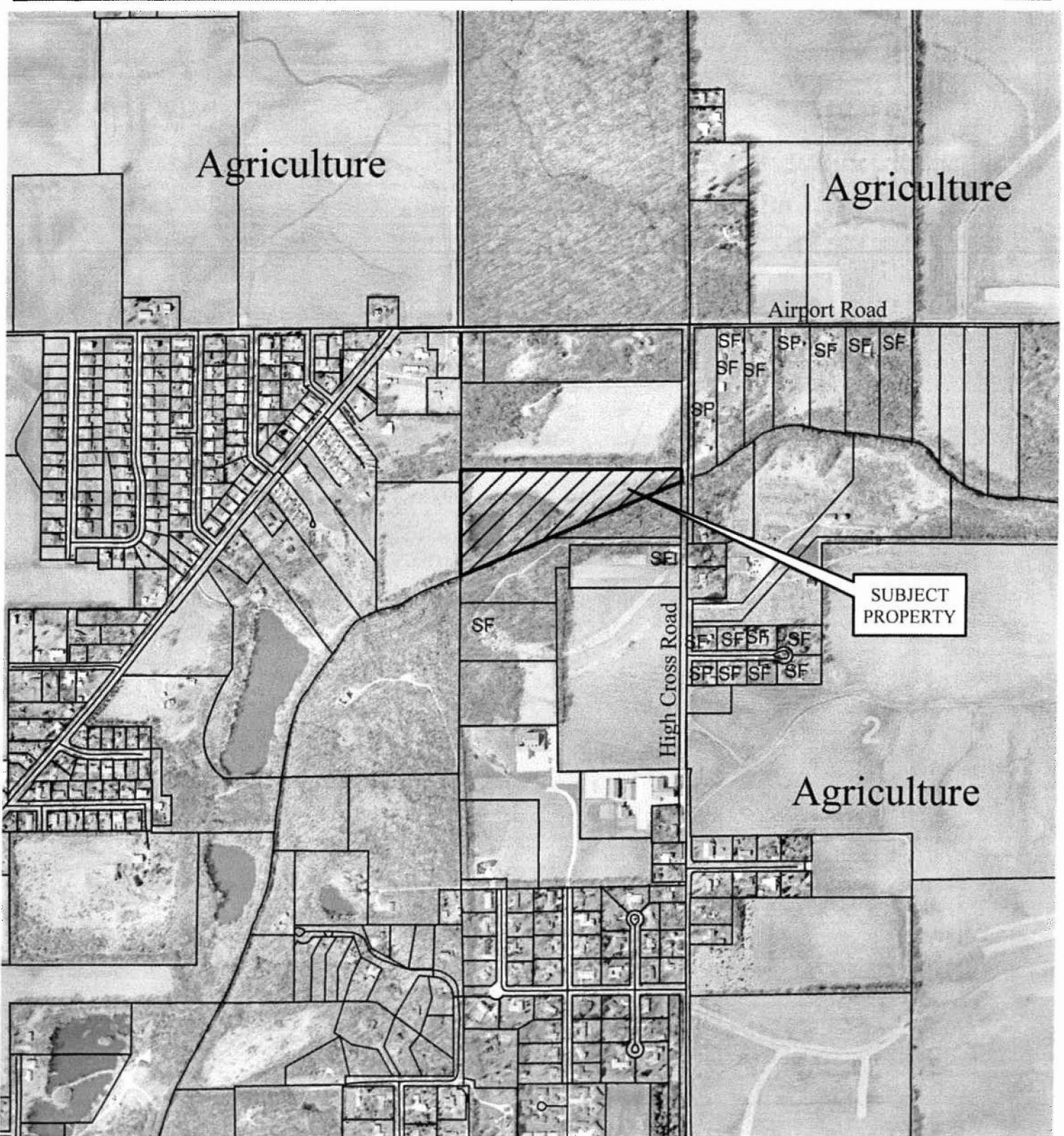


NORTH

ATTACHMENT A. LAND USE MAP

Case 619-FV-08

OCTOBER 10, 2008



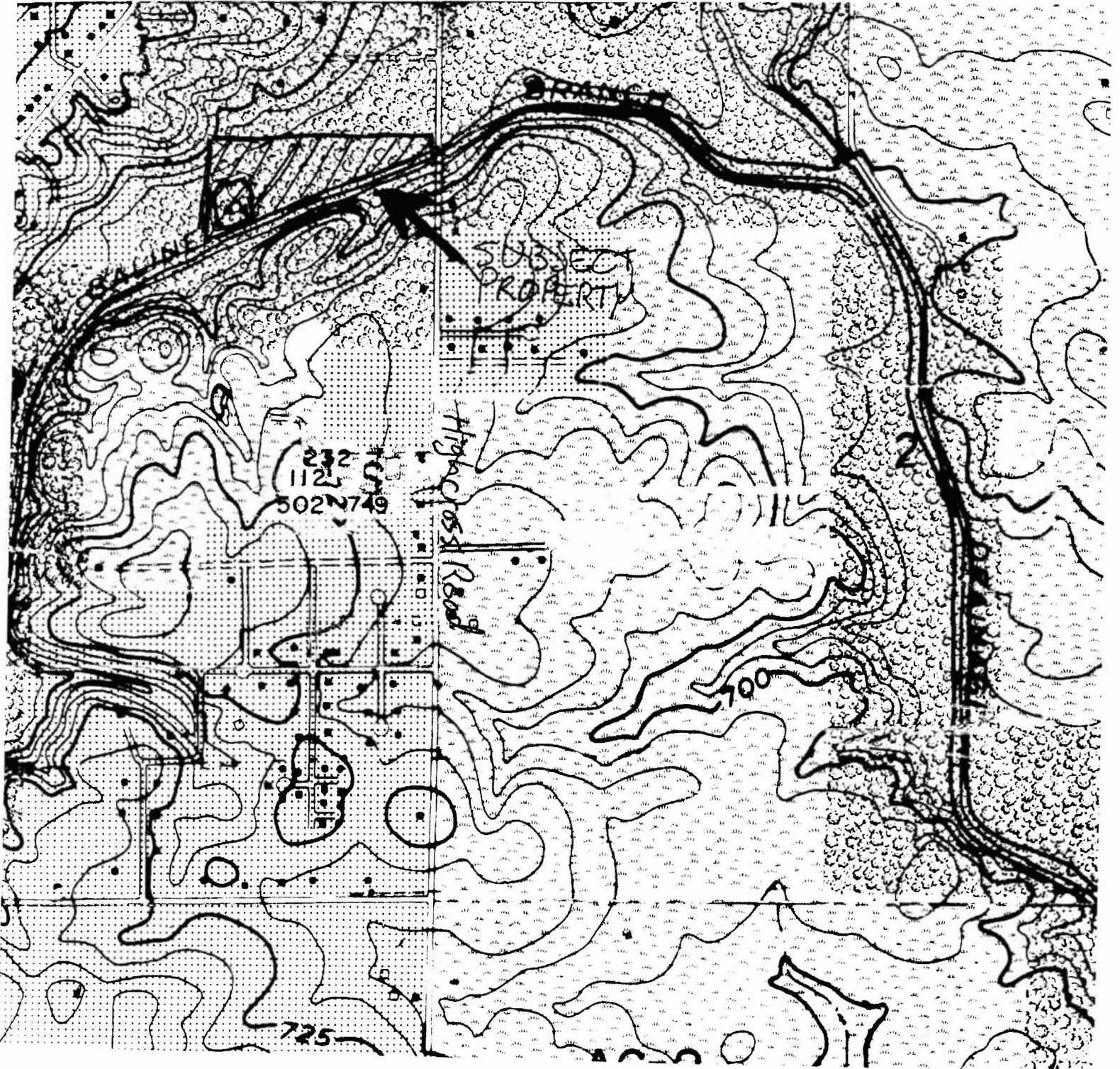
1 inch equals 800 feet


















Champaign  
County  
Department of  
**PLANNING &  
ZONING**

ATTACHMENT A. ZONING MAP

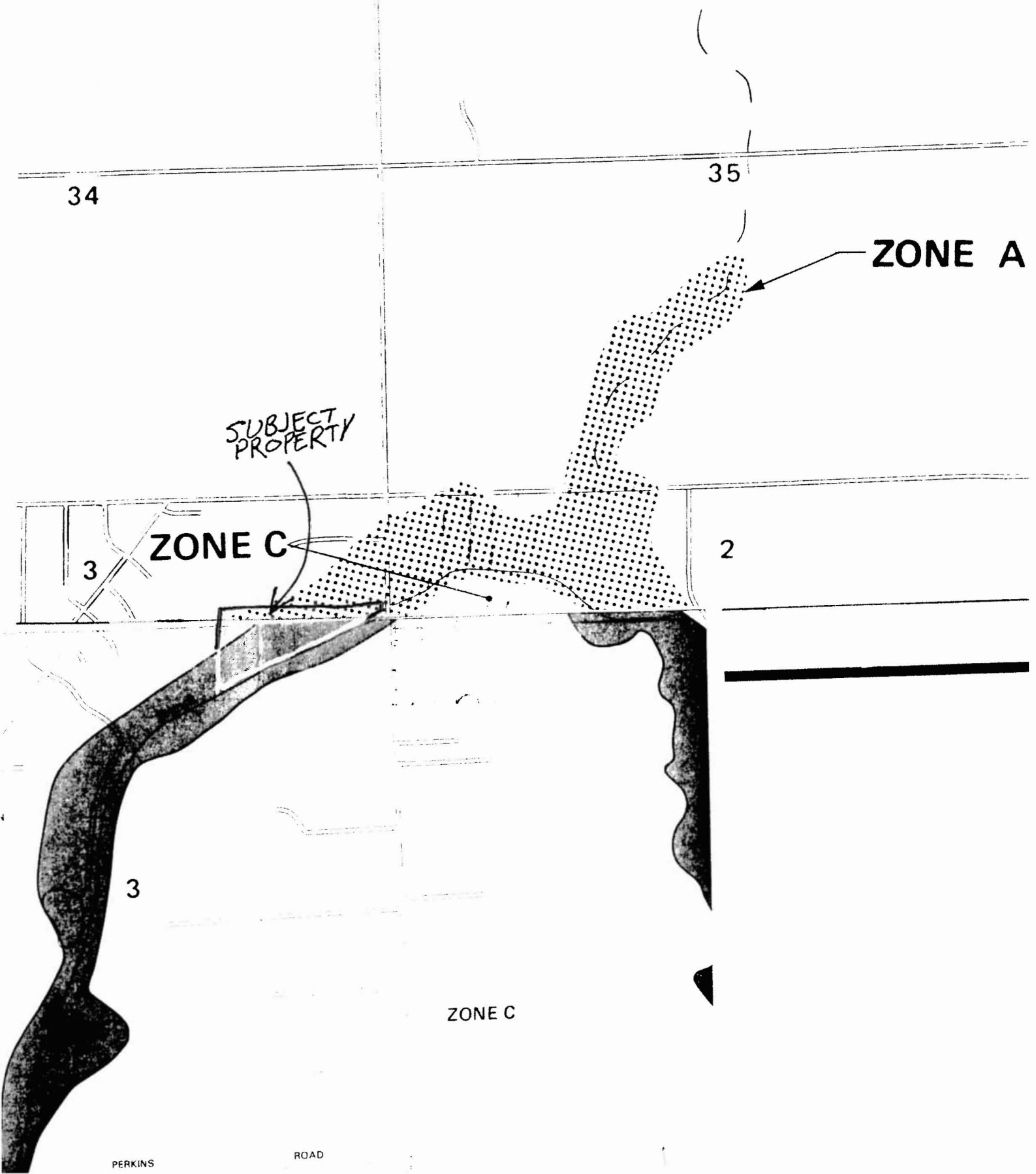
Case 619-FV-08

OCTOBER 10, 2008



 AG-1 Agriculture	 R-1 Single Family Residence	 R-4 Multiple Family Res.	 B-2 Neighborhood Business	 B-5 Central Business	 NORTH 
 AG-2 Agriculture	 R-2 Single Family Residence	 R-5 Mobile Home Park	 B-3 Highway Business	 I-1 Light Industry	
 CR Conservation- Recreation	 R-3 Two-family Residence	 B-1 Rural Trade Center	 B-4 General Business	 I-2 Heavy Industry	

