

CASES 066-S-22 & 071-V-22

PRELIMINARY MEMORANDUM

August 17, 2022

Petitioners: Crossroads Grooming & Boarding, Inc, via agent Rochelle Funderburg, Attorney

Request: Case 066-S-22:

Authorize a Kennel as a Special Use Permit in the B-4 General Business Zoning District, with the following waiver, on the subject property described below:

Authorize a waiver from Section 6.1.3 of the Zoning Ordinance for the following:

Part A: Authorize an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence.

Part B: Authorize an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees.

Part C: Authorize a side yard of 118 feet in lieu of the minimum required 200-foot side yard.

Case 071-V-22:

Authorize the following variance for the kennel proposed as a Special Use Permit in related Case 066-S-22, on the subject property described below:

Authorize a variance for no loading berth in lieu of the minimum required one loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

Location: A 3.07-acre tract in the Northeast Quarter of the Northeast Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, and commonly known as Crossroads Grooming & Boarding with an address of 1805 E Olympian Rd, Urbana.

Site Area: 3.07 acres

Time Schedule for Development: Already in use

Prepared by: Susan Burgstrom, Senior Planner
John Hall, Zoning Administrator

BACKGROUND

Crossroads Grooming & Boarding operated as a veterinary hospital with incidental boarding since before the adoption of the Zoning Ordinance on October 10, 1973 and was allowed to continue operating as a non-conforming use. In approximately 2010, the facility stopped being a veterinary hospital and started boarding animals, which triggered the need for a Kennel Special Use Permit. With no complaints and no requested permits, the facility continued to operate without the required Special Use Permit.

The facility changed hands in 2019 and complaints about barking dogs started to come in from a property to the northwest. This prompted a First Notice of Violation from the P&Z Department that required reducing noise and applying for the Special Use Permit. Upon receipt of a Final Notice of Violation, the petitioner's attorney submitted the Special Use Permit application on July 18, 2022.

The petitioner proposes no changes to the subject property.

The petitioner has undertaken some mitigation measures in response to the barking dog complaints, including limiting the dogs' outdoor activity time, maintaining smaller outdoor activity areas that are surrounded by a 6-foot-tall wood privacy fence, and not allowing the dogs to run in a larger fenced part of the property that is closer to residential properties.

It is of note that the barking dog complaints come from farther than 200 feet to the northwest, and the requested waiver for a side yard of 118 feet is for the south yard.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases, but are notified of such cases. Notice of the public hearing was sent to the city.

The subject property is located within Somer Township, which does not have a Plan Commission.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	unauthorized KENNEL, non-conforming residence	B-4 General Business
North	Agriculture	AG-2 Agriculture
East	Commercial	B-4 General Business
West	Residential	B-3 Highway Business
South	Commercial	B-4 General Business

PROPOSED SPECIAL CONDITIONS

- A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That the proposed use is in compliance with the Zoning Ordinance.

- B. **Outdoor activity shall be limited in the following manner:**
 (1) **No dog shall be outside between the hours of 10:00 p.m. and 7:00 a.m.**

(2) **No dog shall be outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**

(3) **Barking dogs shall be promptly brought inside.**

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

To ensure that kennel operations minimize impact on the neighbors.

