

AGENDA

Champaign County Environment & Land Use Committee

Members:

*Jan Anderson, Patricia Busboom, Chris Doenitz,
Tony Fabri, Nancy Greenwalt (VC), Ralph
Langenheim (C), Brendan McGinty, Steve Moser,
Jon Schroeder*

Date: *May 08, 2006*

Time: *7:00 p.m.*

Place: *Lyle Shields Meeting Room
(Meeting Room 1)
Brookens Administrative Center
1776 E. Washington St.
Urbana, Illinois*

Phone: *(217) 384-3708*

AGENDA

Old Business shown in Italics

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (April 10, 2006) 1 thru 14
4. Public Participation
5. Correspondence
6. County Board Chair's Report
7. Recreation and Entertainment License: Eastern Illinois A.B.A.T.E., Inc. for live music, motorcycle show and motorcycle rodeo at the Rolling Hills Campground 3151-A CR 2800E, Penfield, IL. June 2, 2006 thru June 4, 2006. 15 thru 25
8. *Subdivision Case 187-06: Wolf Creek Subdivision. Subdivision Plat Approval for a three-lot minor subdivision in the CR, Zoning District in Section 30 of Ogden Township.* 26 thru 28
9. Zoning Case 527-FV-05: Tim Asire 29 thru 45
Request: **Authorize the following variances from the Champaign County Special Flood Hazard Areas Ordinance:**
 - A. Authorize the use of an existing dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.
 - B. Authorize the construction and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.
 - C. Authorize the use of an existing shed in which the top of the lowest floor is 4 feet 7 inches below the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation and that is 720 square feet instead of no more than 500 square feet in area.

Environment and Land Use Committee

May 08, 2006

Page 2

Zoning Case 527-FV-05 cont:

Location: **Lot 27 of The Meadows Subdivision in Section 36 of Newcomb Township and that is commonly known as the residence at 2610 Appaloosa Lane, Mahomet.**

10. Discussion regarding Liquor Advisory Committee
11. *Zoning Case 523-AT-05: Zoning Administrator* 46 thru 71
Request: Add "Ethanol Manufacturing" and authorize by Special Use Permit with standard conditions in the I-2, Heavy Industry Zoning District.
12. Regulation of lots in duly approved subdivisions between May 17, 1977, and February 18, 1997, that have access to public streets by means of easements of access. 72 thru 73
13. Notice of Intent to apply for FEMA Pre-Disaster Mitigation Planning Funds 74 thru 75
14. *Comprehensive Zoning Review*
15. Monthly Report for April, 2006 (To be distributed at meeting)
16. Other Business
17. Determination of Items to be placed on the County Board Consent Agenda
18. Adjournment

MINUTES OF REGULAR MEETING

**Champaign County Environment
& Land Use Committee
Champaign County Brookens
Administrative Center
Urbana, IL 61802**

**DATE: April 10, 2006
TIME: 7:00 p.m.
PLACE: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802**

MEMBERS PRESENT: Jan Anderson, Patricia Busboom, Chris Doenitz, Tony Fabri, Nancy Greenwalt (VC), Ralph Langenheim (C), Brendan McGinty, Steve Moser, Jon Schroeder

MEMBERS ABSENT: None

STAFF PRESENT: Connie Berry, John Hall, J.R. Knight, Leroy Holliday, Frank DiNovo, Susan Monte, Deb Busey, Joel Fletcher (Senior Assistant State's Attorney)

OTHERS PRESENT: Larry Seefeldt, Orin Hutchcraft, Kathy Hutchcraft, Roger Fredenhagen, Paul Cole, David Phillippe, Bernard Hammel, William Stevens, Jerry Schweighart, Amy Murray, Hal Barnhart, Larry Wood, Robert Mitsdarfer, Phillip R. VanNess, David Atchley

1. Call to Order, Roll Call

The meeting was called to order at 7:02 p.m.

2. Approval of Agenda

Mr. Moser moved, seconded by Mr. Doenitz to approve the agenda as submitted. The motion carried by voice vote.

3. Minutes of Previous Meeting (March 13, 2006)

Mr. Schroeder moved, seconded by Mr. Fabri to approve the March 13, 2006, minutes as submitted. The motion carried by voice vote.

4. Public Participation

Mr. Paul Cole, Attorney for the Petitioner and co-owner of the limited liability company known as Colorado Avenue, LLC. is the Petitioner. He said that the Committee has a copy of the procedural record and deed record of Subdivision Case 187-06. He said that at the March 13, 2006, ELUC meeting an objection was raised to the process on the basis that there was a concern that the subject property is restricted and could not

be developed with more than one house. He said that he went to Chicago Title Company and completed a search of the public record and reviewed all of the deeds which pertain to the chain of title to the subject property and found no restrictions. He said that it is ELUC's purpose to approve or reject a plat and the plat at this time has been brought to the Committee's attention with the unqualified recommendation on the part of staff with perhaps one or two small exceptions. He said that at the last meeting he commented that there appeared to be a request for waivers associated with this petition and those waivers required the demonstration on the plat where percolation tests had been completed on the property. He said that the Subdivision Ordinance requires that a percolation test be completed on each proposed lot. He said that he was told that a test would need to be completed to see if the subject property is appropriate for the type of septic systems which are proposed to be installed. He said that he was informed by a number of people that the percolation test is referred to in the Ordinance but a Soil Analysis is a better indicator. He said that he had a soil analysis test completed and had it reviewed and approved by the Public Health District. He said that he came up against a "Catch 22" because he was informed that the soil analysis test is a better test and is more informative but the Subdivision Ordinance still requires percolation tests. He said that staff has been very professional and Mr. Hall does a very good job in giving the information without taking sides. He said that he had not requested a waiver indicating that a percolation test is not necessary because he planned on providing information on the plat that would satisfy the requirement, that being the soil analysis test. He said that Mr. Hall anticipated that a waiver would be needed although he, Mr. Cole, testified at the last meeting that a waiver would not be required because he anticipated placing the results of the soil analysis on the plat. He said that he believes that having taken a look at what has been presented to the Committee currently there may be for technical reasons still a need to ask for a waiver that in effect indicates that percolation test is not required because a soil analysis test is better because it serves the public interest. He said that they are not asking for a waiver based on anything other than the fact that there is a slight misdescription of the Ordinance and it should say soil analysis or percolation tests are required which would give the petitioner the option of providing what is really in the best interest of the public and his own. He said that if he tried to sell a property with a septic system on it that is not going to work as well as it should then he has nothing to sell and only headaches for the next ten years. He said that he has practiced law in this community for 28 years and expect to continue to do so for at least another 20 years. He said that one of the fellow owners of the subject property plans to be in the community for a very long time and they cannot run away from a problem if it comes up later on therefore whatever they build will need to pass public scrutiny from the Public Health Department and anyone else who is involved in seeing that what they are proposing is done correctly. He said that it is difficult to give a presentation when you don't know what objections or questions they are suppose to be addressing therefore at this point he would request that anyone who has a question regarding the proposed subdivision to offer it at this time.

Mr. Steve Moser stated that Mr. Orin Hutchcraft's deed has covenants attached to it which were recorded in 1993. He said that there are three other property owners in the subject property's area that are under the same assumption that Mr. Hutchcraft is under in that the whole subdivision is under the same covenants. He said that he finds it hard to believe that a deed which was recorded in 1993 does not have attachments recorded with it indicating the covenants.

Mr. Cole stated that the attachments were not recorded with the deeds because if they were they would have

been in document order with the deed.

Mr. Moser stated that he feels a great deal of sympathy for the other property owners in the subject property's area because they believed that one home was only going to be allowed on each six acres.

Mr. Cole stated that on the other side he and his associates purchased this property relying on the public record therefore it would be wrong to subject them to restrictions that do not apply to their property when they were entitled to rely on the public record. He said that this meeting is not the place or body that enforces private subdivision or deed restrictions. He said that he assumes that the Environment and Land Use Committee is in the business to review plats and that is all that he can address. He said that he has provided to the Committee an entire record and even some of his own speculation of how the problem regarding the deed restrictions occurred. He said that it is his opinion that when the entire 40 acre parcel was first developed there were family members involved in the development who were not constrained by the same kind of restrictions on the property that they received from their fellow family members as were invoked on other property owners. He said that he willingly acknowledges that this is unfair and if the other property owners during some 16 years ago were told by the people from whom they purchased their property from that all of the property was going to be subject to the same restrictions then the people who sold the property to them should have done it that way but consequently they did not. He said that what happened as a consequence was that there was a trap laid for the unwary and he is the unwary because he went to the public record to see what the status of the property was to date and now in order to justify something that he has done economically he has to tell the neighbors that the best he can offer is that he will be a good neighbor. He said that he is not going to do what one might do with the property "by-right" by developing it agriculturally, perhaps installing stockade fences and raising swine, but he is not going to do that but if someone else owned the property then they could certainly do it. He said that he proposes to create a subdivision where restrictions do exist. He said that there will be limitations of the development of houses and outbuildings. He said that of the 13 restrictions that appear in the deed prepared for Mr. and Mrs. Hutchcraft only one disturbs him and that is the restriction of one house. He said that all of the other restrictions he would willingly impose on his lots. He said that they will impose very generous setbacks such as a minimum of 50 feet. He said that if this property had been purchased by someone who wanted to build his own taj-mahal and raise swine or anything else then presumably he could have but thanks to the petitioners this is not the case. He said that they could place on house one the one lot but they desire to place 3 houses on the large proposed lots.

