

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **October 29, 2009**
Time: **7:00 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
6. New Public Hearings

***Case 655-S-09** Petitioner: **Judith K. and Gerald T. Warmbier**

Request: **Authorize a Kennel as a Special Use Permit in the AG-1 Zoning District with a waiver of the standard conditions for:**
(1) a minimum separation of 200 feet between outdoor animal exercise areas and any adjacent residential use; and
(2) a minimum side yard of 200 feet and a minimum rear yard of 200 feet

Location: **A five acre tract in the East Half of the Southeast Quarter of the Northwest Quarter of Section 17 of Hensley Township and commonly known as the house and outbuildings at 2173 CR 750E, Champaign.**

7. Staff Report
8. Other Business
9. Audience Participation with respect to matters other than cases pending before the Board
10. Adjournment

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

CASE NO. 655-S-09

PRELIMINARY MEMORANDUM

October 23, 2009

Champaign
County
Department of

**PLANNING &
ZONING**

Petitioners: **Judith and Gerald
Warmbier**

Request: **Authorize a Kennel as a Special Use Permit in the AG-1 Zoning District with a waiver of the standard conditions for (1) a minimum separation of 200 feet between outdoor animal exercise areas and any adjacent residential use and (2) a minimum side yard of 200 feet and a minimum rear yard of 200 feet.**

Site Area: **approx. 5 acres**

Time Schedule for Development:
N/A (Already Developed)

Location: **A five acre tract in the East Half of the Southeast Quarter of the Northwest Quarter of Section 17 of Hensley Township and commonly known as the house and outbuildings at 2173 CR750E, Champaign.**

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

(217) 384-3708 Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

BACKGROUND

The Department first received a complaint about the subject property on April 9, 2007, regarding the presence of approximately 100 cats on the property. Staff received another complaint on December 22, 2008, stating that the owners were apparently running a kennel on the subject property. Staff attempted to contact the petitioners on December 22, 2008, with no success, and again on February 25, 2009, left a phone message with the petitioners to call the office. The petitioners responded on February 26, 2009, and were informed of the need for a Special Use Permit (SUP). Information and an application for a SUP were sent out that same day.

The petitioners submitted their application for SUP on August 19, 2009. After reviewing the information submitted with the application staff sent a letter requesting more information on September 18, 2009, and received a response on September 28, 2009.

This proposed use also appears to be much more than a boarding kennel (see Attachments L & M) and the exact nature of the proposed use needs clarification. There is still significant information about the remodeling and operation of the kennel and the site plan that should be clarified, and there is a list of the items in the Summary of Evidence that address this information included below.

Also, staff did not send out notice for this case to nearby landowners and relevant jurisdictions until October 19, 2009, which is less than the 15 days required by the *Zoning Ordinance* so no final action should be taken at the October 29, meeting to provide all notice recipients adequate time to respond.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet. The Village has been notified of this request but no comments have been received. The Village does not have protest rights, but comments are welcome. The subject property is also in Hensley Township which has a plan commission. Townships with plan commissions do not have protest rights on SUP cases, but they are invited to provide comment. Hensley Township has been notified of this request but no comments have been received as yet.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Single Family Dwelling and unauthorized KENNEL	AG-1 Agriculture
North	Farmland	AG-1 Agriculture
East	Farmland	AG-1 Agriculture
West	Farmland & Single Family Dwelling	AG-1 Agriculture
South	Farmland	AG-1 Agriculture

ITEMS IN SUMMARY OF EVIDENCE THAT REQUIRE CLARIFICATION

As stated in the Background there are still some details of the proposed SUP that require clarification. The following Items in the Summary of Evidence are relevant to these details:

1. Items 5.A.(3),(4), & (5) on page 2 of 19.
2. Item 7.C. on page 6 of 19
3. Items 8.F., H., I., and K. on page 7 of 19.
4. Item 9.B.(3) on page 8 of 19.
5. Item 9.B.(4)(d) on page 9 of 19.
6. Item 9.E. & F. on page 10 of 19.
7. Item 9.H. on page 12 of 19.

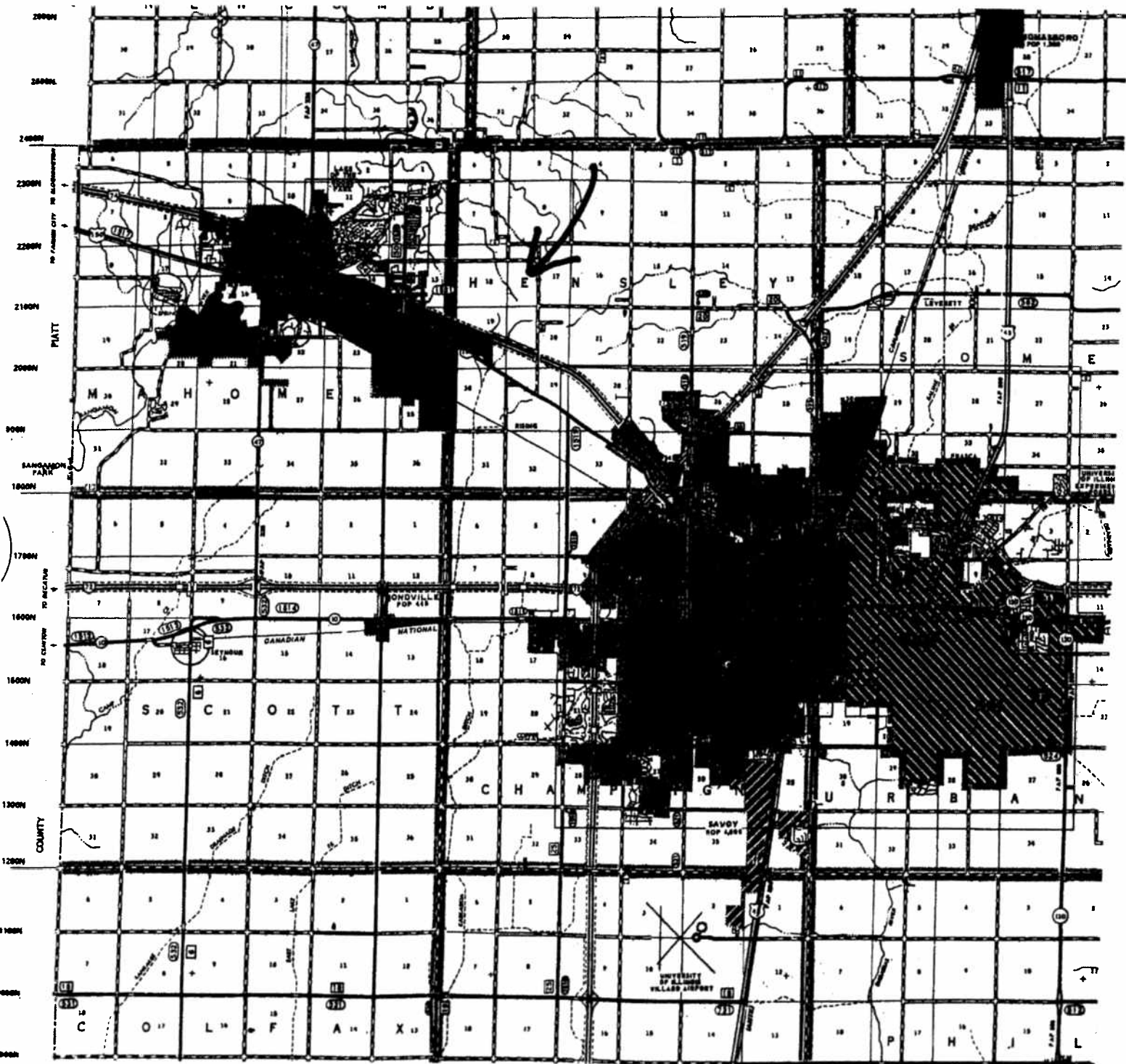
ATTACHMENTS

- A Zoning Case Maps (Location, Land Use, Zoning)
- B Proposed site plan received August 19, 2009
- C Annotated site plan w/annotations on separate sheet
- D Floor plan of kennel building received on September 28, 2009
- E Petitioner photographs of kennel building received on August 19, 2009
- F Letter from J.R. Knight to Judy Warmbier dated, September 18, 2009
- G Petitioner response to staff letter dated September 18, 2009
- H State of Illinois Department of Agriculture Bureau of Animal Welfare Prairieland Anti-Cruelty Program license for Animal Shelter
- I Letter from neighbors Kevin and Christina Mitchaner, received September 28, 2009
- J Annotated IDOT Traffic Map of vicinity of subject property
- K Soil Potential Worksheets for Parr and Raub silt loams
- L Prairieland Anti-Cruelty/Prairieland Spay/Neuter Program website
- M Gypsybug Banner Ad for Prairieland Dogboarding
- N Preliminary Draft Summary of Evidence for Case 655-S-09

