

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **January 29, 2009**  
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
5. Continued Public Hearings

**Case 635-AM-08** Petitioner: **Country Arbors Nursery, Inc. and P. Terence Cultra, President**

Request: **Amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture Zoning District to the AG-2 Agriculture Zoning District.**

Location: **An approximately 42 acre tract that is approximately the Southeast Quarter of the Southwest Quarter of Section 24 of Urbana Township and commonly known as Country Arbors Nursery, 1742 CR 1400N, Urbana.**

**\*Case 636-S-08** Petitioner: **Country Arbors Nursery, Inc. and P. Terence Cultra, President**

Request: **Authorize the construction and use of a "Garden Shop" as a Special Use in the AG-2 Agriculture Zoning District.**

Location: **The southern 8.5 acres of an approximately 42 acre tract that is approximately the Southeast Quarter of the Southwest Quarter of Section 24 of Urbana Township and commonly known as Country Arbors Nursery, 1742 CR 1400N, Urbana.**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**  
**NOTICE OF REGULAR MEETING**  
**JANUARY 29, 2009**  
**PAGE 2**

6. New Public Hearings

**Case 611-AM-08** Petitioner: **Casey's Retail Company and Henri Merkelo**

Request: **Amend the Zoning Map to change the zoning district designation from the R-5 Manufactured Home Park Zoning District to the B-4 General Business Zoning District.**

Location: **A 1.04 acre tract in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 10 of Urbana Township and commonly known as the vacant house at 2218 East University Avenue, Urbana.**

**\*Case 641-V-08** Petitioner: **Jeremy & Joy Johnson**

Request: **Authorize the construction and use of a detached garage with an average height of 19 feet in lieu of the maximum allowed average height of 15 feet for a detached accessory building on a lot less than 1.0 acre in area in the AG-1' Zoning District.**

Location: **A 0.91 acre tract in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of Section 36 of Urbana Township and commonly known as the house at 1729 CR 1250N, Urbana.**

**\*Case 642-V-08** Petitioner: **Michael T. McCulley and Riley McCulley**

Request: **Authorize the creation and use of a lot 3.80 acres in area in lieu of the maximum allowed 3.0 acres on best prime farmland.**

Location: **A 3.8 acre portion of a 36 acre tract in the North Half of the Southwest Quarter of Fractional Section 1 of Hensley Township and commonly known as the house at 2354B CR 1100E, 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.**

# CASE NO. 636-S-08

SUPPLEMENTAL MEMORANDUM

January 23, 2009

Champaign  
County  
Department of

**PLANNING &  
ZONING**

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

(217) 384-3708

FAX (217) 328-2426

Petitioners: **Country Arbors Nursery, Inc, P. Terence Cultra, President, and T. Shane Cultra, Vice President**

Request: **Authorize the construction and use of a "Garden Shop" as a Special Use in the AG-2 Agriculture Zoning District**

Site Area: **8.5 acres**

Location: **The southern 8.5 acres of an approximately 42 acre tract that is approximately the Southeast Quarter of the Southwest Quarter of Section 24 of Urbana Township and commonly known as Country Arbors Nursery, 1742 CR 1400N, Urbana.**

Time Schedule for Development:  
**Immediate**

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

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## STATUS

This is the second meeting for this case. It was continued from the January 15, 2009, ZBA meeting. At that meeting the petitioners indicated they had some changes they wanted to make to the site plan and staff had asked for some additional information as well.

The revised site plan was received on January 23, 2009, and indicated a parking area as well as one clearly indicated driveway entrance. The primary driveway entrance was not clearly indicated on the site plan and an annotated site plan which indicates the entrance is attached. The revised site plan does not indicate any new construction on the west side of the property as previously indicated, but does indicate a new proposed greenhouse attached to the north side of the retail/office space building.

Staff has measured the visibility triangles of all the driveway entrances on the subject property and the only significant visual obstruction is the existing sign for the business. The petitioners have proposed to move the sign and have indicated the new location (well outside any visibility triangle) on the revised site plan. Also, a special condition requiring the relocation of the sign is proposed.

Staff has also communicated with the Urbana Township Highway Commissioner, Jim Prather, who indicated that he did not have any problems with the safety of Country Arbors driveway entrances. He did mention a problem with the bushes located on the small residential property that is located at the southeast corner of the subject property.

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## NEW EVIDENCE FOR SUMMARY OF EVIDENCE

**1. The following should be added as new Item 5.C. on page 3 of 16, as follows:**

- C. A revised site plan was received on January 23, 2009, which indicates the following changes from the previous site plan:
- (1) The greenhouse structure on the west side of the property is no longer included.
  - (2) The location of the old sign is indicated, near the primary driveway entrance.

- 
- (3) A location for a new sign is indicated, and the petitioner's have indicated to staff that this sign is intended to replace the existing sign, not to be in addition.
  - (4) A new Future Greenhouse is indicated as being attached to the north end of the existing Retail/Office space building.
  - (5) The Parking area is clearly indicated, but the driveway used to get to that parking area is not clearly indicated.
  - (6) An easement over the small residential lot at the southeast corner of the subject property and driveway entrance to the subject property are indicated as well.

**2. The following should be added as new Item 8.C.(4) on page 6 of 16, as follows:**

- (4) Jim Prather, Urbana Township Highway Commissioner, in a phone conversation on January 22, 2009, with J.R. Knight, Associate Planner, indicated that he did not have any issues with the safety of Country Arbors Nursery driveway entrances.

**3. The following should be added as new Item 12. on page 12 of 16, as follows:**

12. Staff has measured the visibility triangles at the driveway entrances to the subject property and the only significant visual obstruction they found was the existing sign at the primary entrance to the subject property. The petitioners have proposed to move the existing sign, as indicated on their revised site plan. The following condition makes this a requirement of the Special Use Permit:

**The petitioners shall relocate the existing Country Arbors Nursery sign as indicated on the revised site plan received on January 23, 2009.**

The above special condition is necessary to ensure the following:

**Visibility is not impaired at the primary entrance to the subject property.**

**ATTACHMENTS**

- A Revised site plan received on January 23, 2009
- B Annotated revised site plan received on January 23, 2009

RECEIVED

JAN 23 2009

CHAMPAIGN CO. P & Z DEPARTMENT

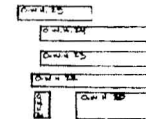
AG 1: 33 ACRES

AG 1: 8.5 ACRES

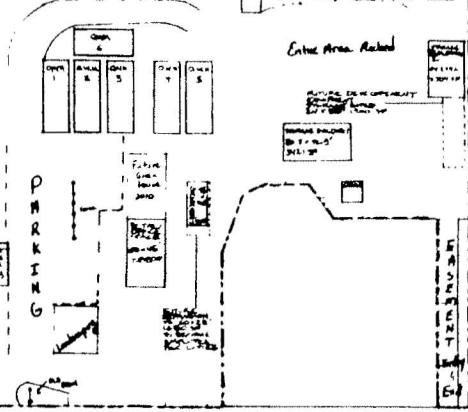
OWNER TO TEMP. STRUCTURES  
ON PROPERTY  
OF FARMER'S MARKET  
R.F.H. & F.W. STANLEY  
10-10-08



COUNTRY ARBORES NURSERY  
1742 E. R. HOO NORTH  
URBANA IL 61802  
SCALE: 1" = 60'



3-10-10  
3-10-11  
3-10-12  
3-10-13  
3-10-14



P  
A  
R  
K  
I  
N  
G

WINDOCK ROAD

# CANNOTATED

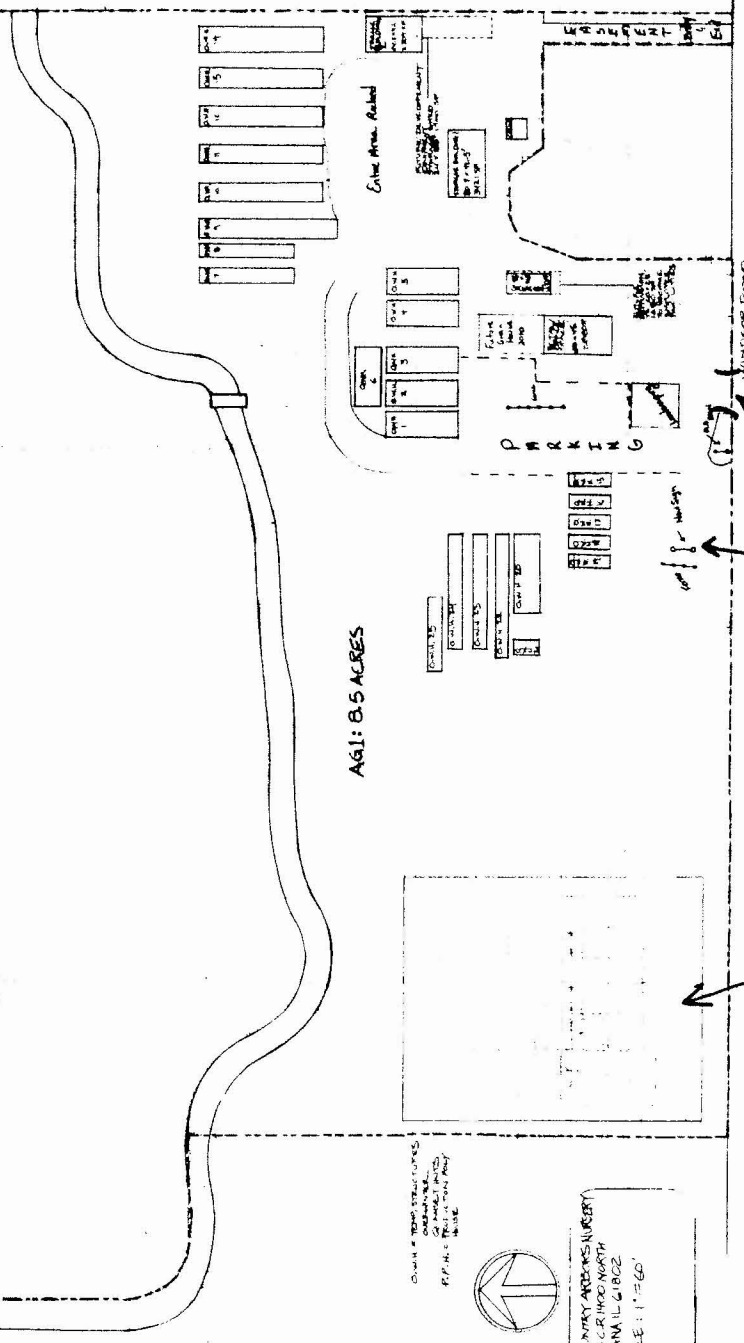
RECEIVED

JAN 23 2009

CHAMPAIGN CO. P & Z DEPARTMENT

AG 1: 33 ACRES

AG 1: 8.5 ACRES



OWNER'S PROPERTY LINES  
AS SHOWN ON  
RECORD MAPS  
IN USE



COUNTRY ARCHITECTS NURSERY  
1745 COUNTRY NORTH  
URBANA, IL 61802  
SCALE: 1" = 60'

Driveway Entrance (approximate)

replaces old sign

Proposed greenhouses not included, old lines show up on copy

Champaign County, Illinois  
Zoning Ordinance

**Section 5.2 Table of Authorized Principal USES**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Residential Uses</b>															
BOARDING HOUSE							S								
DWELLING, SINGLE FAMILY														7	
DWELLING, TWO-FAMILY			S	S	S										
DWELLING, MULTI-FAMILY															
Fraternity, Sorority, or Student Cooperative															
Dormitory															
Home for the aged			S												
NURSING HOME			S												
MANUFACTURED HOME PARK								S							
HOTEL - No more than 15 LODGING UNITS	S	S	S						S					S	
HOTEL - over 15 LODGING UNITS															
TRAVEL TRAILER Camp			S												
Residential PLANNED UNIT DEVELOPMENT		S	S	S	S	S	S	S							
MANUFACTURED HOME in MANUFACTURED HOME PARK															
SUBDIVISION(s) totaling three LOTS or less	9	9	9												
SUBDIVISION(s) totaling more than three LOTS or with new STREETS or PRIVATE ACCESSWAYS	10	10	10												
<b>Resource Production and Agricultural Uses</b>															
AGRICULTURE, including customary ACCESSORY USES															
Roadside Stand Operated by Farm Operator															
RURAL SPECIALTY BUSINESS, Minor	S														
RURAL SPECIALTY BUSINESS, Major	S	S	S												
Artificial lake of 1 or more acres	S	S	S	S	S	S	S	S						S	S
Commercial greenhouse			S												
Greenhouse (not exceeding 1,000 sq.ft.)			S												
Garden Shop			S												
Plant Nursery															

 = Permitted by right

 = Permitted on individual LOTS as a SPECIAL USE

Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Mineral Extraction, Quarrying, topsoil removal and allied activities	S	S	S												S
<b>Public and Quasi-Public Facilities</b>															
Elementary SCHOOL, Jr. High SCHOOL, or High SCHOOL	S	S	S												
Institution of an Educational, Philanthropic or Eleemosynary Nature															
Church, Temple or church related TEMPORARY USES on church PROPERTY	S	S	S												
Municipal or GOVERNMENT BUILDING	S	S	S	S	S	S									
Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right		S	S	S	S	S	S	S	S	S	S	S	S	S	
Penal or correctional institution		S	S												
Police station or fire station	S	S	S	S	S	S									
Library, museum or gallery	S	S	S	S	S	S									
Public park or recreational facility		S	S												
Sewage disposal plant or lagoon	S	S	S												S
PARKING GARAGE or LOT															
Private or commercial transmission and receiving towers (including antennas) over 100' in HEIGHT		S	S							S	S	S	S	S	
Water Treatment Plant			S											S	S
Radio or Television Station		S	S							S				S	S
Electrical Substation	S	S	S	S	S	S	S	S	S	S	S	S	S	S	
Telephone Exchange	S	S	S	S	S	S	S	S							
Public Fairgrounds	S		S											S	S
HOSPITAL						S	S				S	S			
Telegraph Office															
<b>Transportation Uses</b>															
Railway Station															
MOTOR BUS Station			S							S					
Truck Terminal			S												
Railroad Yards and Freight Terminals			S												
AIRPORT <sup>2</sup>			S											S	S
RESIDENTIAL AIRPORTS <sup>2</sup>		S	S												
RESTRICTED LANDING AREAS <sup>2</sup>		S	S											S	S

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
HELIPORT/HELISTOPS <sup>2</sup>			S											S	S
HELIPORT-RESTRICTED LANDING AREAS <sup>2</sup>		S	S						S		S	S		S	S
<b>Business Uses: Personal Services</b>															
Barber Shop															
Beauty Shop															
Reducing Salon															
Dressmaking Shop															
Drycleaning ESTABLISHMENT															
Laundry and/or drycleaning pick-up															
Millinery shop															
Self-service laundry															
Shoe repair shop															
Tailor and pressing shop															
Diaper Service ESTABLISHMENT															
Clothing Repair and Storage															
Mortuary or Funeral Home		S <sub>14</sub>					S								
Medical and Dental CLINIC															
<b>Business Uses: Agriculture</b>															
Farm Chemicals and Fertilizer Sales including incidental storage and mixing of blended fertilizer		S	S												
Roadside Produce Sales Stand			S												
Farm Equipment Sales & Service															
Feed and Grain (sales only)			S												
Livestock Sales Facility and Stockyards		S	S						S						
Slaughter Houses		S	S						S					S	
Grain Storage Elevator and Bins		S	S												

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Business Uses: Business, Private, Educational, and Financial Services</b>															
Artist Studio			S							S			S		
Banks, Savings and Loan Associations															
Insurance and Real Estate Offices															
Business Office															4
Professional Office															
Private Kindergarten or Day Care Facility				S	S	S	S	S							
Vocational, Trade or Business SCHOOL															
<b>Business Uses: Food Sales and Service</b>															
Meat and Fish Market															
Restaurant (indoor service only)										S					
Supermarket or Grocery Store															
Wholesale Produce Terminal															
Drive-In Restaurant															
Tavern or Night Club															
Bakery (less than 2,500 SF)															
Bakery (more than 2,500 SF)												S			
Dairy Store															
Delicatessen															
Confectionery Store															
Retail Liquor Store															
Locker, Cold Storage for Individual Use															
<b>Business Uses: AUTOMOBILE Sales and Services</b>															
AUTOMOBILE, Truck, Trailer and Boat Sales room (all indoors)															
AUTOMOBILE or Trailer Sales area (open lot)															
Major AUTOMOBILE Repair (all indoors)															
Minor AUTOMOBILE Repair (all indoors)										S					
Gasoline Service Station										S					
AUTOMOBILE Washing Facility															
Automotive Accessories (new)										S					
AUTOMOBILE Salvage Yard (junkyard)															

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Business Uses: Retail Trade</b>															
Building Material Sales (excluding concrete or asphalt mixing)															
Hardware Store															
Electrical or gas appliance Sales and Service															
Department Store															
Apparel Shop															
Shoe Store															
Jewelry Store															
Stationery-Gift Shop-Art Supplies															
Florist															
Newsstand-Bookstore															
Tobacconist															
Variety-Drygoods Store															
Music Store															
Drugstore															
Photographic Studio & Equipment Sales and Service															
Furniture Store - Office Equipment Sales															
Antique Sales and Service			<b>S</b>												
Used Furniture Sales and Service															
Pet Store															
Bicycle Sales and Service															
Fuel Oil, ice, coal, wood (sales only)															
Monument Sales (Excludes stone cutting)															
Pawn Shop															
Sporting Good Sales & Service															
Heating, Ventilating, Air Conditioning Sales and Service															
Lawnmower Sales and Service															

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Champaign County, Illinois  
Zoning Ordinance

SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Business Uses: Recreational</b>															
Amusement Park			S									S	S	S	S
Resort or Organized CAMP	S		S												
Bait Sales	S		S												
Billiard Room															
Bowling Alley															
Country club or golf course	S														
Country Club Clubhouse	S		S												
Dancing Academy or hall															
Lodge or private club	S		S												
Outdoor commercial recreational enterprise (except amusement park)	S		S												
Private Indoor Recreational Development			S			S	S								
Public CAMP or picnic area	S		S												
Riding Stable	S	S	S	S <sup>3</sup>											
Seasonal hunting or fishing lodge	S		S												
Stadium or coliseum			S										S	S	S
THEATER, indoor															
THEATER, OUTDOOR			S												
Commercial Fishing Lake	S	S	S												
<b>Business Uses: Miscellaneous</b>															
Aviation sales, service or storage			S												
Cemetery or Crematory		S	S												
Pet Cemetery	S	S	S												
KENNEL	S	S	S									S			
VETERINARY HOSPITAL	S	S	S							S	12	S			
Commercial Breeding Facility															
Wholesale Business															
Warehouse										S					
Self-storage Warehouses, providing heat and utilities to individual units									S	S		S			
Self-Storage Warehouses, not providing heat and utilities to individual units			S						S	S		S			
Auction House (non-animal)															

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Christmas Tree Sales Lot															
OFF-PREMISES SIGN within 660' of the edge of the RIGHT-OF-WAY of an interstate highway															
OFF-PREMISES SIGN beyond 660' of the edge of the RIGHT-OF-WAY of an interstate highway		S	S												
OFF-PREMISES SIGN along federal highways except interstate highways															
OFF-PREMISES SIGN															
SEXUALLY ORIENTED BUSINESSES,															
TEMPORARY USES															
Recycling of non-hazardous materials (all storage and processing indoors)												S			
LANDSCAPE WASTE PROCESSING FACILITIES			S												S
Contractors Facilities (with No Outdoor STORAGE Nor Outdoor OPERATIONS)		S	S												
Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS		S	S									S			
<b>Industrial Uses: Food and Kindred Products</b>															
Meat, Fish and Poultry Preparation and Packing															S
Animal and Marine Fats and Oils Manufacturing and Packaging															S
Vegetable Fats and Oils Manufacturing & Packaging															
Canning and Preserving of Vegetables & Seafood															
Grain Mill Products Manufacturing and Packaging															
Dairy Products Manufacturing, Processing and Packaging															
Confectionery Products, Manufacturing & Packaging															
Beverage (Alcoholic and Non-Alcoholic) Distilling, Manufacturing, Processing, and Bottling															
Other Food Preparations Manufacturing, Processing and Packaging															

