

## **CASES 858-AM-16 and 859-S-16**

*SUPPLEMENTAL MEMORANDUM #1*

*January 12, 2017*

**Petitioner:** Abigail Frank, Amber Barnhart, Trent Barnhart, and Donald Barnhart

### **Case 858-AM-16**

**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 in order to operate the proposed Special Use with associated waiver in related Zoning Case 859-S-16.

### **Case 859-S-16**

**Request:** Authorize the remodeling of existing farm buildings for the establishment and use of an Event Center as a combination “Private Indoor Recreational Development” and “Outdoor Commercial Recreational Enterprise” as a Special Use on land that is proposed to be rezoned to the AG-2 Agriculture Zoning District from the current AG-1 Agriculture Zoning District in related Zoning Case 858-AM-16 with the following waiver to the standard conditions for an Outdoor Commercial Recreational Enterprise:

Authorize a waiver for an Outdoor Commercial Recreational Enterprise that is 185 feet from a residential use in lieu of the minimum required 200 feet separation distance.

**Location:** Four different tracts of land totaling 35.15 acres in the East Half of the Northwest Quarter of Section 4 of Township 18 North, Range 9 East of the Third Principal Meridian in Philo Township and commonly known as the farmstead located east of Barnhart Prairie Restoration at 1433 East Old Church Road, Urbana.

**Site Area:** Map amendment subject property is 4 parcels totaling 35.15 acres; Special Use Permit subject property is a 4.54-acre part of those 4 parcels.

**Time Schedule for Development:** As soon as possible

**Prepared by:** **Susan Chavarria**  
Senior Planner

**John Hall**  
Zoning Administrator

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## **STATUS**

In consultation with the City of Urbana, staff has found that the division of the larger Barnhart property into six smaller tracts, including the subject property’s 4 tracts, was apparently done without proper authorization (i.e. no subdivision approval). Please see the discussion below regarding this development.

In response for our paid request for consultation to the Illinois Department of Natural Resources, IDNR has been reviewing the project, culminating in a site visit on January 11, 2017. While we have not received a final report from IDNR, we have learned from the petitioner that IDNR is concerned about

existing habitat areas for the Franklin Ground Squirrel. Please see the discussion below regarding potential impacts for these zoning cases.

In response to the squirrel habitat concern, a Revised Site Plan was received on January 12, 2017, which moves the proposed parking area to a different part of the subject property.

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## **EXTRATERRITORIAL JURISDICTION**

On July 2, 2001, the City of Urbana annexed what is now the South Ridge Subdivision east of Philo Road. With this annexation, the Barnhart property fell within 1.5 miles of the City, so any division on that land would be subject to the City of Urbana Subdivision Ordinance. Urbana's annexation process apparently occurred almost concurrently with Barnhart family decisions regarding division of the land received as an inheritance, as per the following timeline:

- October 27, 2000      Ed Clancy with Berns, Clancy and Associates created a Boundary Survey showing the division of the Barnhart land into 6 small tracts. This document was never recorded.
- July 2, 2001            City of Urbana Council approved annexation of what is now the South Ridge Subdivision.
- December 20, 2001    Barnhart family members signed a series of Quit Claim Deeds for these 6 smaller tracts.
- January 11, 2002      City of Urbana Clerk records the annexation approved on July 2, 2001.
- February 21, 2002     Barnhart family members record the Quit Claim Deeds for the 6 tracts.

The City of Urbana was made aware of this potential subdivision issue when Zoning Department staff was reviewing documentation for these zoning cases. As per a phone discussion with Susan Burgstrom, City of Urbana Community Development staff stated that it would be appropriate for at least one of the 6 tracts (the 1 acre tract) to go through Urbana's subdivision approval process because the division of that tract did not have a Plat Act Exemption. The City would also like to see some of the access easement agreements among members of the Barnhart family clarified to ensure that they were created in compliance with regulations.

Ultimately, the City would like to have a special condition of approval for Zoning Case 859-S-16 that will ensure that the subdivision and easement issues will be cleared up prior to the County Zoning Department allowing occupancy for the Events Center. On January 11, 2017, staff sent a letter to the petitioners, copied to City of Urbana staff, outlining what next steps the petitioners should take to resolve these issues (see attachment). City staff said that they may have more concerns about traffic and perhaps other topics related to the proposed Special Use Permit in the future.

## **SENSITIVE NATURAL AREAS AND PROPOSED PARKING**

Illinois Department of Natural Resources representative Natalia Jones spoke with Abbie Frank during the January 11, 2017, site visit. Ms. Jones indicated that the proposed 130 feet by 380 feet grass parking area

should be moved in order to not disrupt a habitat of the Franklin Ground Squirrel, which is a threatened species in Illinois. IDNR suggested moving the proposed parking area to farmland just north of the 8.23 acre tract. That farmland is in production, and is Best Prime Farmland, but Ms. Frank indicated in our phone conversation on January 11, 2017, that the Barnhart family has planned to convert that acreage to prairie within 2 to 5 years.