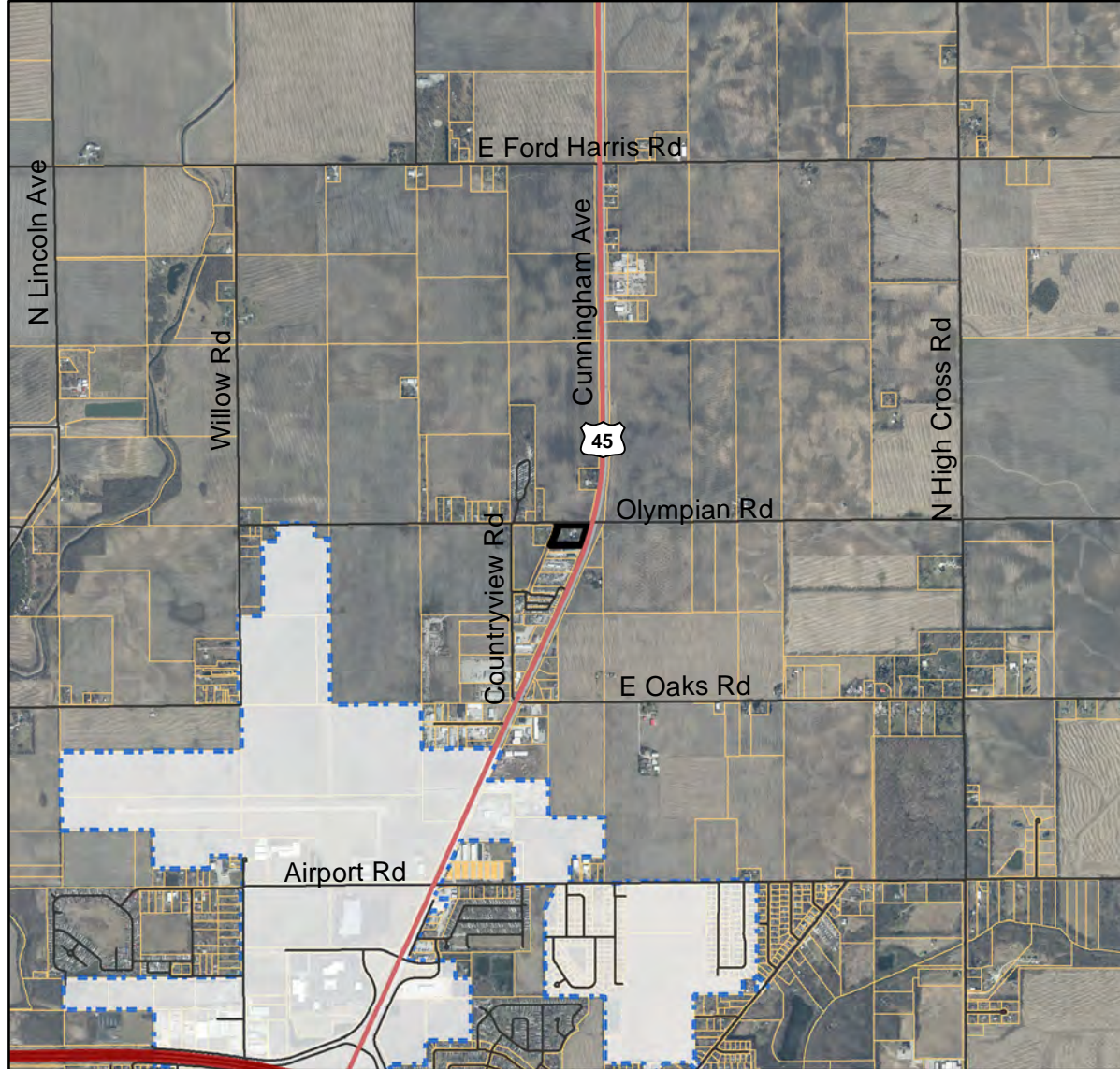
ATTACHMENTS




- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received July 18, 2022
- C Site Visit Photos taken July 25, 2022 and August 4, 2022
- D Summary of Evidence, Finding of Fact, and Final Determination for Case 066-S-22

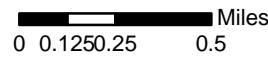
Location Map

Cases 066-S-22 & 071-V-22
August 25, 2022

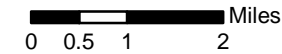
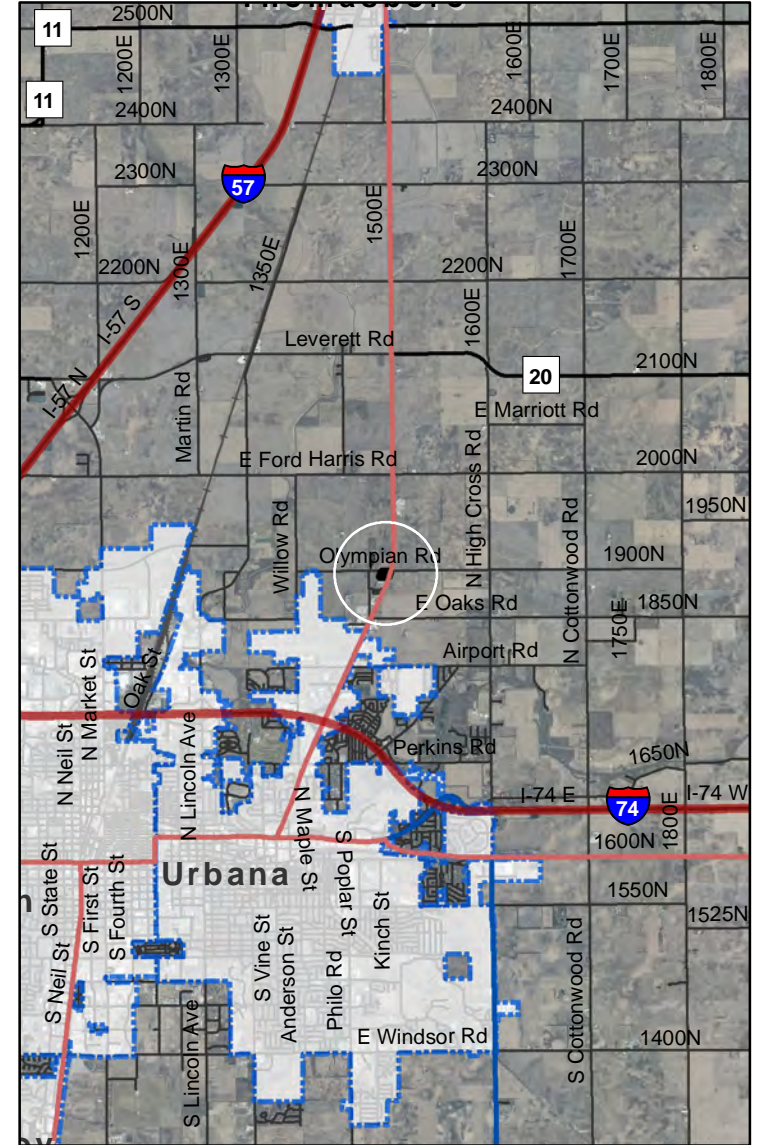
Subject Property