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Industrial Uses: Textile and Apparel</b>															
Wool, cotton, silk and man-made fiber manufacturing															
Manufacturing and Processing Wearing Apparel and Related Finished Products Manufacturing															
Miscellaneous Finished Products Manufacturing including Home Products, Canvas Products, Decorative Textiles, Luggage, Umbrellas, and Similar Products															
<b>Industrial Uses: Primary Metal Manufacturing</b>															
Steel Works, Blast Furnaces and the Rolling & Finishing of Ferrous Metals															S
Smelting and Refining of Non-Ferrous Metals															S
Foundries															S
Rolling, Drawing & Extrusion of Non-Ferrous Metals															S
<b>Industrial Uses: Fabricated Metal Products</b>															
Machinery (Except Electrical) Manufacturing															
Armaments Manufacturing (Non-Explosive)															
Electrical and Electronic Machinery, Equipment and Supplies Manufacturing															
SMALL SCALE METAL FABRICATING SHOP	S <sub>13</sub>	S <sub>13</sub>	S <sub>13</sub>												
Transportation Equipment Manufacturing															
Other Fabricated Metal Products, Including Containers, Tools, Hardware, Structural Metals Piping, Boilers and Furnaces, Machined Products, Metal Stamping, Wire Products and the Coating and Engraving of Metal Products															
<b>Industrial Uses: Chemicals and Allied Products</b>															
Plastics, Synthetic Resins, Synthetic Rubber Manufacturing															S
Drug Manufacturing															
Soap, Detergent, Bleaching Agents and Cleaning Preparations Manufacturing															S
Cosmetics and Toiletries Manufacturing															
Paints, Varnishes, Lacquers, Enamels, Inks, Dyes, Gum and Wood Derivatives Manufacturing															S

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Explosives and Incendiary Products Manufacturing and Storage															S
Fertilizer Manufacturing and Bulk Storage															S
Bone Distillation and Glue Manufacturing															S
Radioactive Materials Manufacturing and Refining															S
Corrosive Acids, Chlorine, Caustic Soda, and Potash Manufacturing and Bulk Storage															S
Insecticide, Fungicide, Herbicide and Poisons Manufacturing and Bulk Storage															S
<b>Industrial Uses: Electric Power Generating Facilities</b>															
Coal/Oil Steam Turbine															S
Natural Gas Steam Turbine															S
Wind Turbine (less than 3 wind turbines)															S
Gas Turbine Peaker		S	S											S	S
Wind Turbine (1-3 wind turbines)		S	S											S	S
<b>Industrial Uses: Petroleum and Rubber Products</b>															
Petroleum Refining															S
Paving and Roofing Materials Manufacturing															S
Rubber Products Manufacturing, Including the Reclamation of Rubber															S
Linoleum and other Hard Surface Floor Coverings Manufacturing															S
Gasoline and Volatile Oils Storage up to and Including 80,000 gallon capacity in the Aggregate <sup>6</sup>									S	S				S	
Gasoline and Volatile Oils Storage of greater than 80,000 gallons but no more than 175,000 gallon capacity in the Aggregate <sup>6</sup>									S					S	
Gasoline and Volatile Oils Storage Facilities exceeding 175,000 gallon capacity of volatile liquid in the Aggregate <sup>6</sup>															S
Fuel Ethanol Manufacturing <sup>14,15</sup>															S
Liquefied Petroleum Gases Storage <sup>8</sup>									S	S				S	S
<b>Industrial Uses: Stone, Glass and Clay Products</b>															
Glass Products Manufacturing															
Hydraulic Cement Manufacturing															
Structural Clay Products Manufacturing															

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Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
Pottery and Related Products Manufacturing															
Concrete, Gypsum and Plaster Manufacturing															
Cut Stone and Stone Products Manufacturing															
Abrasives, Asbestos and Miscellaneous Non-Metallic Products Manufacturing															
<b>Industrial Uses: Professional, Scientific and Controlling Devices</b>															
Engineering, Laboratory, Scientific and Research Instruments, Manufacturing															
Mechanical Measuring and Controlling Instruments Manufacturing															
Optical Instruments and Lenses Manufacturing															
Surgical, Medical, Dental and Mortuary Instruments and Supplies Manufacturing															
Photographic Equipment and Supplies Manufacturing															
Watches, Clocks and Clockwork Operated Devices Manufacturing															
<b>Industrial Uses: Printing, Publishing and Related Industries</b>															
Printing and Publishing Plants for Newspapers, Periodicals, Books, Stationery, and Commercial Printing															
Bookbinding															
Motion Picture Production Studio															
<b>Industrial Uses: Lumber and Wood Products</b>															
Wood Fabricating Shop and Related Activities			S												
Sawmills and Planing Mills, and related activities		S	S												
Household and Office Furniture Manufacturing															
Paper and Pulp Manufacturing															
Building Paper, Paper Containers, and Similar Products Manufacturing															

 = Permitted by right

 = Permitted on individual LOTS as a SPECIAL USE



Champaign County, Illinois  
Zoning Ordinance

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

Principal USES	Zoning DISTRICTS														
	CR	AG-1	AG-2	R-1	R-2	R-3	R-4	R-5	B-1	B-2	B-3	B-4	B-5	I-1	I-2
<b>Industrial Uses: Research, Development and Prototype Manufacturing Industries</b>															
Theoretical and Applied Research Development and Prototype Light Manufacturing of the following: Drugs, Chemicals, Food products, Rubber and Petroleum Products, Light Weight Fabricated Metal Products, Electronic and Electrical Products, Physical and Aerospace Sciences, Wood and Wood Products, Non-Electrical Machinery, Textiles, Glass and Ceramic Products															
Non-Profit or Governmental Educational and Research Agencies															
<b>Industrial Uses: Miscellaneous Manufacturing and Industries</b>															
Jewelry, Costume Jewelry, Novelties, Silverware and Plated Ware Manufacturing and Processing															
LIGHT ASSEMBLY												S			
Musical Instruments and Allied Products Manufacturing															
Office and Artists Materials Manufacturing (Except Paints, Inks, Dyes and Similar Products)															
SIGNS and Advertising Display Manufacturing															
Pre-Existing Industrial Uses (Existing Prior to October 10, 1973)		S	S												

**Footnotes**

1. In case a proposed principal USE is not specifically included in Section 5.2, Table of Authorized Principal USES, or elsewhere in the *Champaign County Zoning Ordinance*, 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.
2. All AIRCRAFT must land at a facility permitted under the terms of this ordinance and certified by the Illinois Division of Aeronautics. Provided, however, that nothing in this ordinance shall be construed to prohibit the landing of aircraft due to aircraft or medical emergency; landing due to other bona fide emergency at the direct order of police, fire or emergency officers; landing of agricultural aircraft pursuant to the *Illinois Highway Code* (605 ILCS 5/9-129); or landing of aircraft qualifying as Special Purpose aircraft under the *Illinois Aviation Safety Rules*, (92 IL Admin. Code, Part 14, Section 14.880).
3. Provided that the Riding Stable is located in a recorded subdivision or Planned Unit Development and is included as a part of the overall scheme of development which centers around the riding and keeping of horses, and where no less than seventy-five percent of the horses boarded are owned by residents of the subdivision or PUD, in which the riding stable is located.

 = Permitted by right

 = Permitted on individual LOTS as a SPECIAL USE

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

4. Only when located in a unified industrial development and where occupying LOTS comprising no more than 25 percent of the total LOT AREA of the development.
5. Outdoor STORAGE as an ACCESSORY USE is allowed by right when all outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN meeting the provisions of Section 7.6.3.
6. These USES shall conform to the Zoning Restrictions of the DISTRICT in addition to conforming to State Regulations set forth in the *Illinois Gasoline Storage Act* (430 ILCS 15/0.01 *et seq.*) and set forth in the *Illinois Rules for the Storage, Transportation, Sale and Use of Liquefied Petroleum Gas* (41 IL Admin. Code, Part 200).
7. Permitted only in STRUCTURES existing prior to October 10, 1973 together with later additions not exceeding one-third of the floor area of the structure as it existed on that date, provided that if such structure used for SINGLE FAMILY DWELLING purposes is destroyed by fire, accident, or act of God, it shall not be reconstructed or repaired to occupy a larger or different BUILDING AREA on the LOT.
8. A Minor RURAL SPECIALTY BUSINESS must meet all of the following requirements otherwise it shall constitute a Major RURAL SPECIALTY BUSINESS:
  - A. The total area of the site occupied by any part of the business not otherwise qualifying as AGRICULTURE shall not exceed one acre;
  - B. The total sales DISPLAY area shall not exceed 2,000 sq. ft., no more than half of which may be indoors;
  - C. No business may include a food service establishment except food stores as defined by Section 5.4.6 of the *Champaign County Health Ordinance* ;
  - D. Businesses located in the CR, AG-1, or AG-2 Districts shall not ACCESS STREETS located within a recorded SUBDIVISION;
  - E. Alcoholic beverages not produced on the PREMISES shall not be sold; and
  - F. No outdoor entertainment requiring the use of sound amplification equipment shall be permitted unless a Temporary Use Permit and Entertainment and Recreation License shall have been obtained.
9. No more than three LOTS in total (in any number of subdivisions involving LOTS that are less than 35 acres in area) are allowed to be platted per parcel except as provided in Section 5.4.2.
10. No SUBDIVISION shall be created unless a Rural Residential OVERLAY DISTRICT has been created except as provided in Section 5.4.2.
11. SEXUALLY ORIENTED BUSINESSES shall not be permitted on lots located within 1,000 feet of:
  - A. another SEXUALLY ORIENTED BUSINESS;
  - B. a school, park, church or library; or
  - C. any residential zoning DISTRICT.

**SECTION 5.2 TABLE OF AUTHORIZED PRINCIPAL USES - CONTINUED**

12. A VETERINARY HOSPITAL is permitted by right only if it meets all of the following requirements; otherwise it shall be permitted only with a SPECIAL USE Permit:
  - A. The VETERINARY HOSPITAL must be entirely enclosed and have no outdoor exercise areas or animal runs.
  - B. The VETERINARY HOSPITAL must not permit animals to be kept either temporarily or permanently outside the HOSPITAL BUILDINGS.
  - C. No animal shall be boarded except as incidental to providing veterinary care.
13. Permitted by Special Use Permit only if located in buildings constructed prior to January 1, 1988.
14. Only ethanol production facilities utilizing the dry mill process shall be permitted.
15. Fuel ethanol plants shall be required to install thermal oxidizers or other similar technology to remove the volatile organic compounds (VOCs) to reduce odors.
16. Mortuary or Funeral Home is only allowed in the AG-2, Agriculture Zoning District as a second principal use on the same lot as a cemetery and the lot must be under common management.

# CASE NO. 611-AM-08

PRELIMINARY MEMORANDUM

January 23, 2009

Champaign  
County  
Department of



Petitioners: **Casey's Retail Company  
and Henri Merkelo**

Request: **Amend the Zoning Map to  
change the zoning district designation  
from the R-5 Manufactured Home  
Park Zoning District to the B-4  
General Business Zoning District.**

Site Area: **approx. 1.04 acres**

Time Schedule for Development:  
**Immediate**

Location: **A 1.04 acre tract in the  
Southwest Quarter of the Southwest  
Quarter of the Southwest Quarter of  
Section 10 of Urbana Township and  
commonly known as the vacant house  
at 2218 East University Avenue,  
Urbana.**

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

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

(217) 384-3708  
FAX (217) 328-2426

## BACKGROUND

Staff was first contacted by the City of Urbana regarding the proposed rezoning. The petitioners had contacted the City about annexation and rezoning of the property to allow the proposed use, but the City staff proposed that it was more appropriate for the rezoning to occur in the County's jurisdiction. This would allow the neighbors, who are also residents of the County zoning jurisdiction to indicate any concerns to their appropriate representatives.

The subject property is an approximately 1.04 acre tract at the intersection of Smith Road and University Avenue in Urbana. It is currently zoned R-5 and contains a vacant dwelling. In order for Casey's General Stores to operate at the proposed location it will require rezoning to the B-4 General Business District.

## 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	Vacant Dwelling	R-5 MANUFACTURED HOME Park; proposed to be changed to B-4 General Business
North	MANUFACTURED HOME park	R-5 MANUFACTURED HOME Park
East	Edge-Scott Fire Protection District station	R-1 Single Family Dwelling
West	MANUFACTURED HOME park	B-2 Neighborhood Business
South	T-shirt business	I-1 Light Industry

---

## CONSIDERATIONS IN MAP AMENDMENTS

In addition to the relevant goals and policies, the following concerns are also standard considerations in any rural map amendment.

- **Street Access**
- **Traffic Conditions**
- **Natural Resource Report**
- **Flood Prone Area Designation**
- **Drainage Conditions**
- **Availability of Water and Sanitary Sewer**
- **Fire Protection**
- **Area, Height, & Placement Regulations**

## POLICIES & GOALS WITHOUT CLEAR CONFORMANCE

The Draft Finding of Fact includes staff recommendation regarding the degree of conformance or achievement of certain policies and goals when the conformance or achievement is very clear. However, no evidence has been submitted regarding the County Engineer's approval of a new driveway for the proposed use. There is no clear conformance to policies and goals related to street access.

### Policies and Goals Requiring Specific Determinations Regarding Compatibility of Use

- Policy 3.6 of the Land Use Goals and Policies (FOF Item 10.E. on page 9 of 18) is as follows:  

The County Board will strongly discourage proposals for new commercial development not making adequate provisions for drainage and other site considerations.
- Policy 2.2 of the Land Use Goals and Policies (FOF Item 11.B. on page 11 of 18) is as follows:  

The Environment and Land Use Committee will work with municipal plan commissions to review existing zoning patterns and regulations within urban areas and initiate proposals to encourage development and redevelopment of "in-town" areas.
- The third commercial land use goal (FOF Item 12.C. on page 12 of 18) is as follows:  

Commercial areas designed to promote compatibility with non-commercial uses and at the same time provide ease of access.
- The third general land use goal (FOF Item 15.B on page 14 of 18) is as follows:  

Land uses appropriately located in terms of:

  - i. utilities, public facilities,
  - ii. site characteristics, and
  - iii. public services.

**PROPOSED SPECIAL CONDITIONS OF APPROVAL**

A. The subject property is proposed to access US 150, and a permit from IDOT is required. The following condition makes it clear that no Zoning Use Permit can be granted for the subject property without a permit from IDOT approving access to the subject property:

- (1) **The Zoning Administrator shall not approve a Zoning Use Permit on the subject property unless the Zoning Use Permit Application includes a copy of the Illinois Department of Transportation approval for the same driveway access, site plan (if relevant), and proposed use that is submitted with the Zoning Use Permit Application, in addition to all other requirements for a Zoning Use Permit application.**
- (2) **The Zoning Administrator shall not issue a Zoning Compliance Certificate unless a copy of the approved "as built" driveway access approval by the Illinois Department of Transportation is provided, in addition to all other requirements.**

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

**The proposed use conforms to the traffic requirements of the relevant highway jurisdiction.**

B. The site plan indicates a canopy over the gasoline pumps, which will presumably be lighted and an artist's rendering of the proposed principal building seems to include what could be lights on the sides of the building. There are residential uses located adjacent to the subject property that could be impacted by night lighting of the subject property. The following condition requires the same standards for outdoor lighting as is required of all Special Use Permits:

**The proposed use shall meet the outdoor lighting requirements of Subsection 6.1.1.D. of the Zoning Ordinance.**

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

**The proposed rezoning does not create a nuisance due to night lighting of the subject property.**

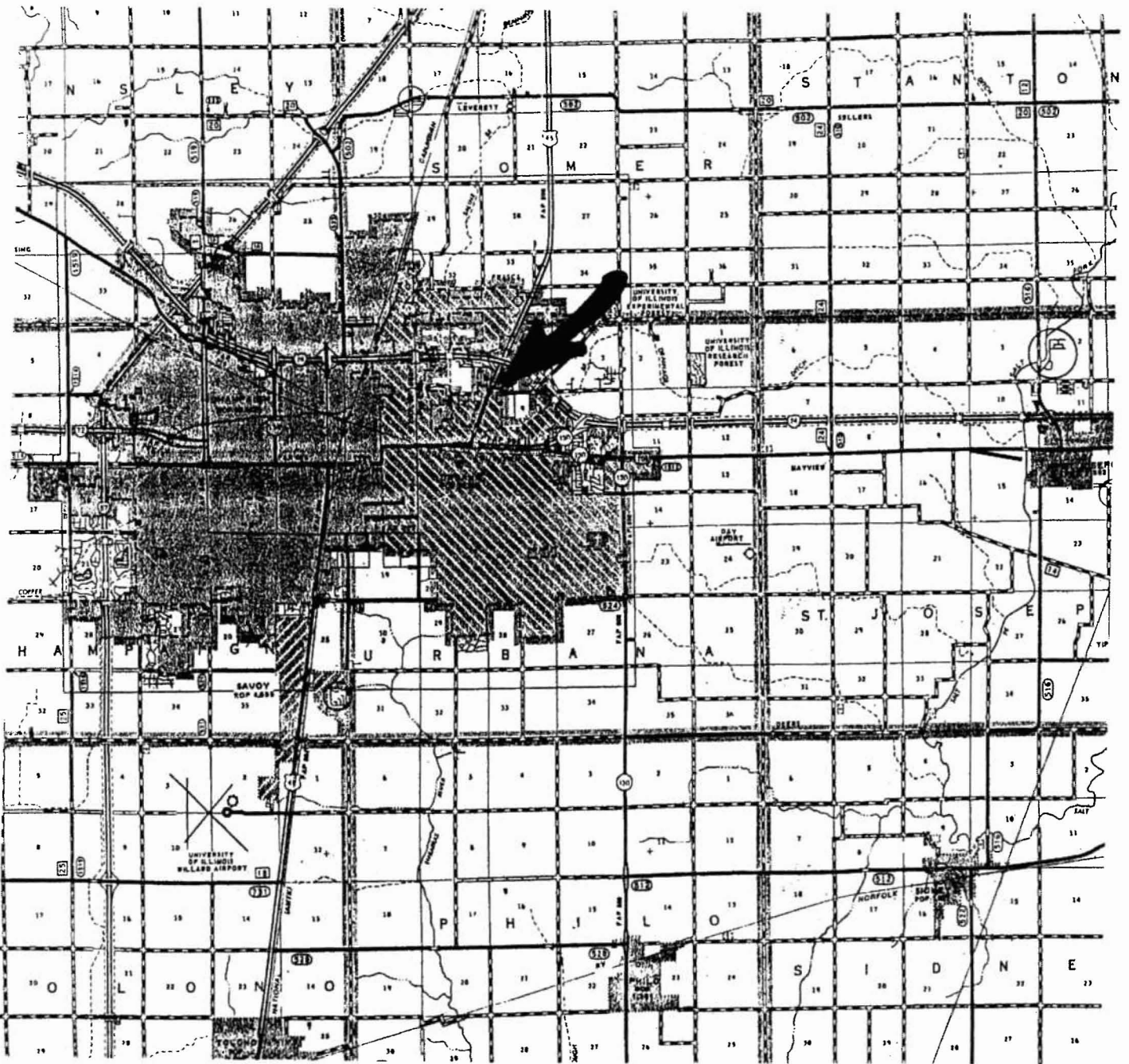
**ATTACHMENTS**

- A Case Maps for Case 611-AM-08 (Location, Land Use, Zoning)
- B Section 5.2 of the *Zoning Ordinance* Table of Authorized Uses (attached separately)
- C ALTA/ASCM Land Title Survey of the subject property, received on October 21, 2008
- D Attachment B to the ALTA/ASCM Land Title Survey of the subject property, Legal Description of the subject property, received on October 21, 2008
- E Site Plan for the proposed use, received on October 21, 2008
- F Artist's rendering of the proposed use, received on October 21, 2008
- G Letter from Joseph Crowe, P.E., Deputy Director of Highways IDOT, to Rick Fidler, Casey's General Stores, received on January 22, 2009
- H IDOT Highway Permit for Casey's General Stores
- I Preliminary Draft Finding of Fact for Case 611-AM-08