On January 11, 2017, staff requested more information on why the proposed parking area is so significant for the squirrel given that there is 80 acres of prairie adjacent to it. Ms. Jones responded (see attachment).

Based on these findings, Ms. Frank submitted a Revised Site Plan, received January 12, 2017 (see attachment). She proposes moving the grass parking area as IDNR suggests, while keeping the 6 handicap accessible spaces closer to the proposed Events Center. The revised parking area has approximate 150 spaces, in addition to the 6 handicap accessible spaces that would be located east of the event center. A parking area for service vehicles is shown adjacent to the handicap accessible parking.

### **PROPOSED SPECIAL CONDITIONS**

Based on discussion with the City of Urbana, staff expects that a special condition will be required regarding completion of plat approval with the City, although this condition has not yet been proposed. Staff recommends that a proposed Plat of Subdivision be included as a Document of Record as per this condition; the case will need to be continued in order for the petitioners to have time to create a plat and submit an application for approval by the City.

Staff also offers the following special condition for Case 859-S-16, in addition to those listed in the Preliminary Memorandum dated January 5, 2017, and shown below.

- J. The Event Center shall be served by a driveway that has a paved surface consisting of at least six inches of rock that is at least 20 feet wide and a corner radius approved by the Philo Fire Protection District, and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate.**

The above special condition is necessary to ensure the following:

**That the event center can be accessed by emergency vehicles.**

*Special Conditions as proposed in the Preliminary Memorandum dated January 5, 2017:*

The following special condition is proposed for Case 858-AM-16:

- A. The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

The above special condition is necessary to ensure the following:

**Conformance with Policy 4.2.3 of the Land Resource Management Plan.**

The following special conditions are proposed for Case 859-S-16:

- A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 858-AM-16 by the County Board.**

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

**The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.**

- B. **A Zoning Compliance Certificate certifying compliance with all special conditions in this zoning case shall be received within 12 months of receiving a Zoning Use Permit for construction of the additions to the events center.**

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

**The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.**

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- D. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed Private Indoor Recreational Development/Outdoor Commercial Recreational Enterprise until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

**That the proposed Special Use meets applicable state requirements for accessibility.**

- E. **All onsite Special Use activities shall be in compliance at all times with the Champaign County Health Ordinance, the Champaign County Liquor Ordinance, and the Champaign County Recreation and Entertainment Ordinance.**

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

**That the proposed Special Use is in ongoing compliance with all applicable County requirements.**

- F. **The Petitioner shall ensure that the guests are made aware of the County Ordinance prohibiting nuisance noise past 10 pm and that the use of the facility requires compliance to avoid complaints from neighboring residences. Music and other nuisance noise shall not be audible at the property line past 10 pm.**

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

**That events held on the subject property adequately consider prior noise complaints and current neighbors.**

- G. **No parking shall occur in the public street right of way.**

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

**That the proposed Special Use is not injurious to pedestrians and motorists on Old Church Road.**

- H. **There are no limits to the number of events that may be held at the proposed special use and no limit as to when events may occur during the calendar year.**

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

**A clear understanding that there are no limits on the number of events or limits on when events may occur.**

- I. **The Special Use is subject to the approval of Case 858-AM-16.**

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

**That it is consistent with the intent of the ordinance and the ZBA recommendation for Special Use.**

#### **ATTACHMENTS**

- A Letter regarding subdivision of Barnhart property sent by staff on January 11, 2017
- B Email from IDNR specialist Natalia Jones received January 11, 2017
- C Revised Site Plan received January 12, 2017

January 11, 2017

Champaign  
County  
Department of

**PLANNING &  
ZONING**

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

(217) 384-3708

**To:** Abigail Frank, 1413 E Old Church Road, Urbana, IL 61802  
Amber Barnhart, 1949 Outer Park Drive, Springfield, IL 62704  
Trent H Barnhart, 1582 Oak Forest Drive, Rockford, IL 61107-5506  
Donald Barnhart, 613 W Delaware Avenue, Urbana, IL 61801-4804

**RE: Unauthorized subdivision of Barnhart properties**

Dear Petitioners:

As part of the review process for Zoning Cases 858-AM-16 and 859-S-16, it has come to our attention that the division of the larger Barnhart property into six smaller tracts, as detailed in the Boundary Survey completed by Ed Clancy on October 27, 2000, was apparently done without proper authorization (i.e. no subdivision approval).