*EXCERPT FROM FLOOD  
INSURANCE RATE MAPS*



34

35

**ZONE A**

SUBJECT  
PROPERTY

**ZONE C**

3

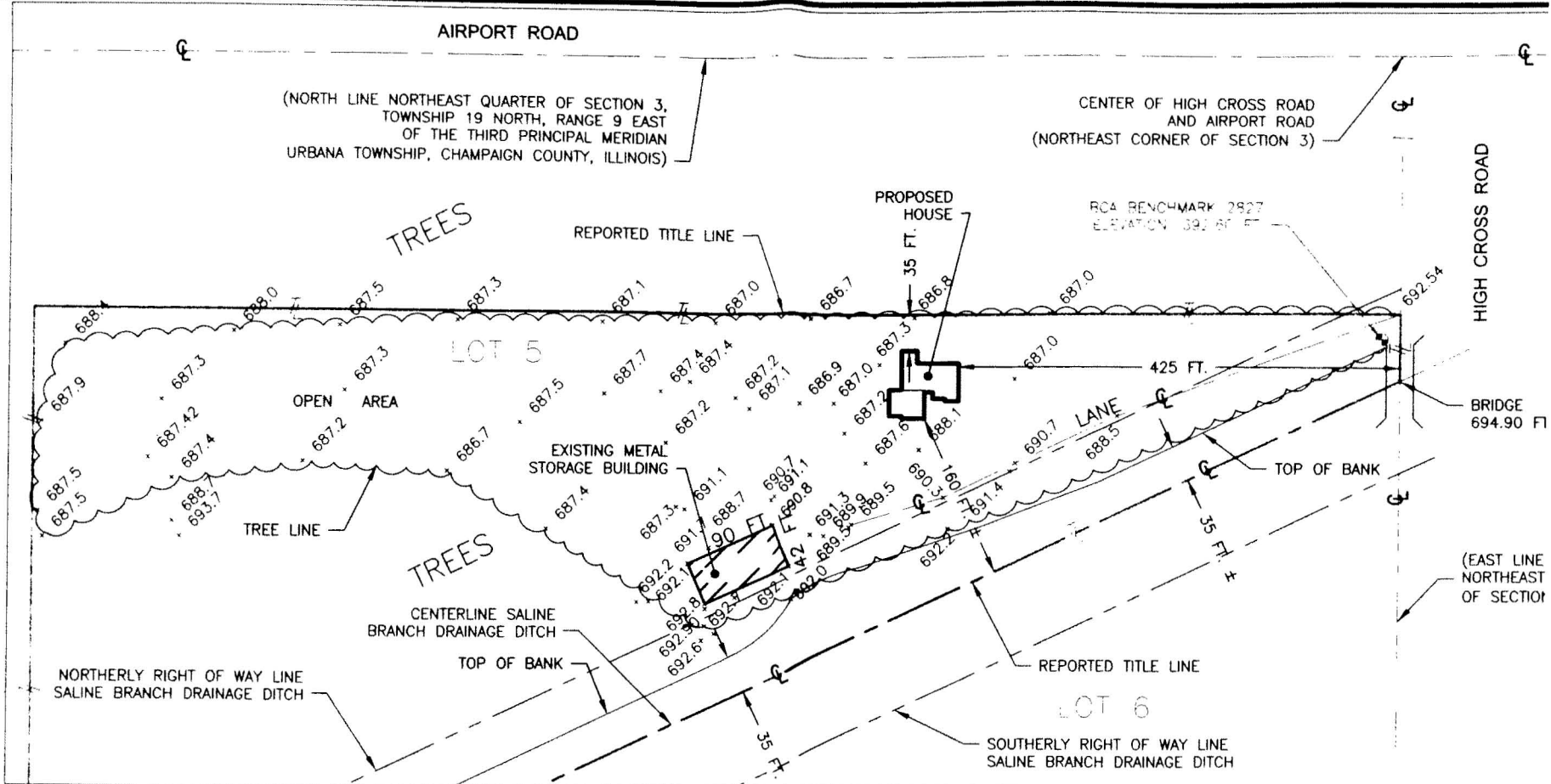
2

3

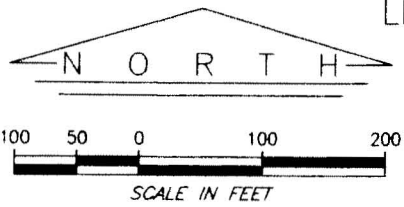
ZONE C

PERKINS

ROAD



LIMITED TOPOGRAPHIC - SITE SURVEY



*EXCERPT FROM PROPOSED SITE PLAN  
FOR ZONING USE PERMIT 46-06-01FP*

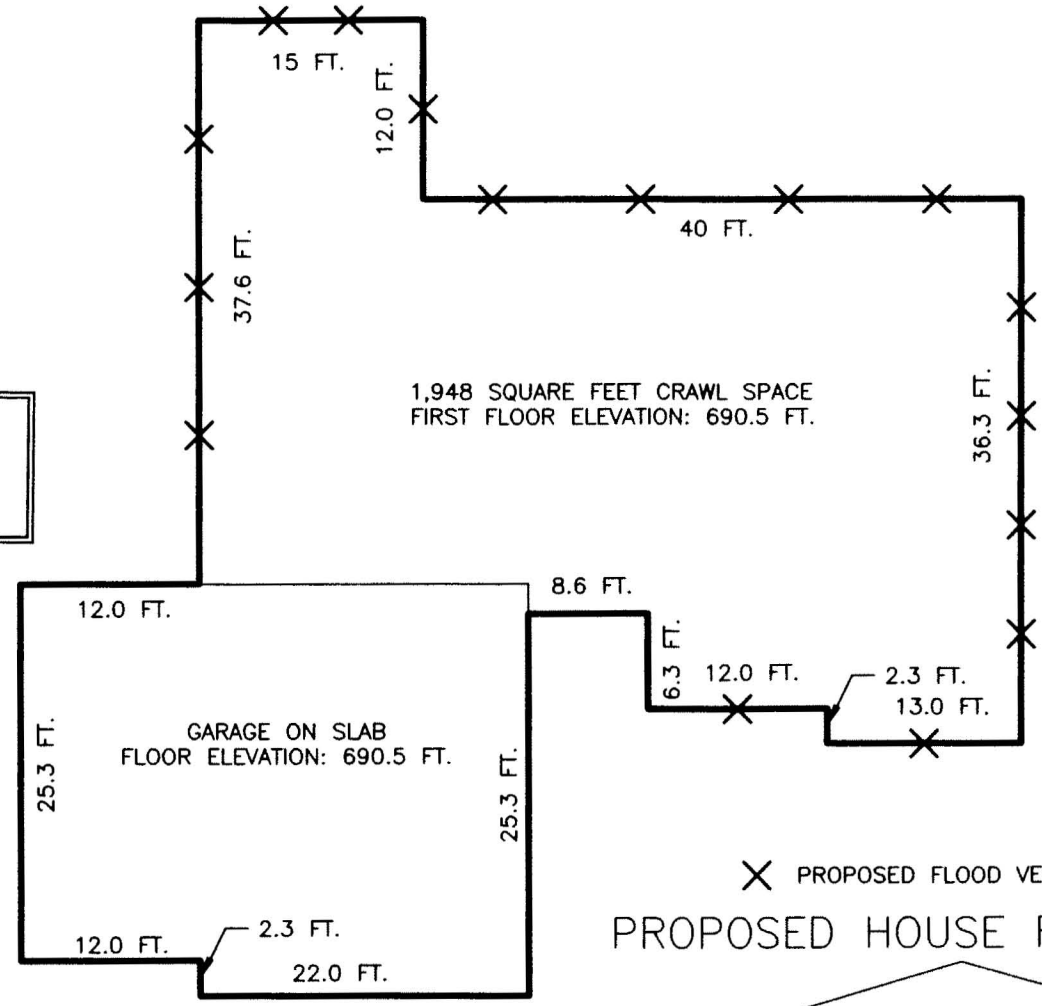
**NOTE** - BASE FLOOD ELEVATION REPORTED TO BE 689.5 FT. BY CHAMPAIGN COUNTY DEPARTMENT OF PLANNING AND ZONING.  
 - THE CHAMPAIGN COUNTY SOIL AND WATER CONSERVATION DISTRICT'S "SALT FORK OF THE VERMILION RIVER HYDRAULIC MODEL" DATED OCTOBER 3, 2002 REPORTS THE BASE FLOOD ELEVATION TO BE 689.3 FEET.