ATTACHMENT A. LOCATION MAP

Case 611-AM-08

JANUARY 23, 2009



Champaign  
County  
Department of

**PLANNING &  
ZONING**



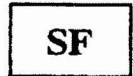
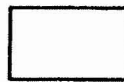
ATTACHMENT A. LAND USE MAP

Case 611-AM-08

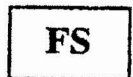
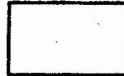
JANUARY 23, 2009



Area of Concern



Single Family



Farmstead



NORTH

1 inch equals 800 feet

Champaign  
County  
Department of

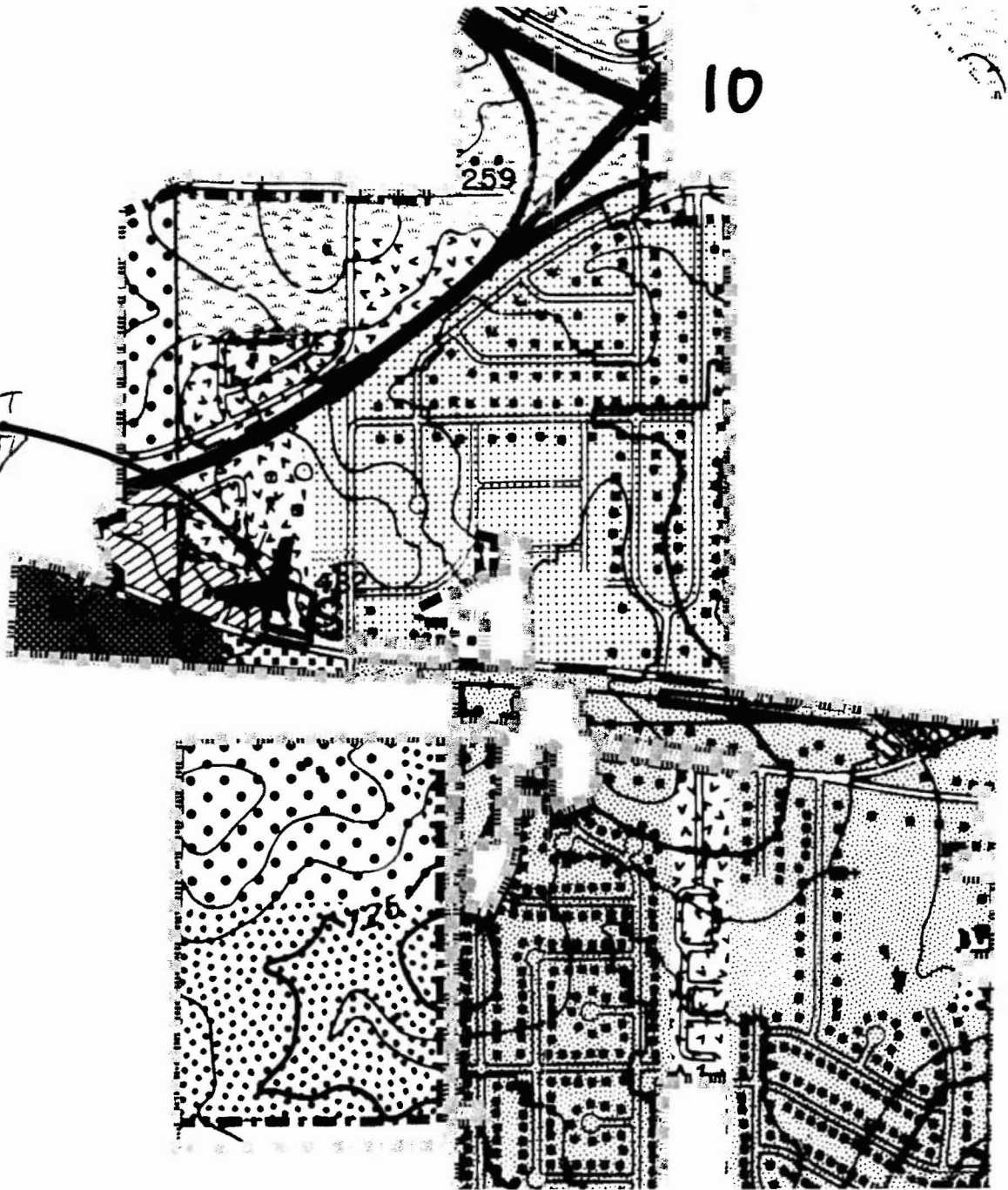
**PLANNING &  
ZONING**



ATTACHMENT A. ZONING MAP  
 Case 611-AM-08  
 JANUARY 23, 2009

City  
 of  
 Urbana

SUBJECT  
 PROPERTY



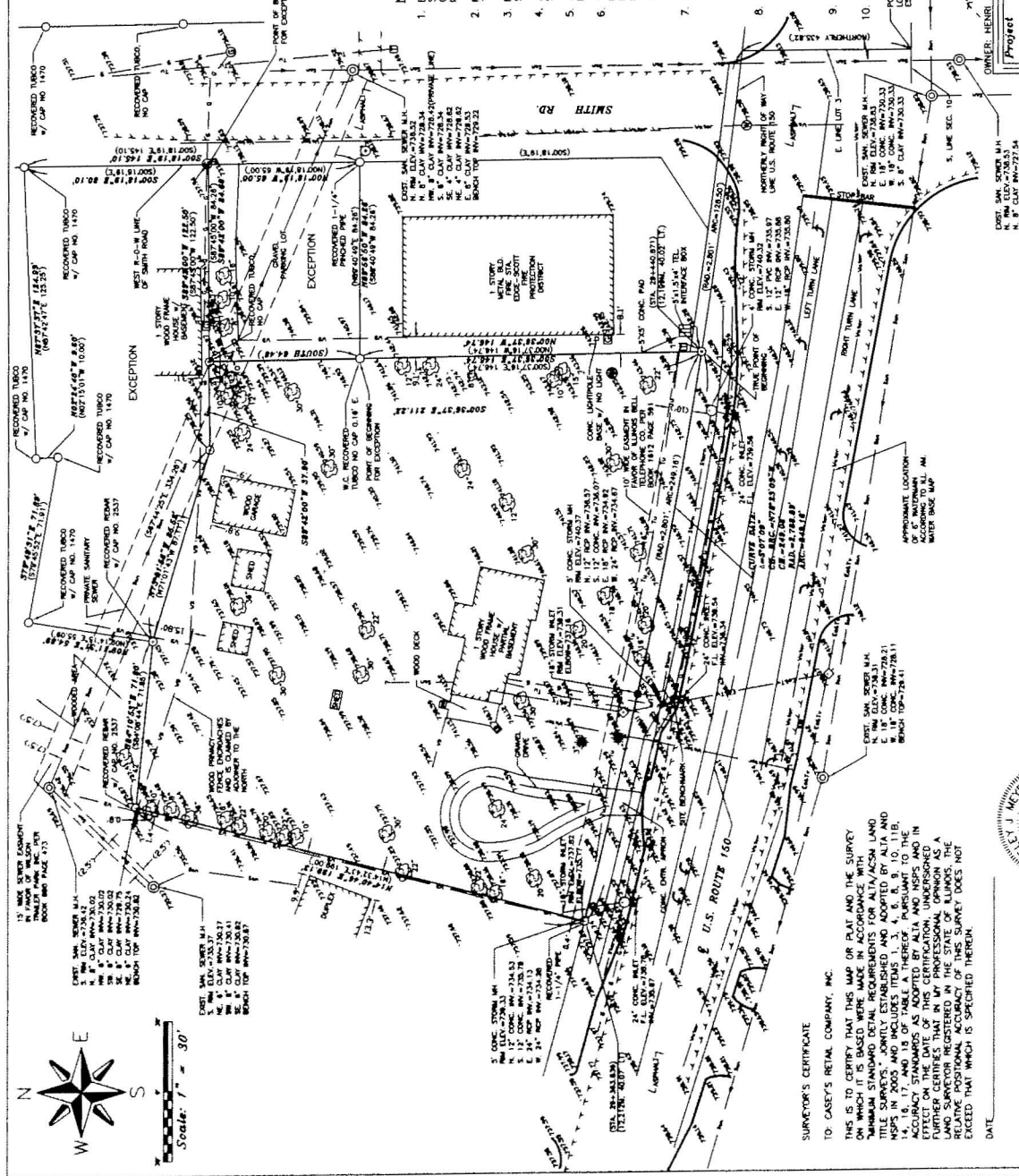
AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH CHampaign County Department of PLANNING & ZONING
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation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

**LEGEND**

- BOUNDARY OF PROPERTY SURVEYED
- CENTRELINE OF PUBLIC ROAD
- EDGE OF BITUMINOUS PAVEMENT
- EXISTING EASEMENT
- EXISTING WATER MAIN
- EXISTING SANITARY SEWER MAIN
- EXISTING GAS MAIN
- EXISTING PCC CURB (6" BARRIER)
- EXISTING UNDERGROUND TELEPHONE LINE
- EXISTING UNDERGROUND TELEPHONE LINE
- EXISTING WOOD FENCE
- BENCHMARK
- RECORD SURVEY MONUMENT, AS DESCRIBED
- RECORD SURVEY MONUMENT OR DATA
- SET REBAR WITH ALUMINUM CAP STAMPED
- WESLEY J. LUKERS, PLS. No. 2803
- CONCRETE MONUMENT
- STORM MANHOLE WITH SOLID COVER
- EXISTING STORM INLET
- 18" DIA. STORM INLET
- EXISTING TELEPHONE RISER
- EXISTING UTILITY POLE
- EXISTING WATER VALVE
- EXISTING GAS METER
- EXISTING GAS METER
- EXISTING GAS METER
- DECIDUOUS TREE & SIZE
- CONIFEROUS TREE & SIZE
- BUSH
- TURN LANE ARROWS

**NOTES:**

1. BEARINGS FOR THIS SURVEY REFER TO THE WEST RIGHT OF WAY LINE OF U.S. ROUTE 150. BEARINGS FOR THE CENTERLINE OF U.S. ROUTE 150 ARE ON A PLAT OF SURVEY BY CHARLES S. DANFORS, IRLS. NO. 1470 RECORDED IN PLAT BOOK V, PAGE 125 IN CHAMPAIGN COUNTY.
2. REFER TO ATTACHMENT "A" FOR NOTES AND OTHER INFORMATION REGARDING THE PROPERTY SURVEYED.
3. REFER TO ATTACHMENT "B" FOR LEGAL DESCRIPTION OF PROPERTY SURVEYED.
4. ALL UNDERGROUND UTILITY ROUTINGS ARE NOT NECESSARILY KNOWN OR SHOWN.
5. ALL FIELD WORK FOR THIS SURVEY WAS PERFORMED ON DECEMBER 13 THRU DECEMBER 18, 2007.
6. THE PROPERTY SURVEYED IS PRESENTLY ZONED B-5 MANUFACTURED HOME PARK BY CHAMPAIGN COUNTY, ILLINOIS. THE PROPERTY SURVEYED MAY BE REQUIRED TO BE ANNEXED TO THE CITY OF URBANA, ILLINOIS, IF THE PROPERTY IS TO BE ZONED TO CHAMPAIGN COUNTY BUSINESS DISTRICT. IF THE PROPERTY SURVEYED IS ANNEXED TO THE CITY OF URBANA IT WILL BE REQUIRED TO BE ZONED B-3 GENERAL BUSINESS DISTRICT.
7. BUILDING SETBACK REQUIREMENTS FOR CHAMPAIGN COUNTY B-4 DISTRICT ARE AS FOLLOWS:  
 FRONT YARD - 85 FEET FROM THE CENTRELINE OF A MAJOR STREET.  
 SIDE YARD - 10 FEET.  
 REAR YARD - 20 FEET.
8. BUILDING SETBACK REQUIREMENTS FOR CITY OF URBANA B-3 DISTRICT ARE AS FOLLOWS:  
 FRONT YARD - 15 FEET.  
 SIDE YARD - 10 FEET.  
 REAR YARD - 10 FEET.
9. BUILDING SETBACKS ARE NOT SHOWN DUE TO FINAL ZONING DISTRICT BEING UNKNOWN AT THE TIME OF THIS SURVEY.
10. SCALE: 1"=30'



**SURVEYOR'S CERTIFICATE**

TO: CASEY'S RETAIL COMPANY, INC.

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY THEREON WERE MADE IN ACCORDANCE WITH THE PROFESSIONAL STANDARD OF PRACTICE AND REQUIREMENTS FOR ALTA ACORN LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS IN 2005 AND INCLUDES ITEMS 1, 3, 4, 6, 8, 9, 10, 11B, 12, 13, 14, 15, AND 16 OF SAID STANDARD. PARAGRAPHS TO THE EFFECT OF THE DATE OF THIS CERTIFICATION, UNLESS OTHERWISE FURTHER CARRIES THAT IN MY PROFESSIONAL OPINION AS A LAND SURVEYOR INCORPORATED IN THE STATE OF ILLINOIS, THE SURVEY DOES NOT EXCEED THAT WHICH IS SPECIFIED THEREIN.

DATE: \_\_\_\_\_

WESLEY J. LUKERS  
 ILLINOIS PROFESSIONAL LAND SURVEYOR No. 2803  
 VEGRZYN, SARVER & ASSOCIATES, INC.  
 PROFESSIONAL DESIGN FIRM No. 184-000346  
 CHAMPAIGN, ILLINOIS 61826

MY LICENSE EXPIRES ON NOVEMBER 30, 2008

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**PROJECT**

Casey's Retail Company  
 ALTA ACORN Land Title Survey  
 Champaign County, Illinois

VEGRZYN, SARVER AND ASSOCIATES, INC.  
 CIVIL ENGINEERING - LAND SURVEYING - ARCHITECTURE  
 101 East Adams Street, Suite 1010 - Champaign, Illinois 61820  
 Phone: (312) 298-8888  
 Fax: (312) 298-8888

**SITE BENCHMARK**

CUT X ON TOP BACK OF STORM SEWER INLET CASTING AT NORTH SIDE OF U.S. ROUTE 150 NEAR SOUTH SIDE/CENTER OF PROPERTY SURVEYED. NAVD 88 DATUM. ELEV.=740.76

ORDER: HERRIN, MERLEO

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## **Attachment "B"**

VSA Project No. 14018

### **LEGAL DESCRIPTION OF PROPERTY SURVEYED:**

A PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN. DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 3 OF JACOB M. SMITH'S ESTATE SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE RUNNING NORTHERLY ALONG THE EAST LINE OF SAID LOT 3, 435.82 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF U.S. ROUTE 150; THENCE WESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2,801 FEET, AN ARC DISTANCE OF 128.50 FEET FOR A TRUE PLACE OF BEGINNING; THENCE CONTINUING WESTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF U.S. ROUTE 150 ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2,801 FEET, AN ARC DISTANCE OF 249.16 FEET, SAID CURVE HAVING A CHORD DISTANCE OF 249.08 FEET AND A CHORD BEARING OF NORTH 78 DEGREES 19 MINUTES 18 SECONDS WEST; THENCE NORTH 14 DEGREES 32 MINUTES 43 SECONDS EAST, 199.00 FEET; THENCE SOUTH 84 DEGREES 08 MINUTES 44 SECONDS EAST, 71.85 FEET; THENCE NORTH 09 DEGREES 14 MINUTES 15 SECONDS EAST, 55.09 FEET; THENCE SOUTH 79 DEGREES 45 MINUTES 52 SECONDS EAST, 71.91 FEET; THENCE NORTH 02 DEGREES 15 MINUTES 01 SECOND WEST, 10.00 FEET; THENCE NORTH 87 DEGREES 42 MINUTES 47 SECONDS EAST, 125.25 FEET TO THE WEST RIGHT OF WAY LINE OF SMITH ROAD; THENCE SOUTH 00 DEGREES 18 MINUTES 19 SECONDS EAST ALONG THE WEST RIGHT OF WAY LINE OF SMITH ROAD, 145.10 FEET; THENCE SOUTH 89 DEGREES 40 MINUTES 49 SECONDS WEST, 84.26 FEET; THENCE SOUTH 00 DEGREES 37 MINUTES 16 SECONDS EAST, 146.79 FEET TO THE PLACE OF BEGINNING, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS, EXCEPT THE FOLLOWING DESCRIBED TRACT:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 3 OF JACOB M. SMITH'S ESTATE SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE RUNNING NORTHERLY ALONG THE EAST LINE OF SAID LOT 3, 435.82 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF U.S. ROUTE 150; THENCE WESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2,801 FEET, AN ARC DISTANCE OF 128.5 FEET; THENCE NORTH 00 DEGREES 37 MINUTES 16 SECONDS WEST, 146.74 FEET; THENCE NORTH 89 DEGREES 40 MINUTES 49 SECONDS EAST, 84.26 FEET; THENCE NORTH 00 DEGREES 18 MINUTES 19 SECONDS WEST, 65.0 FEET FOR A TRUE PLACE OF BEGINNING; THENCE SOUTH 87 DEGREES 45 MINUTES 00 SECONDS WEST, 122.50 FEET; THENCE NORTH 71 DEGREES 01 MINUTE 43 SECONDS WEST, 87.11 FEET; THENCE NORTH 09 DEGREES 14 MINUTES 15 SECONDS EAST, 55.09 FEET; THENCE SOUTH 79 DEGREES 45 MINUTES 52 SECONDS EAST, 71.91 FEET; THENCE NORTH 02 DEGREES 15 MINUTES 01 SECOND WEST, 10 FEET; THENCE NORTH 87 DEGREES 42 MINUTES 47 SECONDS EAST, 125.25 FEET TO THE WESTERLY RIGHT OF WAY LINE OF SMITH ROAD;

THENCE SOUTH 00 DEGREES 18 MINUTES 19 SECONDS EAST, ALONG THE WESTERLY RIGHT OF WAY LINE OF SMITH ROAD, TO THE PLACE OF BEGINNING, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

AND ALSO EXCEPT:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 3 OF JACOB M. SMITH'S ESTATE SUBDIVISION OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 19 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE RUNNING NORTHERLY ALONG THE EAST LINE OF SAID LOT 3, 435.82 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF U.S. ROUTE 150; THENCE WESTERLY ALONG SAID RIGHT OF WAY LINE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 2,801 FEET, AN ARC DISTANCE OF 128.5 FEET; THENCE NORTH 00 DEGREES 37 MINUTES 16 SECONDS WEST, 146.74 FEET TO THE TRUE PLACE OF BEGINNING; THENCE NORTH 89 DEGREES 40 MINUTES 49 SECONDS EAST, 84.26 FEET TO THE WEST LINE OF SMITH ROAD; THENCE NORTH 00 DEGREES 18 MINUTES 19 SECONDS WEST, 65.0 FEET; THENCE SOUTH 87 DEGREES 45 MINUTES 00 SECONDS WEST 84.26 FEET; THENCE SOUTH TO THE TRUE PLACE OF BEGINNING, SITUATED IN CHAMPAIGN COUNTY, ILLINOIS.

THE ABOVE TRACT ENCOMPASSES A TOTAL NET AREA, EXCLUSIVE OF ALL EXCEPTIONS, OF 1.04 ACRES, MORE OR LESS.