-  Subject Property
-  Municipal Boundary
-  Parcels

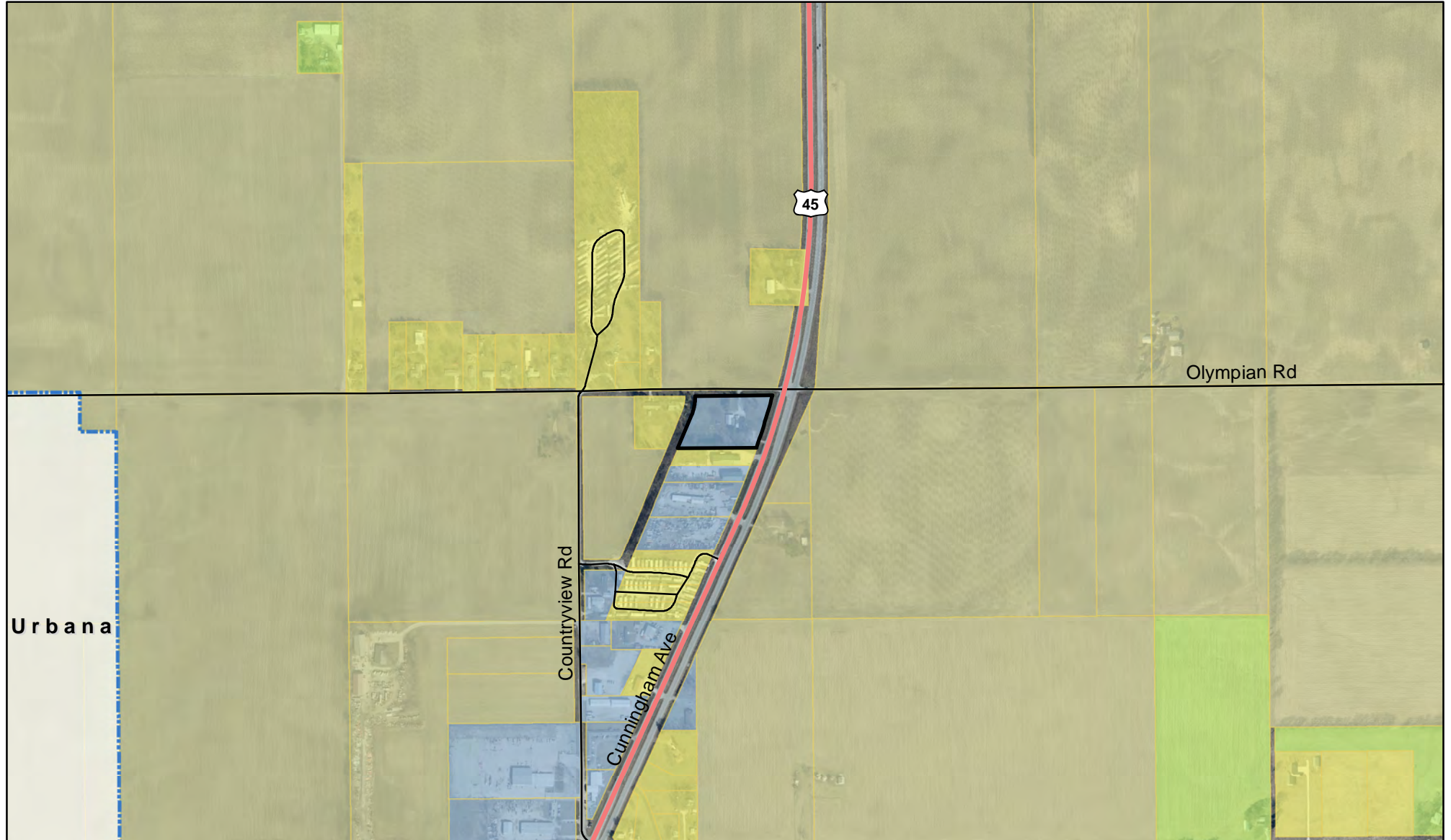


Property location in Champaign County



Land Use Map

Cases 066-S-22 & 071-V-22
August 25, 2022



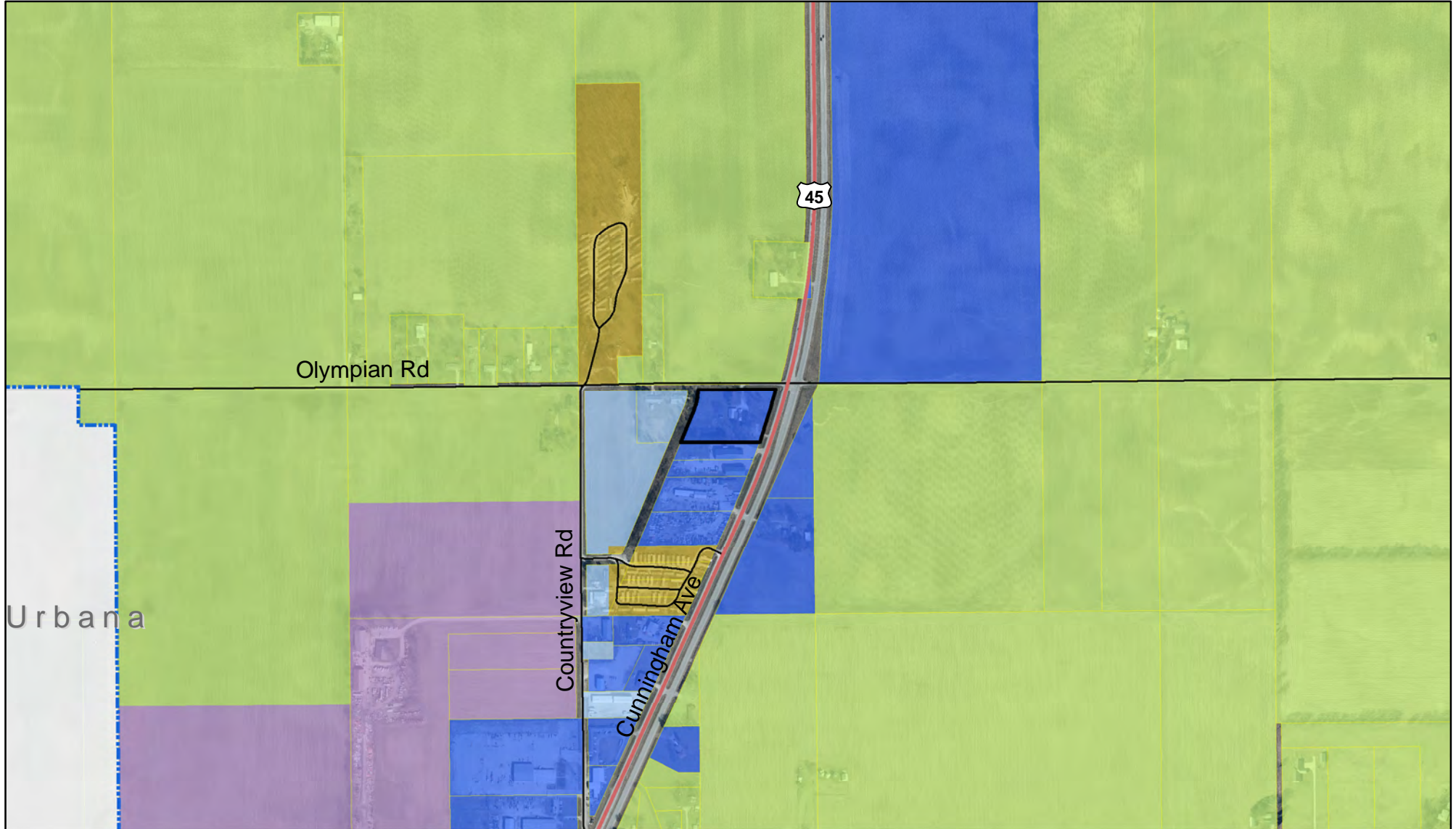
- Subject Property
- Agriculture
- Residential
- Ag/Residential
- Commercial
- Parcels

0 200 400 800 Feet

Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Cases 066-S-22 & 071-V-22
August 25, 2022



- Urbana Corporate Limit
- Subject Property
- AG-2 Agriculture
- B-3 Highway Business
- B-4 General Business
- I-1 Light Industry
- R-5 Manufactured Home Park

0 200 400 800 Feet

Champaign County
Department of
PLANNING &
ZONING

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Olympian Rd

US Route 45
Cunningham Ave

Van
Winkle
Sub

1. Small dogs and grooming building
2. Large dog building with outdoor runs
3. client parking
4. House attached to front Kennel building. *Tenant's not affiliated with Crossroads*
5. Private drive
6. empty Barn
7. Retention Pond
8. septic tank
9. septic tank
10. septic tank