SQUARE AT TOP OF NORTHWESTERN WINGWALL OF  
ROSS ROAD OVER SALINE BRANCH DRAINAGE  
WEST OF THE CENTERLINE OF HIGH CROSS  
ROAD, CHAMPAIGN COUNTY, ILLINOIS.

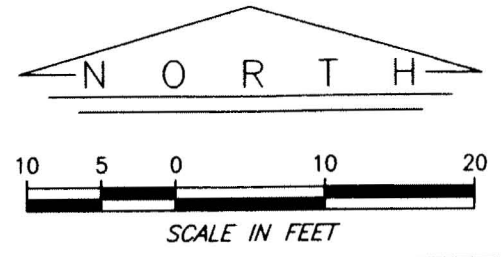
ELEVATION 718.20 FT.

DIAMETER TUBECO IRON PIPE SURVEY MONUMENT  
SOUTH OF THE SALINE BRANCH DRAINAGE DITCH  
WEST OF THE CENTERLINE OF HIGH CROSS ROAD,  
CHAMPAIGN COUNTY, ILLINOIS.

*EXCERPT FROM PROPOSED SITE PLAN  
FOR ZONING USE PERMIT 46-06-01FP*

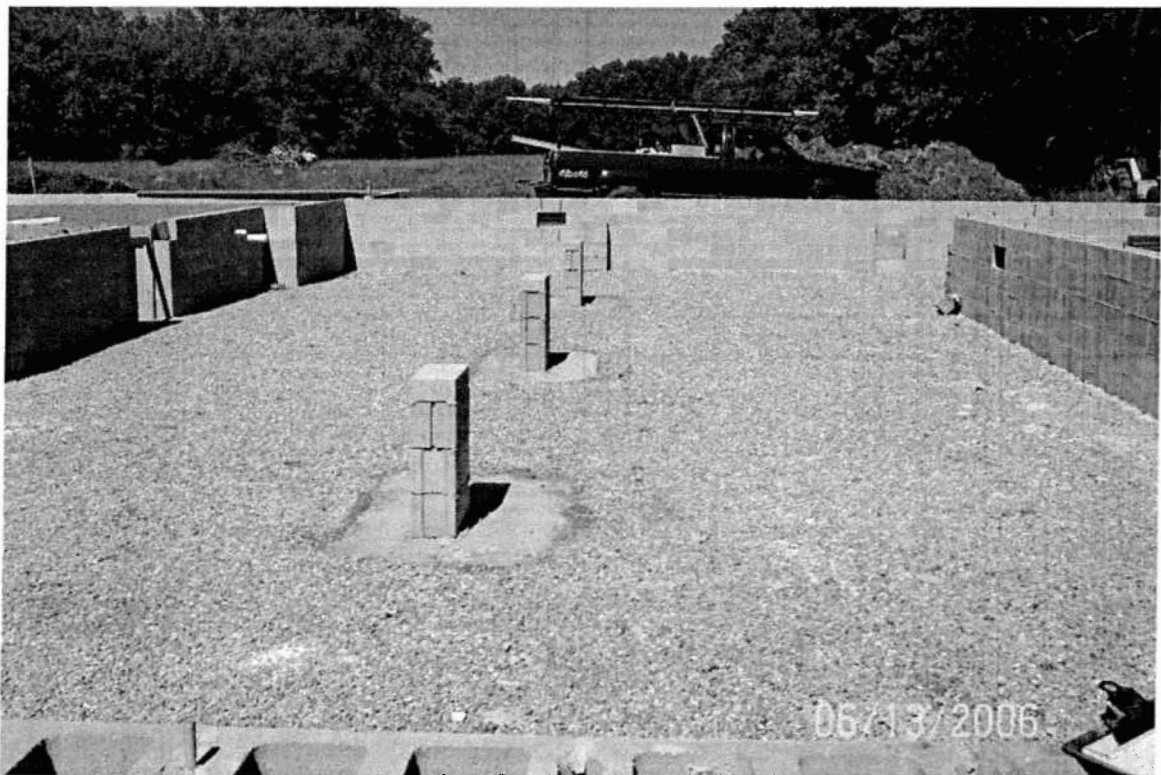


X PROPOSED FLOOD VENT  
PROPOSED HOUSE FOOTPRINT





6-13 de Larry Letts property  
2501 N. Highcross Rd., W.  
30-21-03-226-006













**BERNS, CLANCY AND ASSOCIATES**

PROFESSIONAL CORPORATION

**ENGINEERS • SURVEYORS • PLANNERS**

February 12, 2008

RECEIVED

FEB 13 2008

CHAMPAIGN CO. P & Z DEPARTMENT

THOMAS BERNIS  
EDWARD CLANCY  
CHRISTOPHER BILLING  
DONALD WAUTHIER

BRIAN CHAILLE  
DENNIS CUMMINS  
DAN ROTHERMEL  
ANDREW LUETKEMEIER  
JOHN LYONS  
ROGER MEYER

MICHAEL BERNIS  
OF COUNSEL

**Mr. Larry Peters**  
**Larry Peters Realty**  
114 East University Avenue  
Champaign, Illinois 61820

**RE: FEDERAL EMERGENCY MANAGEMENT AGENCY  
NATIONAL FLOOD INSURANCE PROGRAM  
"AS-BUILT" ELEVATION CERTIFICATE FOR PART OF THE  
NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 19 NORTH,  
RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN  
URBANA TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS**

Dear **Mr. Peters**:

In response to your request, we completed a FEMA Elevation Certificate for subject site. We enclose three (3) originals for our Elevation Certificate. The Champaign County Planning and Zoning Department determined the Base Flood Elevation for subject site to be 689.5 feet (NAVD 1988 Datum) (Mean Sea Level).

Subject site is occupied by a residence which is a one story building with a crawl space. Therefore subject site is designated as applicable to Diagram Number 4 of the Elevation Certificate. The datum utilized for this project is the North American Vertical Datum of 1988 (NAVD 1988), Mean Sea Level.

The elevation of the crawl space floor is 686.3 feet. The elevation of the top of the next higher floor of the house is 690.91 feet. We note the lowest grade adjacent to the residence (at the northeast corner of the sunroom) is 688.6 feet, or 0.9 feet below the Base Flood Elevation of 689.5 feet for this area.

The elevation of the garage floor is 689.47 feet. The elevation at the bottom of the Flood Vents is 688.27 feet.

We appreciate this opportunity to be of service to you. We are available to assist you with any other surveying and / or site / civil engineering services. Please contact us if you have any questions or comments.

Sincerely,  
**BERNS, CLANCY AND ASSOCIATES, P.C.**

Edward L. Clancy, P.E., L.S., Vice President

ELC:tt  
enclosures  
J:\5313\2\5313-2 le1.doc

# ELEVATION CERTIFICATE

OMB No. 1660-0008  
Expires February 28, 2009

Important: Read the instructions on pages 1-8.

## SECTION A - PROPERTY INFORMATION

For Insurance Company Use:	
A1. Building Owner's Name <u>Larry L. Peters</u>	Policy Number
A2. Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. <u>2501 North Highcross Road</u> City <u>Urbana</u> State <u>IL</u> ZIP Code <u>61802</u>	Company NAIC Number
A3. Property Description (Lot and Block Numbers, Tax Parcel Number, Legal Description, etc.) <u>30-2103-226-006</u>	
A4. Building Use (e.g., Residential, Non-Residential, Addition, Accessory, etc.) <u>Residential</u>	
A5. Latitude/Longitude: Lat. <u>40° 08' 22.96" N</u> Long. <u>088° 09' 52.52" W</u> Horizontal Datum: <input type="checkbox"/> NAD 1927 <input checked="" type="checkbox"/> NAD 1983	
A6. Attach at least 2 photographs of the building if the Certificate is being used to obtain flood insurance.	
A7. Building Diagram Number <u>4</u>	
A8. For a building with a crawl space or enclosure(s), provide:	
a) Square footage of crawl space or enclosure(s) <u>1,980</u> sq ft	
b) No. of permanent flood openings in the crawl space or enclosure(s) walls within 1.0 foot above adjacent grade <u>10</u>	
c) Total net area of flood openings in A8.b <u>1,250</u> sq in	
A9. For a building with an attached garage, provide:	
a) Square footage of attached garage <u>871</u> sq ft	
b) No. of permanent flood openings in the attached garage walls within 1.0 foot above adjacent grade <u>none</u>	
c) Total net area of flood openings in A9.b <u>0</u> sq in	

## SECTION B - FLOOD INSURANCE RATE MAP (FIRM) INFORMATION

B1. NFIP Community Name & Community Number <u>County of Champaign 170894</u>		B2. County Name <u>Champaign</u>		B3. State <u>IL</u>	
B4. Map/Panel Number <u>125 and 185</u>	B5. Suffix <u>B</u>	B6. FIRM Index Date <u>3/01/84</u>	B7. FIRM Panel Effective/Revised Date <u>3/01/84</u>	B8. Flood Zone(s) <u>A</u>	B9. Base Flood Elevation(s) (Zone AO, use base flood depth) <u>689.5</u>
B10. Indicate the source of the Base Flood Elevation (BFE) data or base flood depth entered in Item B9. <input type="checkbox"/> FIS Profile <input type="checkbox"/> FIRM <input checked="" type="checkbox"/> Community Determined <input type="checkbox"/> Other (Describe) _____					
B11. Indicate elevation datum used for BFE in Item B9: <input type="checkbox"/> NGVD 1929 <input checked="" type="checkbox"/> NAVD 1988 <input type="checkbox"/> Other (Describe) _____					
B12. Is the building located in a Coastal Barrier Resources System (CBRS) area or Otherwise Protected Area (OPA)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Designation Date _____ <input type="checkbox"/> CBRS <input type="checkbox"/> OPA					

## SECTION C - BUILDING ELEVATION INFORMATION (SURVEY REQUIRED)

C1. Building elevations are based on:  Construction Drawings\*  Building Under Construction\*  Finished Construction  
\*A new Elevation Certificate will be required when construction of the building is complete.