Mr. David Phillippe, Engineer for HDC Engineering stated that his company was hired as the engineers and surveyors for the preparation of the Wolf Creek Subdivision. He said that Mr. Cole gave an excellent discussion regarding the soil evaluations that were performed for the site. He said that when the sanitary sewer system is proposed for the site the licensed installer will be required to run tests on the specific site and location of the leach field and that will have to be approved by the Champaign County Public Health District.

Mr. Moser asked Mr. Phillippe if the pins have been checked to assure that the property is not encroaching upon the property to the north.

Mr. Phillippe stated that they have surveyed the property and found the pins to be in the proper location. He said that when the property was originally surveyed, not subdivided, the deed restrictions were placed on some tracts and not others. He said that when a property is subdivided the restrictions are recorded with the subdivision and apply to all of the lots within the subdivision but when a property is surveyed the restrictions that are included sometimes only apply to some lots and not others. He said that at some point in the past there was a ten foot strip taken from the property to the north and added to the subject property and apparently through his discussion the property owners of the north property were not sure of the location of the pins.

Mr. Phillip VanNess, Attorney representing Mr. and Mrs. Hutchcraft, stated that he and his clients do not doubt that they would rather have homes located on the subject property rather than barns and swine however that is not what has been proposed. He said that a proposal has been presented to this Committee to divide a 6.076 acre lot into three residential lots. He said that the request is to waive the requirement of paragraph 9.1.2 .q. for percolation test holes. He said that testimony has been received indicating that the tests that were performed are superior to the percolation tests but if that is the case what is the rush because the petitioner could perform the percolation tests which would conform to the regulations. He said that there is also a request to waive paragraph 9.1.2.r which is waive certification on the Final Plat by a Registered Professional Engineer or Registered Sanitarian that the proposed land use, the proposed lot, and the known soil characteristics of the area are adequate for a private septic disposal system. He said that this seems like a very reasonable requirement and it is definitely and directly related to the location of the residences. He asked why the Committee would even consider this request until all of the required information has been presented. He said that there is more than one party which has disappointed expectations and the reality is that one of the proposed residences will be pushed up and directly in the backyard of his client's residence. He said that his clients purchased a nine acre site under the expectation that all of the lots within the same area were subject to the same requirements. He said that they do not doubt that the record indicates what it does and that is truly unfortunate but the question is upon whom should this misfortune fall. He asked if it should be the current residents who have made an investment in their properties or the new property owners who have not. He said that a map provided by Berns, Clancy and Associates indicated a slight encroachment upon the land of his clients and obviously this is another issue which should be resolved prior to moving forward. He said that there is no reason for this Committee to fret over an issue which has not been fully developed to date. He said that the Committee has not received a percolation test, finality on the boundary lines of the two parcels therefore there is no rush to move forward. He said that the County's policy has been evolving over a period of time but all of the Committee members are aware that the Comprehensive Zoning Review is currently underway and one of the clear themes of the amendment is to limit the number of smaller residential encroachments onto rural land and this is just another hole in that bag if the County allows smaller lots to be developed on this property. He said that the Committee should be focusing on where the County Board clearly is telling us to go and where we should be several years down the road and honor that policy. He requested that the Committee defer action until the required information is submitted rather than waive the requirements insist that they be submitted as required.

Mr. Cole requested the opportunity to rebut Mr. VanNess' comments.

Mr. Doenitz called for a Point of Order and noted that this is the public participation portion of the meeting.

Mr. Roger Fredenhagen, who resides at 1916 CR 2325E, St. Joseph addressed Agenda Item #10. He said that the Zoning Board of Appeals has recommended that the request should not be enacted. He said that there are a number of issues regarding the lots which the ZBA addressed and a large amount of testimony was received opposing the request. He said that he agrees with the ZBA and requests that the Committee recommend denial.

Mr. Moser asked if the Stanton Township Planning Commission submitted a protest for Case 514-AM-05.

Mr. Hall stated that the Stanton Township Planning Commission did submit a protest.

Mr. David Atchley, Engineer for HDC Engineering and representing Mr. Richard Hooser regarding Case 514-AM-05 stated that Stanton Township did submit a protest but no notification was sent to the owner or the engineer regarding their reasons for the protest. He said that he called Brian Schurter, Attorney for the Stanton Township Planning Commission and asked what their concerns were regarding the requested RRO. He said that Mr. Schurter indicated that he did not attend the meeting regarding this case but it was his understanding that there were concerns regarding drainage and flooding. He said that the information provided by staff indicates the 100-year flood plain and testimony of the neighboring residents regarding the flooding. He read the following statements from the Finding of Fact: 1. Flooding on the subject property can at times exceed the 100 year event; 2. Emergency services will be compromised during the flood event; 3. Approximately 1/3 of the property is landlocked due to the drainageway. Mr. Atchley stated that this is a true statement because there is a piece of the property which is located on the other side of the creek and it is not accessible during flooding events without encroaching upon someone else's property. 4. The bridge is hazardous to motorists when children are playing on the bridge located on CR 1950N. He said that this is an issue which cannot be prevented because kids do come to the bridge and kids cannot be restricted in a subdivision. 5. During high water septic systems placed in the flooding area will have problems. He said that this is true but there is plenty of ground available to place the septic tank out of the problem area. He requested that the Committee read the documents and review the staff's finding regarding typical and non-typical conditions and the answer should be evident.

Mr. Larry Wood, General Manager for The Andersons addressed Agenda Item #13. He said that the text amendment has passed through the ZBA with a recommendation of approval. He said that most of the testimony during the case regarded the amount of water required for a 110 million gallon ethanol plant. He said that it takes six gallons of water per one gallon of ethanol therefore the concern regarding the water usage and its impact on the Mahomet Aquifer. He said that the testimony indicates that a consultant from The Andersons, who is also a hydrologist, indicated that there is a lot of water capacity within the Mahomet Aquifer which hasn't been tapped yet. He said that currently the Mahomet Aquifer supplies 80 to 90 million gallons of water per day to all of the municipalities and private wells and it has the capacity to provide over 400 million gallons per day if required and a plant of this size would pull approximately 2 million gallons of water per day. He said that wells for the ethanol plant will be monitored for impact to local wells in the area

although if any wells were affected by the proposed ethanol plant it would be a well owned by Illinois American Water because it is the closest well to The Andersons. He said that it is The Andersons intent to continue to be good corporate stewards in this community.

Mr. Langenheim asked Mr. Wood if he was speaking about the entire aquifer from Vermilion County to Mason County or just Champaign County.

Mr. Wood stated that he was speaking of the entire area of the aquifer. He said that Illinois American Water serves Champaign-Urbana and Savoy area and is pulling about 22 million gallons of water per day.

Mr. Hall clarified that the item before the Committee is the general text amendment and not a particular plant.

5. Correspondence

None

6. County Board Chair's Report

A. Renewal of Federally Enforceable State Operating Permit for Air Emissions for Herff Jones Cap & Gown Division in Champaign.

Ms. Wysocki stated that the County received Public Notice regarding the Renewal of the State Operating Permit for Air Emissions. She said that since this is a cleaning establishment there is a problem of emissions into the atmosphere and basically the State is reviewing the permit and is willing to take testimony until May 5th. She said that if an individual contacts a member of the Committee regarding Herff Jones Cap & Gown the Committee member can pass this information along to that individual. She said that an item which is not on the agenda is regarding the Liquor Advisory Committee. She said that the Committee requires a replacement for Mr. Isaac Mapson. She said that the Committee is comprised of County Board members and liquor license holders. She said that the Committee could allow Ms. Greenwalt and Mr. Schroeder's term to extend until the end of the County Board term.

7. Subdivision Case 187-06: Wolf Creek Subdivision. Subdivision Plat Approval for a three-lot minor subdivision in the CR Zoning District in Section 30 of Ogden Township.

Ms. Anderson moved, seconded by Mr. Fabri to approve Subdivision Case 187-06: Wolf Creek Subdivision.

Mr. Moser moved, seconded by Mr. Doenitz to defer Case 187-06: Wolf Creek Subdivision until percolation tests are submitted.

Mr. Moser stated that there is Dana soil on the tract which is one of the worst types of soil for septic systems.