ALL AS SHOWN ON THE ATTACHED PLAT OF SURVEY DATED JANUARY 7, 2007.







# Illinois Department of Transportation

Division of Highways / Region 3 / District 5  
13473 IL Highway 133 / P.O. Box 610 / Paris, Illinois / 61944  
Telephone 217/465-4181

ODP-1- B-2  
Permit No. 5-30360  
Champaign County

RECEIVED

JAN 22 2009

May 20, 2008

CHAMPAIGN CO. P & Z DEPARTMENT

Mr. Rick Fidler  
Casey's General Stores  
One Convenience Boulevard  
PO Box 3001  
Ankeny, Iowa 50021-8045

Dear Mr. Fidler:

Attached to this letter are two (2) copies of an application for permit to construct and maintain two (2) commercial entrances providing access to the proposed Casey's Convenience Store located on the north side of US Route 150 just west of Smith Road in Urbana.

The signature of the Director of Public Works of the City of Urbana is required in the space provided on this permit signifying City approval of the proposed construction.

Please sign the space provided at the right and a witness sign in the space to the left. Insert the date above these signatures. When properly executed, return all copies to this office at Paris. Your copy will be returned when formally approved.

If you have any questions, please contact our Permits Unit Chief,  
Mr. Thomas G. Dagley, at telephone number 217-466-7230 in Paris, Illinois.

Very truly yours,

A handwritten signature in black ink that reads "Joseph E. Crowe".

Joseph E. Crowe, P. E.  
Deputy Director of Highways,  
Region Three Engineer

JCL:jsv

REC'D MAY 27 2008



Illinois Department of Transportation

Highway Permit

District Serial No. 5-30360

Whereas, I (We) Casey's General Stores - c/o Mr. Rick Fidler One Convenience Boulevard; PO Box 3001
(Name of Applicant) (Mailing Address)

Ankeny Iowa 50021-8045 hereinafter termed the Applicant,
(City) (State)

request permission and authority to do certain work herein described on the right-of-way of the State Highway
known as FAP / US Route 808 / 150, Section 201(W,RS)
from Station 29+375 Lt. to Station 29+426 Lt.
Champaign County. The work is described in detail on the attached plan or sketch and/or as follows:

The work authorized by this permit shall consist of constructing and maintaining a storm water drainage system and two (2)
proposed access points onto US Route 150 providing access to the Casey's Convenience Store located on the north side
of US Route 150 just west of Smith Road in Urbana.

APPROVED
Director of Public Works, City of Urbana

RECEIVED

JAN 22 2009

CHAMPAIGN CO. P & Z DEPARTMENT

All work authorized by this permit shall be completed 180 days after the date this permit is approved,
otherwise the permit becomes null and void.

This permit is subject to the conditions and restrictions printed on the reverse side of this sheet.

This permit is hereby accepted and its provisions agreed to this day of

Witness Signed
Mailing Address Applicant
One Convenience Boulevard; PO Box 3001
Mailing Address
Ankeny IA
City State

SIGN AND RETURN TO: Regional Engineer I.D.O.T.; 13473 IL Hwy. 133; PO Box 610; Paris, Illinois 61944-0610

Approved this day of

Department of Transportation

BY: Deputy Director of Highways, Regional Engineer



***PRELIMINARY DRAFT***

**611-AM-08**

**FINDING OF FACT  
AND FINAL DETERMINATION  
of**

**Champaign County Zoning Board of Appeals**

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

Date: January 29, 2009

Petitioners: Casey's Retail Company and Henri Merkelo

Request: Amend the Zoning Map to change the zoning district designation from the R-5  
Manufactured Home Park Zoning District to the B-4 General Business Zoning District

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**FINDING OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 29, 2009**; the Zoning Board of Appeals of Champaign County finds that:

1. Co-petitioner Casey's Retail Company is the contract purchaser of the subject property, and co-petitioner Henri Merkelo is the owner of the subject property.
2. The subject property is a 1.04 acre tract in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter of Section 10 of Urbana Township and commonly known as the vacant house at 2218 East University Avenue, Urbana.
3. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana. Municipalities with zoning have protest rights on all rezonings and they are notified of such cases. Due to staff error, notification was sent to the City of Urbana and nearby property owners only nine days before the public hearing, instead of the 15 days required by the *Zoning Ordinance* and the ZBA by-laws.
4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated:  
  

**“Property will be used as Commercial. It is currently Residential.”**
5. Regarding comments by the petitioner when asked on the petition what other circumstances justify the amendment the petitioner has indicated:

**“The use of the land will be Commercial. It is currently Residential.”**

**PRELIMINARY DRAFT**

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

6. Land use and zoning on the subject property and in the vicinity is as follows:
  - A. The subject property is currently zoned R-5 MANUFACTURED HOME Park, and is a single family dwelling, but is not currently in use.
  - B. Land to the north of the subject property is zoned R-5 MANUFACTURED HOME Park, and is in use as part of a MANUFACTURED HOME park.
  - C. Land to the south of the subject property is zoned I-1 Light Industrial, and is in use as a t-shirt making business.
  - D. Land to the east of the subject property is zoned R-1 Single Family Dwelling, and is in use as the Edge-Scott Fire Protection District Station, which was authorized by Zoning Case 482-S-83.
  - E. Land to the west of the subject property is zoned B-2 Neighborhood Business, and is in use as public facilities for the MANUFACTURED HOME park.

**GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS**

7. Regarding the existing and proposed zoning districts:
  - A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:
    - (1) The R-5, Manufactured Home Park DISTRICT is intended to accommodate MANUFACTURED HOME PARKS and their associated USES in a medium density housing environment.
    - (2) The B-4, General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.
  - B. Regarding the general locations of the existing and proposed zoning districts:
    - (1) The R-5 MANUFACTURED HOME Park Zoning District appears to have been established wherever there were existing MANUFACTURED HOME Parks in the County and since the adoption of the *Zoning Ordinance* the District has not been expanded except in case 562-AM-06.
    - (2) There is no easy generalization to describe where the B-4 General Business Zoning District was originally established except to say that with a few large exceptions it does not occur very often outside of the fringe of urbanized areas. There has been a trend in recent years to change B-3 zoned areas to B-4.
  - C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:

ITEM 7.C. CONTINUED

- (1) There are 13 different types of uses authorized by right in the R-5 District and there are 114 different types of uses authorized by right in the B-4 District:
  - (a) The following nine uses are authorized by-right in both districts:
    - Subdivisions totaling three lots or less;
    - Subdivisions totaling more than three lots;
    - Agriculture;
    - Institution of an Educational, Philanthropic, or Eleemosynary Nature;
    - Church, Temple, or church related TEMPORARY USES on church property;
    - Municipal or Government Building;
    - Police or fire station;
    - Library, museum, or gallery; and
    - Lodge or private club
  - (b) The following 103 uses are authorized by-right in the B-4 District but are not authorized by any means in the R-5 District:
    - Hotel with no more than 15 lodging units;
    - Hotel with more than 15 lodging units;
    - Minor Rural Specialty Business;
    - Major Rural Specialty Business;
    - Commercial greenhouse;
    - Greenhouse not exceeding 1,000 square feet;
    - Garden shop;
    - Plant nursery;
    - Public park or recreational facility;
    - Parking Garage or lot;
    - Radio or television station;
    - Telegraph Office;
    - Railway Station;
    - Motor Bus Station;
    - Truck Terminal;
    - Barber Shop;
    - Beauty Shop;
    - Reducing Salon;
    - Dressmaking Shop;
    - Drycleaning Establishment;
    - Laundry and/or drycleaning pick-up
    - Millinery Shop;
    - Self-service laundry;
    - Shoe repair shop;
    - Tailor and pressing shop;
    - Diaper service establishment;
    - Clothing repair and storage;

***PRELIMINARY DRAFT***

ITEM 7.(1)(B) CONTINUED

- Mortuary or Funeral Home;
- Medical and Dental Clinic;
- Roadside Produce Sales Stand;
- Farm Equipment Sales & Service;
- Feed and Grain (sales only)
- Artist studio
- Banks, Savings and Loan Associations;
- Insurance and Real Estate Offices;
- Business Office;
- Professional Office;
- Vocational, Trade, or Business School;
- Meat and Fish Market;
- Restaurant (indoor service only);
- Supermarket or Grocery store;
- Drive-in Restaurant;
- Tavern or Nightclub;
- Bakery (less than 2,500 square feet);
- Dairy store;
- Delicatessen;
- Confectionery Store;
- Retail Liquor Store;
- Cold Storage Locker for Individual Use;
- Automobile, Truck, Trailer, and Boat Sales room (all indoors);
- Automobile, or Trailer sales area (open lot);
- Major Automobile Repair (all indoors);
- Minor Automobile Repair (all indoors);
- Gasoline Service Store;
- Automobile Washing Facility;
- Automotive Accessories (new);
- Building Materials Sales (excluding concrete or asphalt mixing);
- Hardware store;
- Electrical or gas appliance Sales and Service;
- Department Store;
- Apparel Store;
- Shoe Store;
- Jewelry Store;
- Stationery-Gift Shop-Art Supplies;
- Florist;
- Newsstand-Bookstore;
- Tobacconist;
- Variety-Drygoods Store;
- Music Store;

ITEM 7.(1)(B) CONTINUED

- Drugstore;
  - Photographic Studio & Equipment Sales and Service;
  - Furniture Store – Office Equipment Sales;
  - Antique Sales and Service;
  - Used Furniture Sales and Service;
  - Pet Store;
  - Bicycle Sales and Service;
  - Fuel Oil, ice, coal, wood (sales only)
  - Monument Sales (Excludes stone cutting)
  - Pawn shop;
  - Sporting Goods Sales & Service;
  - Heating, Venting, Air Conditioning Sales and Service;
  - Lawnmower Sales and Service;
  - Bait sales;
  - Billiard room;
  - Bowling Alley;
  - Dancing Academy or hall;
  - Outdoor commercial recreational enterprise (except amusement park);
  - Private Indoor Recreational Development;
  - Indoor Theater;
  - Commercial Fishing Lake;
  - Veterinary Hospital;
  - Wholesale Business;
  - Warehouse;
  - Self-storage warehouses, providing heat and utilities to individual units;
  - Self-storage warehouses, not providing heat and utilities to individual units;
  - Auction House (non-animal);
  - Christmas Tree Sales Lot;
  - Off-premises sign;
  - Sexually Oriented Business;
  - Temporary Uses
  - Contractors Facilities (with no outdoor storage nor outdoor operations);
  - Contractors Facilities with outdoor storage (located in the rear yard and properly screened) and /or outdoor operations; and
  - Small Scale Metal Fabricating Shop
- (c) The following 2 uses are authorized by-right in the B-4 District and may be authorized by Special Use Permit only in the R-5 District:
- Telephone Exchange; and
  - Private Kindergarten or Day Care Facility

**PRELIMINARY DRAFT**

ITEM 7.C. CONTINUED

- (2) There are eight different types of uses authorized by Special Use Permit (SUP) in the R-5 District and there are 10 different types of uses authorized by Special Use Permit in the B-4 District.
  - (a) The following three uses may be authorized by SUP in both districts:
    - Adaptive reuses of government buildings for any by-right use;
    - Electrical substation; and
    - Hospital
  - (b) The following seven uses may be authorized by SUP in the B-4 District but are not authorized by any means in the R-5 District:
    - Private or commercial transmission and receiving towers (including antennas) over 100 feet in height;
    - Heliport-Restricted Land Areas;
    - Bakery (more than 2,500 square feet);
    - Amusement Park;
    - Kennel;
    - Recycling of non-hazardous materials (all storage and processing indoors); and
    - Contractors Facilities with Outdoor Storage and/or Operations

**GENERALLY REGARDING WHETHER THE SUBJECT PROPERTY IS WITHIN A MUNICIPAL ETJ AREA**

8. The subject property is located within the one and one-half mile extraterritorial jurisdiction (ETJ) of the City of Urbana. Based on the proposed use, after the subject property is rezoned it will be required to obtain a sewer permit, which will also require an annexation agreement with the City.

**REGARDING CHAMPAIGN COUNTY LAND USE GOALS AND POLICIES**

9. The Land Use Goals and Policies were adopted on November 29, 1977, and were the only guidance for County Map Amendments until the Land Use Regulatory Policies-Rural Districts (LURP) were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR). The LURP's were amended September 22, 2005, but the amendment contradicts the current Zoning Ordinance and cannot be used in concert with the current Zoning Ordinance. The LURP's adopted on November 20, 2001, remain the relevant LURP's for discretionary approvals (such as map amendments) under the current Zoning Ordinance. The relationship of the Land Use Goals and Policies to the relevant LURP's is as follows:
  - A. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies.
  - B. The Land Use Goals and Policies cannot be directly compared to the Land Use Regulatory Policies because the two sets of policies are so different. Some of the Land Use Regulatory Policies relate to specific types of land uses and relate to a particular chapter in the land use goals and policies and some of the Land Use Regulatory Policies relate to overall considerations and are similar to general land use goals and policies.

**GENERALLY REGARDING POLICIES FOR COMMERCIAL LAND USE**

10. There are seven commercial land use policies in the Land Use Goals and Policies, and two utilities policies (7.3 and 7.3a) which are relevant, as follows:

A. Four of the seven commercial land use policies are not relevant to any given rezoning, as follows:

- (1) Policy 3.2 of the Land Use Goals and Policies states that the County Board will establish, by amendment to the Zoning Ordinance or other means, a process for reviewing petitions for new commercial land to include a determination of the need for new commercial development based on market demand.
- (2) Policy 3.3 of the Land Use Goals and Policies states that the Environment and Land Use Committee will examine the Zoning Ordinance to institute more flexible commercial development controls such as planned unit development and transfer of development rights in order to provide a wider variety of commercial development techniques and better compatibility with non-commercial uses.
- (3) Policy 3.7 of the Land Use Goals and Policies states that the County Board will strongly discourage proposals for new commercial development along arterial streets and highways if the proposals contribute to the establishment or maintenance of a strip commercial pattern. As an alternative, concentrated or nodal patterns of development may be considered when there is adequate provision for safe, controlled access to the arterial streets and highways.

B. Policy 3.1 of the Land Use Goals and Policies states that the County Board will encourage only those new commercial developments which are found to be needed to serve the demands of the residents of Champaign County and its trade area.

The proposed rezoning appears to **CONFORM** to Policy 3.1 because co-petitioner Casey's Retail Company plans to close their current location at 2108 East University Avenue, Urbana, which is three lots west of the subject property, and the proposed use in this case will replace the existing Casey's store.

C. Regarding the adequacy of utilities and fire protection at the subject property for the proposed map amendment:

- (1) The following policies relate to adequacy of utilities and fire protection:
  - (a) Policy 3.4 of the Land Use Goals and Policies states that the County Board will not encourage major new commercial development except in those areas where sewer, water, adequate fire protection and other utilities are readily available.
  - (b) Policy 7.3 states that the County Board will encourage development only in areas where both sewer and water systems are available. In areas without public sewer and water systems, development may occur only if it is determined that individual septic systems can be installed and maintained in a manner which will not cause contamination of aquifers and groundwater and will not cause health hazards.

**PRELIMINARY DRAFT**

ITEM 10.C.(1)(B) CONTINUED

Requests for development should demonstrate that wastewater disposal systems, water supply, fire and police protection are adequate to meet the needs of the proposed development.

- (c) Policy 7.3A states that new subdivisions and zoning changes should meet these (7.3 above) standards and will be considered where they are not in conflict with the goals and policies of this Plan.
- (2) Regarding the availability of a connected public water supply system water:
- (a) According to the proposed Site Plan an existing six-inch water main runs down the west side of Smith Road, across US 150 and then turns right to run along the south side of US 150.
  - (b) The Site Plan also indicates a proposed two-inch water service line that will connect to the existing water main on the south side of US 150, and connect to the water meter in the proposed Casey's store.
  - (c) In regards to the availability of an adequate water supply system, the proposed map amendment **CONFORMS** because the subject property is proposed to use an existing public water supply system.
- (3) Regarding the availability of a connected public sanitary sewer system for the subject property:
- (a) The Site Plan indicates an existing public sanitary sewer line runs along the east side of Smith Road, and another line runs along the south side of US 150.
  - (b) The Site Plan also indicates that the co-petitioner Casey's Retail Company plans to obtain a 10 foot wide easement across the parking lot of the Edge-Scott Fire Protection District Station to connect to the sewer line on the east side of Smith Road.
  - (c) A letter from Kelly Read, Real Estate/Store Development Administrator, received on October 21, 2008, indicates that Casey's has resolved their sewer easement with the Edge-Scott Fire Protection District.
  - (d) In regards to the availability of an onsite wastewater disposal system, the proposed map amendment **CONFORMS** because the subject property is proposed to use an existing connected public sanitary sewer system.
- (4) Regarding the adequacy of fire protection at this location for the proposed map amendment:



ITEM 10.C.(4) CONTINUED

- (a) The subject property is located within the response area of the Edge-Scott Fire Protection District, and is located adjacent to the fire protection district station. The Fire District chief has been notified of this request but no comments have been received. The notice to the Fire District chief was sent out late with the other notices for this case.
- (b) In regards to adequate fire protection, the proposed map amendment appears to **CONFORM** to Policy 3.4 because there have been no concerns raised by the Edge-Scott Fire Protection District, and the subject property is located adjacent to the fire protection district station.
- (5) There is no evidence to suggest that there will be any demand for gas or electric utilities beyond what is normal for a typical use in this area; therefore, there should be no problems or costs to the public.
- (6) The proposed rezoning appears to **CONFORM** overall with Policies 3.4, 7.3, and 7.3A.
- D. Policy 3.5 of the Land Use Goals and Policies states that the County Board will not encourage major new commercial developments except in those areas which can be adequately served by public mass transit.  
  
The proposed rezoning **CONFORMS** to Policy 3.5 because the subject property is served by the 7 Grey bus route of the Champaign-Urbana Mass Transit District, and it is near the 5 Green bus route.
- E. Policy 3.6 of the Land Use Goals and Policies states that the County Board will strongly discourage proposals for new commercial development not making adequate provisions for drainage and other site considerations.

The proposed rezoning **{CONFORMS/DOES NOT CONFORM}** to Policy 3.6 based on the following:

- (1) Any future construction on this property will have to meet the requirements of the *Zoning Ordinance* and the *Stormwater Management Policy*.
- (2) The Site Plan does not indicate anything regarding drainage. However, Bob Buchanan, Vegrzyn, Sarver, & Assoc. (VSA), in a phone conversation with J.R. Knight, Associate Planner, on January 22, 2009, indicated that VSA was designing an underground stormwater drainage system that would meet the City of Urbana's drainage requirements.
- (3) The proposed use is a commercial enterprise that is bordered on the north by a dwelling that conforms to use, and on the west by a dwelling that does not conform to use because it is located in a business district. Regarding compatibility with the two dwellings:

**PRELIMINARY DRAFT**

ITEM 10.E. CONTINUED

- (a) As a business the proposed use will generate noise from many sources: vehicular traffic, customers, and commercial air conditioning and refrigeration equipment. It is expected that this noise could continue to some degree for 24 hours per day if the business ever goes to a 24-hour schedule.
- (b) A typical commercial use generates much more traffic than a dwelling. However, the proposed use will access US 150, a federal highway which carries 14,500 Average Daily Trips already. The main impact from increased traffic on neighboring properties will be the noise caused by vehicles entering and leaving the property.
- (c) The *Zoning Ordinance* requires that lots that are zoned residential be screened from parking areas and loading berths. The Ordinance also requires that major streets and lots zoned residential be screened from outdoor storage. Neither parking areas nor outdoor storage are required to be screened from commercial buildings. There is no screening indicated on the site plan and screening will be required.
- (d) The Board may wish to consider a vegetative screen along the entire north property line to increase the buffering provided to the residential property to the north.
- (e) The Site Plan for the proposed use includes a canopy, which will presumably be lighted at night. To prevent light from the proposed use from trespassing onto the neighboring residential uses, a special condition is proposed that will require the proposed use to conform to the standard condition for lighting that applies to all Special Use Permits. Generally the standard condition requires full-cutoff lighting fixtures of the lowest possible wattage.
- (f) The Dumpster/Recycle area indicated on the Site Plan constitutes outdoor storage, which is required to be 10 feet from any side lot line. The Site Plan indicates the Dumpster/Recycle area is only eight feet, six inches from the west lot line. The dumpster area will either have to be moved one foot, six inches to the east or the petitioners will have to obtain a variance from the side yard requirement.