C2. Elevations – Zones A1-A30, AE, AH, A (with BFE), VE, V1-V30, V (with BFE), AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO. Complete Items C2.a-g below according to the building diagram specified in Item A7.  
Benchmark Utilized BCA BM 2827 Vertical Datum NAVD 1988  
Conversion/Comments BCA BM 2827, Elev 692.60 feet Chiseled Square on NW Wing Wall of Bridge  
Check the measurement used.

a) Top of bottom floor (including basement, crawl space, or enclosure floor)	<u>686.3</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
b) Top of the next higher floor	<u>690.91</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
c) Bottom of the lowest horizontal structural member (V Zones only)	<u>---</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
d) Attached garage (top of slab)	<u>689.47</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
e) Lowest elevation of machinery or equipment servicing the building (Describe type of equipment in Comments)	<u>687.5</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
f) Lowest adjacent (finished) grade (LAG)	<u>688.6</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)
g) Highest adjacent (finished) grade (HAG)	<u>689.1</u>	<input checked="" type="checkbox"/> feet <input type="checkbox"/> meters (Puerto Rico only)

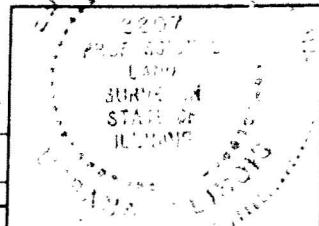
## SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION

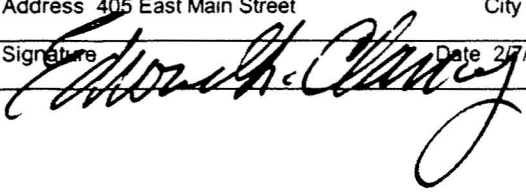
This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information. I certify that the information on this Certificate represents my best efforts to interpret the data available. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Section 1001.

Check here if comments are provided on back of form.

Certifier's Name Edward L Clancy

License Number ILS 2207



Title Vice President	Company Name Berns, Clancy and Associates		
Address 405 East Main Street	City Urbana	State IL	ZIP Code 61802
Signature 	Date 2/7/08	Telephone 217-384-1144	

<b>IMPORTANT: In these spaces, copy the corresponding information from Section A.</b>	For Insurance Company Use:
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 2501 North Highcross Road	Policy Number
City Urbana State IL ZIP Code 61802	Company NAIC Number

**SECTION D - SURVEYOR, ENGINEER, OR ARCHITECT CERTIFICATION (CONTINUED)**

Copy both sides of this Elevation Certificate for (1) community official, (2) insurance agent/company, and (3) building owner.

Comments BCA BM 2827 is on Highcross Road Bridge over Saline Branch, 0.1 mile south of Airport Road. Bottom of Flood Vents, Elevation 688.27 feet. Item C e: Lowest elevation of machinery is the bottom of the ductwork air mixing chamber, other machinery is above first floor (690.91 feet).

Signature	Date 2/7/08	<input type="checkbox"/> Check here if attachments
-----------	-------------	--

**SECTION E - BUILDING ELEVATION INFORMATION (SURVEY NOT REQUIRED) FOR ZONE AO AND ZONE A (WITHOUT BFE)**

For Zones AO and A (without BFE), complete Items E1-E5. If the Certificate is intended to support a LOMA or LOMR-F request, complete Sections A, B, and C. For Items E1-E4, use natural grade, if available. Check the measurement used. In Puerto Rico only, enter meters.

- E1. Provide elevation information for the following and check the appropriate boxes to show whether the elevation is above or below the highest adjacent grade (HAG) and the lowest adjacent grade (LAG).  
 a) Top of bottom floor (including basement, crawl space, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the HAG.  
 b) Top of bottom floor (including basement, crawl space, or enclosure) is \_\_\_\_\_  feet  meters  above or  below the LAG.
- E2. For Building Diagrams 6-8 with permanent flood openings provided in Section A Items 8 and/or 9 (see page 8 of Instructions), the next higher floor (elevation C2.b in the diagrams) of the building is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E3. Attached garage (top of slab) is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E4. Top of platform of machinery and/or equipment servicing the building is \_\_\_\_\_  feet  meters  above or  below the HAG.
- E5. Zone AO only: If no flood depth number is available, is the top of the bottom floor elevated in accordance with the community's floodplain management ordinance?  Yes  No  Unknown. The local official must certify this information in Section G.

**SECTION F - PROPERTY OWNER (OR OWNER'S REPRESENTATIVE) CERTIFICATION**

The property owner or owner's authorized representative who completes Sections A, B, and E for Zone A (without a FEMA-issued or community-issued BFE) or Zone AO must sign here. *The statements in Sections A, B, and E are correct to the best of my knowledge.*

Property Owner's or Owner's Authorized Representative's Name Larry L. Peters			
Address 2501 North Highcross Road	City Urbana	State IL	ZIP Code 61802
Signature	Date	Telephone 217-344-4342	
Comments			

Check here if attachments

**SECTION G - COMMUNITY INFORMATION (OPTIONAL)**

The local official who is authorized by law or ordinance to administer the community's floodplain management ordinance can complete Sections A, B, C (or E), and G of this Elevation Certificate. Complete the applicable item(s) and sign below. Check the measurement used in Items G8. and G9.

- G1.  The information in Section C was taken from other documentation that has been signed and sealed by a licensed surveyor, engineer, or architect who is authorized by law to certify elevation information. (Indicate the source and date of the elevation data in the Comments area below.)
- G2.  A community official completed Section E for a building located in Zone A (without a FEMA-issued or community-issued BFE) or Zone AO.
- G3.  The following information (Items G4.-G9.) is provided for community floodplain management purposes.

G4. Permit Number	G5. Date Permit Issued	G6. Date Certificate Of Compliance/Occupancy Issued
-------------------	------------------------	---

- G7. This permit has been issued for:  New Construction  Substantial Improvement
- G8. Elevation of as-built lowest floor (including basement) of the building: \_\_\_\_\_  feet  meters (PR) Datum \_\_\_\_\_
- G9. BFE or (in Zone AO) depth of flooding at the building site: \_\_\_\_\_  feet  meters (PR) Datum \_\_\_\_\_

Local Official's Name	Title
Community Name	Telephone
Signature	Date
Comments	

Check here if attachments

# Building Photographs

See Instructions for Item A6.

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 2501 North Highcross Road	For Insurance Company Use: Policy Number
City Urbana State IL ZIP Code 61802	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least two building photographs below according to the instructions for Item A6. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." If submitting more photographs than will fit on this page, use the Continuation Page, following.





# Building Photographs

Continuation Page

Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 2501 North Highcross Road	For Insurance Company Use: Policy Number
City Urbana State IL ZIP Code 61802	Company NAIC Number
If submitting more photographs than will fit on the preceding page, affix the additional photographs below. Identify all photographs with: date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View."	



To Planning: Zoning

RECEIVED

JUN 09 2008

Re: LARRY PETERS

2501 N. Highcross Road

URBANA IL 61802

CHAMPAIGN CO. P & Z DEPARTMENT

To Raise Garage Floor up 10-12 inches would  
Require:

- 1) SUPPORT EXISTING GARAGE ROOF AREA
- 2) REMOVE SIDING AND DRYWALL BOTTOM 1/2
- 3) SHORTEN STUDS 12"
- 4) LAY 1 AND 1/2 COURSES CONCRETE BLOCK
- 5) SET WALLS BACK TO FOUNDATION
- 6) REMOVE GARAGE DOORS (2) AND 1 WALK DOOR
- 7) RAISE HEADERS UP 12"
- 8) REMOVE EXISTING GARAGE FLOOR
- 9) ADD FILL SAND AS NECESSARY ~~AND~~ REPOUR FLOOR
- 10) REINSTALL GARAGE DOORS, SIDING DRYWALL AND PAINT

NOTE: ~~IT~~ MUST ALSO RAISE FRONT PORCH APPX 6" ALSO

SIDE WALKS AND GARAGE SPOOP. THIS WOULD ALSO REQUIRE  
TO RAISE CONCRETE FRONT APPROACH TO MATCH UP TO  
NEW GARAGE FLOOR. BRING ADDITIONAL BLACK DIRT FOR  
NEW GRADE.

ESTIMATED COST: \$ 23,500 TO \$ 28,000 MATERIAL: LASER

*PRELIMINARY DRAFT*

619-FV-08

**FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

---

Final Determination: { *RECOMMEND APPROVAL / RECOMMEND DENIAL* }

Date: October 16, 2008

Petitioner: Larry L. Peters

Request: Authorize as a variance from the Champaign County Special Flood Hazard Areas Ordinance the construction and occupancy of a dwelling in which the top of the garage floor is 0.83 feet below the Flood Protection Elevation of 690.3 instead of being at the Flood Protection Elevation; and the interior grade of the crawlspace is 2.3 feet below the lowest adjacent exterior grade instead of only 2.0 feet below the lowest adjacent exterior grade.