Ms. Anderson stated that the case was deferred last month due to the covenants and any septic system must be approved by the Department of Public Health.

Mr. Hall stated that she was correct.

Mr. Fabri asked for clarification between the percolation tests versus the soil analysis.

Mr. Hall stated that the percolation tests can sometimes be more useful than soil investigations. He said that generally soil investigations are superior and it would be very good to amend the Subdivision Regulations to provide for either but staff has not done this because we have been busy with other things. He said that personally he believes that the waiver is reasonable and is a little frustrated that we have a professional soil classifier yet the engineer will not certify the tests because someone else completed those tests. He said that he can imagine that there is some logic in this thinking yet the County Health Department accepted the soil investigation results. He said that when the Subdivision Ordinance is amended the County will have to provide for some reasonable linkage on who completes the tests and who does the certification but no time has been allowed to propose such an amendment.

Mr. Cole stated that he would provide a percolation test. He said that the percolation test can be completed within the next week. He said that the Committee could approve the subdivision pending a successful percolation test submitted to Mr. Hall, Zoning Administrator.

The motion to defer carried by a show of hands.

The vote was: 5-yeas 4-nays

Mr. Cole stated that the Subdivision Ordinance indicates that a decision must be made within 45 days of submittal of the completed application.

Mr. Hall stated that after a complete submission of a completed application a decision must be made within 30 days. He said that 10.1.6.B of the Subdivision Ordinance indicates that approval for a final plat must be made within 30 days of a completed application and 45 days for a minor plat. He said that a complete application refers to everything required in the Subdivision Regulations, including percolation test results.

Mr. Cole stated that he would not argue.

8. Subdivision Case 188-06: Wild Rose Subdivision. Subdivision Plat Approval for a three-lot Minor subdivision in both the B-4, General Business Zoning District and the AG-1, Agriculture Zoning District in Section 8 of Tolono Township.

Ms. Greenwalt moved, seconded by Ms. Anderson to approve Case 188-06: Wild Rose Subdivision.

Mr. Fabri stated that this subdivision requires the same waivers that were required for the previous

subdivision case which was deferred.

Mr. McGinty stated that one of the challenges which is before the Committee is that a Zoning Ordinance exists which is being modified and it makes it difficult to look at these subdivision issues without knowing what the future holds.

Mr. Schroeder stated that this is an established residential area with two existing houses and an old seed corn facility located in the B-4, zoning district. He said that the difference between this request and the previous request is that there are already two established homes on the subject property.

The motion failed by a show of hands.

The vote was: 4-yeas 5-nays

Mr. Hall stated that it is not clear what intent the Committee wanted to take regarding this subdivision but if the intent is to deny there must be an adopted statement of rejection.

Mr. Fletcher stated that ELUC’s action will be documented. He said that the motion to approve was defeated and the Committee will be required to document their reasons for denial. He said that a member of the Committee who voted in favor of the denial could meet with him and they could discuss those reasons for presentation at the May, 2006, ELUC meeting.

Mr. Hall stated that if the concern is percolation tests the petitioner may provide those results at the next meeting.

Mr. Fabri stated that he would reconsider his motion to deny if the percolation tests are submitted at the next meeting.

Mr. Fletcher stated that he would be happy to discuss the reasons for denial or approval with waivers.

Mr. Moser asked since there are two existing houses on the property why can’t they sell those two off without being required to request a subdivision.

Mr. Hall stated that they wanted to minimize the amount of farmland which goes with the houses. He said that this is an inner play of the maximum lot size of 3 acres on those soil types and once that maximum lot size comes into place a person cannot create a five acre lot. He said that they must create at least two residential lots in the rural districts and they cannot do this without a subdivision approval. He noted that the only building on the third lot is the tall seed corn processing facility and it is not clear what the lot will be used for but it does meet all of the requirements for the B-4, zoning district.

Mr. Fletcher stated that he would be happy to draft a statement of denial but it would be more appropriate for a member of the Committee to discuss the reasons for denial. He said that once the statement is completed it can be submitted to ELUC for review.

Mr. Fabri stated that he will discuss the statement of denial with Mr. Fletcher.

9. Update regarding the Illinois Supreme Court decision in Village of Chatham vs. Sangamon County.

Mr. Fletcher stated that he, the planning staff and Frank DiNovo met with the City of Champaign and the City of Urbana to discuss the issues involving annexation agreements and where the law needs to go. He said that Mr. DiNovo is preparing information and upon its completion he will present that information to the Committee. He requested that this item not be automatically placed on the agenda for next month.

The consensus of the Committee was not to place Item #9 on the May, 2006 agenda.

10. Zoning Case 514-AM-05 Petitioner: Richard Hooser. Request to amend the Zoning Map to allow for the development of 1 Single Family Residence on a lot in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: A 4.72 acre tract of land located in the South ½ of the Northwest ¼ of the Southwest ¼ of Section 25 of Stanton Township and that fronts on the west side of CR 2325E and is Approximately ¼ mile South of CR 1950N.

Ms. Greenwalt moved, seconded by Mr. Moser to recommend denial of Zoning Case 514-AM-05: Richard Hooser. The motion carried by voice vote.

11. Zoning Case 524-AM-05 Petitioner: Clara Titler. Request to amend the Zoning Map to Change the zoning district designation from B-5, Central Business to R-2, Single Family Residence. Location: Lots 11, 12 and 13 in Block 1 of the Original Town of Penfield and Commonly known as the vacant lots at 121 Main St., Penfield.

Mr. Doenitz moved, seconded by Ms. Anderson to recommend approval of Zoning Case 524-AM-05: Clara Titler. The motion carried by voice vote.

12. Zoning Case 517-AT-05 Petitioner: Zoning Administrator. Request to amend the Zoning Ordinance to allow a lot to have access to a public street by means of an easement of access provided that both the lot and the easement of access were created in a plat of subdivision that was duly approved between 5/17/77 and 2/18/97 and that the lot meets all other dimensional and geometric standards established by this Ordinance.

Mr. Hall stated that if the Committee is interested he did bring copies of the subdivision plats which Case 517-AT-05 would effect.

Ms. Anderson asked how many existing subdivisions would be affected by Case 517-AT-05.

Mr. Hall stated that eight subdivisions would be affected.

Ms. Greenwalt moved, seconded by Ms. Anderson to recommend approval of Case 517-AT-05 as submitted.

Mr. Doenitz stated that if this amendment is approved the County will have eight more subdivisions without public access. He asked the Committee why they would want to approve such an amendment.

Mr. Hall stated that if the amendment is not approved the end result will be the same other than there will be a series of variance cases before the ZBA and each instance will receive much greater scrutiny. He said that he predicts that each of the lots within the subdivisions will be built upon at the cost of the County running a number of variance cases.

The motion failed.

3-years

6-nays

- 13. Zoning Case 523-AT-05 Petitioner: Zoning Administrator – First Report. Request: Add “Ethanol Manufacturing” and authorize by Special Use Permit with standard conditions in the I-2, Heavy Industry Zoning District.**

Mr. Hall stated that Case 523-AT-05 is to add “Ethanol Manufacturing” to the Zoning Ordinance only as a Special Use Permit and only in the I-2 zoning district. He said that there is no higher level of scrutiny that something gets in the Zoning Ordinance than being only a special use permit in only the I-2 zoning district. He said that there are two conditions: 1. whether the facility will be connected to a sanitary sewer and if not a good explanation of how waste water will be discharged must be included; 2. ground water investigations must be submitted whether the facility is placed on a private water well or utilize untreated water from a water company. He said that whenever a case like this comes up the County will probably be spending money to hire it’s own groundwater professional to review the work completed by the petitioner’s groundwater professional but it makes little since to require the investigations if they are not reviewed by competent professionals.

Mr. Moser asked Mr. Hall what type of regulations an Ethanol Manufacturing Plant will be under if it is annexed into a village.

Mr. Hall stated that he does not know what type of regulations the plant would be under if annexed into a village but he does know that it would not necessarily be restricted to the County’s regulations.

Mr. Moser stated that he thinks it is preposterous that the people in this County would throw out something like this that would be an economic benefit to not only the agricultural community but the County as a

whole. He said that if Champaign County does not approve such a plant then they will go somewhere else within the County where they can obtain an annexation agreement which a village that is farmer friendly or they will to a different county that is farmer friendly. He said that The Andersons is big business and they have been good to the County and he does not understand any opposition to this amendment.

Ms. Greenwalt stated that the amendment was recommended for approval by the ZBA therefore the agenda item will not be voted upon by ELUC until next month so that municipal comments can be received.

Mr. Hall clarified that one reason that the agenda item will sit at ELUC for one month will be so that municipalities will be able to comment but it would be essential for the Committee to express a vote of confidence in either what the ZBA has recommended or if any changes needed to be made to the amendment.