Map Contributors: BuildingFootprintUSA, Esri, HERE, Garmin, SafeGraph, INCREMENTAL PZ, METANASA, USGS, EPA, NPS, US Census Bureau, USDA, Champaign County GIS Consortium

228-003

066-S-22 & 071-V-22 Site Images



From Olympian Rd facing south to subject property



Small dogs and grooming building

066-S-22 & 071-V-22 Site Images



Acreage on subject property not used for dog activity area



**Unused road easement on west side of subject property
(subject property surrounded by vegetation at left)**

066-S-22 & 071-V-22 Site Images



One of two fenced outdoor activity areas for dogs



Fenced outdoor activity area (large dog building is at left)

PRELIMINARY DRAFT

066-S-22 & 071-V-22

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

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

Date: ***{August 25, 2022}***

Petitioner: **Crossroads Grooming & Boarding Inc**

Request: **Case 066-S-22:**

Authorize a Kennel as a Special Use Permit in the B-4 General Business Zoning District, with the following waiver, on the subject property described below:

Authorize a waiver from Section 6.1.3 of the Zoning Ordinance for the following:

Part A: Authorize an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence.

Part B: Authorize an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees.

Part C: Authorize a side yard of 118 feet in lieu of the minimum required 200-foot side yard.

Case 071-V-22:

Authorize the following variance for the kennel proposed as a Special Use Permit in related Case 066-S-22, on the subject property described below:

Authorize a variance for no loading berth in lieu of the minimum required one loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **August 25, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Crossroads Grooming & Boarding Inc owns the subject property.
2. The subject property is comprised of a 3.07-acre tract in the Northeast Quarter of the Northeast Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, and commonly known as Crossroads Grooming & Boarding with an address of 1805 E Olympian Rd, Urbana.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases but are notified of such cases. Notice of the public hearing was sent to the city.
 - B. The subject property is located within Somer Township, which does not have a Plan Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and in the vicinity of the subject property:
 - A. The 3.07-acre tract is zoned B-4 General Business and is in use as a grooming and boarding facility and one dwelling.
 - B. Land to the north is zoned AG-2 Agriculture and is in agricultural production.
 - C. Land to the east is zoning B-4 General Business and is in use as a commercial fire equipment business.
 - D. Land to the south is zoned B-4 General Business and is in use as the ServePro business.
 - E. Land to the west is zoned B-3 Highway Business and is residential in use.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the site plan for the proposed Special Use received July 18, 2022:
 - A. Existing features include:
 - (1) A small dogs and grooming building;
 - (2) A large dogs building with outdoor runs surrounded by a six-foot-tall wood privacy fence;
 - (3) A gravel client parking area;
 - (4) A house south of the front kennel building;

- (5) A private drive for the house;
- (6) An empty barn;
- (7) A retention pond; and
- (8) Three septic tanks.

B. There is no construction proposed.

C. Regarding operations and the need for the Special Use Permit:

- (1) The facility operated as a VETERINARY HOSPITAL with incidental boarding since before the adoption of the Zoning Ordinance on October 10, 1973 and was allowed to operate as a non-conforming use.
- (2) The subject property was placed in the B-3 Zoning District when the original official Zoning Map was created in 1973. Neither a VETERINARY HOSPITAL nor a KENNEL was allowed in B-3 upon adoption of the Zoning Ordinance.
- (3) The petitioner successfully rezoned the subject property from B-3 to B-4 under Map Amendment Case 157-AM-98 approved on November 24, 1998.
- (4) In Zoning Case 219-AT-99 approved on September 19, 2000, a KENNEL was added as a Special use permit in the B-4 General Business District and a VETERINARY HOSPITAL was added by right to the B-4 District subject to certain conditions:
 - 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 animals shall be boarded except as incidental to providing veterinary care.
- (5) In approximately 2010, the facility stopped being a VETERINARY HOSPITAL and started boarding animals, which triggered the need for a KENNEL Special Use Permit.
 - a. With no complaints and no requested permits, the facility continued to operate without the required Special Use Permit.
- (6) The facility changed hands in 2019 and complaints about barking dogs started to come in from a property to the northwest of the facility. This prompted a Notice of Violation from the P&Z Department that required reducing noise and applying for the Special Use Permit.
 - a. Upon receipt of a Final Notice of Violation, the petitioner's attorney submitted the Special Use Permit application on July 18, 2022.

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- D. The following are previous Zoning Use Permits for the subject property:
- (1) ZUPA #315-76-03 was approved on November 16, 1976 to construct a garage and room addition to the house that was constructed prior to 1973.
 - (2) All other buildings and structures were constructed prior to the adoption of the Zoning Ordinance on October 10, 1973.
- E. The following are previous zoning cases for the subject property:
- (1) Case 157-AM-98 was approved on November 24, 1998 to rezone the property from the B-3 Highway Business to the B-4 General Business Zoning District.
- F. The required variance is for no loading berth in lieu of the minimum required one loading berth.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for a “KENNEL” in the B-4 General Business Zoning DISTRICT in the *Zoning Ordinance*:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) “DISCRETIONARY DEVELOPMENT” is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations.
 - (2) “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.
 - (3) “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.
 - (4) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
 - (5) “LOT LINES” are the lines bounding a LOT.
 - (6) “NONCONFORMING LOT, STRUCTURE or USE” is a LOT, SIGN, STRUCTURE, or USE that existed on the effective date of the adoption or amendment of this ordinance which does not conform to the regulations and standards of the DISTRICT in which it is located.

- (7) “SCREEN” is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
 - (8) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
 - (9) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (10) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
 - (11) “VETERINARY 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.
 - (12) “YARD, REAR” is a YARD extending the full width of a LOT and situated between the REAR LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT.
 - (13) “YARD, SIDE” is a YARD situated between a side LOT LINE and the nearest line of a PRINCIPAL STRUCTURE located on said LOT and extending from the rear line of the required FRONT YARD to the front line of the required REAR YARD.
- B. Section 5.2 authorizes a KENNEL as a Special Use only in the CR, AG-1, AG-2, and B-4 Zoning Districts, and by right in the I-1 and I-2 Zoning Districts.
- C. Section 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.