---

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **July 17, 2008, and October 16, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner, Larry L. Peters, owns the subject property.
2. The subject property is an 11 acre tract in the West Half of the Southeast Quarter of the Northeast Quarter of Section 3 of Urbana Township and commonly known as the house at 2501 North Highcross Road, Urbana.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana. Municipalities do not have protest rights in floodplain variance cases and are not notified of such cases.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property is zoned CR Conservation-Recreation, and is in use as a single family dwelling.
  - B. Land to the north, east, west, and south of the subject property is zoned CR Conservation-Recreation, and is in use as single family dwellings.

**PRELIMINARY DRAFT**

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. The proposed site plan consists of the proposed site plan for related Floodplain Development Permit (FDP) 46-06-01FP and a letter from Edward Clancy, P.E., L.S., dated February 12, 2008, that describes the as-built elevations of the various parts of the subject dwelling, as follows:
  - A. The proposed site plan for FDP 46-06-01FP indicates the following regarding the construction of the subject dwelling:
    - (1) It was proposed to be located 425 feet from the east property line, approximately 160 feet from the south property line, and 35 feet from the north property line.
    - (2) The top of the first floor was proposed to be constructed at an elevation of 690.5 feet.
    - (3) The top of the slab that is the garage floor was proposed to be constructed at 690.5 feet.
  - B. The letter from Ed Clancy, P.E., L.S., dated February 12, 2008, describes the as-built elevations for various parts of the subject dwelling, as follows:
    - (1) The elevation of the crawlspace floor is 686.3 feet.
    - (2) The elevation of the top of the next highest floor of the dwelling is 690.91.
    - (3) The lowest grade adjacent to the dwelling (at the northeast corner of the sunroom) is 688.6 feet.
    - (4) The elevation of the garage floor is 689.47 feet.
  - C. Detached shed built in ZUPA 121-04-01 is located 90 feet from the south property line; approximately 200 feet from the north property line; and approximately 640 feet from the west property line.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

6. The *Special Flood Hazard Areas Ordinance* requirements that are directly relevant to this case are the following:
  - A. The following definitions from the *Special Flood Hazard Areas Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance).
    - (1) “Base Flood” is the flood having a one-percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section 3 of this ordinance.
    - (2) “Base Flood Elevation” (BFE) is the elevation in relation to mean sea level of the crest of the base flood.
    - (3) “Flood” is a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff to surface waters from any source.

- (4) “Floodplain” and “Special Flood Hazard Areas” are synonymous. Those lands within the jurisdiction of the County that are subject to inundation by the base flood. The floodplains of the Copper Slough, McCullough Creek, Saline Branch Ditch, Salt Fork River, Sangamon River, Upper Boneyard Creek and Phinney Branch Ditch are generally identified as such on the Flood Insurance Rate Map of Champaign County prepared by the Federal Emergency Management Agency and dated January 2, 2003 also includes those areas of known flooding as identified by the community.
  - (5) “Flood Protection Elevation” (FPE) is the elevation of the base flood plus one foot of freeboard at any given location in the floodplain.
  - (6) “IDNR/OWR” is the Illinois Department of Natural Resources/Office of Water Resources.
- B. Paragraph 7A. requires that the construction or placement of a new building valued at more than \$1,000 or 70 square feet must be protected from flood damage below the flood protection elevation.
- C. Paragraph 7B provides that a residential building can meet the requirements of Paragraph 7A, as follows:
- (1) The building may be constructed on permanent landfill that conforms to the Ordinance.
  - (2) The building may be elevated in accordance with the Ordinance, which requires:
    - (a) The use of an open foundation or automatic flood vents.
    - (b) The location of all utility and ventilation equipment at or above the Flood Protection Elevation (FPE).
    - (c) The foundation must be designed to minimize flood damage and must be constructed of flood resistant materials.
    - (d) The finished interior grade may not be lower than the finished exterior grade.
    - (e) The area below the FPE shall not be habitable space.
- D. Paragraph 7G allows buildings to be constructed with crawlspaces provided the following:
- (1) The building must be designed to resist floatation, collapse, and lateral movement resulting from hydrodynamic and hydrostatic loads.
  - (2) Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures.
  - (3) The interior grade of the crawlspace below the flood protection elevation must not be more than 2.0 feet below the lowest adjacent exterior grade.

*PRELIMINARY DRAFT*

- (4) The interior height of the crawlspace measured from the interior grade to the top of the foundation wall must not exceed four feet.
  - (5) An adequate drainage system must be installed to remove flood waters.
  - (6) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage.
  - (7) Utility systems within the crawlspace must be elevated above the flood protection elevation.
- E. Subsection 10a of the *Special Flood Hazard Areas Ordinance* states that a variance from the terms of the *Champaign County Special Flood Hazard Areas Ordinance* shall not be granted by the Board unless the applicant demonstrates all of the following:
- (1) The development activity cannot be located outside the floodplain.
  - (2) An exceptional hardship would result if the variance were not granted.
  - (3) The relief requested is the minimum variance.
  - (4) There will be no additional threat to public health or safety or creation of a nuisance.
  - (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
  - (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the National Flood Insurance Program.
  - (7) All other state and federal permits have been obtained.

***GENERALLY REGARDING WHETHER THE DEVELOPMENT ACTIVITY COULD BE LOCATED OUTSIDE OF THE FLOODPLAIN***

8. Regarding the SFHA Ordinance requirement that the development activity cannot be located outside of the floodplain:
  - A. The Petitioner has testified on the application that, **“Whole lot in floodplain.”**
  - B. An excerpt of Flood Insurance Rate Map 1708940180 was attached to the Preliminary Memorandum and the subject property has been drawn at the proper scale. Only a small portion of the lot appears to be outside the SFHA.

***GENERALLY REGARDING WHETHER AN EXCEPTIONAL HARDSHIP WOULD RESULT IF THE FLOODPLAIN VARIANCE WERE NOT GRANTED***

9. Regarding the SFHA Ordinance requirement that an exceptional hardship would result if the floodplain variance were not granted:

- A. The Petitioner has testified on the application that, **“Would have to modify whole 3 car garage – very expensive.”**
- B. The subject dwelling was proposed to be constructed in compliance with the SFHA Ordinance, but was not actually constructed as proposed.
- C. Regarding the possible modification of the subject dwelling to comply with the *Special Flood Hazard Areas Ordinance*, Ken Carter, contractor for the petitioner, in a letter received on June 9, 2008, indicated that to raise the garage floor 10 to 12 inches would require the following:
  - (1) Supporting the existing garage roof area.
  - (2) Removing the siding and drywall from the bottom half of the walls.
  - (3) Shortening the studs 12 inches.
  - (4) Laying one and one-half courses of concrete block.
  - (5) Setting the walls back to the foundation.
  - (6) Removing both garage doors and the walk door.
  - (7) Raising the headers up 12 inches.
  - (8) Removing the existing garage floor.
  - (9) Adding fill sand as necessary and then pouring a new garage floor.
  - (10) Reinstalling garage doors, siding, drywall, and paint.
  - (11) Raising the garage would also necessitate raising the front porch, sidewalks, and garage stoop.
  - (12) The approximate cost for these modifications is \$23,500 to \$28,000 for all materials and labor.
- D. The interior grade of the crawlspace would also require modifications that would raise the crawlspace floor four to five inches.

**GENERALLY REGARDING WHETHER THE RELIEF REQUESTED IS THE MINIMUM NECESSARY**

- 10. Generally regarding the SFHA Ordinance requirement that the relief requested is the minimum necessary:
  - A. The Petitioner has testified on the application that, **“Already built structure – can’t be any higher than already is.”**

**PRELIMINARY DRAFT**

- B. Regarding the subject dwelling; this is the minimum variance possible as any change to the amount of variance requested would require raising the garage and crawlspace floors.
- C. The crawlspace was inspected by Zoning Officer, Jamie Hitt on June 13, 2006. The inspection verified that the flood vents and interior drain system had been installed and that the crawlspace would not be over four feet high. The final grading was not complete. Photographs from the inspection indicate that the garage floor was being poured on that day.

**GENERALLY REGARDING WHETHER THERE WILL BE ANY ADDITIONAL THREAT TO PUBLIC HEALTH AND SAFETY OR CREATION OF A NUISANCE**

- 11. Generally regarding the SFHA Ordinance requirement that there will be no additional threat to public health and safety or creation of a nuisance:
  - A. The Petitioner has testified on the application that, “**Just a garage, not living space.**”
  - B. Neither the garage nor crawlspace are habitable space.

**GENERALLY REGARDING WHETHER THERE WILL BE ADDITIONAL PUBLIC EXPENSE**

- 12. Regarding the SFHA Ordinance requirement that there be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities:
  - A. The Petitioner has testified on the application that, “**Just a garage, not living space.**”
  - B. The garage floor being lower than the Flood Protection Elevation will not increase public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities, although flood damage could occur to the garage walls or items stored on the garage floor.

**GENERALLY REGARDING WHETHER THE CIRCUMSTANCES ARE UNIQUE**

- 13. Regarding the SFHA Ordinance requirement that the applicant’s circumstances are unique, and do not establish a pattern inconsistent with the National Flood Insurance Program:
  - A. This is only the seventeenth flood variance that has ever been applied for in the history of the *Champaign County Special Flood Hazard Areas Ordinance* and in the same amount of time there have been nearly 2000 Zoning Use Permits authorized.

**GENERALLY REGARDING WHETHER ALL OTHER REQUIRED PERMITS HAVE BEEN OBTAINED**

- 14. Regarding whether all other required state and federal permits have been obtained:
  - A. The petitioner has had a licensed engineer complete a FEMA Elevation Certificate for the subject property.