ATTACHMENT A. LOCATION MAP

Case 655-S-09

OCTOBER 23, 2009



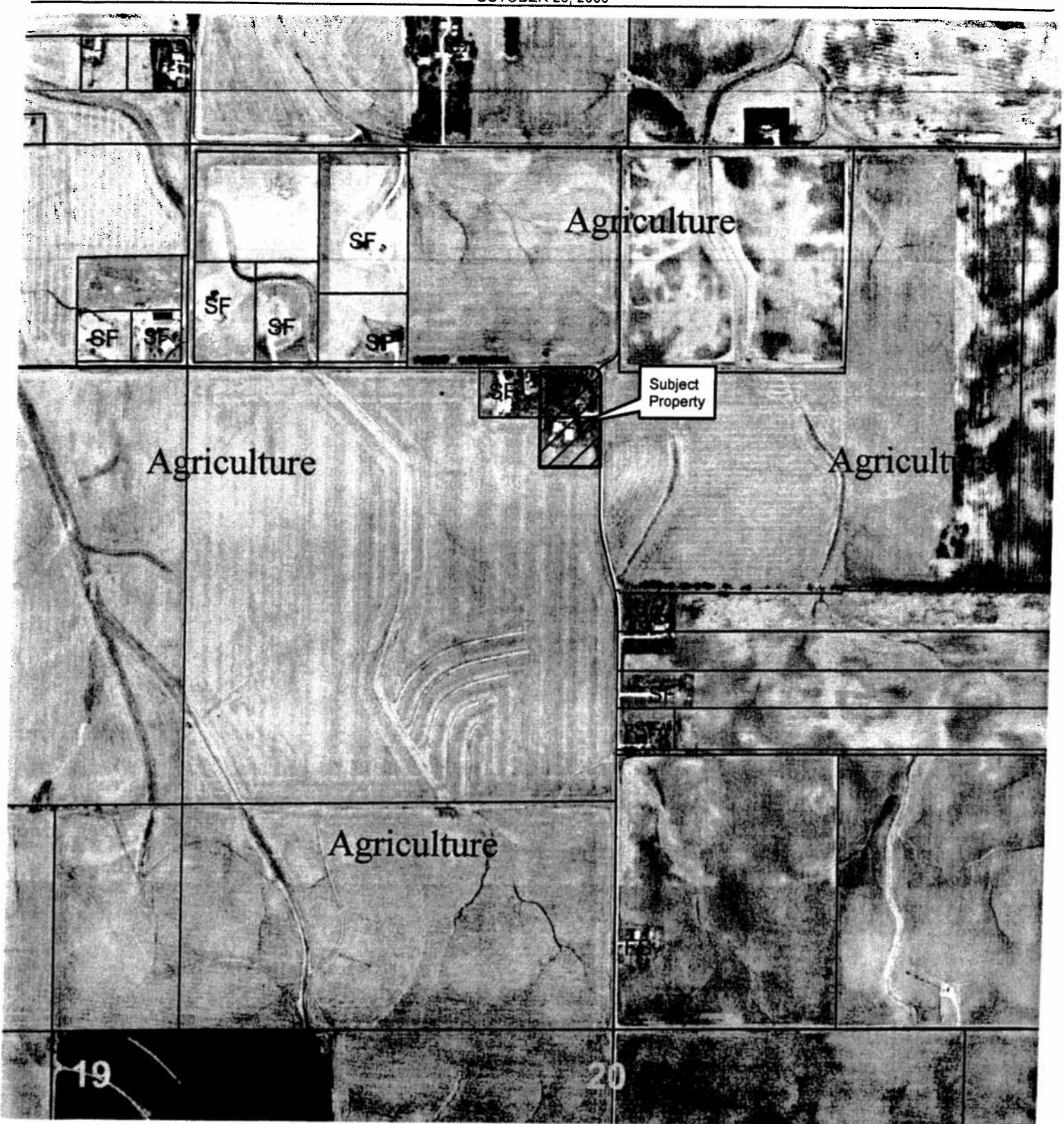
Champaign
County
Department of







**PLANNING &
ZONING**

ATTACHMENT A. LAND USE MAP

Case 655-S-09

OCTOBER 23, 2009



	Area of Concern	
	Single Family	
	Farmstead	



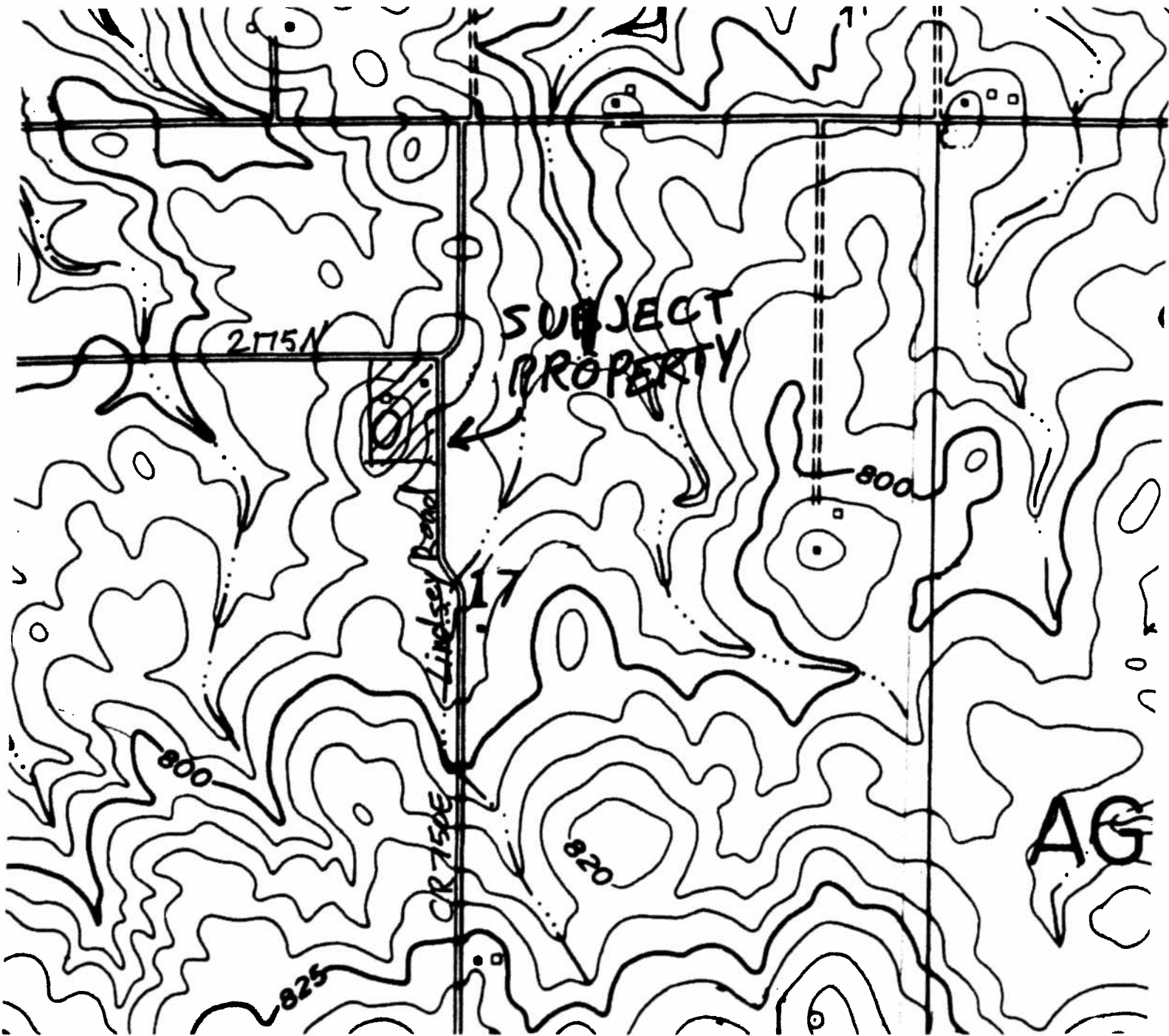
1 inch = 800 feet

Champaign
County
Department of
**PLANNING &
ZONING**

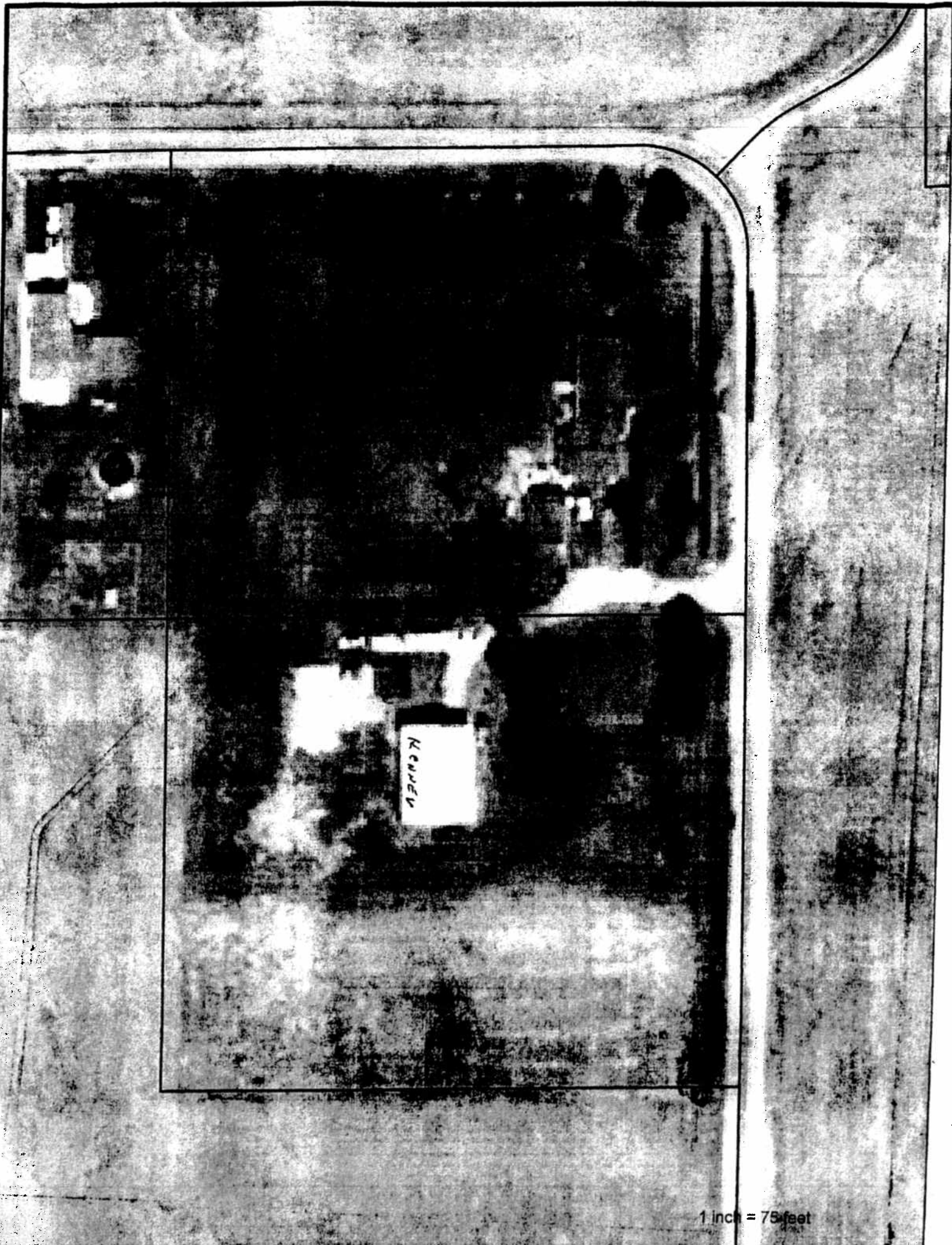
ATTACHMENT A. ZONING MAP

Case 655-S-09

OCTOBER 23, 2009



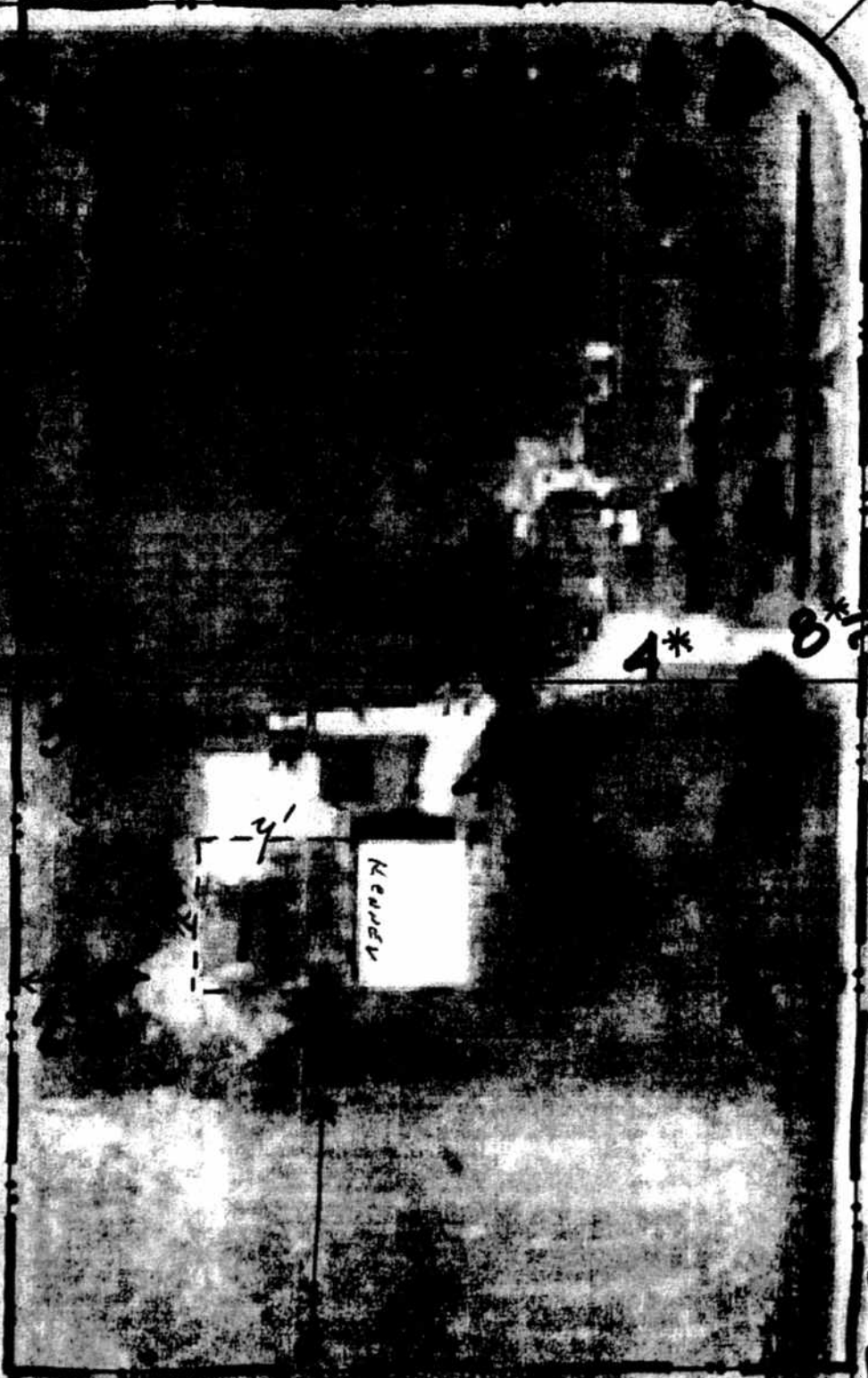
	AG-1 Agriculture		R-1 Single Family Residence		R-4 Multiple Family Res.		B-2 Neighborhood Business		B-5 Central Business	 NORTH Champaign County Department of Planning & Zoning
	AG-2 Agriculture		R-2 Single Family Residence		R-5 Mobile Home Part		B-3 Highway Business		I-1 Light Industry	
	CR Conservation-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



1 inch = 75 feet

ANNOTATED

CR 2200N



SUBJECT PROPERTY

CR 750E



* SEE SITE PLAN ANNOTATIONS

1 inch = 75 feet

SITE PLAN ANNOTATIONS

Case 655-S-09

October 23, 2009

The following numbers indicate on the Annotated Site Plan where the following concerns apply:

1. Fenced outdoor exercise area that is visible in photographs is not indicated with label and fencing is not indicated.
2. Rear yard (distance to west lot line) for outdoor exercise area is not indicated but will be less than the 200 feet required so a waiver is necessary. The rear yard should be clearly dimensioned.
3. Side yard (distance to south lot line) for outdoor exercise area is not indicated but will be less than the 200 feet required so a waiver is necessary. The side yard should be clearly dimensioned.
4. Parking spaces not indicated
5. Shrubs are barely visible and heights are not indicated.
6. Aerial photo is poor quality (too dark) and makes all necessary indications more difficult to read.
7. No well or septic systems are indicated.
8. No exterior sign is indicated.