Ms. Anderson expressed concern with the Mahomet Aquifer and supported the groundwater tests.

Mr. Hall stated that the only thing that the required tests can do is to estimate the affects on nearby wells and the technology does not exist to date to determine the long term effects on the aquifer.

Mr. Langenheim asked if this measure imposes a restriction which does not presently exist in the establishment of an ethanol plant.

Mr. Hall stated yes. He said that currently there are no requirements for "Ethanol Manufacturing Plants" in the Zoning Ordinance.

Mr. Langenheim stated that this opens up a path to establishing an ethanol plant therefore it is not a restriction but facilitates the establishment of an ethanol plant.

Mr. Hall stated yes.

Mr. DiNovo stated that ethanol plants are not presently prohibited by the Zoning Ordinance.

Mr. Hall stated that ethanol plants are not presently authorized either.

Mr. DiNovo stated that a use that does not appear in the "Table of Authorized Uses" is permitted as something and an application can be made. He said that the Zoning Administrator would determine what the use is equivalent to and it would be treated.

Mr. Langenheim stated that if someone desires to establish an ethanol plant under the present conditions the application will come through the County through the ZBA and then through the Committee.

Mr. Hall stated that the closest use in the existing use table which is by-right in I-2, is a beverage distillery and this seems inappropriate for an ethanol plant.

Ms. Busboom stated that it would be a huge mistake for the County not to be friendly to the rural production.

Mr. Moser stated that at some point bio-diesel plants will also need to be added to the Table of Authorized Uses. He said that there are going to be a lot of uses which are going to pop up in the future such as wind farms, bio-diesel plants, etc.

Mr. Hall stated that wind farms are allowed by a Special Use Permit. He said that he is not is not familiar enough with bio-diesel plants to know how they would compare to an ethanol plant.

Mr. Moser stated that there is a big push to get 5 or 10% soybean oil blended with diesel fuel and he has used it for the last five years. He said that it is another big market for soybeans and there are incentives from the state to promote the use such as no sales tax. He said that the results for the use of bio-diesel have been very satisfactory and it is being used in the large cities for their mass transit districts.

Ms. Busboom stated that a study is currently being conducted to locate a bio-diesel plant near one of the County's railroads very soon.

Mr. Fabri stated that he is concerned about the water usage although he believes that it is a use which should be added to the Zoning Ordinance.

The consensus of the Committee was to support the amendment as recommended by the Zoning Board of Appeals. The case will appear on the May 08, 2006, agenda.

14. Appointment of the Champaign County Regional Planning Commission County Planner as the County Recycling Coordinator.

Ms. Deb Busey stated that currently the County Recycling Coordinator is the County Administrator. The Waste Management Plan in 1991 has subsequently been updated by the Regional Planning Commission, on behalf of the County at the request of ELUC, in 2001. In the re-organization of Planning and Zoning that took place in Champaign County FY2005, it was agreed that the ongoing responsibility for the County's Waste Management Plan and subsequent updates would be assigned to the County's Planner employed in the Regional Planning Commission.

Ms. Anderson moved, seconded by Ms. Greenwalt that the Environment and Land Use Committee recommends to the County Board the appointment of the Champaign County Regional Planning Commission County Planner as the Recycling Coordinator for Champaign County. The motion carried by voice vote.

15. Endorsement of the U.S. Route 45 Corridor Plan by the Champaign-Urbana Urbanized Area Transportation Study (CUUATS)

20. Determination of Items to be placed on the County Board Consent Agenda

The consensus of the Committee was to place Agenda Items #10, 11 and 14 on the County Board Consent Agenda.

21. Adjournment

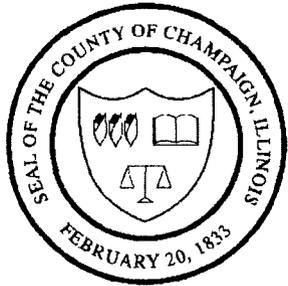
Mr. Doenitz moved, seconded by Ms. Anderson to adjourn the April 10, 2006, ELUC meeting. The motion carried by voice vote.

The meeting adjourned at 8:20 p.m.

Respectfully submitted,

Secretary to the Environment and Land Use Committee

eluc\minutes\minutes.frm



STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

ENTERTAINMENT, RECREATION,
LODGING OF TRANSIENTS, AND RACEWAYS LICENSE

No. 2006-11
\$30.00

License is hereby granted to **Eastern Illinois A.B.A.T.E** to provide Recreation/Entertainment at Rolling Acres Campground in Penfield IL in the Champaign County from June 2, 2006 thru June 4, 2006. This License expires 12:01am on June 5, 2006.

Witness my Hand and Seal this 8th day of May, A.D. 2006.

MARK SHELDEN
County Clerk
Champaign County

Chairman, Champaign County License Commission



STATE OF ILLINOIS,
Champaign County
Application for:
Recreation & Entertainment License

Applications for License under County Ordinance No. 55 Regulating Recreational & Other Businesses within the County (for use by businesses covered by this Ordinance other than Massage Parlors and similar enterprises)

For Office Use Only *Temporary*
 License No. 2006-11-ent
 Date(s) of Event(s) June 2, 3, 4, 2006
 Business Name: Eastern Illinois A.B.A
 License Fee: \$ 30.00
 Filing Fee: \$ 4.00
 TOTAL FEE: \$ 34.00
 Checker's Signature: ms

Filing Fees:	Per Year (or fraction thereof):	\$ 100.00
	Per Single-day Event:	\$ 10.00
	Clerk's Filing Fee:	\$ 4.00

Checks Must Be Made Payable To: Mark Shelden, Champaign County Clerk

The undersigned individual, partnership, or corporation hereby makes application for the issuance of a license to engage a business controlled under County Ordinance No. 55 and makes the following statements under oath:

- A.
1. Name of Business: Eastern Illinois ABATE, INC.
 2. Location of Business for which application is made: Rolling Hills Campground, Penfield, IL.
 3. Business address of Business for which application is made: 3151-A CR 2800 E. Penfield, IL.
 4. Zoning Classification of Property: _____
 5. Date the Business covered by Ordinance No. 55 began at this location: _____
 6. Nature of Business normally conducted at this location: Campground
 7. Nature of Activity to be licensed (include all forms of recreation and entertainment to be provided): live music, motorcycle show, motorcycle rodeo
 8. Term for which License is sought (specifically beginning & ending dates): June 2, 3, 4, 2006

(NOTE: All annual licenses expire on December 31st of each year)

9. Do you own the building or property for which this license is sought? NO
10. If you have a lease or rent the property, state the name and address of the owner and when the lease or rental agreement expires: Rolling Hills Campground, 3151-A CR 2800 E., Penfield, IL. (June 2, 3, 4 2006)
11. If any licensed activity will occur outdoors attach a Site Plan (with dimensions) to this application showing location of all buildings, outdoor areas to be used for various purposes and parking spaces. See page 3, Item 7.

INCOMPLETE FORMS WILL NOT BE CONSIDERED FOR A LICENSE AND WILL BE RETURNED TO APPLICANT

B. If this business will be conducted by a person other than the applicant, give the following information about person employed by applicant as manager, agent or locally responsible party of the business in the designated location:

Name: _____ Date of Birth: _____
Place of Birth: _____ Social Security No.: _____
Residence Address: _____
Citizenship: _____ If naturalized, place and date of naturalization: _____

If, during the license period, a new manager or agent is hired to conduct this business, the applicant MUST furnish the County the above information for the new manager or agent within ten (10) days.

Information requested in the following questions must be supplied by the applicant, if an individual, or by all members who share in profits of a partnership, if the applicant is a partnership.

If the applicant is a corporation, all the information required under Section D must be supplied for the corporation and for each officer.

Additional forms containing the questions may be obtained from the County Clerk, if necessary, for attachment to this application form.

- C. 1. Name(s) of owner(s) or local manager(s) (include any aliases): Barbara Reifsteck
Date of Birth: _____ Place of Birth: _____
Social Security Number: _____ Citizenship: US
If naturalized, state place and date of naturalization: _____
2. Residential Addresses for the past three (3) years: 200 N Broadway
Fisher, FL 61843
3. Business, occupation, or employment of applicant for four (4) years preceding date of application for this license: Registered Nurse

EACH OFFICER MUST COMPLETE SECTION D. OBTAIN ADDITIONAL FORM PAGES IF NEEDED FROM THE COUNTY CLERK AND ATTACH TO THIS APPLICATION WHEN FILED.

- D. Answer **only** if applicant is a Corporation: List of officers attached
1. Name of Corporation exactly as shown in articles of incorporation and as registered: Eastern, FL ABATE, Inc.
2. Date of Incorporation: 12-03-1986 State wherein incorporated: Illinois

3. If foreign Corporation, give name and address of resident agent in Illinois:

n/a.