**DOCUMENTS OF RECORD**

1. Floodplain Variance Application from Larry Peters submitted on April 29, 2008
2. Preliminary Memorandum for Case 619-FV-08
3. Supplemental Memorandum for Case 619-FV-08 dated October 10, 2008, with attachments:
  - A Zoning Case Maps for Case 619-FV-08 (Location, Land Use, and Zoning)
  - B Excerpt from Flood Insurance Rate Map No. 1708940125B
  - C Excerpt from proposed site plan for Zoning Use Permit 46-06-01FP
  - D Photographs of crawlspace inspection on June 13, 2006
  - E Elevation Certificate Letter from Ed Clancy dated February 12, 2008
  - F Letter from Ken Carter received on June 9, 2008
  - G Draft Finding of Fact for Case 619-FV-08

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **619-FV-08** held on **July 17, 2008 and October 16, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The development activity *{CAN / CAN NOT}* be located outside the floodplain because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. An exceptional hardship *{WOULD / WOULD NOT}* result if the floodplain variance were not granted because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. The relief requested *{IS / IS NOT}* the minimum necessary because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. The requested floodplain variance *{WILL / WILL NOT}* result in any additional threat to public health and safety or creation of a nuisance because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. The requested floodplain variance *{WILL / WILL NOT}* result in additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. The applicant's circumstances *{ARE / ARE NOT}* unique and *{DO / DO NOT}* establish a pattern inconsistent with the National Flood Insurance Program because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. All other required state and federal permits *{HAVE / HAVE NOT}* been obtained.

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 10a. of the *Special Flood Hazard Areas Ordinance* **{HAVE/ HAVE NOT}** been met, and determines that:

The Floodplain Variances requested in Case 527-FV-05 is hereby **{GRANTED / GRANTED WITH CONDITIONS / DENIED}** to the petitioner, **Larry L. Peters**, to authorize **as a variance from the Champaign County Special Flood Hazard Areas Ordinance the construction and occupancy of a dwelling in which the top of the garage floor is 0.83 feet below the Flood Protection Elevation of 690.3 instead of being at the Flood Protection Elevation; and the interior grade of the crawlspace is 2.3 feet below the lowest adjacent exterior grade instead of only 2.0 feet below the lowest adjacent exterior grade.**

**{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS}**

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

# CASE NO. 631-V-08

## PRELIMINARY MEMORANDUM

November 7, 2008

Champaign  
County  
Department of

Petitioner: **Nancy Mason**



Site Area: **approx. 10,270 square feet**

Time Schedule for Development: **Immediate**

Prepared by: **J.R. Knight**  
Associate Planner  
**John Hall**  
Zoning Administrator

Request: **Authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet**

Location: **Lot 42 of Lake Park Subdivision No. 3 in Section 36 of Champaign Township and commonly known as the house at 42 Maple Court, Champaign**

Brookens  
Administrative Center  
1776 E. Washington Street  
Urbana, Illinois 61802  
  
(217) 384-3708  
FAX (217) 328-2426

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## BACKGROUND

Staff received a complaint regarding the fence on the subject property. John Hall, Zoning Administrator visited the subject property on July 15, 2008, to verify that the fence was in violation of the *Zoning Ordinance*.

Staff later visited the subject property on October 22, 2008, to verify the amount of variance required. The petitioner submitted a complete application and fee on November 6, 2008.

## EXISTING LAND USE AND ZONING

Table 1 summarizes the land use and zoning on the subject property and adjacent to it.

**Table 1. Land Use and Zoning In The Vicinity Of The Subject Property**

Direction	Land Use	Zoning
Onsite	Single Family Dwelling	R-1 Single Family Dwelling
North	Single Family Dwelling	R-1 Single Family Dwelling
East	Single Family Dwelling	R-1 Single Family Dwelling
West	Single Family Dwelling	R-1 Single Family Dwelling
South	Single Family Dwelling	R-1 Single Family Dwelling

## MUNICIPAL EXTRATERRITORIAL JURISDICTION

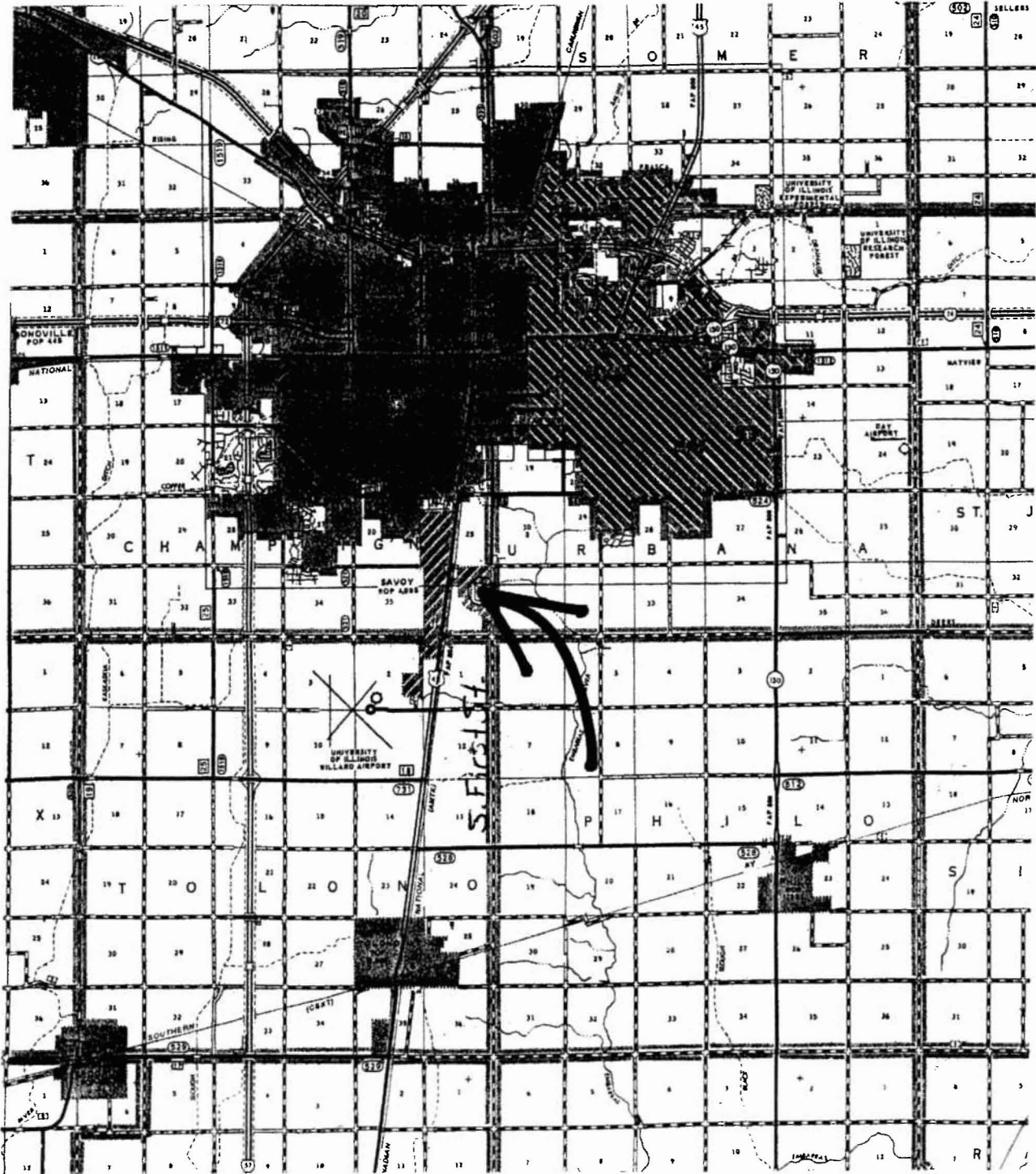
The subject property is located within the mile and a half ETJ of the City of Champaign. Municipalities do not have protest rights on variance cases within their mile and a half ETJ, and they are not notified of such cases.

#### **ATTACHMENTS**

- A Zoning Case Maps for Case 631-V-08 (Location, Land Use, and Zoning)
- B Site Plan received on November 6, 2008
- C Petitioner's photographs of subject property and neighboring property
- D Draft Summary of Evidence for Case 631-V-08

ATTACHMENT A. LOCATION MAP

Case 631-V-08  
NOVEMBER 7, 2008

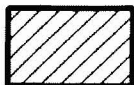
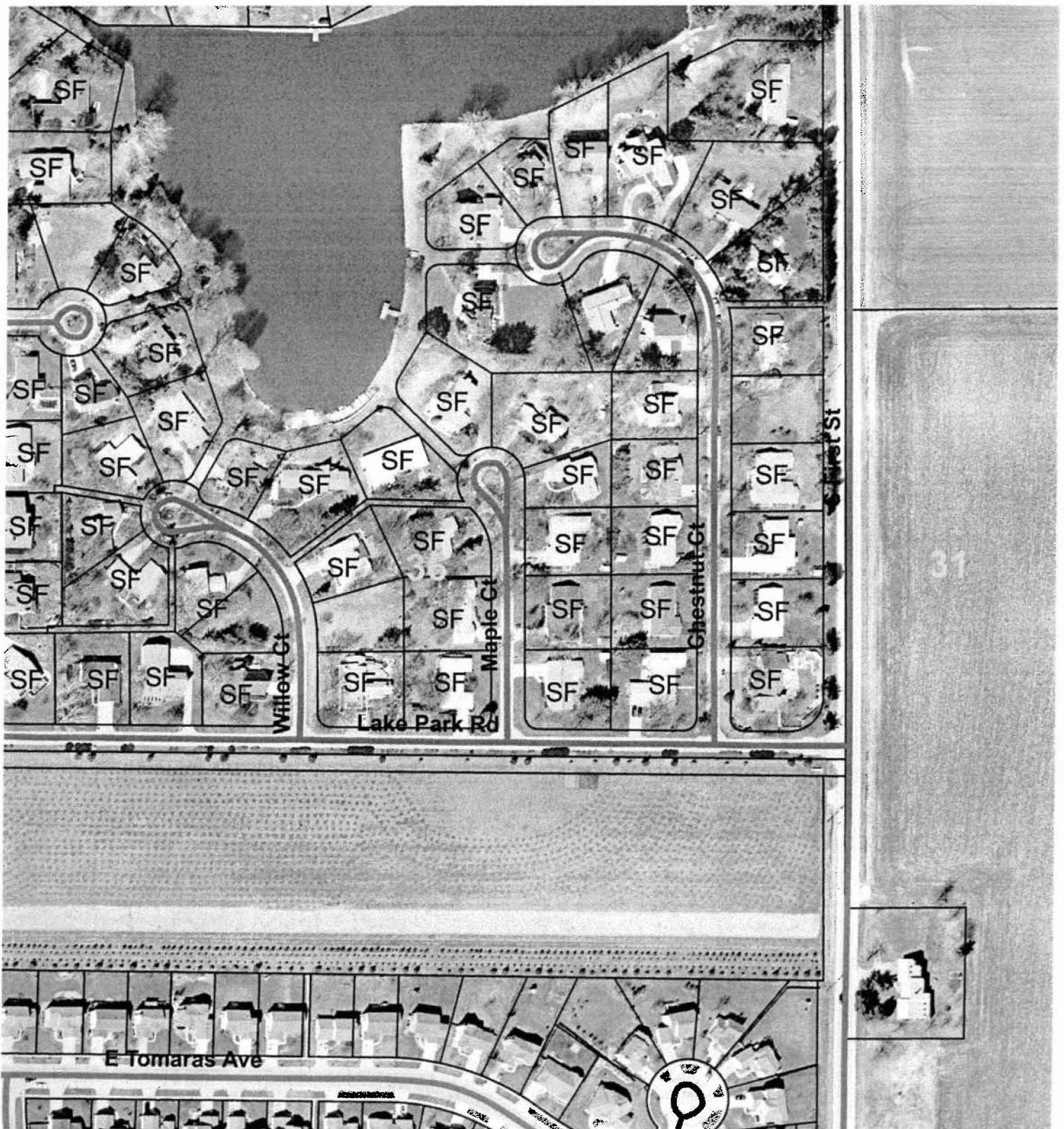