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- d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- D. Section 6.1.3 Schedule of Standard Conditions for Specific Types of Uses states the following regarding a KENNEL:
- (1) Enclosed KENNELS shall not permit animals to be kept either temporarily or permanently outside the KENNEL.
 - (2) One SINGLE FAMILY DWELLING may be permitted on the site provided it is for occupancy by the OWNER or employee of the KENNEL.
 - (3) KENNELS where animals are kept temporarily or permanently outside of the KENNEL shall adhere to the following requirements:
 - a. Provide a 6-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' 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. Measurements shall be made from LOT LINE of an adjacent residential STRUCTURE and/or USE.
 - c. Maintain a SIDE YARD setback and a REAR YARD setback of 200 feet.
- E. Section 7.4 establishes requirements for off-street PARKING SPACES:
- (1) Section 7.4.1 A. establishes general provisions for off-street parking.
 - a. Section 7.4.1 A.1. states, "All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served."
 - b. Section 7.4.1 A.2. states, "All spaces for the accommodation of an AUTOMOBILE shall total at least 300 square feet including both parking and maneuvering area."
 - c. Section 7.4.1 A.3.a. states, "No such space shall be located less than 10 feet from any FRONT LOT LINE."
 - d. Section 7.4.1 A.3.b. states, "No such space shall be located less than five feet from any side or REAR LOT LINE."
 - (2) Section 7.4.1 B. establishes the minimum size of off-street PARKING SPACES shall be at least nine feet wide by 20 feet long.
 - (3) For parking purposes, a KENNEL requires one parking space per 200 square feet of building area.

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- (4) Section 7.4.1 C. establishes parking for off-street commercial establishments.
- a. Section 7.4.1 C.1. states, “Such PARKING SPACE for the accommodation of a heavy motor truck, MOTOR BUS, or other VEHICLE shall be of dimensions herein specified for an off-STREET LOADING BERTH.”
 - b. Section 7.4.1 C.2. states, “The number of such PARKING SPACES shall be the sum of the individual requirements of the various individual ESTABLISHMENTS computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.”
 - c. Section 7.4.1 C.3. requires establishments that are not specifically mentioned in the ordinance to provide one parking space for every 200 square feet of floor area or portion thereof.
 - d. Section 7.4.1 C.4. states, “Required parking SCREENS for commercial ESTABLISHMENTS shall be provided as follows:
 - (a) Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a TYPE B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.
 - (b) Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.”
- (5) Section 7.4.2 refers to off-street LOADING BERTHS for commercial uses:
- a. Section 7.4.2 A. establishes general provisions for LOADING BERTHS.
 - (a) All LOADING BERTHS shall have vertical clearance of at least 14 feet.
 - (b) All LOADING BERTHS shall be designed with appropriate means of vehicular access to a STREET or ALLEY in a manner which will least interfere with traffic movement.
 - (c) No VEHICLE repair or service work shall be performed on any LOADING BERTH.

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(d) No **LOADING BERTH** shall be located less than 10 feet from any **FRONT LOT LINE** and less than five feet from any side or **REAR LOT LINE**.

b. Section 7.4.2 C. states, “Off-street **LOADING BERTHS** for commercial **ESTABLISHMENTS** shall be provided as follows:

(a) All **LOADING BERTHS** shall be located on the same **LOT** or tract of land as the **ESTABLISHMENT** served except when serving adjacent **ESTABLISHMENTS** when the **LOADING BERTH** requirement is sufficient to serve both **ESTABLISHMENTS**.

(b) No such **BERTH** shall be located within any **YARD** abutting a residential **DISTRICT** or located less than 100 feet from the **BUILDING RESTRICTION LINE** of any **LOT** in the **R DISTRICT** or any **LOT** containing a **DWELLING** conforming as to **USE** unless such **BERTH** is screened from public view by a **Type C SCREEN**. If the berth is located adjacent to an elevated loading dock, however, a **Type D SCREEN** shall be used to screen both the loading berth and the loading dock.

(c) No **LOADING BERTH** shall be located within 50 feet of the nearest point of intersection of two **STREETS**.

(d) All **LOADING BERTHS** shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.

(e) Schedule of off-street **LOADING BERTHS**:

Floor Area of ESTABLISHMENT in Square Feet (Thousands)	Minimum Required Number and Size of LOADING BERTHS
1 – 9.999	1 (12 x 40 feet)
10 – 24.999	2 (10 x 40 feet)
25 – 39.999	2 (10 x 70 feet)
40 – 99.999	3 (10 x 70 feet)
100 – 249.999	4 (10 x 70 feet)

F. 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 except that in the **CR, AG-1, and AG-2 DISTRICTS** the following additional criteria shall apply:

a. The property is either **BEST PRIME FARMLAND** and the property with proposed improvements in **WELL SUITED OVERALL** or the property is

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not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.

- b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
- (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.
- G. 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. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
 - a. that the waiver is in accordance with the general purpose and intent of the ordinance; and
 - b. that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
 - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
 - a. Special conditions and circumstances 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.
 - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
 - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
 - (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the

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adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.

- H. 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.
- I. Regarding the variance, the required number of loading berths is established in Section 7.4.2 C.5.

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

- 7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
 - A. The Petitioner testified on the application, **“This is an ongoing business which has been located at this location since the 1950’s. It is an appropriate use of the property and develops and maintains the property.”**
 - B. An animal care facility has been at this location since the 1950’s and has an established client base.

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 have testified on the application, **“This business has been located and operated since the 1950’s without incident. Applicant has made arrangements to minimize sound issues during the summer months. Noise issues are not an issue during the winter months. In order to minimize sound issues during the summer months, the applicant has avoided opening doggie doors that lead to the outdoor covered area, keeping the large back building of larger dogs closed up a majority of the time. Applicant has also adjusted its hours, spending time with the dogs earlier in the afternoon so that they are tired and ‘ready for bed’ at around 8:00 pm. Applicant has been spending much more time with the dogs during the day with social plays to tire the dog out so that they sleep longer during the night, reducing noise.”**
 - B. Regarding surface drainage:
 - (1) No Natural Resource Information Report by the Champaign County Soil and Water Conservation District was required due to the size of the lot and the fact it was developed many years ago.