Give first date qualified to do business in Illinois: _____

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

P.O. Box 6132, Champaign, IL 61826

5. Objects of Corporation, as set forth in charter: Motorcyclists Rights + education

6. Names of all Officers of the Corporation and other information as listed: (list attached)

Name of Officer: _____ Title: _____

Date elected or appointed: _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: _____

Citizenship: _____

If naturalized, **place** and **date** of naturalization: _____

Residential Addresses for past three (3) years: _____

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

AFFIDAVIT

(Complete when applicant is an Individual or Partnership)

I/We swear that I/we have read the application and that all matters stated thereunder are true and correct, are made upon my/our personal knowledge and information and are made for the purpose of inducing the County of Champaign to issue the permit hereunder applied for.

I/We further swear that I/we will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of the business hereunder applied for.

Signature of Owner or of one of two members of Partnership

Signature of Owner or of one of two members of Partnership

Signature of Manager or Agent

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

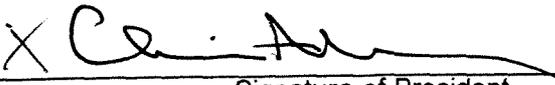
AFFIDAVIT

(Complete when applicant is a Corporation)

We, the undersigned, president and secretary of the above named corporation, each first being duly sworn, say that each of us has read the foregoing application and that the matters stated therein are true and correct and are made upon our personal knowledge and information, and are made for the purpose of inducing the County of Champaign to issue the license herein applied for.

We further swear that the applicant will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of applicant's place of business.

We further swear that we are the duly constituted and elected officers of said applicant and as such are authorized and empowered to execute their application for and on behalf of said application.

X 
Signature of President

X 
Signature of Secretary


Signature of Manager or Agent

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public



STATE OF ILLINOIS,
Champaign County
Recreation & Entertainment License
Check List and Approval Sheet

FOR ELUC USE ONLY

County Clerk's Office

1. Proper Application Date Received: 4-27-06
2. Fee Amount Received: 34.00 ck.

Sheriff's Department

1. Police Record Approval: YES Date: 5-2-06
2. Credit Check Disapproval: _____ Date: _____

Remarks: _____ Signature: Dr Jim Voorn

Planning & Zoning Department

1. Proper Zoning Approval: ✓ Date: 5/02/06
2. Restrictions or Violations Disapproval: _____ Date: _____

Remarks: CR Consentation - Recreation Zoning District Signature: [Signature]

Environment & Land Use Committee

1. Application Complete Approval: _____ Date: _____
2. Requirements Met Disapproval: _____ Date: _____

Signature: _____

Remarks and/or Conditions: _____



Barn use

Food Vendors

Gen

Band Stage

Fire pit

Barn

House

Camping

Sale Vendors

Lights

Tent

Rodeo

Car Parking

Lights

150

150

150

Eastern Illinois A.B.A.T.E.,
Inc.
A not-for-profit Corporat
ion

officers:

name Chris Abrahamson
title President,since 12/2005
ssn
dob
citizenship US
address 2805 willowpark, Champaign, IL
occupation Ironworker
dl#

name Steve Norman
title Vice President, since 12/2005
ssn
dob
citizenship US
address 2209 E Robin Rd , Mahomet, IL
occupation Laborer
dl#

name Mike Kelley
title Membership Coordinator,since 12/2005
ssn
dob
citizenship US
address 378 CR 2700 N, Mahomet, IL
occupation Laborer
dl#

name Karen Sollers
title Treasurer, since 12/2003
ssn
dob
citizenship US
address 504 N. Broadway, Newman, IL

occupation Library Technician
dl#

name Tom Sollers
title Activities Coordinator, since 12/2003
ssn
dob
citizenship US
address 504 N. Broadway, Newman, IL
occupation Equipment Operator
dl#

name Michelle Shepherd
title Products Coordinator
ssn
dob
citizenship US
address 1519 Fairway Drive, Rantoul, IL
occupation Business owner
dl#

name Denny Holsapple
title Public Relations Coordinator since 12/2003
ssn
dob
citizenship US
address 949 N. County Rd 500 E., Tuscola, IL
occupation IT Director
dl#

name Cecil Randle
title Safety & Ed Coordinator
ssn
dob
citizenship US
address 7 Chestnut, Danville, IL
occupation Truck Driver
dl#

name Nichole Hemrich
title Secretary since 12/2004
ssn
dob
citizenship US
address Philo, Illinois
occupation Union insulator
dl#

name Martha Kelley
title Legislative Coordinator & Rep to the State Board, since 12/2003
ssn
dob
citizenship US
address 378 CR 2700 N, Mahomet, IL
occupation Secretary
dl# |

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/16/2006

PRODUCER
Chuck Hay Insurance Agency, Inc.
1865 N. Henderson St. Suite #2
P O Box 1515
Galesburg, IL 61402-1515

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
A.B.A.T.E. of Illinois, Inc.
311 East Main Street
Suite 418
Galesburg, IL 61401-4834

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Scottsdale Insurance Company	41297
INSURER B: The Cincinnati Insurance Company	10677
INSURER C: The Cincinnati Casualty Company	28665
INSURER D: Western Surety Company	13188
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	BCS0011572	11/1/2005	11/1/2006	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ca occurrence) \$ 100,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000				
B	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Autos Specified On Schedt	CAA5065319AWR	11/1/2005	11/1/2006	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$ EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WC2100592 02	11/1/2005	11/1/2006	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
D	OTHER LIQUOR LIABILITY	RI94357215	11/1/2005	11/1/2006	1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 CERTIFICATE HOLDER IS NAMED AS ADDITIONAL INSURED AS THEIR INTERESTS MAY APPEAR WITH RESPECT TO EVENTS HELD AT THE ROLLING HILLS CAMPGROUND, 3151 COUNTY RD 2800E, PENFIELD, IL 61862 ON JUNE 2-4, 2006, BY EASTERN IL CHAPTER ABATE, P O BOX 6132, CHAMPAIGN, IL 61826-6132

CERTIFICATE HOLDER

Holder's Nature of Interest : Additional Insured
 Rolling Hills Campground
 6151 County Road 2800E, #A
 Penfield, IL 61862

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

Jerry Rouch / JRW

Champaign
County
Department of

**PLANNING &
ZONING**

Brookens

Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708

FAX (217) 328-2426

TO: **Environment and Land Use Committee**

FROM: **John Hall, Director & Subdivision Officer**

DATE: **May 3, 2006**

RE: **Case 187-06 Wolf Creek Subdivision**

STATUS

The Committee deferred approval of this Final Plat at the April 10, 2006, meeting pending submission of percolation test data.

Percolation test data has been received and is on the Revised Final Plat (see attached). The statement of certification regarding proposed land use, proposed lots, and the known soil characteristics is also on the Plat and signed by a registered sanitarian.

No waivers are required for the approval at this time. The applicant has submitted an aerial photograph illustrating the vicinity and provided color copies for Committee members that have been included separately in the ELUC packets.

Information previously distributed has not been included in this memorandum- please notify the Department if you need a copy of any previous memorandum.