Within 1.5 miles of a municipality, that municipality regulates and approves the division of land. On July 2, 2001, the City of Urbana annexed what is now the South Ridge Subdivision east of Philo Road. With this annexation, the Barnhart property fell within 1.5 miles of the City, so any division on that land would be subject to the City of Urbana Subdivision Ordinance. It is of note that this annexation was not recorded by the City Clerk as a document until January 11, 2002; our Department considers the recorded date of a document as the relevant date. I do not know if the City of Urbana operates differently in that regard.

If you have any proof of a recorded document for these 6 tracts dated prior to July 2, 2001, then the City of Urbana would not have subdivision jurisdiction. The earliest recorded document we found showing the 6 smaller tracts is from a Quit Claim Deed recorded on February 21, 2002 (Document 2002R06903). While you have the Boundary Survey completed by Ed Clancy on October 27, 2000, there is no evidence it was ever recorded, so it is not valid evidence of a proper subdivision.

The public hearing for the zoning cases can still continue but you should begin the subdivision approval process with the City of Urbana as soon as possible.

I have been in contact with City of Urbana staff members Lorrie Pearson and Christopher Marx ([lpearson@urbanaininois.us](mailto:lpearson@urbanaininois.us), [cdmarx@urbanaininois.us](mailto:cdmarx@urbanaininois.us)), who can be reached by phone at (217) 328-8262. They can discuss the City's subdivision process in more detail, offer possible options, and support you during the subdivision approval process or other procedures they might require.

You will need an Illinois Licensed Surveyor and Professional Engineer to prepare any required Plat of Subdivision, and there is undoubtedly some benefit in continuing to work with Berns, Clancy and Associates. Please copy this Department on any maps or plats that are prepared for your subdivision approval by the City of Urbana.

I recommend that the zoning cases stay at the Zoning Board of Appeals until you have at least a preliminary approval from the City of Urbana for the required plat of subdivision. And, if the Zoning Board of Appeals makes a final recommendation before

you complete the subdivision process with the City of Urbana (which culminates in the recording of the Final Plat), you should expect a special condition of approval that no occupancy may be authorized for the proposed Event Center until the Final Plat has been duly recorded with the Champaign County Recorder of Deeds.

Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Susan Burgstrom".

**Susan Burgstrom**  
Senior Planner

Cc: Lorrie Pearson, Planning Manager, City of Urbana  
Chris Marx, Planner I, City of Urbana

## Susan Burgstrom

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**From:** Jones, Natalia <Natalia.Jones@illinois.gov>  
**Sent:** Wednesday, January 11, 2017 3:19 PM  
**To:** Susan Burgstrom  
**Cc:** abigail.k.frank@gmail.com  
**Subject:** RE: EcoCAT\_1705136. Bluestem Hall

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

RECEIVED

JAN 11 2017

CHAMPAIGN CO. P & Z DEPARTMENT

Susan,

The Franklin Ground Squirrels (FGS) prefer the prairie edge to build their burrows. A lot of burrows were found within or very close to a tree line. FGS can travel up to 6 mi (in this particular location they traveled up to 2 miles) along the edge of the prairie and only about 60 ft. deep in to the prairie. They don't use the rest of it.

Today, while walking through the project area, where the parking lot is supposed to be, I found 3 burrows that based on their size most likely to be the FGS's. As I explained to Abbie in situations like this one, where the species presence is obvious (based on the previous records and physical evidence) and a 'take' of the species from the project activities is likely (which is a violation of the IL Endangered Species Protection Act), the Department recommends Incidental Take Authorization (ITA) in accordance with 17 Ill Adm. Code Part 1080. 'Take' means, in reference to animals and animal products, to harm, hunt, shoot, pursue, lure, wound, kill, destroy, harass, gig, spear, ensnare, trap, capture, collect, or to attempt to engage in such a conduct. The ITA process can take up to four month to complete. It is up to the applicant to follow our recommendation or not. It was my understanding that Abbie would like to avoid going through the ITA process. That is why we have suggested moving the parking lot to a different location as an alternative that will reduce the likelihood of a 'take'. Thus, no ITA will be recommended.

I have included the link to the Endangered Species Protection Act

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1730&ChapAct=520%26nbsp%3BILCS%26nbsp%3B10%2F&ChapterID=43&ChapterName=WILDLIFE&ActName=Illinois+Endangered+Species+Protection+Act%2E>

Hope, this will help. Please let me know if you have any questions.