Entry

Office

Inside Kennels
98 @ 5' x 5'

Food

21' Zone

Animal

Animal

Animal

Animal

Seal

40'

15 1/2

2 1/2

CAMPBELL CO. P. & Z. DEPARTMENT

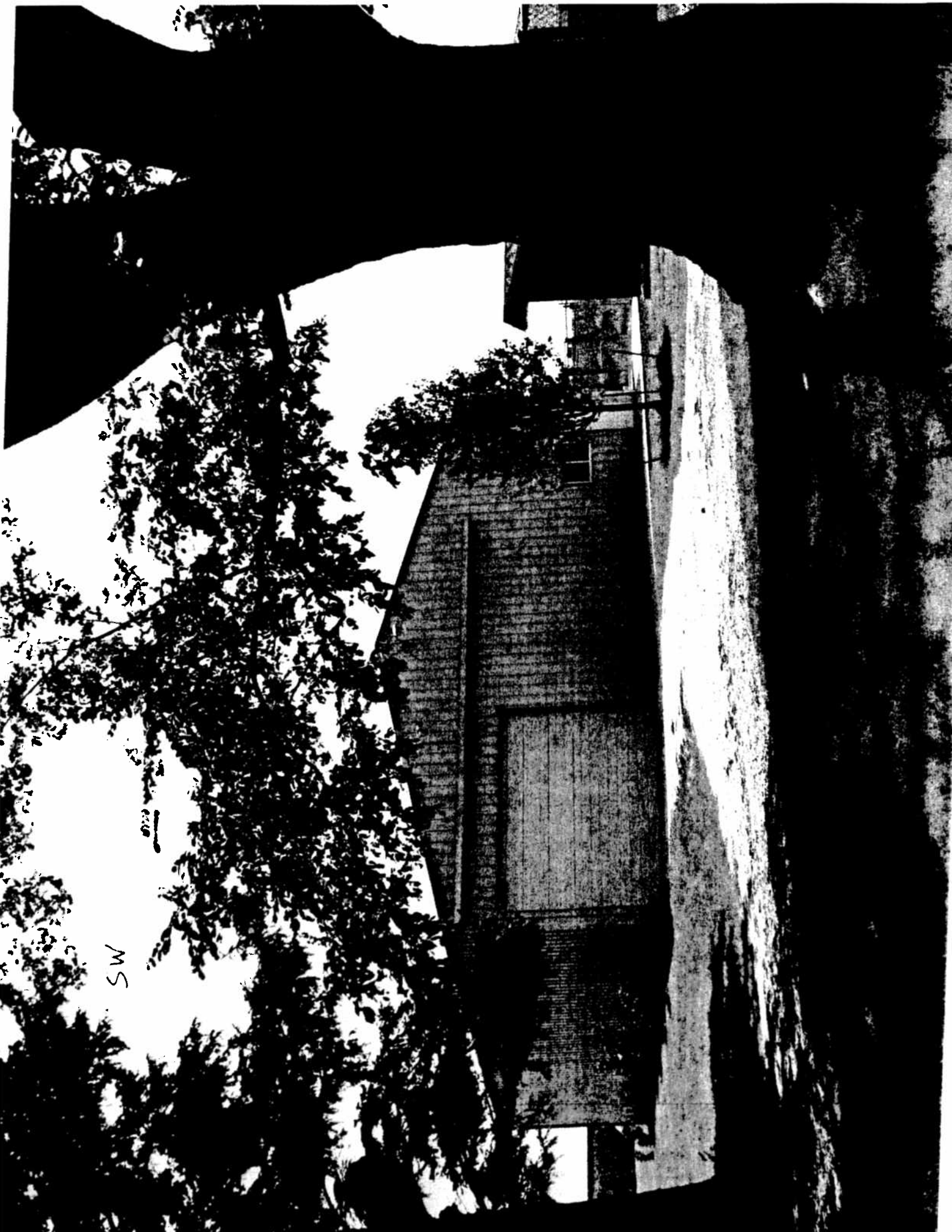


2

S
Kennel (Right half)



MS





W



7

Champaign
County
Department of

September 18, 2009



Judy Warmbier
2173 CR 750E
Champaign, IL 61822

FILE COPY

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

(217) 384-3708

RE: Request for additional information for Case 655-S-09

Dear Ms. Warmbier:

At this time the public hearing for Case **655-S-09**, your request for a Special Use Permit (SUP) for a kennel, is tentatively scheduled for October 15, 2009. However, in order to move ahead with the public hearing for this date additional information regarding the operations of your kennel is required, as listed below:

- At our meeting on August 19, 2009, when you submitted your SUP application, I indicated to you that the photograph of the floorplan of the kennel building could not be distributed to the Board because of copier issues and an actual copy or sketch of the floorplan of the kennel building is necessary. Please submit a floorplan that can be legibly copied.
- Please submit a description of the activities that take place in the kennel building (procedures for the animals kept, waste disposal, etc...).
- Please submit a floorplan of the "studio" building indicated on your site plan. You indicated to me on August 19, 2009, that you keep some cats in that building and that animal clinic activities take place in that building, and so the building needs to be part of the SUP.
- Please submit a description of the activities that take place in the studio building (animal procedures, clinic activities).
- Please submit in writing, whether you have any employees, the hours they are present on the property and how many are present at any given time.
- If there are other state or local requirements (such as Public Health permits for waste disposal) please submit any documentation regarding your compliance with those requirements. If you are not aware of any additional requirements at the state or local level please indicate as such.

In order to keep your SUP request at the Zoning Board meeting on October 15, 2009, this information should be received in this office no later than September 28, 2009. If you have any questions or concerns please contact me at 384-3708 or by email at jknight@co.champaign.il.us.

Sincerely,

J.R. Knight
Associate Planner

RECEIVED

SEP 24 2009

CHAMPAIGN P&Z DEPARTMENT

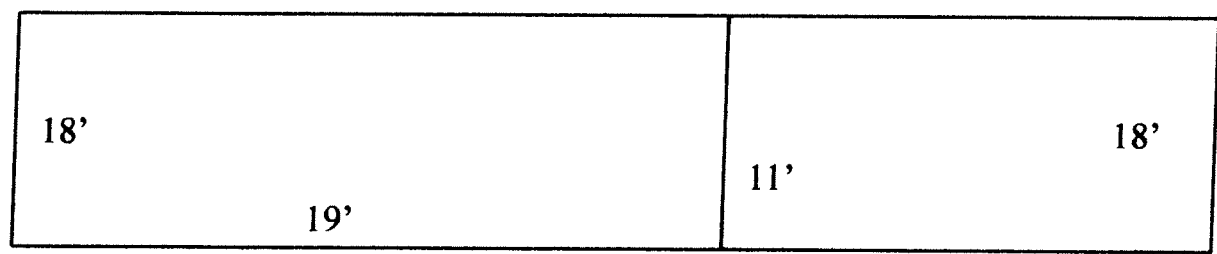
Date: September 20, 2009

To: Mr. James Knight
Department of Planning and Zoning
Brookens Administrative Center
1776 East Washington Street
Urbana, IL 61802

From: Judy Warmbier,
2173 CR 750 E
Champaign, IL 61822-9538

Subject: Additional information for Case #655-S-09

- New floor plan for kennel enclosed
- Dogs and cats will kept, boarded, bred, or retained for compensation.
- Studio building is a simple 2 room building.



Studio building floor plan

- Studio building actives include office for record keeping, spaying, neutering and vaccinations and animal bathing.
- No employees
- Compliance with all State and local requirements I'm aware of

STATE OF ILLINOIS
DEPARTMENT OF AGRICULTURE
Bureau of Animal Health and Welfare

License No.
10984

Expiration Date
06/30/2010

PRAIRIELAND ANTI-CRUELTY PROGRAM
WARMBIER, JUDY - PRESIDENT
2173 CR 750E
CHAMPAIGN, IL 61822

Licensed as a(n) **ANIMAL SHELTER**

The licensee named above has met the requirements for compliance and licensure under the Illinois Animal Welfare Act which includes regulations and provides penalties for violations thereof. This license expires annually June 30.



Mark F. Ernst

State Veterinarian

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LITHO IN U.S.A.

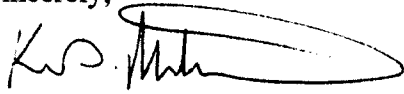
August 13, 2009

Kevin and Christina Mitchaner
745 CR 2175 North
Champaign, Il 61822

To Whom It May Concern:

It has been brought to our attention that there have been some questions and concerns regarding the kennel and animals adjacent to our property that is owned by the Warmbiers. As the only neighbors of the Warmbiers we would like to express that we feel the animals are well cared for and in no way a problem. They are not only considerate of the welfare of their animals, but our also considerate of the animals on our property. They are careful to place their dogs inside every evening so as not to disturb our family. If you have any questions or concerns, please feel free to contact us at 217-586-7696.