REQUESTED ACTION

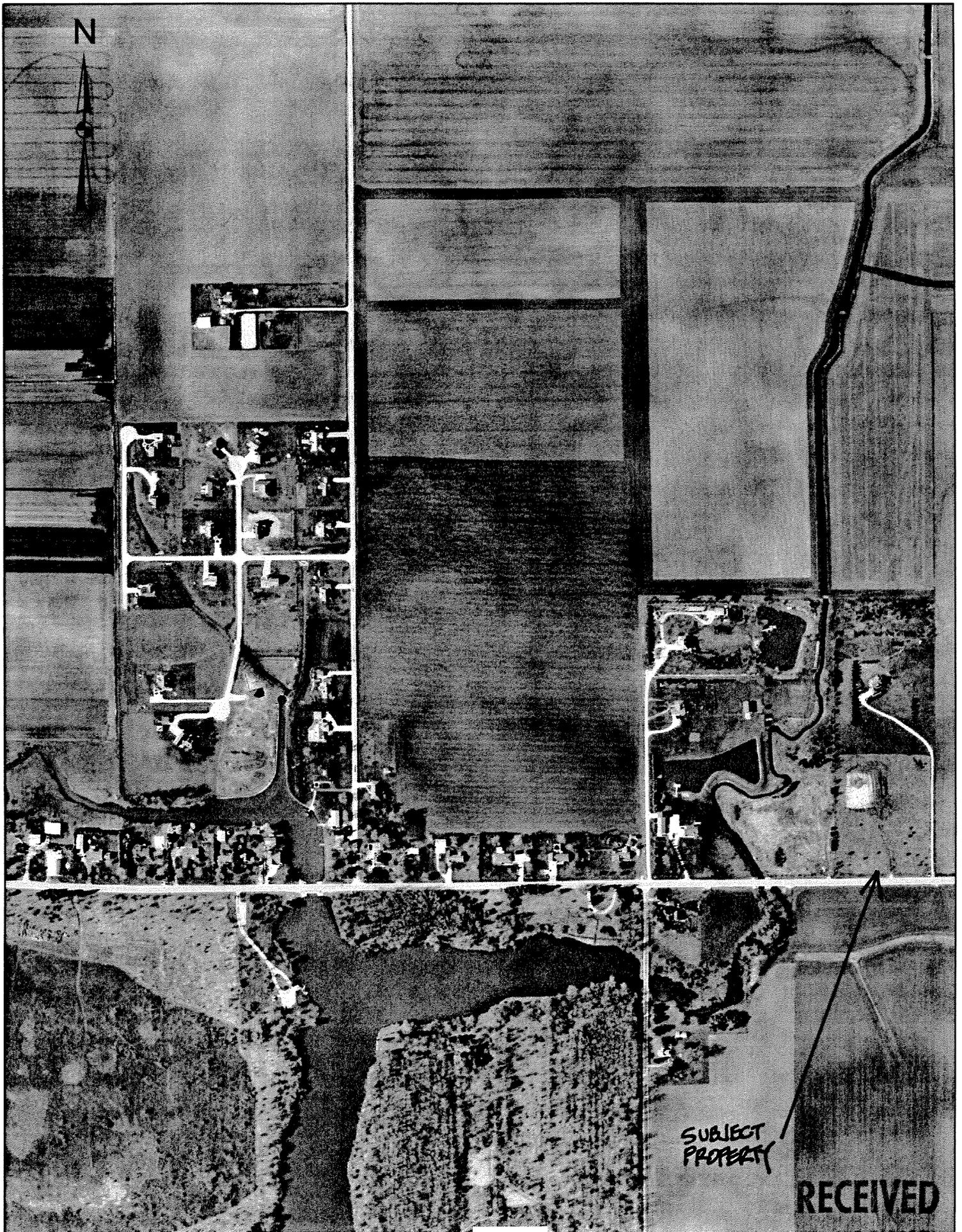
Final Plat approval for a three-lot minor subdivision of an existing 6.076 acre residential lot located in the CR Zoning District in Section 30 of Ogden Township located on the north side of County Highway 14 approximately one-half mile east of the intersection with CR2550E.

The proposed lots meet all Zoning Ordinance requirements and the proposed subdivision appears to meet all of the minimum subdivision standards.

The Final Plat complies with all requirements there are no waivers are required at this time.

ATTACHMENTS

- A Aerial photo of vicinity received May 3, 2006 (ELUC members received color copy in packet)**
- B Revised Final Plat of Wolf Creek Subdivision received May 3, 2006 (ELUC members also received 11"x 17" copy in packet)**



REC'D 03 2006

Champaign
County
Department of

**PLANNING &
ZONING**

To: **Environment and Land Use Committee**
From: **John Hall, Director, Zoning Administrator**
JR Knight, Temp Planner

Date: **May 3, 2006**

RE: **Zoning Case 527-FV-05**

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

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

Zoning Case 527-FV-05

**Request Authorize the following variances from the Champaign County
Special Flood Hazard Areas Ordinance:**

- A. Authorize the use of a dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.**
- B. Authorize the construction and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.**
- C. Authorize the construction and use of a shed in which the top of the lowest floor is 4 feet 7 inches below the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation and that is 720 square feet in area instead of no more than 500 square feet in area.**

Petitioner Tim Asire

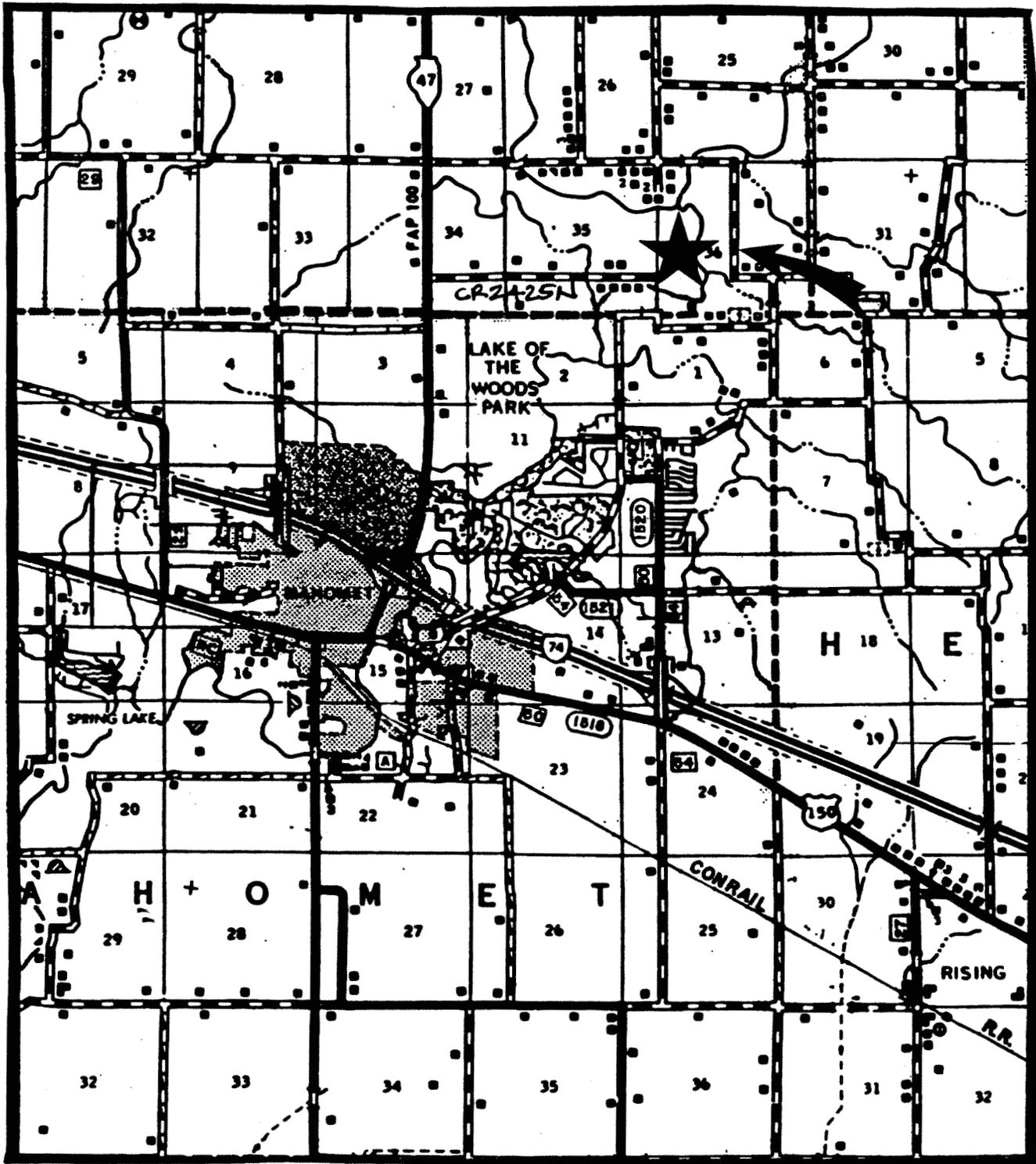
Location: Lot 27 of The Meadows Subdivision in Section 36 of Newcomb Township and that is commonly known as the residence at 2610 Appaloosa Lane, Mahomet.

STATUS

Variances to the Special Flood Hazard Areas Ordinance must be approved by the full County Board but begin with a public hearing at the Zoning Board of Appeals (ZBA). The ZBA voted to "RECOMMEND APPROVAL" of the attached floodplain variance at their meeting on April 13, 2006.