- (2) The subject property generally drains south and southeast toward the onsite detention basin and the road ditch along US 45.
- C. Regarding impacts on traffic:
- (1) The subject property is located on the southwest corner of Olympian Road and US 45 North, with access onto Olympian Road. The pavement surface of Olympian Road near the subject property is oil and chip and is about 20 feet wide.
- (2) 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 is from 2021 near the subject property. Olympian Road west of US 45 North had an ADT of 225.
- (3) The Somer Township Highway Commissioner was notified of this case and no comments have been received.
- D. Regarding fire protection:
- (1) The subject property is located approximately 3.2 road miles from the Carroll Fire Station. Notice was sent to the Fire Chief and no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The soil on the 3.07-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam and 154A Flanagan silt loam and has an average Land Evaluation score of 100.
- (1) The regulations for best prime farmland apply only to the CR, AG-1 and AG-2 Zoning Districts. The subject property is in the B-4 Zoning District.
- G. Regarding outdoor lighting on the subject property, the application received July 18, 2022, does not indicate outdoor lighting. A special condition has been added to ensure compliance for any future outdoor lighting installation.
- H. Regarding wastewater treatment and disposal on the subject property, there are three existing septic tanks on the subject property. There are no plans for additional development.
- I. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in

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which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:

- A. The Petitioner have testified on the application, **“Yes, since this business has been located at this location since the 1950’s, and operated without incident, it meets and preserves the essential character of the district. The business provides a needed service to the community.”**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) Section 5.2 authorizes a KENNEL as a Special Use only in the CR, AG-1, AG-2, and B-4 Zoning Districts and by right in the I-1 and I-2 Zoning Districts.
 - (2) Regarding parking on the subject property for the proposed special use:
 - a. As interpreted by the Zoning Administrator, a KENNEL requires one parking space per 200 square feet of building area.
 - (a) The existing facility is approximately 1,450 square feet excluding the dog boarding areas, which requires 8 parking spaces.
 - (b) The facility has a gravel parking lot that can hold approximately 12 vehicles.
 - b. Section 7.4.1 C.4. provides parking SCREENS requirements for commercial establishments. No screening is required for the parking area because it is more than 100 feet from the building restriction line of a lot containing a dwelling.
 - (3) Regarding the requirement for a loading berth:
 - a. For commercial facilities with 1,000 to 9999 square feet in floor area, one 12 feet by 40 feet LOADING BERTH must be constructed per the requirements in Section 7.4.2.
 - (a) The petitioner has requested a variance from this requirement.
- C. Regarding compliance with the *Storm Water Management and Erosion Control Ordinance*:
- (1) The proposed Special Use is exempt from the *Storm Water Management and Erosion Control Ordinance* because no new development is proposed.
- D. Regarding the Special Flood Hazard Areas Ordinance, no portion of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and the subject property is in compliance.
- F. Regarding the Standard Conditions in Section 6.1.3 for the KENNEL Special Use:
- (1) Enclosed KENNELS shall not permit animals to be kept either temporarily or permanently outside the KENNEL.
 - a. The animals are only outside for necessary activity.
 - (2) One SINGLE FAMILY DWELLING may be permitted on the site provided it is for occupancy by the OWNER or employee of the KENNEL.

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- a. The house on the subject property existed prior to adoption of the Zoning Ordinance on October 10, 1973 and is therefore a legally non-conforming use.
- (3) KENNELS where animals are kept temporarily or permanently outside of the KENNEL shall adhere to the following requirements:
- a. Provide a 6' wire mesh fence to encompass outdoor animal exercise and/or training area.
 - (a) The outdoor runs are surrounded by a six-foot-tall wood privacy fence. A waiver has been requested from this requirement.
 - b. Any outdoor animal exercise and/or training area shall be 200' 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. Measurements shall be made from LOT LINE of an adjacent residential STRUCTURE and/or USE.
 - (a) The outdoor animal exercise area is at least 200 feet from any adjacent residential structure or use.
 - (b) A noise buffer of evergreen vegetation that is a minimum of four feet in HEIGHT is required on the west side of the outdoor activity area. The subject property is surrounded by deciduous vegetative screening on the perimeter. The petitioner has requested a waiver from this requirement.
 - c. Maintain a SIDE YARD setback and a REAR YARD setback of 200 feet.
 - (a) The west (rear) yard is 200 feet.
 - (b) The south (side) yard is approximately 118 feet and a waiver has been requested for that decreased yard. The adjacent use to the south is a commercial cleaning business.

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 be in harmony with the general intent and purpose of the Ordinance:
- A. Regarding the proposed Special Use:
 - (1) In the B-4 Zoning District, Section 5.2 authorizes a KENNEL only via Special Use.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.12 of the Ordinance states the general intent of the B-4 District as follows (capitalized words are defined in the Ordinance):

The B-4, General Business DISTRICT is intended to accommodate a range of

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commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.

- (2) The types of uses authorized in the B-4 District are in fact the types of uses that have been determined to be acceptable in the B-4 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 zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance, and the proposed site plan appears to be in compliance with those requirements subject to the requested waiver.

- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

It is not clear whether the proposed Special Use will have any impact on the value of nearby properties without a formal real estate appraisal, which has not been requested nor provided, and so any discussion of values is necessarily general.

- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The facility has been at that location since the 1950's and proposes no new development that would trigger an increase in traffic.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

a. The subject property is not in a Special Flood Hazard Area.

b. The proposed Special Use is exempt from the *Storm Water Management and Erosion Control Ordinance*.

- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

a. Regarding public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.

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- b. Regarding public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
 - c. Noise complaints have been received from a property to the northwest of the facility. The petitioner has undertaken some mitigation measures in response to the complaints as follows: “Applicant has made arrangements to minimize sound issues during the summer months. Noise issues are not an issue during the winter months. In order to minimize sound issues during the summer months, the applicant has avoided opening doggie doors that lead to the outdoor covered area, keeping the large back building of larger dogs closed up a majority of the time. Applicant has also adjusted its hours, spending time with the dogs earlier in the afternoon so that they are tired and ‘ready for bed’ at around 8:00 pm. Applicant has been spending much more time with the dogs during the day with social plays to tire the dog out so that they sleep longer during the night, reducing noise.”
- (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.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the site plan appears to be in compliance with those limits.

- (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 any problematic conditions.

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- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent 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.

No additions or remodeling is proposed.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.