**REGARDING POLICIES FOR RESIDENTIAL LAND USE**

- 11. There are seven residential land use policies in the Land Use Goals and Policies, which are relevant, as follows:
  - A. Four of the seven residential land use policies do not appear to be relevant to the proposed rezoning, as follows:

ITEM 11.A. CONTINUED

- (1) Policy 2.1 of the Land Use Goals and Policies states that the Environment and Land Use Committee, in cooperation with municipal plan commissions, will examine current provisions of zoning and subdivision ordinances for the purposes of increasing the flexibility of regulations to encourage a greater range of site designs and housing types.
- (2) Policy 2.4 of the Land Use Goals and Policies states that the Environment and Land Use Committee will examine undeveloped areas zoned residential to determine probability of development within the period covered by this Plan and the Committee will undertake study of possible alternative uses of the land.
- (3) Policy 2.5 of the Land Use Goals and Policies states that the Zoning Board of Appeals, the Environment and Land Use Committee and the County Board will only support the development of residential areas separated from incompatible non-residential uses, unless natural or man-made buffering is provided.

Despite this policy not strictly applying to the proposed rezoning it does underscore the importance of providing buffering between commercial and residential uses.

- (4) Policy 2.7 of the Land Use Goals and Policies states that where housing of greater density than one or two-family units is planned, the Zoning Board of Appeals and the Environment and Land Use Committee and the County Board will encourage the provision of underground or under-building parking to provide the maximum amount of useable open space around the building.
- B. Policy 2.2 of the Land Use Goals and Policies states that the Environment and Land Use Committee will work with municipal plan commissions to review existing zoning patterns and regulations within urban areas and initiate proposals to encourage development and redevelopment of “in-town” areas.

The proposed rezoning *{CONFORMS/DOES NOT CONFORM}* to Policy 2.2 because of the following:

- (1) The subject property is located in a developed area, less than 200 feet from the City of Urbana corporate limits, and the proposed rezoning will allow for the redevelopment of a vacant property.
  - (2) The proposed use will replace the existing Casey’s General Store location three lots to the west of the subject property. There is no indication at this time whether there is a plan for the old store location or whether it will remain vacant.
- C. Residential policies relevant to the adequacy of water, sewer, and other utilities are as follows:
- (1) Policy 2.3 of the Land Use Goals and Policies states that the County Board will encourage new residential development in areas where public or private sewer and water utility systems are, or easily can be, provided and where police and fire protection are available. The County Board will permit new residential development in areas without

**PRELIMINARY DRAFT**

ITEM 11.C.(1) CONTINUED

access to public sewer and water utilities only if it can be determined that the use of individual septic systems will not cause contamination of aquifer and groundwater and will not cause health hazards.

- (2) Policy 2.3A states that new subdivisions and zoning changes should meet these (2.3 above) standards and will be considered where they are not in conflict with the goals and policies of this Plan.
- (3) The proposed rezoning **CONFORMS** to Policies 2.3 and 2.3A to the same degree as it conforms to Policies 3.4, 7.3, and 7.3A (See Item 10.D., above).

- D. Policy 2.6 of the Land Use Goals and Policies states that the County Board will work for the maintenance of sound housing and the improvement, replacement or elimination of deteriorating housing in the County.

The proposed rezoning **CONFORMS** to Policy 2.2 because the existing house on the subject property has been vacant for several years and the proposed rezoning will allow a business already existing in the area to upgrade its operations.

**REGARDING GOALS FOR COMMERCIAL LAND USES**

- 12. The commercial land use goals are relevant because the subject property is proposed to be changed to the B-4 DISTRICT. There are four commercial land use goals as follows:

- A. The first and fourth land use goals do not appear to be relevant to any given rezoning, as follows:
  - (1) The first commercial land use goal is provision of a sufficient amount of land designated for various types of commercial land use to serve the needs of the residents of the County.
  - (2) The fourth commercial land use goal is establishment of development procedures to promote appropriate justification for new commercial development.

- B. The second commercial land use goal is as follows:

Location of commercial uses:

- i. within ready accessibility to sewer, water and other utilities as well as adequate streets and highways.
- ii. Adequate public transit will also be considered.

Overall, the proposed rezoning **ACHIEVES** this goal based on the following:

- (1) In regards to accessibility of sewer, water, and other utilities Policy 3.4, Policy 7.3, and Policy 7.3A (see Item 10D.), the proposed rezoning **ACHIEVES** this goal.
- (2) In regards to adequate streets and highways, the proposed rezoning **ACHIEVES** the second commercial land use goal based on the following:

ITEM 12.B.(2) CONTINUED

- (a) There is no traffic impact analysis provided for this case.
  - (b) US 150 is a federal highway maintained by IDOT approximately 45 feet wide where the subject property accesses the road.
  - (c) The co-petitioner, Casey's Retail Company, has begun the permitting process with IDOT. Josh Lowry, IDOT Permits Technician, in a phone conversation with J.R. Knight, Associate Planner, on January 22, 2009, indicated they did not see any problems with Casey's permit in their preliminary review.
- (3) In regards to adequate public transit, the proposed rezoning **ACHIEVES** the second commercial land use goal because the subject property is located on the 7 Grey bus route of the Champaign-Urbana Mass Transit District and near the 5 Green bus route. However, as a Gasoline Service Station it is unlikely that the majority of customers coming to this use would be using a bus.

C. The third commercial land use goal is as follows:

Commercial areas designed to promote compatibility with non-commercial uses and at the same time provide ease of access.

This goal **{WILL/WILL NOT}** be achieved by the proposed rezoning, based on the following:

- (1) In regards to compatibility with non-commercial uses, the proposed map amendment **{ACHIEVES/DOES NOT ACHIEVE}** this goal based on conformance with Policy 3.6 (See Item 10.E.(3) for specific discussion of compatibility).
- (2) In regards to ease of access the proposed map amendment **ACHIEVES** this goal because the subject property has access to US 150.

**REGARDING GOALS FOR RESIDENTIAL LAND USES**

13. There are three goals for residential land use in the Land Use Goals and Policies. All three are not relevant to this map amendment. The three goals are as follows:
- A. Residential neighborhoods which provide adequate housing to meet the needs of future residents of Champaign County, adequate recreation and open space, access to utilities, access to commercial and employment centers and other community support services.
  - B. An ample supply of housing with a variety of types and cost levels to meet the demand of Champaign County residents for the planning period, and to accommodate the needs of families of various sizes and with various occupations and incomes both for permanent and transient residents.

**PRELIMINARY DRAFT**

ITEM 13. CONTINUED

- C. Residential development procedures which will promote the production of an adequate housing supply in a manner compatible with the goals and policies of this Land Use Plan.

**REGARDING GENERAL LAND USE POLICIES**

14. There are two general land use policies in the Land Use Goals and Policies, as follows:

- A. The second land use policy is not relevant to any specific map amendment, as follows:

The County Board, the Environmental and Land Use Committee and the Board of Appeals will establish communication and coordination processes among local units of government in order to address and resolve similar or overlapping development problems.

- B. The first general land use policy is as follows:

The County Board, the Environmental and Land Use Committee and the Zoning Board of Appeals will follow the policies of:

- i. encouraging new development in and near urban and village centers to preserve agricultural land and open space;
- ii. optimizing the use of water, sewer, and public transportation facilities; and reducing the need for extending road improvements and other public services.

Based on the review of the relevant commercial land use policies and goals, the proposed map amendment **CONFORMS** to this policy as follows:

- (1) **CONFORMS** in regards to preserving agricultural land and open space because the proposed rezoning will result in the re-development of a vacant residential property located in an urban area.
- (2) **CONFORMS** in regards to optimizing the use of water, sewer, and public transportation facilities and other public services based on the following:
  - (a) Regarding water and sewer, the subject property is proposed to use existing public water and sanitary sewer facilities.
  - (b) Regarding public transportation, the subject property will be served by the Champaign-Urbana Mass Transit District, which has existing bus routes in that serve the subject property (See Item 12.B.(3) above).
  - (c) **CONFORMS** in regards to reducing the need for extending road improvements, because the subject property is located on a Federal Highway that already handles a large amount of traffic.

**REGARDING GENERAL LAND USE GOALS**

15. There are five general land use goals for all land use in the Land Use Goals and Policies, as follows:
- A. Three of the general land use goals are not relevant to the proposed map amendment for the following reasons:
    - (1) The first and fifth general land use goals are not relevant to any specific map amendment.
    - (2) The second general land use goal is so generally stated that it is difficult to evaluate the degree of achievement by the proposed rezoning.

B. The third general land use goal is as follows:

Land uses appropriately located in terms of:

- i. utilities, public facilities,
- ii. site characteristics, and
- iii. public services.

Overall the proposed map amendment **ACHIEVES** the third general land use goal, based on the following:

- (1) In regards to utilities, based on the review of the relevant policies: Policy 3.4, Policy 7.3, Policy 7.3A (see item 10.C.), and the first general land use policy (see item 14.B.) the proposed map amendment **ACHIEVES** this goal.
- (2) Regarding road improvements, the proposed map amendment **ACHIEVES** the third general land use goal because the subject property is located on a federal highway.
- (3) Regarding site characteristics, the proposed map amendment **{ACHIEVES/DOES NOT ACHIEVE}** this goal based on conformance with Policy 3.6 and the third commercial land use goal (See Item 12.C. and 10.E.(3) for specific discussion of compatibility issues).

C. The fourth general land use goal is as follows:

Arrangement of land use patterns designed to promote mutual compatibility.

Overall the fourth general land use goal **{WILL/WILL NOT}** be achieved by the proposed rezoning based on conformance or achievement of the preceding policies and goals.

**GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL**

16. Regarding proposed special conditions of approval:
- A. The subject property is proposed to access US 150, and a permit from IDOT is required. The following condition makes it clear that no Zoning Use Permit can be granted for the subject property without a permit from IDOT approving access to the subject property:

*PRELIMINARY DRAFT*

ITEM 16.A. CONTINUED

- (1) **The Zoning Administrator shall not approve a Zoning Use Permit on the subject property unless the Zoning Use Permit Application includes a copy of the Illinois Department of Transportation approval for the same driveway access, site plan (if relevant), and proposed use that is submitted with the Zoning Use Permit Application, in addition to all other requirements for a Zoning Use Permit application.**
- (2) **The Zoning Administrator shall not issue a Zoning Compliance Certificate unless a copy of the approved “as built” driveway access approval by the Illinois Department of Transportation is provided, in addition to all other requirements.**

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

**The proposed use conforms to the traffic requirements of the relevant highway jurisdiction.**

- B. The site plan indicates a canopy over the gasoline pumps, which will presumably be lighted and an artist’s rendering of the proposed principal building seems to include what could be lights on the sides of the building. There are residential uses located adjacent to the subject property that could be impacted by night lighting of the subject property. The following condition requires the same standards for outdoor lighting as is required of all Special Use Permits:

**The proposed use shall meet the outdoor lighting requirements of Subsection 6.1.1.D. of the Zoning Ordinance.**

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

**The proposed rezoning does not create a nuisance due to night lighting of the subject property.**



**DOCUMENTS OF RECORD**

1. Letter from Kelly Read, Real Estate/Store Development Administrator, received on October 21, 2008, and attachments:
  - A Application for Rezoning from Casey's Retail Company and Henri Merkelo, received on October 21, 2008, 2008
  - B ALTA/ASCM Land Title Survey of the subject property
  - C Attachment B to the ALTA/ASCM Land Title Survey of the subject property, Legal Description of the subject property
  - D Site Plan for the proposed use
  - E Artist's rendering of the proposed use
  
2. Letter from Joseph Crowe, P.E., Deputy Director of Highways IDOT, to Rick Fidler, Casey's General Stores, received on January 22, 2009, with attachment:
  - A IDOT Highway Permit for Casey's General Stores
  
3. Preliminary Memorandum for Case 611-AM-08, with attachments:
  - A Case Maps for Case 611-AM-08 (Location, Land Use, Zoning)
  - B Section 5.2 of the *Zoning Ordinance* Table of Authorized Uses (attached separately)
  - C ALTA/ASCM Land Title Survey of the subject property, received on October 21, 2008
  - D Attachment B to the ALTA/ASCM Land Title Survey of the subject property, Legal Description of the subject property, received on October 21, 2008
  - E Site Plan for the proposed use, received on October 21, 2008
  - F Artist's rendering of the proposed use, received on October 21, 2008
  - G Letter from Joseph Crowe, P.E., Deputy Director of Highways IDOT, to Rick Fidler, Casey's General Stores, received on January 22, 2009
  - H IDOT Highway Permit for Casey's General Stores
  - I Preliminary Draft Finding of Fact for Case 611-AM-08

**FINAL DETERMINATION**

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The rezoning requested in Case 611-AM-08 should be *{ENACTED/NOT ENACTED}* by the County Board *{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:

Doug Bluhm, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

# CASE NO. 642-V-08

PRELIMINARY MEMORANDUM

January 23, 2009

Champaign  
County  
Department of

Petitioners: **Michael T. McCulley and  
Riley J. McCulley**

Request: **Authorize the creation and use of a lot 3.80 acres in area in lieu of the maximum allowed 3.0 acres on best prime farmland.**



Site Area: **3.8 acres**

Location: **A 3.80 acre portion of a 36 acre tract in the North Half of the Southwest Quarter of Fractional Section 1 of Hensley Township and commonly known as the house at 2354B CR 1100E, Champaign.**

Time Schedule for Development:  
**Immediate**

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

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

(217) 384-3708  
FAX (217) 328-2426

---

## BACKGROUND

The petitioners engineer first contacted staff regarding the subject property on August 13, 2008. The petitioners wished to divide an existing farmstead from the lot containing the remaining farmland.

After some communication with staff the petitioners proposed a lot greater than three acres on best prime farmland, which exceeds the maximum lot size requirement of the *Zoning Ordinance*. The petitioners maintain that to encompass all the existing features that they wish to have on the proposed lot an area greater than 3 acres is necessary.

The petitioners submitted an application for a variance on December 3, 2008, along with an application for subdivision plat approval to create the proposed lot. If the variance is approved the subdivision will be presented to ELUC at their February 2009 meeting.

## 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	AG-1 Agriculture
North	Single Family Dwelling	AG-1 Agriculture
East	Artificial lake and Farmland	AG-1 Agriculture
West	Farmland	AG-1 Agriculture
South	Single Family Dwelling	AG-1 Agriculture

## **MUNICIPAL EXTRATERRITORIAL JURISDICTION**

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

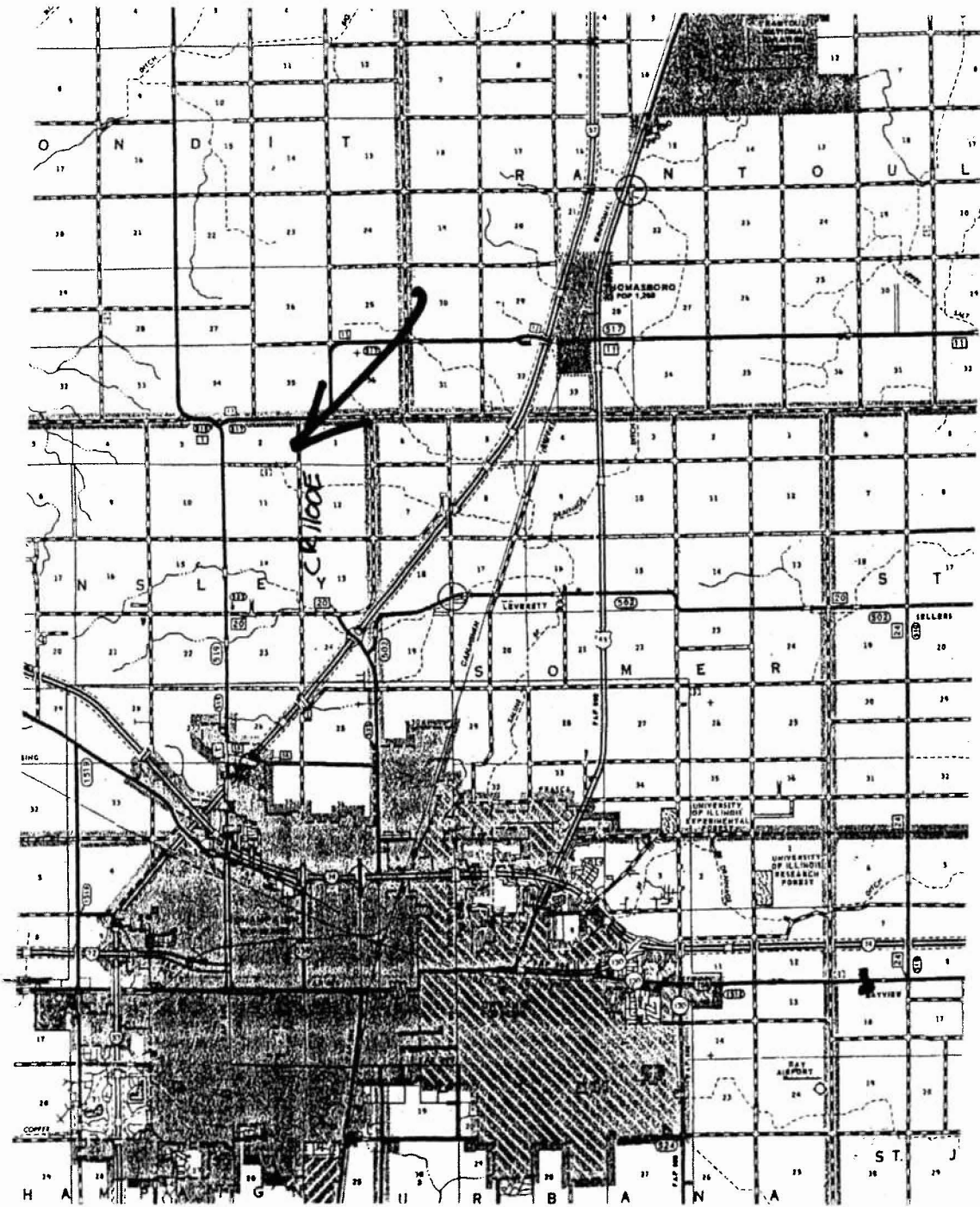
### **ATTACHMENTS**

- A Zoning Case Maps for Case 642-V-08 (Location, Land Use, Zoning)
- B Proposed Plat of McCulley First Subdivision
- C Excerpt of Champaign County Soil Survey
- D Preliminary Draft Summary of Evidence for Case 642-V-08

ATTACHMENT A. LOCATION MAP

Case 642-V-08

JANUARY 23, 2009



Champaign  
County  
Department of  
**PLANNING &  
ZONING**



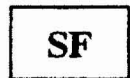
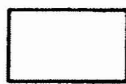
ATTACHMENT A. LAND USE MAP