Sincerely,

 Chris K Mitchaner

Kevin and Christina Mitchaner

RECEIVED

28 2009

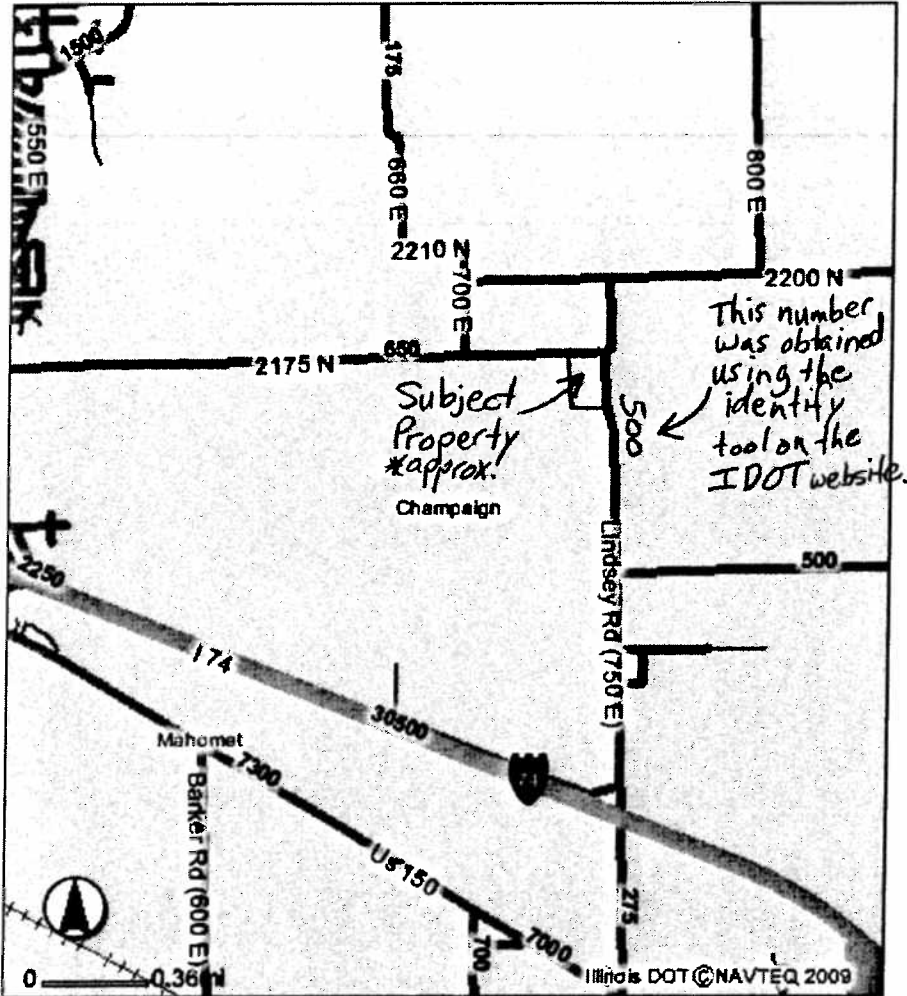
CHAMPAIGN CO. P & Z DEPARTMENT

ANNOTATED



Illinois Department of Transportation

Send to printer



Date: 10/23/2009

All rights reserved. Use subject to License/Copyright
 Illinois Department of Transportation
 2300 S. Dirksen Pky
 Springfield, IL 62764

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Raub silt loam, 0 to 3 percent slopes 481A

Evaluation Factors	Soil and Site Conditions	Degree of Effects Limitation On Use	Typical Corrective Measures Kinds	Continuing Limitations		
				Index	Index	
Flooding	None	None	None	None		
Depth to High Water Table (Ft)	1.0-3.0	Severe	Subsurface Drainage or Fill and Curtain Drain	12	Possible Surfacing of Effluent	
Permeability (IN/HR): (24-60")	0.2-0.6	Severe	Large Absorption Field 290-385 Sq.Ft./Bedroom	4	None	
Slope (PCT)	0-3	Slight	None	None	None	
Total				16	Total	5

100 - 16 = 84

Performance Standard Index

Measure Cost Index

Continuing Limitation Cost Index

Soil Potential Index 1/

1/ If performance exceeds the standard increase SPI by that amount.

WORKSHEET FOR PREPARING SOIL POTENTIAL RATINGS

Soil Use: Septic Tank Absorption Fields

Area: Champaign County, Illinois

Mapping Unit: Parr silt loam, 2 to 5 percent slopes 221B

Evaluation Factors	Soil and Site Conditions	Degree of Limitation	Effects On Use	Typical Corrective Measures		Typical Continuing Limitations
				Kinds	Index	
Flooding	None	Slight	None	None	None	None
Depth to High Water Table (Ft)	>6.0	Slight	None	None	None	None
Permeability (IN/HR): (24-60")	0.6-2.0	Moderate	None	Standard Absorption Field 210-290 Sq.Ft./Bedroom	0	None
Slope (PCT)	2-5	Slight	None	None	None	None
Total				Total	0	Total

100 - - 0 - - 0 - - 100

Performance Standard Index

Measure Cost Index

Continuing Limitation Cost Index

Soil Potential Index 1/

1/ If performance exceeds the standard increase SPI by that amount.



PrairieLand Anti-Cruelty Program PrairieLand Spay/Neuter Program

Our Hopes

In addition to promoting a better life for animals, we hope to **reduce the number of unwanted animals** that result from pets not being spayed or neutered.

Allowing animals to overbreed adds to the numbers that are brought to animal shelters for adoption, often exceeding their capacity.

Overpopulation breeds poor conditions for animals and leads to too many in one location. These animals can suffer poor nutrition and disease, lack adequate shelter, and become targets for abuse.

Our program aims to save lives by lowering the number of animals produced by irresponsible breeding. We know that we can't change the world, but we can change the quality of life for one animal at a time.

Our Goals

- To improve the welfare of animals whose owners have limited funds and resources.
- To assist in the spaying/neutering of these pets to prevent unwanted litters that contribute to the problems of pet overpopulation.
- To educate people about the appropriate care of animals through proper nutrition, shelter, and veterinary care.
- To educate people about the importance of spaying/neutering in population control, because unwanted animals never receive adequate care.



Prairieland Anti-Cruelty Program Prairieland Spay/Neuter Program

Pet Gallery

Click [here](#) for a gallery of our current adoptables. Come out and see us at the PetsMart in Champaign! (Our adoptable cats and kittens are on display every other month at PetsMart. During the off-months, please call 217-586-6616 or e-mail placp.spayneuter@gmail.com.)

The gallery is updated as often as possible. PLACP also has cats and kittens in foster homes who are available. This gallery is just a small selection of who's looking for a home.

At this time, we are especially looking for homes for adult cats (1 year and older). These cats are great companions but are more difficult to place than kittens because everyone wants a "cute kitten". Remember: an adult cat is just as playful as a kitten, and is just as deserving of a home. Adult cats are calmer and more settled than kittens, and take up a lot less of your energy and attention! Adult cats are ideal for homes that want a pet whose personality and good habits are already established.

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XHTML | CSS - Thanks to: [Pet Medicine](#) | Web site Design by : WDD

[Gmail](#) [Calendar](#) [Documents](#) [Reader](#) [Web](#) [more v](#)

[New Features](#) | [Help](#) | [Sign In](#) | [Sign up for Picasa Web Albums](#) |

[web Albums](#) [Explore](#) [Click here to view...s Gallery](#)

Click here to view: **Prairieland Spay/Neuter Adoptables**

[Slideshow](#) [Share](#) [Download](#) [Prints](#)

Photos by: [Click here to view...](#)

May 29, 2008
photos: 34 - 1 MB
Public

[RSS](#)

[Report abuse](#)



Lucky Lucy Female, 7



Taffy Male, 9 weeks old



Mabel Female, 9 weeks old



Whiskers Male, 10 weeks



Al, Female, 10 weeks old



Wilbur Male, 10 weeks old



Tommy Male, 10 weeks old



Spot Male, 10 weeks old



Tuffy Male, 10 weeks old



Shemo Male, 10 weeks old



Sox Male, 10 weeks old



Smudge Male, 10 weeks old



Bessy Female, 10 weeks



Missy Female, 10 months



Azure Female, Siamese mix



Sassy Female, 9 weeks old



Ben Male, 9 weeks old



Bosay Male, 10 weeks old



Osce Male, 10 weeks old



Joey Male, 10 weeks old



Max Male, 10 weeks old



Tango Male, 10 weeks old



Are Male, 10 weeks old



Sara Female, 10 weeks old



Lucky Lucy Female, 10



Yeller Male, 10 weeks old



Tim Male, 10 weeks old



Zeki Male, 10 weeks old



Peanut Male, 10 weeks old



Hogans Male, 10 weeks old



Bear Male, 10 weeks old



Sammy Female, 8 months



Holly Female, Longhaired

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Prairieland Anti-Cruelty Program
Prairieland Spay/Neuter Program

Adoption Information

The PetSmart store at 2017 North Prospect, Champaign, Illinois, generously assists Prairieland Anti-Cruelty Program (PLACP) by allowing us to display a selection of our adoptable cats and kittens in their adoption room. PLACP adoptables can be seen every other month (January, March, etc.) at PetSmart. You may also call PLACP at 217-586-6616 to make an appointment to visit our facility at other times.

PLACP is not affiliated with PetSmart. PLACP has its own adoption policies and procedures. If you have any questions, please contact PLACP rather than asking PetSmart staff.

[Click here](#) to download the application form.

Return the application via fax to 217-586-6616 or via e-mail to placp.spayneuter@gmail.com.

[Home](#) | [Pet Gallery](#) | [Adoption Info](#) | [Contact Us](#) | [Narrations](#) | [Volunteer](#) | [Dog Boarding](#)



PrairieLand Anti-Cruelty Program
PrairieLand Spay/Neuter Program

How to Contact PLACP

PrairieLand Anti-Cruelty Program
PrairieLand Spay/Neuter Program
Judy Warmbier, Director
Phone and Fax: 217-586-6616

Webmaster and E-mail Contact
Peggy Currid
placp.spayneuter@gmail.com

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[XHTML](#) | [CSS](#) - Thanks to: [Pet Medicine](#) | Web site Design by : [WDD](#)



PrairieLand Anti-Cruelty Program
PrairieLand Spay/Neuter Program

Donations

Supplies Needed

- KMR replacement milk
- towels and washcloths
- paper towels
- cotton swabs
- large and extra-large wire cages
- canned cat food
- jars of baby food (turkey and chicken)
- blankets
- chlorine bleach
- laundry detergent
- litter
- fleece material for bedding

Cash Donations...