Thanks,

Natalia Jones  
Impact Assessment Section  
IDNR-Division of Ecosystems & Environment  
One Natural Resources Way  
Springfield, IL 62702  
217-557-0483  
natalia.jones@illinois.gov

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**From:** Susan Burgstrom [mailto:sburgstrom@co.champaign.il.us]  
**Sent:** Wednesday, January 11, 2017 1:33 PM  
**To:** Jones, Natalia  
**Subject:** [External] RE: EcoCAT\_1705136. Bluestem Hall

Hi Natalia,

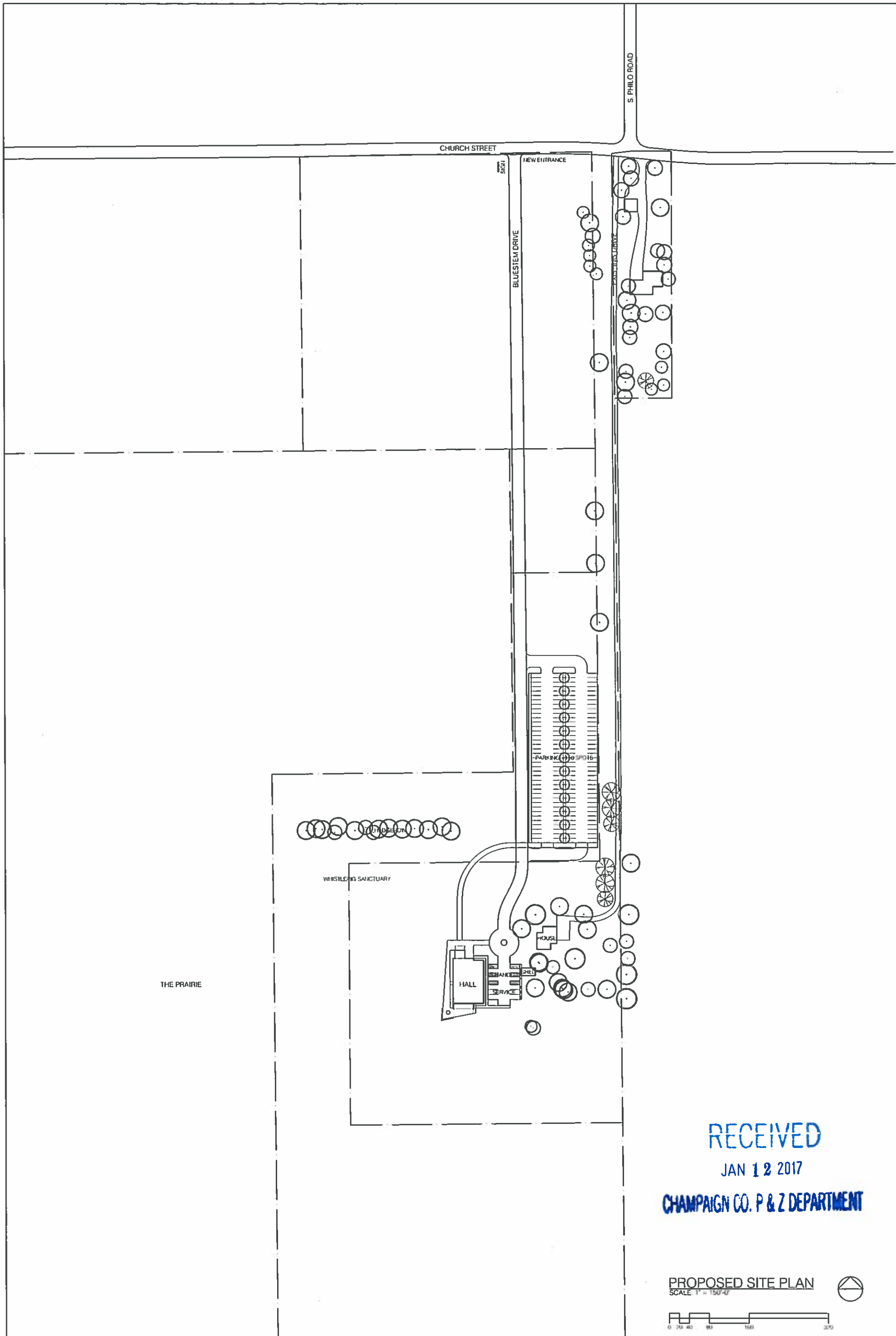


I spoke with Abbie Frank a bit ago about your visit to Barnhart Prairie this morning. She mentioned that IDNR would have an issue with keeping the grass covered parking lot at its proposed location due to the Franklin Ground Squirrel habitat, and that you suggest moving it to nearby farmland on the north side of the house. Not being a biologist, I'm looking for clarification on how moving a grass parking area about 100 feet to the east will no longer impact the squirrel in question. I need to document why IDNR thinks the 80+ acres of prairie preserve (of which this ½ acre proposed parking area is not even a part) is insufficient to house the squirrels. Could you please respond?

Thanks,  
Susan

**Susan Burgstrom**, AICP, PCED  
Senior Planner  
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JAN 12 2017

CHAMPAIGN CO. P & Z DEPARTMENT

PROPOSED SITE PLAN  
SCALE 1" = 150'-0"