ATTACHMENTS

- A Location Map for Case 527-FV-05**
- B Site Plan for Zoning Use Permit Application 273-05-04**
- C Facsimile copy of wall section received November 21, 2005**
- D Facsimile copy of foundation plan with Smart Vents received November 21, 2005**
- E As-Approved (Unsigned) Finding of Fact for Case 527-FV-05**



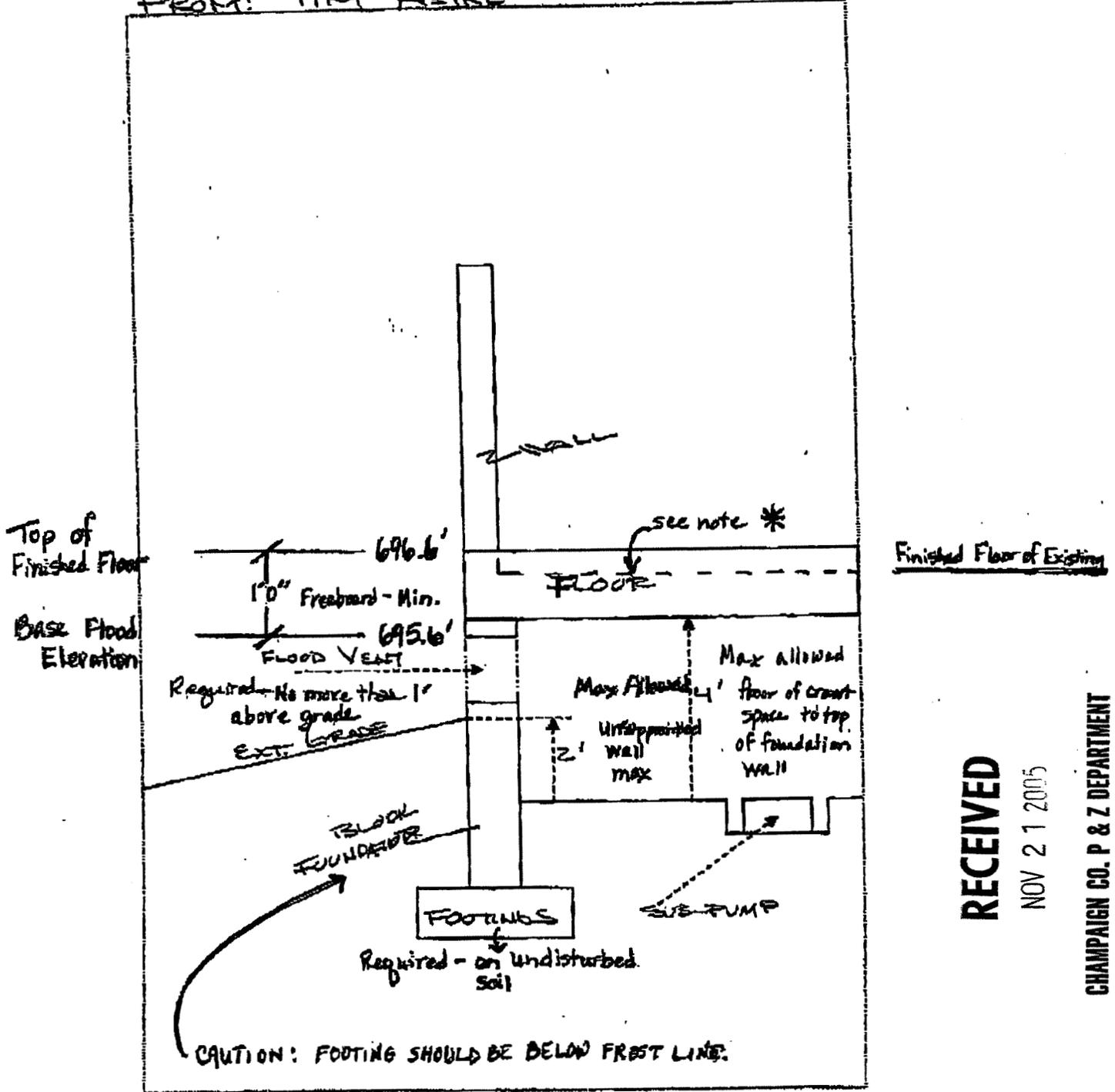
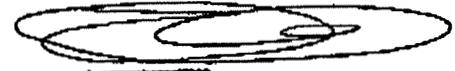
Area of Concern



Champaign
County
Department of
**PLANNING &
ZONING**

217-328-2426
11-16-05

TO: JOHN HALL
FROM: TIM ASIRE



RECEIVED

NOV 21 2005

CHAMPAIGN CO. P & Z DEPARTMENT

ASIRE ADDITION - CROSSSECTION OF WALL/FOUNDATION DETAIL

RECEIVED

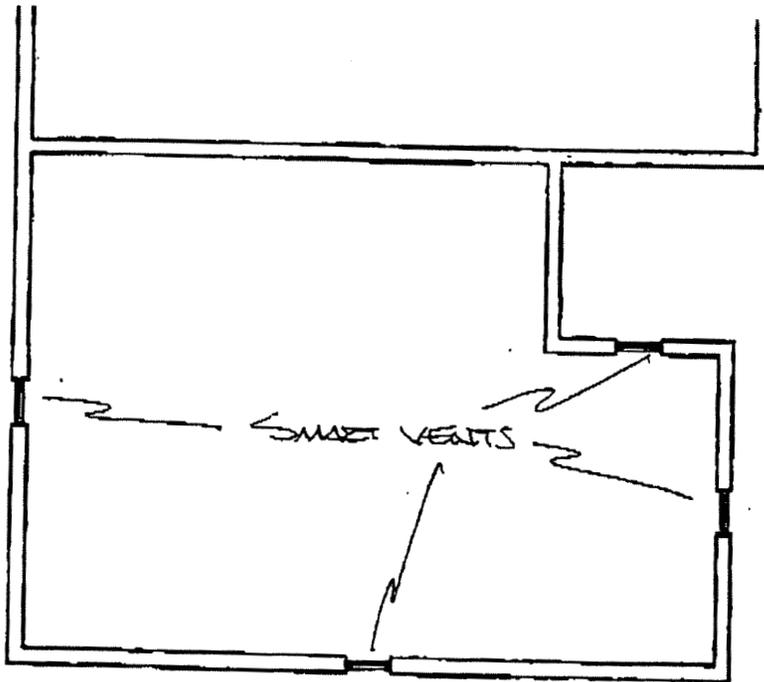
NOV 16 2005

*Elevation of finished floor depends upon final determination of Champaign County Board in Case: 517-FV-03

CHAMPAIGN CO. P & Z DEPARTMENT

TO: JOHN HALL

FROM: TOM ASIRE
11-16-05



ASIRE ADDITION SHOWING LOCATION
OF 4 FLOOR VENTS IN FOUNDATION WALLS

Need to describe (size, material, etc.) vents or if smart
vents are being installed it needs to be
documented here.

RECEIVED

NOV 21 2005

CHAMPAIGN CO. P & Z DEPARTMENT

RECEIVED

NOV 16 2005

CHAMPAIGN CO. P & Z DEPARTMENT

AS APPROVED – UNSIGNED

527-FV-05

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

Final Determination: ***GRANTED WITH CONDITION***

Date: April 13, 2006

Petitioners: Tim Asire

Request: Authorize the following variances from the Champaign County Special Flood Hazard Areas Ordinance:

- A. Authorize the use of an existing dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.
 - B. Authorize the construction and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.
 - C. Authorize the use of an existing shed in which the top of the lowest floor is 4 feet 7 inches below the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation and that is 720 square feet in area instead of no more than 500 square feet in area.
-

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **April 13, 2006**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is Tim Asire.
2. The subject property is Lot 27 of The Meadows Subdivision in Section 36 of Newcomb Township and that is commonly known as the residence at 2610 Appaloosa Lane, Mahomet.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. The subject property is zoned CR Conservation Recreation.

GENERALLY REGARDING THE REQUESTED VARIANCE AND THE PROPOSED SITE PLAN

5. Materials included with Zoning Use Application 273-05-04FP indicate the following:
- A. Regarding the existing home:
- (1) A letter from HDC Engineering dated November 7, 2005 stated that an elevation survey of the existing home had been completed and the lowest finished floor had an elevation of 696.31 feet above Mean Sea Level (MSL).
 - (2) According to the proposed site plan the existing home is approximately 3,200 square feet.
- B. Regarding the proposed addition:
- (1) Two drawings were received on November 16, 2005, they were:
 - (a) A cross section of the proposed crawlspace under the proposed addition, which indicated the following:
 - (i) The elevation of the finished floor of the addition will be at least 696.31 feet above MSL.
 - (ii) Flood vents will be installed no more than 1 foot above the existing grade.
 - (iii) Inside the crawlspace there is only 2 feet of unsupported wall, which is the maximum allowed.
 - (iv) The total height of the crawlspace is four feet, the maximum allowed.
 - (v) A sump-pump will be installed in the crawlspace to drain flood waters out of the enclosed area.
 - (b) A top down view of the crawlspace showing the location of four flood vents and indicating that smart vents will be used.
 - (2) According to the proposed site plan the addition is proposed to be 720 square feet, which is 16.7% of the total floor area of the existing home.
- C. Regarding the existing shed:
- (1) A letter from HDC Engineering dated October 21, 2005 stated that an elevation survey of the existing shed and the lowest finished floor of the existing shed was 692.09 feet above MSL.
 - (2) A letter from the Illinois Department of Natural Resources (IDNR) received November 4, 2005 indicated that the existing shed is located outside of the floodway on the property, and was therefore outside IDNR jurisdiction.