...are always needed and very much appreciated. PLACP receives no government or other funding. We rely entirely on donations and grants. Donations are tax deductible. Please make your check payable to PrairieLand Anti-Cruelty Program and send it to PLACP, 2173 CR 750 E, Champaign, IL 61822

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WDD



PrairieLand Anti-Cruelty Program PrairieLand Spay/Neuter Program

Information for Volunteers

PLACP relies on volunteers to assist with many of its day-to-day functions and special activities. You can volunteer for regular duties or for occasional events, such as adopt-a-thons. Among the things we need help with are

- * adoption counseling
- * grooming
- * cage cleaning
- * foster care
- * cat socialization
- * newsletter mailings
- * adopt-a-thons
- * and more!

We do require that our volunteers be at least age 18 or be supervised by an adult guardian, have transportation, and can follow through on their commitments.

Please complete and return the [volunteer application](#). The application may be faxed to 217-586-6816 or e-mailed to placp.spayneuter@gmail.com. We look forward to working with you to make the world a more humane place for all animals.



PrairieLand Anti-Cruelty Program
PrairieLand Spay/Neuter Program

Dog Boarding at PrairieLand

When you travel, treat your dogs to the best by boarding at PrairieLand. And you'll be helping animals in need. All boarding fees support PrairieLand Anti-Cruelty Program's efforts to spay, neuter, and provide care to needy animals.

Our brand-new facility offers

- Heated concrete floors
- Indoor-outdoor runs
- Heated/ventilated interiors
- Clean, spacious enclosures (5 x 15 feet, chainlink)
- First-rate, experienced supervision
- Convenient location between Champaign and Mahomet
- Flexible hours for pick-ups and drop-offs
- Affordable daily rates: \$18 for large dogs, \$17 for medium, \$16 for small

To arrange for dog boarding, or for more information, call Judy Warmbier, 217-586-6616. [Click here to download a flyer](#).



Prairieland Dog Boarding



When you travel...

Treat your dogs to the best by boarding at Prairieland!

...you can help those in need

*All fees support Prairieland Anti-Cruelty Program
spays, neuters, and care of animals in need – 100%!*

Comfortable

Heated concrete floors

Outdoor Access

Indoor-outdoor runs

Spacious

Heated/ventilated interiors

Secure

5 x 15 feet chain link
enclosures

Sanitary

First-rate supervision

Convenient

Located between Champaign
& Mahomet

Economical

Flexible hours for pick-up &
drop-off

\$18 lrg dog/\$17 med/\$16 sml



Judy Warmbier

Prairieland Anti-Cruelty Program

2173 Co. Rd. 750E

Champaign, IL 61822-9538

Phone: 217-586-6616

NEW!

Gypsy Bug Banner Ads
Now 3 Types of Advertising Banners
to Match Your Needs!



[Home](#) [Store](#) [Search Classified Ads](#) [Place a Free Classified Ad](#) [Find Your Local Rep](#) [GypsyBug News](#)

Ad Details

'Announcements (General)' Category

Advertisement
PictureMeWithYou
The **FREE**
picture perfect
match site

Dogboarding

viewed 43 times

Ad Description



PrairieLand Dog Boarding offers state of the art boarding facilities for those who are interested in providing the best of away from the home care for their family pets. PrairieLand is also an all volunteer organization promoting the well being of all animals. PrairieLand is an Anti-Cruelty Spay and Neuter Program providing a quality of care for animals in need. All of the proceeds from our boarding facility will go to support our ongoing crusade 100%!!!. The boarding facility is located just outside of Champaign-Urbana Illinois in rural Mahomet near the beautiful Lake of the Woods park and golf course. We offer comfortable heated concrete floors, in-floor-outdoor runs spacious 5x15 chainlink enclosures, first rate supervision and flexible drop off and pick up times and days. We have competitive rates: \$15 for large \$12 for medium and \$16 per day for small. Please call 217-586-6616 to make arrangements and rest assured that your pet will be well cared for while you enjoy your next outing or vacation. You can also look by clicking on the link at the bottom of this ad.

[Click here to find your match](#)

Advertise For Free
Our Free Classified Listings Are Seen By 1000s Daily. Sign Up Today!
[www.SaleSpider.com/F](http://www.SaleSpider.com/)

Ads by Google

Customer Reviews

Presently no customer rating/reviews

[Write a review for this product/service](#)

Advertiser Information

Address: Not Available!

Location: oakwood, IL

Contact:

Phone: (217) 586-6616

Email: Not Available!

Website: Not Available!

Map/Directions: Not Available!

Other Pictures

No pictures available!

RETURN

PRELIMINARY DRAFT

655-S-09

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

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

Date: October 29, 2009

Petitioners: Judith and Gerald Warmbier

Request: Authorize a Kennel as a Special Use Permit in the AG-1 Zoning District with a waiver of the standard conditions for (1) a minimum separation of 200 feet between outdoor animal exercise areas and any adjacent residential use and (2) a minimum side yard of 200 feet and a minimum rear yard of 200 feet.

SUMMARY OF EVIDENCE

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

1. The petitioners, Judith and Gerald Warmbier, own the subject property.
2. The subject property is a five acre tract in the East Half of the Southeast Quarter of the Northwest Quarter of Section 17 of Hensley Township and commonly known as the house and outbuildings at 2173 CR750E, Champaign.
3. Regarding municipal and township jurisdiction:
 - A. The subject property is located within the one-and-one-half mile extraterritorial jurisdiction (ETJ) of the Village of Mahomet. Municipalities with zoning do not have protest rights on Special Use Permits within their ETJ, however they do receive notice of such cases and they are invited to comment.
 - B. The subject property is located in Hensley Township, which has a plan commission. Townships with plan commissions do not have protest rights on Special Use Permits located in their townships, however they do receive notice of such cases and they are invited to comment.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:

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

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- A. The subject property is zoned AG-1 Agriculture and is in use as a single family dwelling and Prairieland Dog Boarding, an unauthorized, nonconforming kennel, and Prairieland Anti-Cruelty Program, an unauthorized animal rescue operation, that is the subject of this case.
- B. Land on all sides of the subject property is zoned AG-1 Agriculture.
- C. Land to the west of the subject property is in use as a single family dwelling.
- D. Land to the north, east, and south of the subject property is in use as farmland.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

- 5. Regarding the proposed site plan and operations of Prairieland Anti-Cruelty Program, there are three buildings that make up the proposed Special Use, as follows:
 - A. The kennel building appears to be a metal clad former agriculture-related building that is approximately 40 feet by 65 feet and is located on the southern lot that makes up the subject property. It has one overhead door and one regular door both located on north side of the building and another regular door on the west side of the building. The interior of the building was remodeled and converted to a kennel sometime after 2001, as follows:
 - (1) There is an office just inside the north door that leads into the rest of the kennel.
 - (2) A four foot wide hallway grants access to the rest of the kennel. The dog runs are on the west side of the hallway and there are four rooms on the east side of the hallway that serve multiple purposes, as follows:
 - (a) There is a bathroom.
 - (b) There is a utility room with the furnace, a washer/dryer, a tub, and a water heater.
 - (c) There is a cat room. The capacity of this cat room is not indicated.
 - (d) The final room is a storage room.
 - (3) There is a note indicating that there are nine dog runs that are five feet by five feet inside, but are advertised to extend outside the building as well. There seems to be some discrepancy between the note and the way the kennels are drawn on the floor plan. The kennels are advertised to have heated concrete floors.
 - (4) There is no indication what is done with the rest of the kennel building outside the area used as a kennel.
 - (5) There is no information regarding whether or not there is a septic system that serves the kennel building and if there is whether or not it is a new system that serves only the kennel or a pre-existing system that serves the kennel and any of the other buildings on the subject property, such as the house.

- B. There is a second building on the southern lot that is labeled as a dog run, but no other information regarding this building is available at this time.
- C. Near the home on the northern lot is a building labeled as a studio that is 18 feet by 30 feet overall and it too was remodeled and is separated into two rooms, as follows:
 - (1) One of the rooms in the building is 18 feet by 19 feet and the other room is 11 feet by 18 feet.
 - (2) The petitioners have indicated that activities which take place in the studio building include an office for record keeping, spaying and neutering, vaccinations, and animal bathing. There is no indication on the floor plan which activities take place in which room, nor is there any explanation of when the spaying, neutering and vaccination services are provided nor whether those services are provided by a licensed veterinarian.
- D. Regarding the operations of Prairieland Anti-Cruelty Program:
 - (1) The proposed Special Use appears to include elements of a kennel, veterinary hospital, and animal rescue.
 - (2) The petitioners have indicated they have no employees, but their website indicates they use volunteers for many of their day to day operations.
 - (3) The petitioners have indicated they dispose of solid animal waste in airtight bags that are placed in a dumpster before being removed from the property. Liquid waste is indicated to go to a septic tank.
 - (4) The petitioners indicate that dogs and cats will be kept, boarded, bred, or retained for compensation.
 - (5) The petitioners indicate they are in compliance with all state and local requirements they are aware of.
- E. The petitioners provided a letter from neighbors Kevin and Christina Mitchaner who live at 745 CR 2175N who state that the animals on the subject property are well cared for and do not present a problem or nuisance to them. The dogs are placed inside every evening to prevent any problems with the neighboring property.
- F. The petitioners have also provided a copy of their license from the Illinois Department of Agriculture Bureau of Animal Health and Welfare. It states the petitioners have met the requirements of the Illinois Animal Welfare Act and it expires annually on June 30.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a Kennel as a Special Use in the AG-1 Agriculture Zoning District in the *Zoning Ordinance*:
 - A. Section 5.2 authorizes Kennels as a Special Use in the CR, AG-1, AG-2, and B-4 Districts.