Chicago  
County  
Department of  
**PLANNING &  
ZONING**

ATTACHMENT A. LAND USE MAP

Case 631-V-08

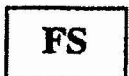
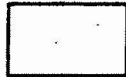
NOVEMBER 7, 2008



Area of Concern



Single Family



Farmstead



NORTH

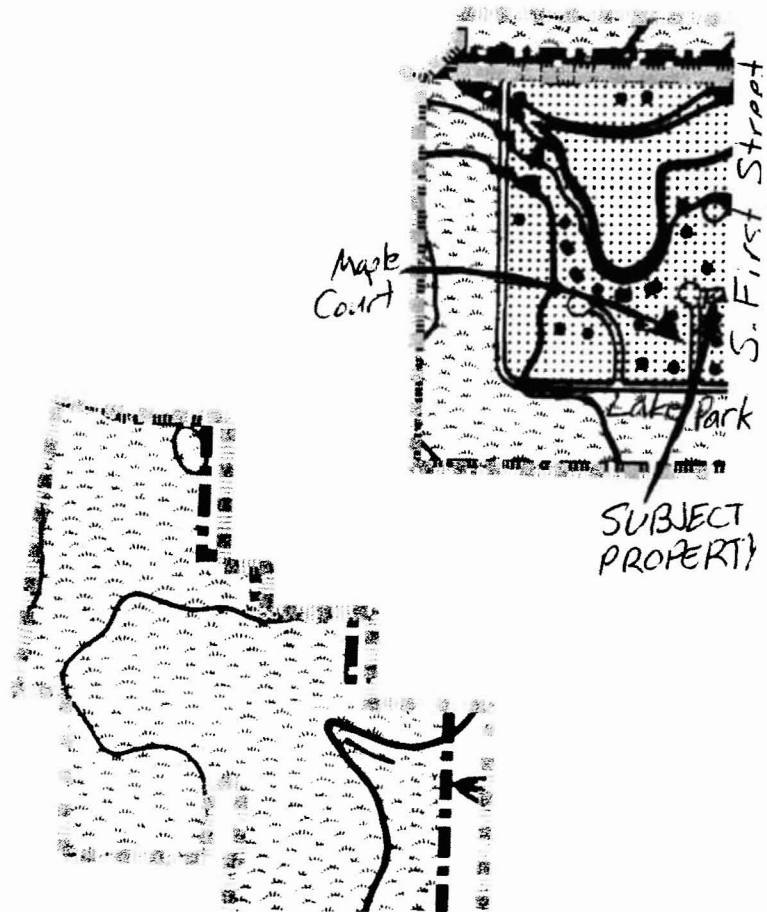
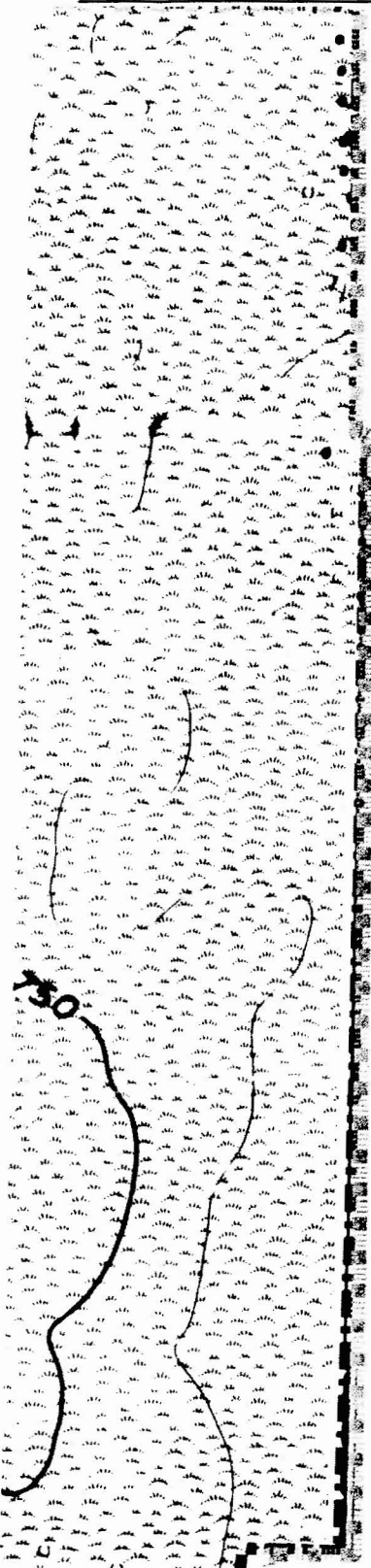
Champaign  
County  
Department of

PLANNING &  
ZONING

1 inch equals 200 feet

ATTACHMENT A. ZONING MAP

Case 631-V-08  
NOVEMBER 7, 2008



1 inch equals 800 feet

AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH Campaign County Department of <b>PLANNING &amp; ZONING</b>
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	



41 maple  
Court

42 maple  
Court

37 1/2 Feet 15

12 ft Short  
100 ft 80

15 ft

15 ft

45 FOOT

RECEIVED

NOV 06 2008

CHAMPAIGN CO. P & Z DEPARTMENT

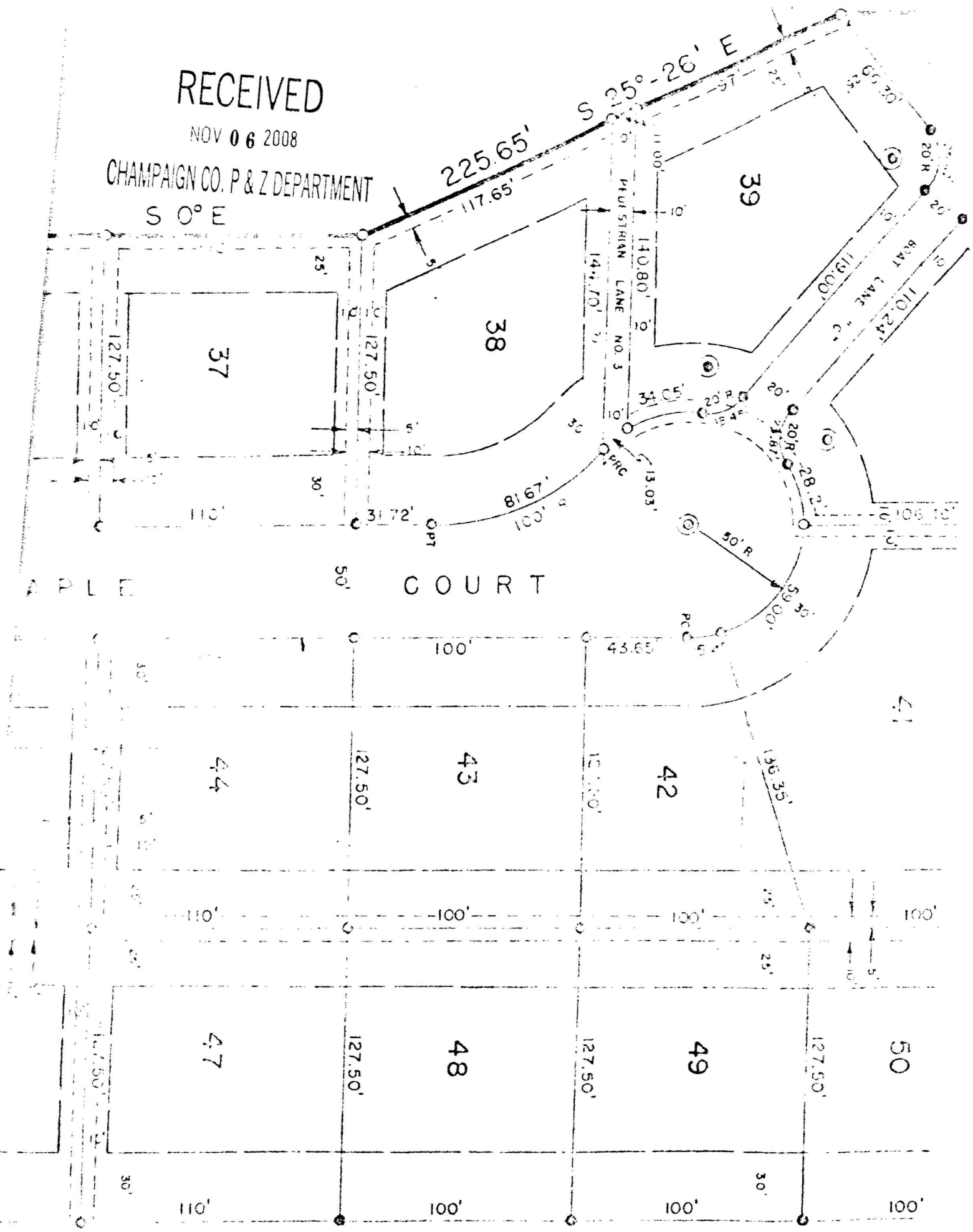
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NOV 06 2008