The proposed Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

There are no natural features on the subject property.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The facility has been on the subject property since the 1950’s.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed Special Use will not hinder the development of renewable energy sources.

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

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner testified on the application, **“Since the business has been located at the location since the 1950’s and operated continuously since that time, a special use permit will simply confirm that use, which is compatible with its surroundings.”**
 - B. The proposed use is an existing non-conforming use.
 - C. The proposed KENNEL has standard conditions that will help mitigate noise.

RELATED TO THE WAIVERS, GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

12. 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. Regarding proposed waiver Part A, for an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence:
 - (1) The outdoor animal exercise area is surrounded by a six-foot-tall wood privacy fence.
 - (2) The animals are not allowed to exercise in the larger yard surrounding the fenced activity area, so this larger yard creates a buffer between the fenced activity area and neighboring properties.
 - B. Regarding proposed waiver Part B, for an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees:
 - (1) The animals are not allowed to exercise in the larger yard surrounding the fenced activity area, so this larger yard creates a buffer between the fenced activity area and neighboring properties.
 - C. Regarding proposed waiver Part C, for a side yard of 118 feet in lieu of the minimum required 200-foot side yard:
 - (1) The subject property was created prior to adoption of the KENNEL land use in Zoning Case 219-AT-99 approved on September 19, 2000.
 - (2) The side yard for this waiver is the south yard, and complaints about barking were coming from the northwest.

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

13. 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:

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- A. Regarding proposed waiver Part A, for an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence:
 - (1) Without the proposed waiver, the petitioners would have the expense of removing a fairly new privacy fence to put in a wire mesh fence.

- B. Regarding proposed waiver Part B, for an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees:
 - (1) Without the proposed waiver, the petitioners would have the expense of planting evergreen trees when there is already a deciduous screening around the perimeter of the subject property.

- C. Regarding proposed waiver Part C, for a side yard of 118 feet in lieu of the minimum required 200-foot side yard:
 - (1) Without the proposed waiver, the facility would not be allowed on the subject property.

RELATED TO THE WAIVERS, GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

- 14. 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. Regarding proposed waiver Part A, for an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence: the petitioner was not aware of the KENNEL standard conditions when they installed the wood privacy fence.

 - B. Regarding proposed waiver Part B, for an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees: the petitioner was not aware of the KENNEL standard conditions prior to this case.

 - C. Regarding proposed waiver Part C, for a side yard of 118 feet in lieu of the minimum required 200-foot side yard: the petitioner was not aware of the KENNEL standard conditions prior to this case.

GENERALLY PERTAINING TO WHETHER OR NOT THE WAIVERS ARE IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

- 15. Regarding the *Zoning Ordinance* requirement that the waivers of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:
 - A. Regarding proposed waiver Part A, for an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence: the requested waiver is 0% of the minimum required, for a waiver of 100%.

- B. Regarding proposed waiver Part B, for an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees: the requested waiver is 0% of the minimum required, for a waiver of 100%.
- C. Regarding proposed waiver Part C, for a side yard of 118 feet in lieu of the minimum required 200-foot side yard: the requested waiver is 59% of the minimum required, for a waiver of 41%.

RELATED TO THE WAIVERS, GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED WAIVERS ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

- 16. Regarding the Zoning Ordinance requirement for a finding that the granting of the waiver (variance) will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Somer Township Highway Commissioner and Supervisor have been notified of this case, and no comments have been received.
 - B. The Carroll Fire Protection District has been notified of this case, and no comments have been received.
 - C. The petitioner stated on their Special Use Permit application, “Applicant has made arrangements to minimize sound issues during the summer months. Noise issues are not an issue during the winter months. In order to minimize sound issues during the summer months, the applicant has avoided opening doggie doors that lead to the outdoor covered area, keeping the large back building of larger dogs closed up a majority of the time. Applicant has also adjusted its hours, spending time with the dogs earlier in the afternoon so that they are tired and ‘ready for bed’ at around 8:00 pm. Applicant has been spending much more time with the dogs during the day with social plays to tire the dogs out so that they sleep longer during the night, reducing noise.”
 - D. Noise complaints have been received from a property to the northwest of the facility that is well over the 200 feet separation distance required for a KENNEL.

RELATED TO THE VARIANCE, GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

- 17. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved that are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner did not submit an application for the variance.
 - B. The business has not needed a loading berth for its operation.

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

18. 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 did not submit an application for the variance.
 - B. Without the proposed variance, the petitioner would have to go to the expense of constructing a loading berth when they do not believe one is necessary for their operations.

RELATED TO THE VARIANCE, GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

19. 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 did not submit an application for the variance.
 - B. The petitioner was not aware of the loading berth requirement prior to this case, and does not anticipate a need for a loading berth.

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

20. 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 did not submit an application for the variance.
 - B. Regarding the proposed variance for no loading berth in lieu of one loading berth: the requested variance is 0% of the minimum required, for a variance of 100%.
 - (1) Regarding the minimum requirements for the number of loading berths: off-street loading berths are presumably required to minimize congestion in the street when deliveries are made.
 - (2) The petitioner does not anticipate deliveries at this site that need a loading berth.
 - C. 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

21. 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 did not submit an application for the variance.
 - B. The Somer Township Road Commissioner has been notified of this variance and no comments have been received.

- C. The Carroll Fire Protection District has been notified of this variance and no comments have been received.
- D. No comments have been received for the proposed variance.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

- 22. Generally regarding any other circumstances that justify the Variance:
 - A. The Petitioner did not submit an application for the variance.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 23. Regarding proposed special conditions of approval:
 - A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That the proposed use is in compliance with the Zoning Ordinance.

- B. **Outdoor activity shall be limited in the following manner:**
 - (1) **No dog shall be outside between the hours of 10:00 p.m. and 7:00 a.m.**
 - (2) **No dog shall be outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**
 - (3) **Barking dogs shall be promptly brought inside.**

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

To ensure that kennel operations minimize impact on the neighbors.