PRELIMINARY DRAFT

- B. Section 6.1.3 establishes the following standard conditions for any Kennel:
- (1) A minimum Lot Area of one acre.
 - (2) Enclosed KENNELS shall not permit animals to be kept either temporarily or permanently outside the KENNEL.
 - (3) One SINGLE FAMILY DWELLING may be permitted on the site provided it is for occupancy by the OWNER or employee of the KENNEL.
 - (4) KENNELS where animals are kept either temporarily or permanently outside of the KENNEL shall adhere to the following requirements:
 - (a) Provide a six foot wire mesh fence to encompass outdoor animal exercise and/or training area.
 - (b) Any outdoor animal exercise and/or training area shall be 200 feet from any adjacent residential STRUCTURE and/or USE and shall have a noise buffer of evergreen shrubs or trees a minimum of four feet in HEIGHT installed separating the exercise and/or training area from any adjacent residential STRUCTURE and/or USE.
 - (5) Maintain a SIDE YARD setback and a REAR YARD setback of 200 feet.
- C. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to findings (1) that the waiver is in accordance with the general purpose and intent of the ordinance and (2) will not be injurious to the neighborhood or to the public health, safety, and welfare.
- D. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) "ACCESSORY BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) "DWELLING UNIT" is one or more rooms constituting all or part of a DWELLING which are used exclusively as living quarters for one FAMILY, and which contains a bathroom and kitchen.
 - (3) "KENNEL" is a LOT or PREMISES on which six or more dogs or six or more cats (or any combination thereof) at least six months of age are kept, boarded, bred, or retained for compensation; or a LOT or PREMISES on which dogs and/or cats are raised and offered for sale, adoption, or exchange, with or without compensation.

- (4) "LOT" is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (5) "SPECIAL CONDITION" is a condition for the establishment of the SPECIAL USE.
 - (6) "SPECIAL USE" is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (7) "STRUCTURE, MAIN or PRINCIPAL" is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
 - (8) "VETRINARY HOSPITAL" is a place where animals or pets are given medical or surgical treatment by a licensed veterinarian. Use as a KENNEL shall be limited to short term boarding and shall only be incidental to a veterinary hospital use.
- E. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
 - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare;
 - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
 - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
 - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- F. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:

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- A. The Petitioner has testified on the application, **“The public has expressed a need of a kennel. We used to board in a different location and many of our old customers are coming back to us.”**
- B. The proposed use is located in a rural area with a low density of residential uses.
- C. The proposed use appears to include much more than a simple boarding kennel and includes the Prairieland Anti-Cruelty Program which has the following goals:
 - (1) To improve the welfare of animals whose owners have limited funds and resources.
 - (2) To assist in the spaying/neutering of these pets to prevent unwanted litters that contribute to the problems of pet overpopulation.
 - (3) To educate people about the appropriate care of animals through proper nutrition, shelter, and veterinary care.
 - (4) To educate people about the importance of spaying/neutering in population control, because unwanted animals never receive adequate care.

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

- 8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
 - A. The Petitioner has testified on the application, **“Our kennel will be kept in a sanitary manner. We remove solid waste, bagging it in airtight bags and putting it into a dumpster. Liquid waste goes into a septic tank.”**
 - B. Regarding surface drainage, the subject property is not located in a low area. The amount of impervious area on the subject property does not trigger any requirement for stormwater detention under the *Champaign County Stormwater Management Policy*.
 - C. The subject property is accessed from CR 750E (Lindsey Road) on the east side of the property and is located between 1.5 and two miles from US 150. Regarding the general traffic conditions on CR 750E at this location and the level of existing traffic and the likely increase from the proposed Special Use:
 - (1) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data, in the vicinity of the subject property, is from 2006, as follows:
 - (a) Along CR 750E where it passes the subject property the ADT is 500 trips.
 - (b) CR 2175N is the nearest cross street to CR 750E and it has 650 ADT where it passes the subject property.

- (c) It is difficult at this time to estimate the amount of increase from the proposed use because of the diversity of proposed uses.
 - (2) The Township Road Commissioner has been notified of this case, but no comments have been received as of yet.
- D. Regarding fire protection of the subject property, the subject property is within the protection area of the Cornbelt Fire Protection District and is located approximately 5.5 road miles from the fire station. The fire protection district has been notified of this request, but no comments have been received at this time.
- E. The subject property is not located within a Special Flood Hazard Area.
- F. Regarding outdoor lighting on the subject property, there is no information on the current site plan regarding outdoor lighting for any purpose. However, in one of the photographs of the kennel building submitted by the petitioners there appears to be a light pole located near the northwest corner of the kennel building.
- G. Regarding subsurface drainage, the subject property does not appear to contain any agricultural field tile.
- H. There is no information about the hours of operation of the proposed Special Use Permit.
- I. Regarding wastewater treatment and disposal on the subject property:
 - (1) There is no information available at this time regarding the kennel's wastewater treatment system.
 - (2) The northern lot appears to be comprised mainly of Parr silt loam (map unit 221B) which has a high soil potential index rating of 100.
 - (3) The southern lot appear to be comprised mainly of Raub silt loam (map unit 481A) which has a medium soil potential index rating of 79.
 - (4) There is also no information on the site plan regarding where the waste containers that will store solid waste from animals are being kept.
- J. Neighbors Kevin and Christina Mitchaner, 745 CR 2175N, submitted a letter to the petitioners who submitted to staff on September 28, 2009. The letter states that the animals on the subject property are well cared for and do not present a problem or nuisance to them. The dogs are placed inside every evening to prevent any problems with the neighboring property
- K. It is difficult to evaluate whether the proposed Special Use will generate either nuisance conditions such as noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, that are in excess of those lawfully permitted and customarily associated

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with other uses permitted in the zoning district due to a lack of information regarding the following:

- (1) The actual number and types of animals that are present on the subject property at any one time.
- (2) The actual services offered and the number of customers on busy days.
- (3) The number of volunteers required to operate and the hours of operation for the actual services offered.
- (4) Other relevant missing information is discussed elsewhere in the Summary of Evidence.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
 - A. The Petitioner has testified on the application, **“Yes, our kennel plans fit well within the uses as outlined in the Champaign Standards outlined in the Champaign County Zoning Ordinance, Section 6.”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) The proposed use appears to meet the definition of a KENNEL in the *Zoning Ordinance* and also includes some elements of a VETERINARY HOSPITAL, both of which are allowed in the AG-1 Zoning District by Special Use Permit.
 - (2) The proposed Special Use complies with all area and placement requirements for the AG-1 District in Section 5.3. However, Subsection 6.1.3 has greater requirements for side and rear yard and separation to the nearest residential structure which are reviewed below in Item 9.B.(4).
 - (3) Regarding parking on the subject property,
 - (a) In previous Zoning Cases regarding kennels it has been established that the parking requirements for a kennel are the same as for a boarding stable. Subparagraph 7.4.1C.3.h requires that riding stables provide one off-street parking space per three horses boarded, one for each horse trailer, and one for each employee.
 - (b) The floor plan of the kennel building indicates there are nine dog runs which would require three parking spaces. There is also a cat room, but there is no information regarding the capacity of the cat room. Although there are no paid employees that work on the site the website indicates that the propose use does have volunteer workers. There is no information regarding how many volunteers may be present on the subject property at one time.

- (c) The site plan shows two driveways on the subject property. One of the drives is for the house on the subject property. The other driveway serves the studio and kennel building and appears to be approximately 2900 square feet in area.
 - (d) According to the *Zoning Ordinance* standard of 300 square feet for each parking space, which includes parking spaces and maneuvering area, the second driveway could provide up to nine spaces by parking cars along the sides and in areas that aren't necessary for maneuvering. The driveway does serve the kennel building and it is unclear what purpose the area on the other side of the overhead door inside the kennel building serves so it may be possible that some vehicles could be parked inside the kennel building.
- (4) Regarding compliance with standard conditions of approval for KENNELS indicated in Section 6.1.3, as follows:
- (a) A minimum Lot Area of one acre.

A waiver of this standard condition does not appear to be necessary because the subject property is five acres in area.
 - (b) Enclosed KENNELS shall not permit animals to be kept either temporarily or permanently outside the KENNEL.

A waiver of this standard condition is not necessary because the proposed KENNEL is not fully enclosed.
 - (c) One SINGLE FAMILY DWELLING may be permitted on the site provided it is for occupancy by the OWNER or employee of the KENNEL.