Case 642-V-08

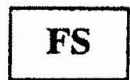
JANUARY 23, 2009



Area of Concern



Single Family



Farmstead



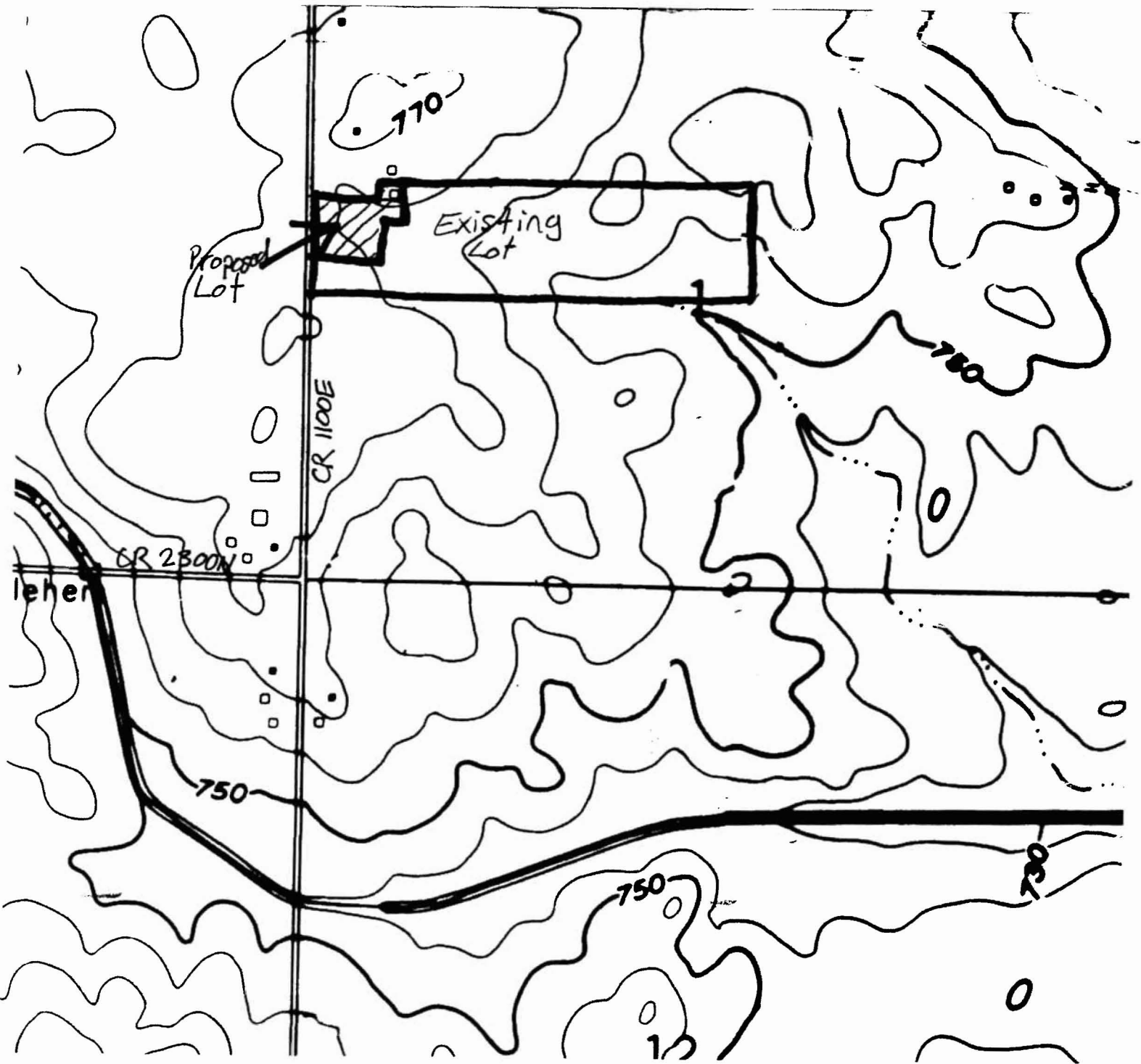
Champaign  
County  
Department of  
**PLANNING &  
ZONING**

1 inch equals 800 feet

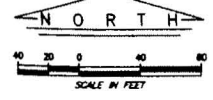
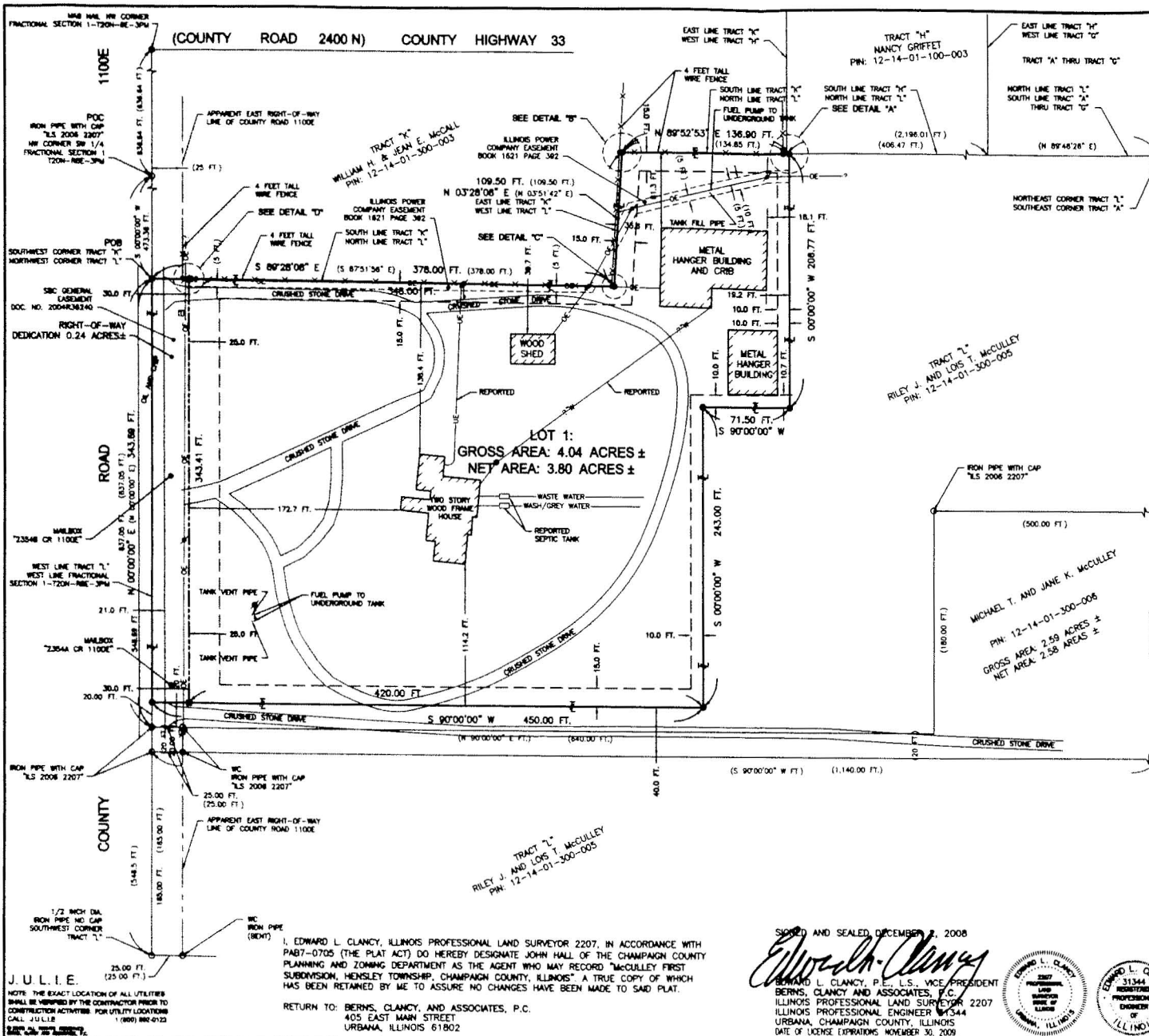
ATTACHMENT A. ZONING MAP

Case 642-V-08

JANUARY 23, 2009



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	NORTH <b>Champaign County</b> 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	



**LEGEND**

- 30 INCH LONG, 1/2 INCH DIAMETER IRON PIPE SURVEY MONUMENT SET WITH ALUMINUM CAP STAMPED "LS 2008 2207"
- EXISTING IRON PIPE/PIN SURVEY MONUMENT FOUND
- CONCRETE SURVEY MONUMENT/30 INCH LONG, 1/2 INCH DIAMETER IRON PIPE SURVEY MONUMENT SET WITH ALUMINUM CAP STAMPED "LS 2008 2207"
- EXISTING FENCE LINE
- EXISTING FENCE POST
- - - PROPOSED RIGHT-OF-WAY LINE
- TITLE LINE
- ////// EXISTING BUILDING LINE
- - - EXISTING UTILITY EASEMENT LINE
- EXISTING UTILITY POLE/GUY WIRE/TRANSFORMER
- EXISTING WATER WELL
- EXISTING PRIVATE MAILBOX
- EXISTING TELEPHONE PEDESTAL
- EXISTING OVERHEAD ELECTRIC LINE (APPROXIMATE LOCATION)
- UE— EXISTING UNDERGROUND ELECTRIC LINE (APPROXIMATE LOCATION)
- 6"W— EXISTING WATER LINE/SIZE (APPROXIMATE LOCATION)
- ( ) RECORD MEASUREMENT AND/OR DATA
- ∇ DESTINATION OR DATA UNKNOWN
- WC WITNESS CORNER
- PIN PERMANENT INDEX NUMBER
- EXISTING EXTENDED ARM POLE LIGHT
- PROPOSED BUILDING SETBACK LINE
- POC POINT-OF-COMMENCEMENT

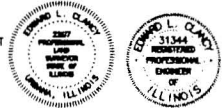
**RECEIVED**  
JAN 12 2009  
CHAMPAIGN COUNTY DEPARTMENT

**FINAL PLAT**

McCULLEY FIRST SUBDIVISION  
HENSLY TOWNSHIP  
CHAMPAIGN COUNTY, ILLINOIS

SIGNED AND SEALED, DECEMBER 2, 2008

*Edward L. Clancy*  
EDWARD L. CLANCY, P.E., L.S., VICE PRESIDENT  
BERNS, CLANCY AND ASSOCIATES, P.C.  
ILLINOIS PROFESSIONAL LAND SURVEYOR 2207  
ILLINOIS PROFESSIONAL ENGINEER 1344  
URBANA, CHAMPAIGN COUNTY, ILLINOIS  
DATE OF LICENSE EXPIRATION: NOVEMBER 30, 2009



**BERNS, CLANCY AND ASSOCIATES**  
ENGINEERS • SURVEYORS • PLANNERS  
405 EAST MAIN STREET - POST OFFICE BOX 156  
URBANA, ILLINOIS 61803-0756  
PHONE: (217) 384-1144 • FAX: (217) 384-3355

JOB: 2258-1      DATE: 12/02/08  
FILE: 2258-1SH.DWG      SHEET 1 OF 2

**JULIE**  
NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL: 481.1118 (1-800) 882-0123

RETURN TO: BERNS, CLANCY, AND ASSOCIATES, P.C.  
405 EAST MAIN STREET  
URBANA, ILLINOIS 61802



**GENERAL NOTES**

ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF, UNLESS NOTED OTHERWISE.

SEE CHAMPAIGN COUNTY ORDINANCES AND REGULATIONS FOR ANY APPLICABLE ZONING, SETBACK AND BUILDING STANDARD REQUIREMENTS.

ALL SURFACE, SUBSURFACE, BUILDING IMPROVEMENTS AND UTILITY SERVICE LINES ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN.

BEARINGS SHOWN REFER TO AN ASSUMED MERIDIAN BASED UPON A PLAT OF SURVEY BY EDWARD L. CLANCY, ILLINOIS PROFESSIONAL LAND SURVEYOR 2207, DATED SEPTEMBER 21, 1968.

SEE MONUMENT RECORDS ON FILE AT THE CHAMPAIGN COUNTY RECORDER'S OFFICE FOR DETAILS OF SECTION CORNERS USED IN THIS SURVEY.

DETAILS NOT DRAWN TO SCALE.

THE LETTERED TRACTS ARE TAKEN FROM A SURVEY BY VAIL H. MOORE, ILLINOIS PROFESSIONAL LAND SURVEYOR 1718, DATED MARCH 11, 1972.

**KNOWN PRIOR SURVEYS**

PLAT OF SURVEY OF A PART OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 1, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS BY THOMAS B. BERNS, ILLINOIS PROFESSIONAL LAND SURVEYOR 2006, DATED MARCH 10, 1992.

PLAT OF SURVEY OF A PART OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 1, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS BY EDWARD L. CLANCY, ILLINOIS PROFESSIONAL LAND SURVEYOR 2207, DATED SEPTEMBER 21, 1968.

PLAT OF SURVEY OF FRACTIONAL NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS BY VAIL H. MOORE, ILLINOIS PROFESSIONAL LAND SURVEYOR 1718, DATED MARCH 11, 1972.

**SURVEYOR'S REPORT**

I, EDWARD L. CLANCY, ILLINOIS PROFESSIONAL LAND SURVEYOR 2207 AND VICE PRESIDENT OF BERNS, CLANCY AND ASSOCIATES, P.C. DO HEREBY STATE THAT AT THE REQUEST OF AND FOR THE EXCLUSIVE BENEFIT OF DR. RILEY J. MCCULLEY AND MRS. LOIS T. MCCULLEY, I PREPARED A BOUNDARY SURVEY ON THE GROUND TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN CHAMPAIGN COUNTY, ILLINOIS OF A PART OF THE WEST HALF OF FRACTIONAL SECTION 1, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS A RESULT OF THIS PRESENT SURVEY AS FOLLOWS:

A PORTION OF TRACT "L" AS SHOWN ON PLAT OF SURVEY BY VAIL H. MOORE, ILLINOIS PROFESSIONAL LAND SURVEYOR 1718, DATED MARCH 11, 1972, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN IRON PIPE SURVEY MONUMENT FOUND AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF FRACTIONAL SECTION 1, TOWNSHIP 20 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID FRACTIONAL SECTION 1, A DISTANCE OF 473.30 FEET TO AN IRON PIPE SURVEY MONUMENT SET AT THE SOUTHWEST CORNER OF TRACT "K" AS SHOWN ON PLAT OF SURVEY BY VAIL H. MOORE, ILLINOIS PROFESSIONAL LAND SURVEYOR 1718, DATED MARCH 11, 1972; SAID IRON PIPE SURVEY MONUMENT ALSO BEING THE NORTHWEST CORNER OF TRACT "L" OF SAID PLAT OF SURVEY BY VAIL H. MOORE; THENCE SOUTH 89 DEGREES 28 MINUTES 08 SECONDS EAST ALONG THE SOUTH LINE OF SAID TRACT "K", SAID SOUTH LINE OF TRACT "K" ALSO BEING THE NORTH LINE OF SAID TRACT "L", A DISTANCE OF 378.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 03 DEGREES 28 MINUTES 08 SECONDS EAST ALONG THE EAST LINE OF SAID TRACT "K", SAID EAST LINE OF TRACT "K" ALSO BEING THE WEST LINE OF SAID TRACT "L", A DISTANCE OF 109.50 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE NORTH 89 DEGREES 53 MINUTES 53 SECONDS EAST ALONG THE SOUTH LINE OF SAID TRACT "K" AND A PART OF THE SOUTH LINE OF TRACT "H" OF SAID PLAT OF SURVEY BY VAIL H. MOORE, SAID SOUTH LINE OF TRACT "K" AND TRACT "H" ALSO BEING THE NORTH LINE OF SAID TRACT "L", A DISTANCE OF 136.80 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 208.77 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 71.50 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 243.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 450.00 FEET TO AN IRON PIPE SURVEY MONUMENT SET ON THE WEST LINE OF SAID FRACTIONAL SECTION 1, SAID WEST LINE OF FRACTIONAL SECTION 1 ALSO BEING THE WEST LINE OF SAID TRACT "L"; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID FRACTIONAL SECTION 1, SAID WEST LINE OF FRACTIONAL SECTION 1 ALSO BEING THE WEST LINE OF SAID TRACT "L", A DISTANCE OF 343.60 FEET TO THE POINT OF BEGINNING, CONTAINING 4.04 ACRES, MORE OR LESS, ALL AS SHOWN ON THE ACCOMPANYING PLAT, ALL SITUATED IN HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS.

I FURTHER STATE THAT BASED UPON MY REVIEW OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, PANEL 125 OF 300, COMMUNITY PANEL NUMBER 170894 0125 B WITH AN EFFECTIVE DATE OF MARCH 1, 1984, THE PROPERTY SURVEYED IS REPORTEDLY LOCATED WITHIN ZONE "C" (AREAS OF MINIMAL FLOODING).

I FURTHER STATE THAT THE OWNERS DESIRE TO FACILITATE THE SALE OF SAID LAND BY CREATING A LOT FOR WHICH PURPOSE I PREPARED A PLAT TO WHICH THIS REPORT IS ATTACHED AND MADE A PART THEREOF, PARTICULARLY DESCRIBING AND SETTING FORTH THE LOT INTO WHICH SAID LANDS HAVE BEEN SO PLATTED AND I NUMBERED THE LOT, WHICH NUMBER IS SHOWN IN LARGE SIZE ON SAID PLAT AND HAVE STATED AND SHOWN THE PRECISE DIMENSIONS OF SAID LOT.

I FURTHER STATE THAT REFERENCE HAS BEEN MADE UPON SAID PLAT TO KNOWN AND PERMANENT SURVEY MONUMENTS FROM WHICH FUTURE SURVEYS MAY BE MADE AND THAT I PLACED SURVEY MONUMENTS AT EACH LOT CORNER AS SHOWN ON THE ACCOMPANYING PLAT AND THAT ALL OF THE DIMENSIONS ARE SHOWN IN FEET AND HUNDRETHS OF FEET AND THAT THE EASEMENT LOCATIONS AND WIDTHS ARE AS INDICATED ON SAID PLAT.

I FURTHER STATE THAT NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS OR TO DETERMINE THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.

I FURTHER STATE THAT AS A PART OF THIS BOUNDARY SURVEY, EXCEPT AS MAY BE SPECIFICALLY NOTED ON THIS PLAT, I MADE NO INVESTIGATION CONCERNING ZONING OR LAND USE, NOR HAVE I MADE AN INDEPENDENT SEARCH OF THE RECORDS FOR EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, OWNERSHIP, TITLE EVIDENCE OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE FOR SUBJECT PROPERTY OR FOR ADJOINING PARCELS WAS MADE AS A PART OF THIS SURVEY. THE SURVEYOR HAS RELIED UPON THE MATERIALS AND REPRESENTATIONS AS SET FORTH IN CHICAGO TITLE INSURANCE COMPANY COMMITMENT FOR TITLE INSURANCE NUMBER 850708 DATED SEPTEMBER 15, 2008.

I FURTHER STATE THAT NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY MUNICIPAL OR PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.

I FURTHER STATE THAT THERE ARE NO APPARENT ABOVE GROUND ENCROACHMENTS EXCEPT AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY.

I FURTHER STATE THAT NO PART OF THE AREA COVERED BY THIS PLAT OF SURVEY IS WITHIN 500 FEET OF A SURFACE DRAIN OR WATER COURSE SERVING A TRIBUTARY AREA OF 640 ACRES OR MORE.

I FURTHER STATE AT THE REQUEST OF THE OWNERS, THIS SUBDIVISION IS TO BE KNOWN AS "MCCULLEY FIRST SUBDIVISION, HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS."