CHAMPAIGN CO. P & Z DEPARTMENT

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225.65' S 65°-26' E



APPLE COURT

5  
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RECEIVED

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CHICAGO PARK DEPARTMENT





RECEIVED

NOV 20 6 2008

CHICAGO POLICE DEPARTMENT

RECEIVED

NOV 06 2008

WATER DEPARTMENT



RECEIVED

NOV 06 1957

CHAMPLAIN CO. P & E DEPARTMENT





RECEIVED

NOV 10 1952

CHRYSLER CO. P&E DEPARTMENT

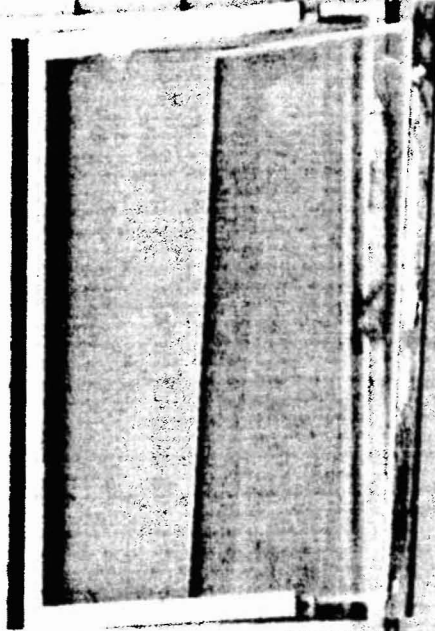




RECEIVED

NOV 06 2008

CHAMPAIGN CO. P. & Z. DEPARTMENT





RECEIVED

MAY 06 1968

CHAMPAIGN CO. P. & C. DEPARTMENT

RECEIVED

NOV 06 1963

CHAMPAIGN CO. P & Z DEPARTMENT

***PRELIMINARY DRAFT***

**631-V-08**

**FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

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Final Determination: ***{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}***

Date: November 13, 2008

Petitioner: Nancy Mason

Request: Authorize the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet

---

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **November 13, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioner, Nancy Mason, owns the subject property.
2. The subject property is Lot 42 of Lake Park Subdivision No. 3 in Section 36 of Champaign Township and commonly known as the house at 42 Maple Court, Champaign.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Champaign. Municipalities do not have protest rights in variance cases and are not notified of such cases.

***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and adjacent to it:
  - A. The subject property and all the property surrounding it is zoned R-1 Single Family Residence.
  - B. The subject property and all the property surrounding it is in use as single family dwellings.

***GENERALLY REGARDING THE PROPOSED SITE PLAN***

5. Generally regarding the proposed site plan:
  - A. The proposed site plan indicates the home and driveway of the subject property (42 Maple Court) located near the north property line.

**PRELIMINARY DRAFT**

- B. It also shows the location of the home and driveway at the property to the north (41 Maple Court). However, the drawing is unclear with regard to how the driveway on that property accesses the street.
- C. The proposed site plan does not correctly represent the driveway visibility triangle. However, staff visited the subject property and determined that the visibility triangle is 12 feet, 10 inches.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES**

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance):
    - (1) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
    - (2) "LOT LINES" are the lines bounding a LOT.
    - (3) "LOT LINE, FRONT" is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.
    - (4) "RIGHT-OF-WAY" is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
    - (5) "STREET" is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
      - (a) MAJOR STREET: Federal or State highways
      - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
      - (c) MINOR STREET: Township roads and other local roads.
    - (6) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning Board of Appeals are permitted to grant.
  - B. Paragraph 4.3.3 F. of the Zoning Ordinance requires a visibility triangle on corner lots and on either side of driveways on all lots as follows (capitalized words are defined in the Ordinance):
    - (1) On a CORNER LOT nothing shall be CONSTRUCTED, erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between the HEIGHT of two and one-half feet and 6 feet above the centerline grades of intersecting STREETS in an area bounded by the STREET RIGHT OF WAY lines of CORNER LOTS and a straight line joining points along said STREET RIGHT OF WAY lines 50 feet from the nearest point of intersection (capitalized words are defined in the Ordinance).

- (2) On all other LOTS, in order to prevent obstruction of sight lines, nothing shall be CONSTRUCTED, erected, placed, planted, or allowed to grow in such a manner as to materially impede vision in the driveway visibility triangle defined as an area bounded by the FRONT or SIDE LOT LINE, each side of any driveway, and a straight line joining points on the lot line measured 15 feet from the driveway and points along the driveway measured from the lot line. Trees within this visibility triangle shall be trimmed so that the lower foliage line is maintained at least six feet above the crown of the adjoining pavement, except trees need not be trimmed in excess of one-third of their total HEIGHT. Fences may consist of a chain link, wire mesh, or split rail type fence, or other design which does not materially impede vision in the visibility triangle.
- E. The Department of Planning and Zoning measures yards and setbacks to the nearest wall line of a building or structure and the nearest wall line is interpreted to include overhanging balconies, projecting window and fireplace bulkheads, and similar irregularities in the building footprint. A roof overhang is only considered if it overhangs a property line.
- F. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
    - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
    - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
    - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
    - (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
    - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
  - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- G. Paragraph 9.1.9.E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

*PRELIMINARY DRAFT*

*GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT*

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
  - A. The Petitioner has testified on the application that, **“Driveway is located on a curve, giving greater visual clearance to all residents.”**
  - B. The driveway visibility triangle is intended to ensure pedestrian and automobile safety, however, there are no sidewalks in the neighborhood of the subject property.
  - C. The subject property is the smallest lot on Maple Court by approximately 2000 square feet, but the house on the subject property is of comparable size with the rest of the houses.

*GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE*

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. The Petitioner has testified on the application that, **“The fence was designed specifically because of a nuisance neighbor that continuously places her yard rubbish on our property. Lowering the fence would make it easier for her to blow items into our yard. See pictures.”**
  - B. The purpose of the fence is to screen the subject property from the neighboring property and if it were modified to provide a 15 feet visibility triangle it would not provide as much screening.
  - C. The house and driveway on the subject property were constructed by a previous owner and the driveway was placed 12 feet from the north property line.

*GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT*

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. The Petitioner has testified on the application that, **“Also her property is in disrepair if we go to sell our home we want the highest fence possible so her home is [not] visible. See pictures.”**
  - B. The house and driveway were constructed in their present location on the subject property by a previous owner.

*GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE*

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application that, **“The intent of the law is for visibility between driveways. The location of the two driveways gives more visibility than the law requires.”**
  - B. The driveway visibility triangle is intended to provide safety for pedestrians and automobiles, however, there are no sidewalks in this neighborhood so the presence of pedestrians is not anticipated.
  - E. The proposed driveway visibility triangle of 12 feet, 10 inches is 85.6% of the required 15 feet visibility triangle for a variance of 14.4%.
  - F. The requested variance is not prohibited by the *Zoning Ordinance*.

**GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE**

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner has testified on the application that, **“There is no visibility issue. My husband and are both disabled we can’t continue to afford to clean up after our neighbor because now she can only throw things at us over a fence.”**
  - B. The Fire Protection District has received notice of this variance, but no comments have been received.
  - C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.

**GENERALLY REGARDING ANY SPECIAL CONDITIONS OF APPROVAL**

12. There are currently no sidewalks in the neighborhood of the subject property, if sidewalks are ever constructed the visibility triangle for the neighbor’s driveway will be necessary. The following condition requires a visibility triangle to be provided in that case:

**The solid, opaque fence running along the north lot line of the subject property must be modified to provide a 15 foot driveway visibility triangle if sidewalks are ever constructed along Maple Court;**

The special condition stated above is necessary to ensure the following:

**Pedestrian safety when there is a sidewalk.**



**DOCUMENTS OF RECORD**

1. Variance application from Nancy Mason, received on November 6, 2008, with attachments:
  - A Proposed site plan
  - B Petitioner excerpt of tax map of subject property
  - C Petitioner Photographs of subject and neighboring property
  
2. Preliminary Memorandum for Case 631-V-08, with attachments:
  - A Zoning Case Maps for Case 631-V-08 (Location, Land Use, and Zoning)
  - B Site Plan received on November 6, 2008
  - C Petitioner's photographs of subject property and neighboring property
  - D Draft Summary of Evidence for Case 631-V-08

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **631-V-08** held on **November 13, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: \_\_\_\_\_  
\_\_\_\_\_
2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because: \_\_\_\_\_  
\_\_\_\_\_
3. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because: \_\_\_\_\_  
\_\_\_\_\_
4. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the *Ordinance* because: \_\_\_\_\_  
\_\_\_\_\_
5. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: \_\_\_\_\_  
\_\_\_\_\_
6. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because: \_\_\_\_\_  
\_\_\_\_\_
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***

**FINAL DETERMINATION**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **631-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioner, **Nancy Mason**, to authorize **the construction of a solid fence which reduces the driveway visibility triangle to 12 feet, 10 inches in lieu of the required 15 feet.**

*{SUBJECT TO THE FOLLOWING CONDITION(S):}*

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Debra Griest, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date