A waiver of this standard condition does not appear to be necessary because there is only one single family dwelling on the subject property.
 - (d) For KENNELS that have animals kept either temporarily or permanently outside, provide a six foot wire mesh fence to encompass outdoor animal exercise and/or training area.

It is unclear at this time whether a waiver of this standard condition is necessary. The photographs submitted by the petitioners seem to indicate fencing around the outdoor dog runs along the west side of the kennel building. However, there is no fencing indicated on either the site plan or the floor plan of the kennel building.
 - (e) For KENNELS that have animals kept either temporarily or permanently outside,, any outdoor animal exercise and/or training area shall be 200 feet from any adjacent residential STRUCTURE and/or USE and shall have a noise buffer of evergreen shrubs or trees a minimum of four feet in HEIGHT installed separating

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the exercise and/or training area from any adjacent residential STRUCTURE and/or USE.

A waiver of this standard condition is necessary because the house of Kevin and Christina Mitchaner, which is located on the adjacent residential property to the west of the subject property is located less than 200 feet from the outdoor dog runs on the west side of the kennel building.

- (f) Maintain a SIDE YARD setback and a REAR YARD setback of 200 feet.

A waiver of this standard condition is necessary because the kennel building has only a 165 feet side yard on the south side and only a 150 feet rear yard to the west.

- C. Regarding compliance with the *Stormwater Management Policy*:
- (1) Regarding the requirement of stormwater detention, the subject property has very little impervious surface and is exempt from this requirement.
 - (2) Regarding the requirement to protect agricultural field tile, there does not appear to be any field tile on the subject property.
- D. Regarding the Special Flood Hazard Areas Ordinance and Subdivision Regulations:
- (1) The subject property is not located in the Special Flood Hazard Area.
 - (2) The subject property complies with the Subdivision Regulations.
- E. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Zoning District, the subject property is located less than 1.5 miles from the Village of Mahomet and only 1.5 miles from US Route 150. The appropriateness of this location for a kennel/animal rescue operation is difficult to evaluate at this time.
- F. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings. The Petitioners have not as yet provided any information regarding accessibility for the kennel or studio building.
- G. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - (a) The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire

Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.

- (b) The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
- (c) The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
- (d) Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
- (e) Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
- (f) The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
- (g) The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (h) The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
- (i) When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- (j) Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the

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required number of building exits are provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked. The current review is only sufficient to verify life safety for small and simple buildings.

- H. Regarding public health concerns related to onsite wastewater treatment and disposal, in a phone conversation with John Hall, Zoning Administrator, on October 21, 2009, Jeff Blackford with the County Health Department, indicated that he had no record of a new septic system being installed on the subject property. He also indicated that if the petitioners had installed a new system for the kennel that system would fall under the jurisdiction of either the state Department of Agriculture or state EPA. He said that if the petitioners were using an existing residential system that would fall under the jurisdiction of he County Health Department.

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

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
 - A. KENNELS may be authorized in the AG-1 Agriculture Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived. However, it is not yet clear that the proposed use is just a KENNEL.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.8 of the Ordinance states the general intent of the AG-1 District and states as follows (capitalized words are defined in the Ordinance):

The AG-1 Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURAL pursuits.
 - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
 - C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
 - (1) Paragraph 2 .0 (a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.
 - (a) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan is in

partial compliance with those requirements. The side yard for the kennel building meets the minimum requirements for the AG-1 District, but not the standard conditions for a KENNEL in Subsection 6.1.3.

- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
 - (a) In regards to the value of nearby properties, the effect the proposed Special Use Permit will have is difficult to evaluate at this time.
 - (b) With regard to the value of the subject property, the effect the proposed Special Use Permit will have is difficult to evaluate at this time.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

The current IDOT traffic count is from 2006, and indicates that CR 750E has 500 AADT. However, the impact of the proposed use on this number is difficult to evaluate due to the lack of information

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

The requested Special Use Permit complies with the *Champaign County Stormwater Management Policy* and is outside of the Special Flood Hazard Area and there are no special drainage problems that appear to be created by the Special Use Permit.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
 - (a) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - (b) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

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These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance.

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

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

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

The kennel building has been remodeled since the adoption of zoning without a permit, and it is possible that remodeling has been done on the other buildings as well.

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

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

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

This proposed Special Use Permit does not propose any construction in natural areas.

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

This purpose is not relevant to the proposed Special Use Permit because the AG-1 District is not for urban development. However, the subject property is located well within the Village of Mahomet extraterritorial jurisdiction area.

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

The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. The proposed Special Use is not an existing NONCONFORMING USE because the proposed Special Use is an expansion of the Rural Home Occupation authorized in Zoning Use Permit 279-98-02. The Petitioner has testified on the application, **“Yes, people who board dogs enjoy the knowledge that their dogs and cats are in the country.”**
- A. The proposed Special Use is an existing non-permitted use that will be brought into conformance with the *Zoning Ordinance* by obtaining a Special Use Permit.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. There are no special conditions of approval proposed at this time.

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Special Use Permit Application from Judith and Gerald Warmbier, received on August 19, 2009, with attachments:
 - A Legal Description of subject property
 - B Aerial photograph based site plan of the subject property
 - C Photographs of existing kennel building (5 pages)
 - D Floor plan of kennel building

2. [Petitioner] Response to September 18, 2009, letter from Zoning Office received September 28, 2009, with attachments:
 - A Floor plan for kennel
 - B State of Illinois Department of Agriculture Bureau of Animal Welfare Prairieland Anti-Cruelty Program license for Animal Shelter
 - C Letter from Kevin and Christina Mitchaner

3. Preliminary Memorandum for Case 655-S-09, with attachments
 - A Zoning Case Maps (Location, Land Use, Zoning)
 - B Proposed site plan received August 19, 2009
 - C Annotated site plan w/annotations on separate sheet
 - D Floor plan of kennel building received on September 28, 2009
 - E Petitioner photographs of kennel building received on August 19, 2009
 - F Letter from J.R. Knight to Judy Warmbier dated, September 18, 2009
 - G Petitioner response to staff letter dated September 18, 2009
 - H State of Illinois Department of Agriculture Bureau of Animal Welfare Prairieland Anti-Cruelty Program license for Animal Shelter
 - I Letter from neighbors Kevin and Christina Mitchaner, received September 28, 2009
 - J Annotated IDOT Traffic Map of vicinity of subject property
 - K Soil Potential Worksheets for Parr and Raub silt loams
 - L Prairieland Anti-Cruelty/Prairieland Spay/Neuter Program website
 - M Gypsybug Banner Ad for Prairieland Dogboarding
 - N Preliminary Draft Summary of Evidence for Case 655-S-09

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 655-S-09 held on **October 29, 2009**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { IS / IS NOT }* necessary for the public convenience at this location because: _____

2. The requested Special Use Permit *{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }* is so designed, located, and proposed to be operated so that it *{ WILL / WILL NOT }* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:

a. The street has *{ ADEQUATE / INADEQUATE }* traffic capacity and the entrance location has *{ ADEQUATE / INADEQUATE }* visibility.

b. Emergency services availability is *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

c. The Special Use will be designed to *{ CONFORM / NOT CONFORM }* to all relevant County ordinances and codes.

d. The Special Use *{ WILL / WILL NOT }* be compatible with adjacent uses *{because:¹}* _____

e. Surface and subsurface drainage will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

f. Public safety will be *{ ADEQUATE / INADEQUATE }* *{because:¹}* _____

g. The location *{ IS / IS NOT }* suitable for the proposed onsite wastewater system *{because:¹}* _____

h. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*

1. The Board does not need to include supporting information in every case, only where desirable or necessary.

PRELIMINARY DRAFT

- 3a. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves the essential character of the DISTRICT in which it is located because:
- a. The Special Use will be designed to **{ CONFORM / NOT CONFORM }** to all relevant County ordinances and codes.
 - b. The Special Use **{ WILL / WILL NOT }** be compatible with adjacent uses.
 - c. Public safety will be **{ ADEQUATE / INADEQUATE }**.
 - d. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
-
4. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { IS / IS NOT }** in harmony with the general purpose and intent of the Ordinance because:
- a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit **{ IS / IS NOT }** necessary for the public convenience at this location.
 - c. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN }** is so designed, located, and proposed to be operated so that it **{ WILL / WILL NOT }** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit **{ SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN } { DOES / DOES NOT }** preserves the essential character of the DISTRICT in which it is located.
 - e. *(Note: The Board may include other relevant considerations as necessary or desirable in each case.)*
-
5. The requested Special Use **{ IS / IS NOT }** an existing nonconforming use.
6. **{ NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW: }**

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.11B. **HAVE** been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **655-S-09** is hereby **GRANTED WITH SPECIAL CONDITIONS** to the petitioners **Judith and Gerald Warmbier** to authorize a **Kennel as a Special Use Permit in the AG-1 Zoning District with a waiver of the standard conditions for (1) a minimum separation of 200 feet between outdoor animal exercise areas and any adjacent residential use and (2) a minimum side yard of 200 feet and a minimum rear yard of 200 feet.**

{SUBJECT TO THE FOLLOWING SPECIAL 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