I FURTHER STATE THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

SIGNED AND SEALED DECEMBER 8, 2008

*Edward L. Clancy*  
EDWARD L. CLANCY, P.E., L.S., VICE PRESIDENT  
BERNS, CLANCY AND ASSOCIATES, P.C.  
ILLINOIS PROFESSIONAL LAND SURVEYOR 2207  
ILLINOIS PROFESSIONAL ENGINEER 31344  
URBANA, CHAMPAIGN COUNTY, ILLINOIS  
DATE OF LICENSE EXPIRATION: NOVEMBER 30, 2009



TOWNSHIP HIGHWAY COMMISSIONER

I, \_\_\_\_\_, HIGHWAY COMMISSIONER, OF HENSLEY TOWNSHIP DO HEREBY CERTIFY THAT THIS PLAT HAS BEEN REVIEWED BY ME AND APPROVED WITH RESPECT TO ROADWAY ACCESS AND OTHER MATTERS UNDER MY JURISDICTION.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

\_\_\_\_\_  
TOWNSHIP HIGHWAY COMMISSIONER

CHAMPAIGN COUNTY ENVIRONMENT AND LAND USE COMMITTEE

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SUBDIVISION OFFICER

CHAMPAIGN COUNTY BOARD

APPROVED THE \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_

CHAMPAIGN COUNTY BOARD

\_\_\_\_\_  
CHAIR

RECEIVED

CHAMPAIGN COUNTY DEPARTMENT

FINAL PLAT

MCCULLEY FIRST SUBDIVISION  
HENSLEY TOWNSHIP  
CHAMPAIGN COUNTY, ILLINOIS

**OWNER'S AND ENGINEER'S STATEMENT**

TO THE BEST OF OUR KNOWLEDGE AND BELIEF, THE DRAINAGE OF SURFACE WATERS WILL NOT BE CHANGED BY THE DEVELOPMENT OF "MCCULLEY FIRST SUBDIVISION, HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS" OR ANY PART THEREOF, OR IF SUCH SURFACE WATER DRAINAGE WILL BE CHANGED THAT REASONABLE PROVISION HAS BEEN MADE FOR THE COLLECTION AND DIVERSION OF SURFACE WATERS INTO PUBLIC AREAS, OR DRAINS WHICH THE SUBDIVIDER HAS THE RIGHT TO USE, AND THAT SUCH SURFACE WATERS WILL BE PLANNED FOR IN ACCORDANCE WITH GENERALLY ACCEPTED ENGINEERING PRACTICES SO AS TO REDUCE THE LIKELIHOOD OF DAMAGE TO THE ADJOINING PROPERTY BECAUSE OF CONSTRUCTION OF "MCCULLEY FIRST SUBDIVISION, HENSLEY TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS".

*Edward L. Clancy*

EDWARD L. CLANCY, VICE PRESIDENT  
BERNS, CLANCY AND ASSOCIATES, P.C.  
ILLINOIS PROFESSIONAL ENGINEER 31344  
URBANA, CHAMPAIGN COUNTY, ILLINOIS  
DATE OF LICENSE EXPIRATION: NOVEMBER 30, 2009

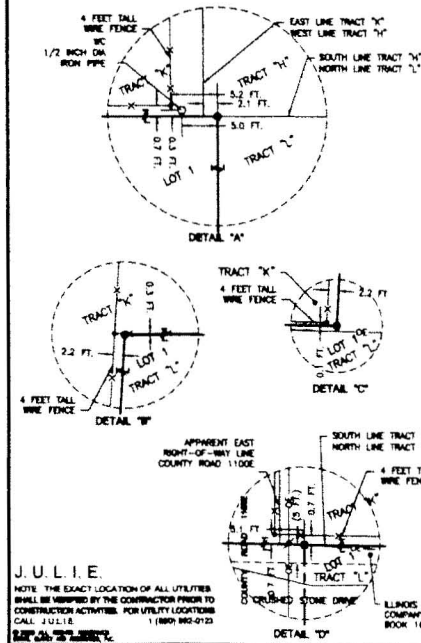
DR. RILEY J. MCCULLEY

MRS. LOIS T. MCCULLEY



**BERNS, CLANCY AND ASSOCIATES**  
ENGINEERS • SURVEYORS • PLANNERS  
406 EAST MAIN STREET - POST OFFICE BOX 766  
URBANA, ILLINOIS 61803-0766  
PHONE: (217) 364-1144 - FAX: (217) 364-3366

JOB: 2258-1 DATE: 12/02/08  
FILE: 2258-1SH.DWG SHEET 2 OF 2



**JULIE**  
NOTE: THE EXACT LOCATION OF ALL UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS CALL 432.1118. 1 (800) 962-0723



***PRELIMINARY DRAFT***

**642-V-08**

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

---

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

Date: January 29, 2009

Petitioners: Michael T. McCulley and Riley J. McCulley

Request: Authorize the creation and use of a lot 3.80 acres in area in lieu of the maximum allowed 3.0 acres on best prime farmland.

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**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 29, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The co-petitioner, Riley J. McCulley, owns the subject property. Co-petitioner Michael T. McCulley owns the flag lot to the south of the subject property
2. The subject property is a 3.80 acre portion of a 36 acre tract in the North Half of the Southwest Quarter of Fractional Section 1 of Hensley Township and commonly known as the house at 2354B CR 1100E, Champaign.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. 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 is zoned AG-1 Agriculture. It is currently in use as a single family dwelling.
  - B. Land to the north and south of the subject property is zoned AG-1 Agriculture and is in use as single family dwellings.
  - C. Land to the east is zoned AG-1 Agriculture and is part of the large tract that the proposed 3.8 acre tract will be divided from. This lot contains an artificial lake and farmland.
  - D. Land to the west is zoned AG-1 Agriculture and is in use as farmland.

**PRELIMINARY DRAFT**

**GENERALLY REGARDING THE PROPOSED SITE PLAN**

5. The proposed site plan is the proposed plat of the McCulley First Subdivision, as follows:
  - A. The proposed lot is approximately 3.80 net acres in area.
  - B. The proposed lot is slightly irregular in shape. At the northeast corner there is a rectangular expansion of the lot that encompasses two metal farm buildings.
  - C. The northern farm building in the northeast corner of the lot straddles the current lot line between existing lot to the north (labeled Tract "K" on the plat) and the existing lot that the proposed lot will be divided out of (labeled Tract "L" on the plat).
  - D. The proposed lot encompasses nearly all the frontage between the existing lot and the flag lot located in the middle of the existing lot that the proposed lot will be divided out of. A 20 foot wide strip will be left between the flag lot's "pole" and the proposed lot. This strip contains the driveway entrance for the driveway used by the flag lot.

**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 variances (capitalized words are defined in the Ordinance):
    - (1) "AREA, LOT" is the total area within the LOT LINES.
    - (2) "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.
    - (3) "LOT LINES" are the lines bounding a LOT.
    - (4) "VARIANCE" is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or Zoning Board of Appeals are permitted to grant.
  - B. Footnote 13 to Section 5.3 establishes the maximum lot size, as follows:

The following maximum LOT AREA requirements apply in the CR, AG-1 and AG-2 DISTRICTS:

- A. LOTS that meet all of the following criteria may not exceed a maximum LOT AREA of three acres:
  1. The LOT is RRO exempt;
  2. The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System* and;
  3. The LOT is created from a tract that had a LOT AREA greater than or equal to 12 acres as on January 1, 1998.

- B. LOTS that meet both of the following criteria may not exceed an average maximum LOT AREA of two acres:
  - 1. The LOT is located within a Rural Residential Overlay district; and
  - 2. The LOT has a Land Evaluation score greater than or equal to 85 on the County's *Land Evaluation and Site Assessment System*.
- C. The following LOTS are exempt from the three-acre maximum LOT AREA requirement indicated in Paragraph A:
  - 1. A 'Remainder Area Lot.' A 'Remainder Area Lot' is that portion of a tract which existed as of January 1, 1998 and that is located outside of the boundaries of a RRO exempt LOT less than 35 acres in LOT AREA. No construction or use that requires a Zoning Use Permit shall be permitted on a 'Remainder Area Lot.'
  - 2. Any LOT greater than or equal to 35 acres in LOT AREA.
- C. 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.
- D. 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 Petitioners have testified on the application that, **“Homestead exists on established lot with no portion of proposed lot being used for agricultural production.”**
  - B. The subject property is an existing farmstead that has existed since before the adoption of the *Zoning Ordinance* on October 10, 1973, and no farmland will be taken out of production by the creation of the proposed lot.
  - C. The subject property is best prime farmland overall as it consists entirely of the following best prime farmland soils: Drummer silty clay loam, Proctor silt loam, and Elburn silt loam all of which have a Relative Value of 85 or higher.
  - D. The existing lot will encompass the entire frontage between two existing tracts. This will leave only a narrow portion that contains the driveway entrance for the flag lot to the south.
  - E. Proposed lot is just large enough to encompass existing single family dwelling with a circle drive and three outbuildings.
  - F. The elderly owner of the subject property wishes to reconfigure the property for estate purposes.
  - G. The remainder of the existing 36 acre lot that the proposed lot will be divided out of will be less than 35 acres, which will make it a “Remainder Area Lot” according to the *Zoning Ordinance*. No construction or use that requires a Zoning Use Permit is permitted on a “Remainder Area Lot.”

**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, **“Strict adherence would disallow creation of the proposed subdivision and require sale of the residential structure and adjacent farmland as a single unit.”**
  - B. The subject property contains a large loop driveway. In order to have the driveway on one lot and under one ownership the subject property must exceed three acres in area.
  - C. The petitioners wish to retain the three outbuildings with the estate.

**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, **“Inclusion of existing structures and features located on the proposed lot require an area greater than 3 acres.”**
  - B. The subject property has been in its current configuration since before the adoption of the maximum lot size requirement on July 22, 2004.

*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 requested variance will permit creation of one rural residential lot with no amount of agricultural production being affected.”**
  - B. The subject property conforms to all other Ordinance requirements.
  - C. The maximum lot size on best prime farmland requirement was first established by Ordinance No. 726 (Case 444-AT-04) on July 22, 2004. It was made permanent with Ordinance No. 773.
  - D. The proposed lot is bordered by two existing tracts.
  - E. The proposed lot is no larger than necessary to encompass the existing site development including a circle drive and three outbuildings.
  - F. The proposed lot is nearly identical in size and shape to farmstead as indicated in the Supervisor of Assessments 1988 aerial photograph.
  - G. The proposed lot area of 3.80 acres is 127% of the required 3 acre maximum for a variance of 27%.
  - H. 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, **“A residential structure and out buildings are existing on the proposed lot and no new infrastructure or residential traffic will be created.”**

*PRELIMINARY DRAFT*

- B The Petitioner is not proposing to alter the property or its use in any way, and the uses on this property are long standing with no record of complaints against them. There should be no effect on the public health, safety, or welfare, therefore, from the proposed variance.
- C. The Fire Protection District has received notice of this variance but no comments have been received. Due to staff error the notice to the Fire Protection District was sent out only 9 days before the public hearing instead of the 15 days required by the Zoning Ordinance and the ZBA by-laws.
- D. The Township Highway Commissioner has also received notice of this variance, but no comments have been received. Due to staff error the notice to the Township Highway Commissioner was sent out only 9 days before the public hearing instead of the 15 days required by the Zoning Ordinance and the ZBA by-laws.



**DOCUMENTS OF RECORD**

1. Letter from Thomas Berns, petitioner's engineer, received December 3, 2008, with attachment:
  - A Minor Subdivision Plat Application
  - B Proposed Plat of McCulley First Subdivision
2. Application from Michael T. McCulley and Riley J. McCulley, received on December 3, 2008
3. Preliminary Memorandum for Case 642-V-08, with attachments:
  - A Zoning Case Maps for Case 642-V-08 (Location, Land Use, Zoning)
  - B Proposed Plat of McCulley First Subdivision
  - C Excerpt of Champaign County Soil Survey
  - D Preliminary Draft Summary of Evidence for Case 642-V-08

**PRELIMINARY DRAFT**

**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning **Case 642-V-08** held on **January 29, 2009**, 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 642-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the Petitioners, **Michael T. McCulley and Riley J. McCulley**, to authorize, **the creation and use of a lot 3.80 acres in area in lieu of the maximum allowed 3.0 acres on best prime farmland.**

*{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

# CASE NO. 641-V-08

PRELIMINARY MEMORANDUM

January 23, 2009

Champaign  
County  
Department of

Petitioners: **Jeremy and Joy Johnson**



Site Area: **0.91 acres**

Time Schedule for Development:  
**Immediate**

Request: **Authorize the construction and use of a detached garage with an average height of 19 feet in lieu of the maximum allowed average height of 15 feet for a detached accessory building on a lot less than 1.0 acre in area in the AG-1 Zoning District.**

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

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

(217) 384-3708  
FAX (217) 328-2426

Location: **A 0.91 acre tract in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of Section 36 of Urbana Township and commonly known as the house at 1729 CR 1250N, Urbana.**

## BACKGROUND

The petitioners submitted Zoning Use Permit Application 281-08-02 on October 7, 2008. Staff review of the application indicated that information was needed regarding the height of the proposed garage. When the petitioners provided that information it became apparent that a variance would be required if the subject property could not be increased in size to at least an acre. The petitioners made several attempts to contact the surrounding land owner, but were unsuccessful and so they decided to apply for a variance.

The variance application was received on December 2, 2008, and correct height information for the proposed garage was received on January 16, 2009.

## 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	AG-1 Agriculture
North	Farmland	AG-1 Agriculture
East	Farmland	AG-1 Agriculture
West	Farmland	AG-1 Agriculture
South	Farmland	AG-1 Agriculture

## MUNICIPAL EXTRATERRITORIAL JURISDICTION

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

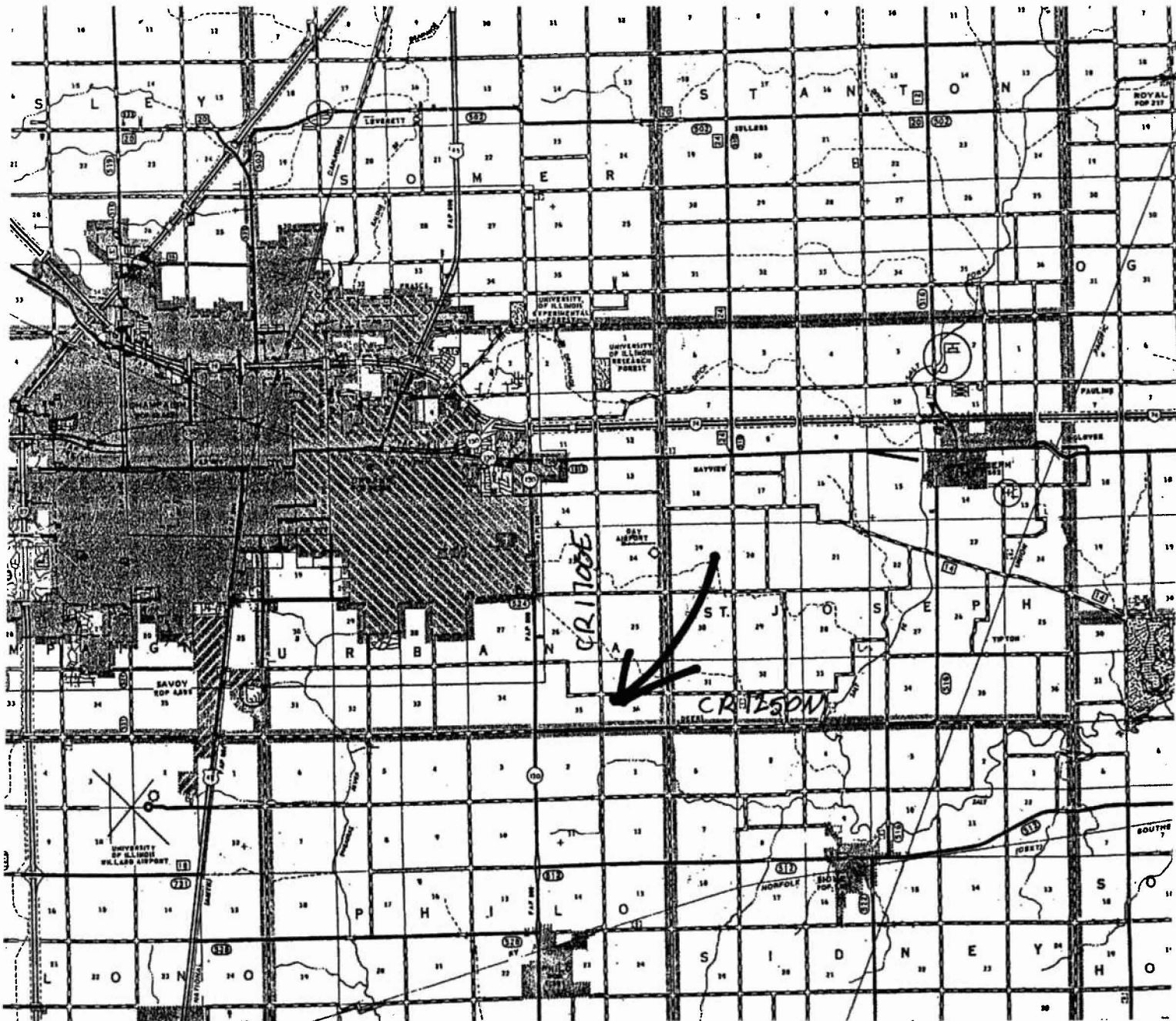
**ATTACHMENTS**

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan from ZUPA 281-08-02, received on October 7, 2008
- C Petitioner annotated building plans for proposed garage received on January 16, 2009
- D Preliminary Draft Summary of Evidence for Case 641-V-08

ATTACHMENT A. LOCATION MAP

Case 641-V-08

JANUARY 23, 2009

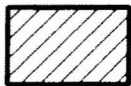
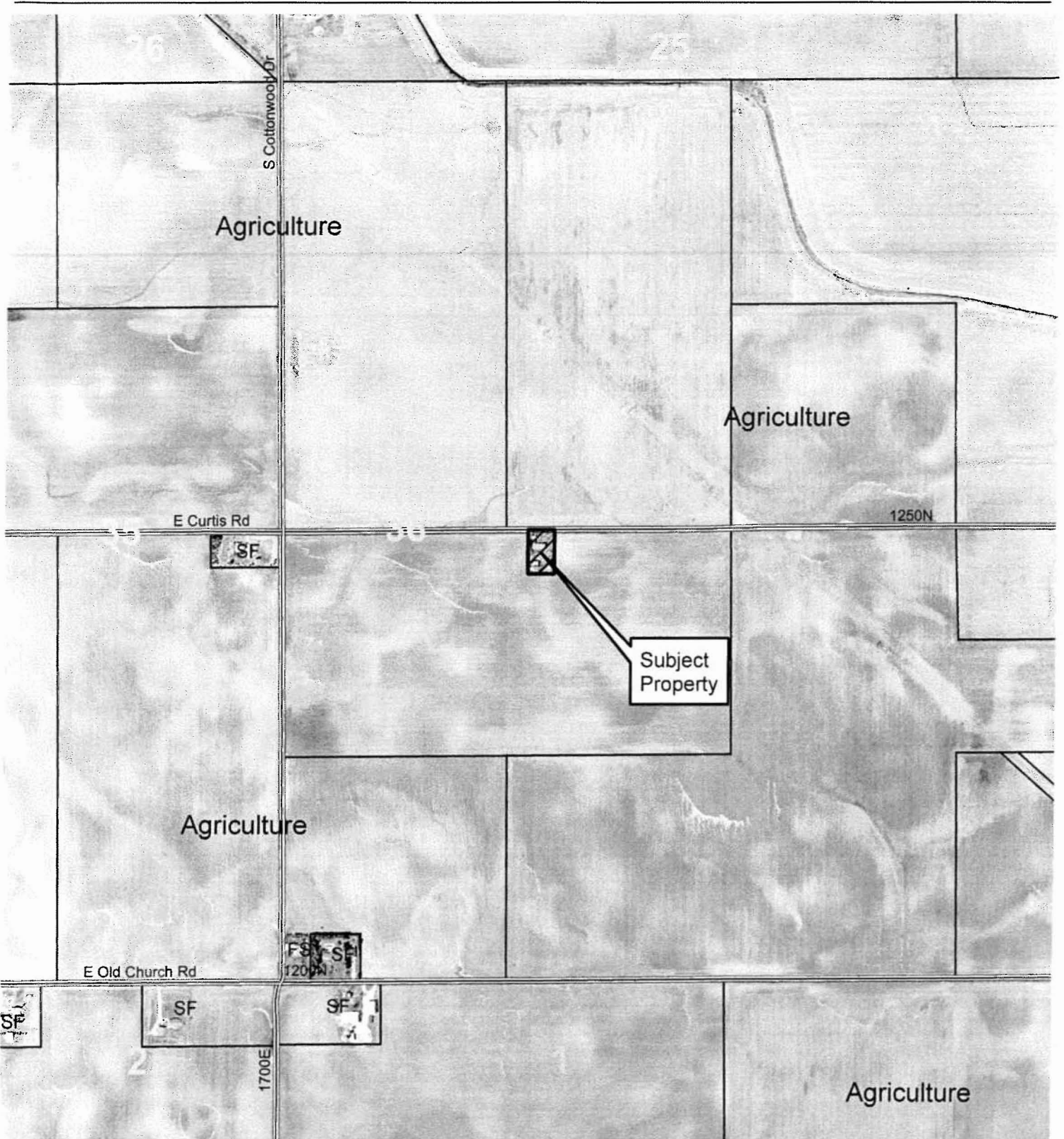