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DOCUMENTS OF RECORD

1. Application for a Special Use Permits received July 18, 2022, with attachments:
 - A Site Plan

2. Preliminary Memorandum dated August 17, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received July 18, 2022
 - C Site Visit Photos taken July 25, 2022 and August 4, 2022
 - D Summary of Evidence, Finding of Fact, and Final Determination for Case 066-S-22 dated August 25, 2022

PRELIMINARY DRAFT**SUMMARY DRAFT FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **066-S-22** held on **August 25, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:
 - a. *The facility has been on the subject property since the 1950's and has an established client base.*

2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN / WILL NOT / WILL}* 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 because:
 - a. *No development is proposed and therefore there is no anticipated increase in traffic.*

 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* because:
 - a. *The subject property is 3.2 road miles from the Carroll Fire Station. Notice was sent to the Fire Chief and no comments have been received.*

 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses because:
 - a. *The facility has been on the subject property since the 1950's.*
 - b. *The petitioner has undertaken mitigation measures to reduce noise from the kennel.*

 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* because:
 - a. *The subject property is not in a Special Flood Hazard Area.*
 - b. *The facility is exempt from the Storm Water Management and Erosion Control Ordinance because no new development is proposed.*

 - e. Public safety will be *{ADEQUATE / INADEQUATE}* because:
 - a. *The subject property is 3.2 road miles from the Carroll Fire Station. Notice was sent to the Fire Chief and no comments have been received.*

 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* because:
 - a. *The number of available parking spaces complies with the Zoning Ordinance.*

*The Board may include other relevant considerations as necessary or desirable in each case.
The Board may include additional justification if desired, but it is not required.*

- 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.

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- 3b. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}** preserve 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}**.
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}** preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use ***IS*** an existing non-conforming use.
6. ***SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:***
- A. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning Ordinance for an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence:
 - (1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because:
 - a. ***The wood privacy fence is intended to help secure the dogs and to help buffer noise during outdoor activity time.***
 - (2) 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:
 - a. ***There is a large yard surrounding the fenced activity area that serves as a buffer between neighboring properties.***
 - (3) 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:
 - a. ***Without the proposed waiver, the petitioners would have the expense of removing a fairly new privacy fence to put in a wire mesh fence.***

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- (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
- a. The petitioner was not aware of the KENNEL standard conditions when they installed the wood privacy fence.*
- (5) The requested waiver ***{IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure.
- B. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning Ordinance for an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees:
- (1) The waiver ***{IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare because:
- a. The petitioner has already implemented noise mitigation measures.*
- (2) 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:
- a. The animals are not allowed to exercise in the larger yard surrounding the fenced activity area, so this larger yard creates a buffer between the fenced activity area and neighboring properties.*
- (3) 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:
- a. Without the proposed waiver, the petitioners would have the expense of planting evergreen trees when there is already a deciduous screening around the perimeter of the subject property.*
- (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
- a. The petitioner was not aware of the KENNEL standard conditions.*
- (5) The requested waiver ***{IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure because:
- C. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning Ordinance for a side yard of 118 feet in lieu of the minimum required 200-foot side yard.
- (1) The waiver ***{IS / IS NOT}*** in accordance with the general purpose and intent of the Zoning Ordinance and ***{WILL / WILL NOT}*** be injurious to the neighborhood or to the public health, safety, and welfare because:
- a. The requested waiver is 59% of the minimum required, for a waiver of 41%.*

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- (2) 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:
- a. ***The subject property was created prior to adoption of the KENNEL land use in Zoning Case 219-AT-99 approved on September 19, 2000.***
 - b. ***The side yard for this waiver is the south yard, and complaints about barking were coming from the northwest.***
- (3) 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:
- a. ***Without the proposed waiver, the facility would not be allowed on the subject property.***
- (4) The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
- a. ***The petitioner was not aware of the KENNEL standard conditions prior to this case.***
- (5) The requested waiver ***{IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure because:
- a. ***There is no land to the south that can be purchased to create 200 feet of separation to the facility.***
7. Regarding the variance:
- a. 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:
 - a. ***The business has not needed a loading berth for its operation.***
 - b. 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:
 - a. ***Without the proposed variance, the petitioner would have to go to the expense of constructing a loading berth when they do not believe one is necessary for their operations.***
 - c. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
 - a. ***The petitioner was not aware of the loading berth requirement prior to this case, and does not anticipate a need for a loading berth.***
 - d. The requested variance ***{SUBJECT TO THE PROPOSED CONDITION}*** ***{IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
 - a. ***Off-street loading berths are presumably required to minimize congestion in the street when deliveries are made. The petitioner does not anticipate deliveries at this site that need a loading berth.***

- e. 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:
 - a. *Relevant jurisdictions have been notified of this case, and no comments have been received.*

- f. 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.

8. ***{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:***

- A. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

That the proposed use is in compliance with the Zoning Ordinance.

- B. **Outdoor activity shall be limited in the following manner:**
 - (1) **No dog shall be outside between the hours of 10:00 p.m. and 7:00 a.m.**
 - (2) **No dog shall be outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**
 - (3) **Barking dogs shall be promptly brought inside.**

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

To ensure that kennel operations minimize impact on the neighbors.

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FINAL DETERMINATION FOR CASE 066-S-22

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

The Special Use requested in Case **066-S-22** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Crossroads Grooming & Boarding Inc**, to authorize the following:

Authorize a Kennel as a Special Use Permit in the B-4 General Business Zoning District, subject to the following waivers:

Authorize a waiver from Section 6.1.3 of the Zoning Ordinance for the following:

Part A: Authorize an outdoor animal exercise area with a six-foot-tall wood privacy fence in lieu of the minimum required exercise area that has a six-foot-tall wire mesh fence.

Part B: Authorize an outdoor animal exercise without a noise buffer of evergreen shrubs or trees a minimum of four feet in height in lieu of the minimum required noise buffer of evergreen shrubs or trees.

Part C: Authorize a side yard of 118 feet in lieu of the minimum required 200-foot side yard.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:}

- A. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**
- B. Outdoor activity shall be limited in the following manner:**
 - (1) No dog shall be outside between the hours of 10:00 p.m. and 7:00 a.m.**
 - (2) No dog shall be outside other than for intermittent periods of exercise and such periods of exercise shall be supervised by the kennel owner or representative.**
 - (3) Barking dogs shall be promptly brought inside.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

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FINAL DETERMINATION FOR CASE 071-V-22

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

The Variance requested in Case **071-V-22** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Crossroads Grooming & Boarding**, to authorize the following variance for the kennel proposed as a Special Use Permit in related Case 066-S-22:

Authorize a variance for no loading berth in lieu of the minimum required one loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

{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:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date