Champaign  
County  
Department of  
**PLANNING &  
ZONING**

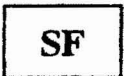
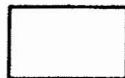
ATTACHMENT A. LAND USE MAP

Case 641-V-08

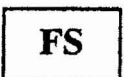
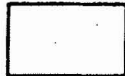
JANUARY 23, 2009



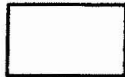
Area of Concern



Single Family



Farmstead



NORTH

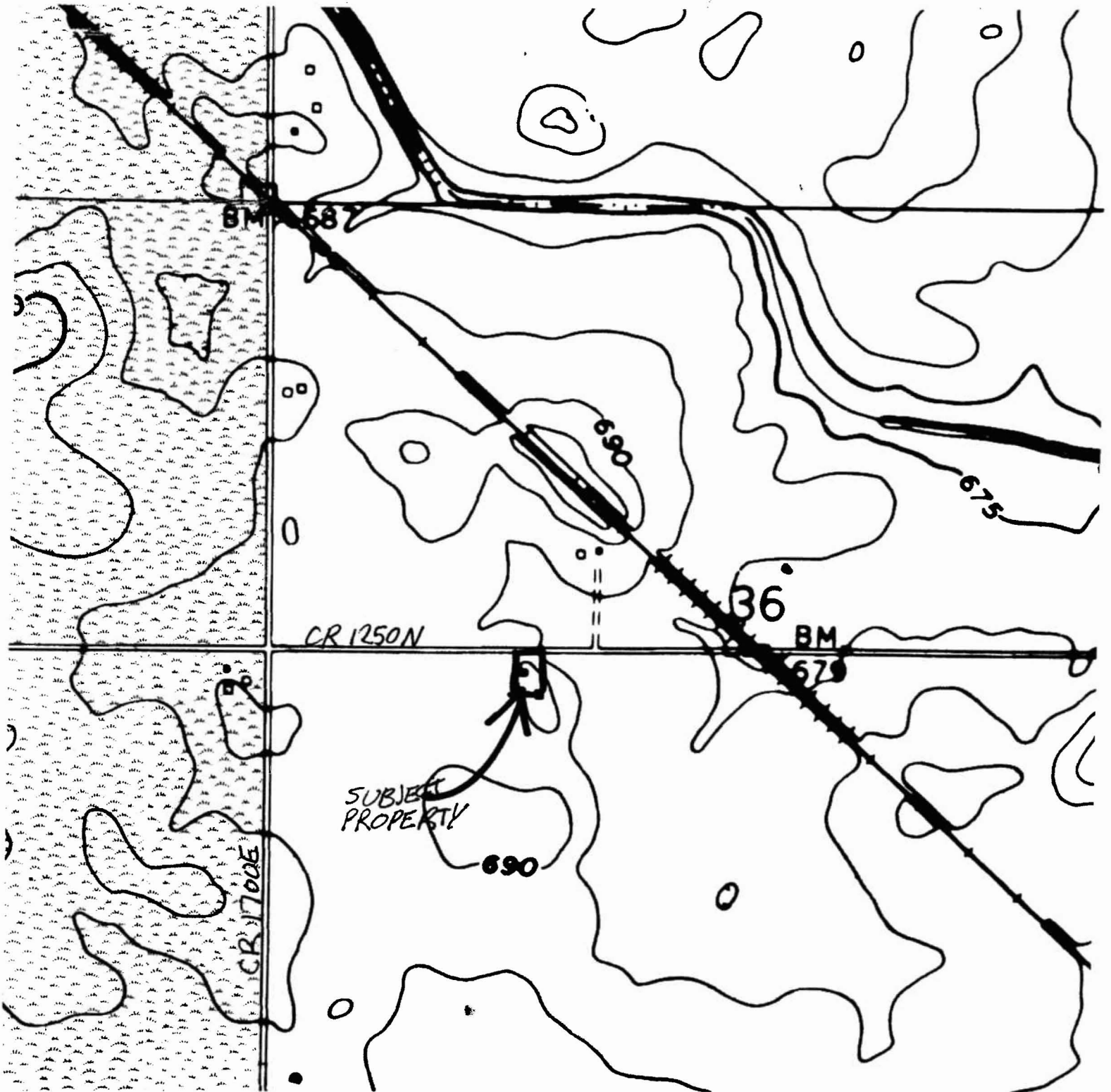
1 inch equals 800 feet

Champaign  
County  
Department of  
**PLANNING &  
ZONING**

ATTACHMENT A. ZONING MAP

Case 641-V-08

JANUARY 23, 2009



	AG-1 Agriculture		R-1 Single Family Residence		R-4 Multiple Family Res.		B-2 Neighborhood Business		B-5 Central Business	 NORTH Champaign 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	

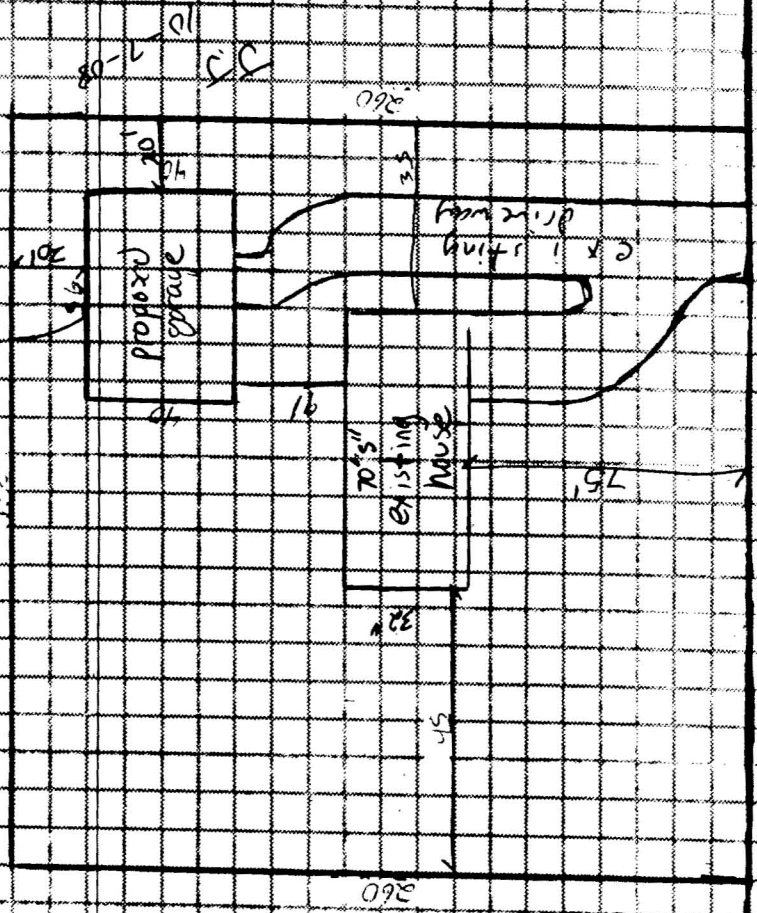


CHAMPAIGN CO. P. & Z. DEPARTMENT

OCT 07 2008

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10-8-08  
D.C.



CHAMPAIGN CO. P. & Z. DEPARTMENT

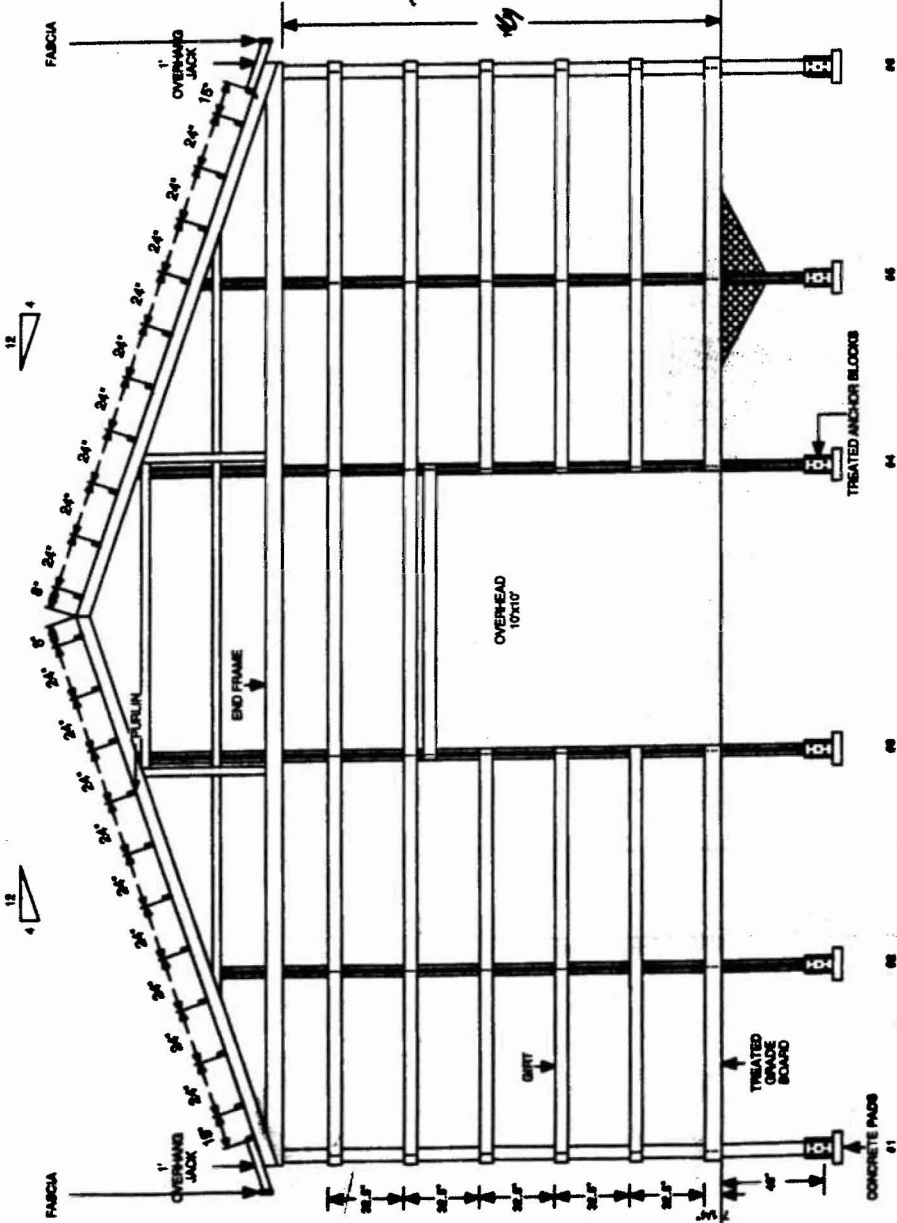
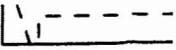
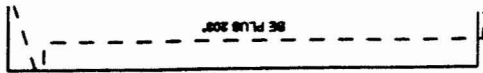
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CHAMPAIGN CO. P & Z DEPARTMENT

JAN 16 2009

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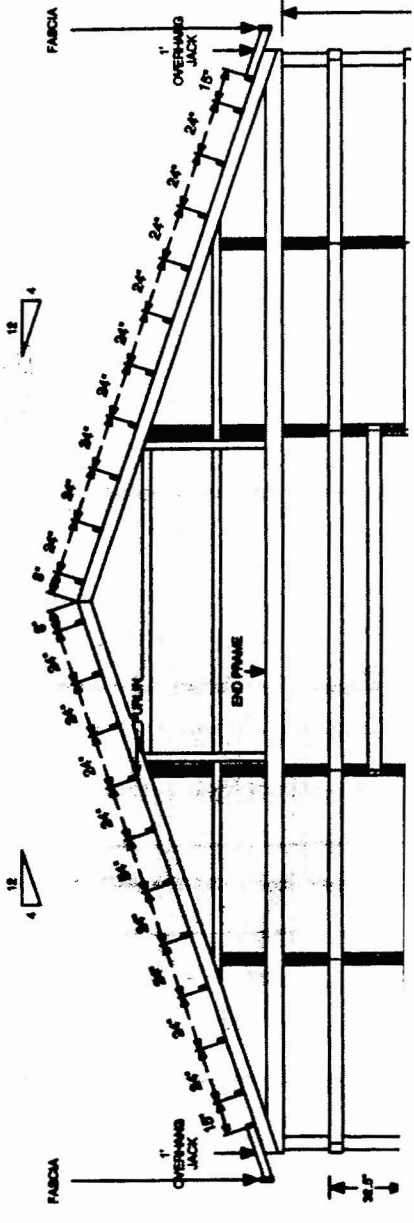


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10-17-08



*Handwritten:* 11' 9" 5' 11' 6"

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***PRELIMINARY DRAFT***

**641-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: January 29, 2009

Petitioners: Jeremy and Joy Johnson

Request: Authorize the construction and use of a detached garage with an average height of 19 feet in lieu of the maximum allowed average height of 15 feet for a detached accessory building on a lot less than 1.0 acre in area in the AG-1 Zoning District.

---

**SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted **January 29, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners, Jeremy and Joy Johnson, own the subject property.
2. The subject property is a 0.91 acre tract in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter of the Southwest Quarter of Section 36 of Urbana Township and commonly known as the house at 1729 CR 1250N, Urbana.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. 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 is zoned AG-1 Agriculture and is in use as a single family dwelling.
  - B. All the land surrounding the subject property is zoned AG-1 Agriculture and is in use as farmland.

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

5. The proposed site plan consists of the site plan for Zoning Use Permit Application (ZUPA) 281-08-02 and plans for the proposed garage annotated by the petitioner to indicate the height of the structure, as follows:

**PRELIMINARY DRAFT**

- A. The site plan for ZUPA 281-08-02 indicates two structures on the subject property: an existing house and the proposed garage.
- B. The plans for the proposed garage have been annotated by the petitioner to indicate the overall dimensions

**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) “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” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
    - (3) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
    - (4) “HEIGHT” As applied to a BUILDING: The vertical measurement from GRADE to a point midway between the highest and lowest points of the roof.
    - (5) “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.
    - (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. Footnote 4 to Section 5.3 of the *Zoning Ordinance* indicates, “the maximum HEIGHT of a residential ACCESSORY BUILDING shall be 15 feet on LOTS less than one acre in area and 24 feet on LOTS one acre or more in area.”
  - C. 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.

***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 Petitioners have testified on the application that, **“The lot is surrounded by farmland, some of which have buildings this size already erected. The lot is 0.91 acres in size which will not allow me to put up a building of this height.”**
  - B. The petitioner wishes to build a garage for storage of equipment that requires a 14 foot tall door.
  - C. The petitioner is unable to purchase any additional acreage to mitigate the variance.
  - D. The subject property is legally nonconforming with regard to average lot width and lot area because it was created before the adoption of the *Zoning Ordinance* on October 10, 1973. If the lot were one acre in area, the variance would not be necessary.
  - E. The subject property is in an agricultural area and there are no nearby dwellings.

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

**PRELIMINARY DRAFT**

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 Petitioners have testified on the application that, **“I have already purchased a building with a 15 foot sidewall height and it cannot be returned. I am not able to purchase anymore farmland adjacent to my lot.”**
  - B. The petitioner wishes to build a garage for storage of equipment that requires a 14 foot tall door.
  - C. The petitioner is unable to purchase any additional acreage to mitigate the variance.

**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 Petitioners have testified on the application that, **“The building has already been purchased not knowing about the height requirement.”**
  - B. The subject property is legally nonconforming with regard to average lot width and lot area because it was created before the adoption of the *Zoning Ordinance* on October 10, 1973. If the lot were one acre in area, the variance would not be necessary.
  - C. The petitioner is unable to purchase any additional acreage to mitigate the variance.

**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 Petitioners have testified on the application that, **“The building will be used for storage and repair of a loader tractor, truck, ATV, etc. The lot is adjacent to farmland and other structures of this size and use.”**
  - B. The Zoning Ordinance does not clearly state the considerations that underlay the maximum height requirements. In general, the maximum height requirements are presumably intended to ensure the following:
    - (1) Adequate light and air: There are no structures on adjacent lots for a great distance in each direction.
    - (2) Safety of structure in case of collapse: The proposed garage is located 91 feet from the existing house on the subject property which is the closest structure.
    - (3) Aesthetics may also play a part in maximum height requirements. The proposed garage will be no taller than most agricultural structures.

- C. The subject property is in an agricultural area and there are no nearby dwellings.
- D. If the lot were an acre in area then the variance would not be necessary.
- E. The proposed garage will have an average height of 19 feet, which is 127% of the required maximum of 15 feet for a variance of 27%.
- F. The subject property meets all other requirements of the *Zoning Ordinance*.
- G. 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 Petitioners have testified on the application that, **“The property is adjacent to lots of farm acreage, with the closes residence being almost a mile away. The building will be used for storage and repair only.”**
  - B. The Fire Protection District has received notice of this variance, but no comments have been received. Due to staff error the notice to the Fire Protection District was sent out only 9 days before the public hearing instead of the 15 days required by the Zoning Ordinance and the ZBA by-laws.
  - C. The Township Highway Commissioner has also received notice of this variance, but no comments have been received. Due to staff error the notice to the Township Highway Commissioner was sent out only 9 days before the public hearing instead of the 15 days required by the Zoning Ordinance and the ZBA by-laws.
  - D. The subject property is in an agricultural area and there are no nearby dwellings.
  - E. The proposed garage will be no taller than most agricultural structures.
  - F. If the lot were an acre in area then the variance would not be necessary.
- 12. Elsewhere on the application the petitioner has testified, **“The building has already been purchased and delivered and needs to be a minimum of 14 foot tall sides to allow adequate room for storage of equipment.”**

**DOCUMENTS OF RECORD**

1. Zoning Use Permit Application 281-08-02, with attachment:
  - A Site Plan
2. Variance application from Jeremy and Joy Johnson, received on December 2, 2008
3. Petitioner annotated building plans for proposed garage, received on January 16, 2009
4. Preliminary Memorandum for Case 628-V-08, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Site Plan from ZUPA 281-08-02, received on October 7, 2008
  - C Petitioner annotated building plans for proposed garage received on January 16, 2009
  - D Preliminary Draft Summary of Evidence for Case 641-V-08



**FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 641-V-08 held on **January 29, 2009**, 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 **641-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the petitioners, **Jeremy and Joy Johnson**, to authorize **the construction and use of a detached garage with an average height of 19 feet in lieu of the maximum allowed average height of 15 feet for a detached accessory building on a lot less than 1.0 acre in area in the AG-1 Zoning 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:

Doug Bluhm, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date