- (3) According to the proposed site plan the existing shed is 24 feet by 30 feet, or 720 square feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

6. *Special Flood Hazard Areas Ordinance* requirements that are directly relevant to this case are the following:
 - A. Paragraph 7A. requires that substantial improvements made to an existing building must be protected from flood damage below the flood protection elevation.
 - B. Paragraph 7B. provides that a residential building may be protected from flood damage below the flood protection elevation by elevating the building.
 - C. Paragraph 7F. establishes the following relevant requirements for garages or sheds ancillary to a residential use:
 - (1) the garage or shed must be located outside of the floodway,
 - (2) below the base flood elevation the garage or shed must be built of materials not susceptible to flood damage,
 - (3) the garage or shed must have at least one permanent opening on each wall no more than one foot above grade with one square inch of opening for every square foot of floor area,
 - (4) the garage or shed must be less than \$7,500 in market value or replacement cost whichever is greater or less than 500 square feet,
 - (5) the structure shall be anchored to resist floatation and overturning, and
 - (6) the lowest floor elevation should be documented and the owner advised of the flood insurance implications.
 - D. The following definitions from the *Special Flood Hazard Areas Ordinance* are especially relevant to the requested variance (capitalized words are defined in the Ordinance).
 - (1) “Base Flood” is the flood having a one-percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section 3 of this ordinance.
 - (2) “Base Flood Elevation” (BFE) is the elevation in relation to mean sea level of the crest of the base flood.
 - (3) “Flood” is a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff to surface waters from any source.

AS APPROVED

- (4) “Floodplain” and “Special Flood Hazard Areas” are synonymous. Those lands within the jurisdiction of the County that are subject to inundation by the base flood. The floodplains of the Copper Slough, McCullough Creek, Saline Branch Ditch, Salt Fork River, Sangamon River, Upper Boneyard Creek and Phinney Branch Ditch are generally identified as such on the Flood Insurance Rate Map of Champaign County prepared by the Federal Emergency Management Agency and dated January 2, 2003 also includes those areas of known flooding as identified by the community.
 - (5) “Flood Protection Elevation” (FPE) is the elevation of the base flood plus one foot of freeboard at any given location in the floodplain.
 - (6) “IDNR/OWR” is the Illinois Department of Natural Resources/Office of Water Resources.
7. Subsection 10a of the *Special Flood Hazard Areas Ordinance* states that a variance from the terms of the *Champaign County Special Flood Hazard Areas Ordinance* shall not be granted by the Board unless the applicant demonstrates all of the following:
- A. The development activity can not be located outside the floodplain.
 - B. An exceptional hardship would result if the variance were not granted.
 - C. The relief requested in the minimum variance.
 - D. There will be no additional threat to public health or safety or creation of a nuisance.
 - E. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
 - F. The applicant’s circumstances are unique and do not establish a pattern inconsistent with the National Flood Insurance Program.
 - G. All other state and federal permits have been obtained.

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

8. Regarding the SFHA Ordinance requirement that the development activity can not be located outside of the floodplain:
 - A. The Petitioner has testified on the application that, **“The entire lot is in this area as is a large part of the subdivision.”**
 - B. An excerpt of Flood Insurance Rate Map 1708940100C was attached to the Preliminary Memorandum and the subject property has been drawn at the proper scale and appears to be entirely within the SFHA.

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

9. Regarding the SFHA Ordinance requirement that an exceptional hardship would result if the floodplain variance were not granted:
- A. The Petitioner has testified on the application that, **“The structure was built in 1978. We have been using the property for 14 years and would no longer be able to enjoy living here. We cannot afford to raise the structure 3 inches. We may not be able to sell the property, repair if substantially damaged or add on to it.”**
 - B. ZUPA 346-77-01 was previously issued to authorize the construction of the existing house on the subject property. The Zoning Administrator rounded off the BFE to 695 feet above Mean Sea Level (MSL) and indicated that elevation to the property owner in a letter dated January 17, 1978. The owner then responded with a letter, dated February 10, 1978, saying that he was raising the house to 696 feet above MSL. Now this leaves the subject property several inches short of the actual FPE.

GENERALLY REGARDING WHETHER THE RELIEF REQUESTED IS THE MINIMUM NECESSARY

10. Generally regarding the SFHA Ordinance requirement that the relief requested is the minimum necessary:
- A. The Petitioner has testified on the application that, **“We are only asking the minimum; to be able to keep the property as it has existed since we purchased it 14 years ago. If the variance is not granted the shed will have to be substantially modified at extremely significant costs.”**
 - B. Regarding the existing house; this is the minimum variance possible as any change to the amount of variance requested would require raising the house.
 - C. Regarding the existing shed, there are two separate issues concerning the variance for the shed, as follows:
 - (1) The variance for the elevation of the shed is similar to the variance for the house in that the only way to reduce the amount of variance is to raise the shed.
 - (2) However, a review of Section 7F of the SFHA Ordinance shows that the shed may not be fully compliant with all of those requirements:
 - (a) Condition 6 of Section 7F reads:

All utilities, plumbing, heating, air conditioning, and electrical must be elevated above the FPE.

The Petitioner has indicated that there are electrical lights in the ceiling of the shed, but the requested variance of 4 feet 7 inches could be enough to reach a wall switch for those lights. At this time staff does not have enough information to assess compliance with this condition.
 - (b) Condition 7 of Section 7F reads:

AS APPROVED

The garage or shed must have at least one permanent opening on each wall no more than one foot above grade with one square inch of opening for every square foot of floor area

Photographs provided by the Petitioner show 2 inch high permanent openings in the walls of the shed within a foot of the existing grade. The site plan indicates that one of the dimensions of the shed is 24 feet, which makes the permanent openings on those walls 576 square inches. The total floor area of the shed is 720 square feet, therefore based on the information available at this time the shed does not meet this condition.

- (c) Condition 8 of Section 7F reads:

The garage or shed must be less than \$7,500 in market value or replacement cost whichever is greater or less than 500 square feet in area

The Petitioner has priced a larger metal shed from Steel Building, Inc. for \$6,055.51; however it is staff's assertion that including the price of the concrete slab floor and electrical system would raise the fair market value of the shed to at least \$7,500.

- D. Regarding the proposed addition to the existing house; the Petitioner has expressed that he would like to avoid a 3.5 inch bump between sections of his house, and so would like to construct the proposed addition at the same level as the rest of the house.

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

11. Generally regarding the SFHA Ordinance requirement that there will be no additional threat to public health and safety or creation of a nuisance:
The Petitioner has testified on the application that, **"We are building at the same level as the existing house which is away from the river. There are no health, safety or nuisance issues associated to the shed."**

GENERALLY REGARDING WHETHER THERE WILL BE ADDITIONAL PUBLIC EXPENSE

12. Regarding the SFHA Ordinance requirement that there be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities:
The Petitioner has testified on the application that, **"We are adding on to an existing home. No additional public protection or expense will be incurred in any rescue as we are, at worst, the same distance from the road."**

GENERALLY REGARDING WHETHER THE CIRCUMSTANCES ARE UNIQUE

13. Regarding the SFHA Ordinance requirement that the applicant's circumstances are unique, and do not establish a pattern inconsistent with the National Flood Insurance Program; this is only the fifteenth

flood variance that has ever been applied for in the history of the *Champaign County Special Flood Hazard Areas Ordinance* and in the same amount of time there have been nearly 2000 Zoning Use Permits authorized.

GENERALLY REGARDING WHETHER ALL OTHER REQUIRED PERMITS HAVE BEEN OBTAINED

14. Regarding whether all other required state and federal permits have been obtained:
- A. A letter from the Illinois Department of Natural Resources (IDNR) received November 4, 2005 indicated that the existing shed is located outside of the floodway on the property, and therefore no permit is required from IDNR.
 - B. FEMA Technical Bulletin 11-01 sets standards for crawlspace construction in Special Flood Hazard Areas:
 - (1) For all crawlspaces:
 - (a) The building must be designed and anchored to resist floatation, collapse, and lateral movement.
 - (b) The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters.
 - (c) Crawlspace construction is not permitted in V zones (coastal flood zones).
 - (d) Portions of the building below the BFE must be constructed with materials resistant to flood damage.
 - (e) Any building utility systems within the crawlspace must be elevated above the BFE or designed so floodwaters cannot enter or accumulate within system components during flood conditions.
 - (2) Additional standards apply to below grade crawlspace construction, as follows:
 - (a) The interior grade of a crawlspace below the BFE must not be more than 2 feet below the lowest adjacent exterior grade.
 - (b) The height of the below grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall must not exceed 4 feet.
 - (c) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace.
 - (d) The velocity of floodwaters at this site should not exceed 5 feet per second.
 - (e) Crawlspaces constructed in accordance with the above conditions will not be considered basements.

- C. According to the materials included with ZUPA273-05-04FP, which were reviewed above, the proposed crawlspace meets all the listed requirements.
15. Tim Asire testified at the April 13, 2006 Zoning Board of Appeals meeting that in 1993 the floodwaters were 2 feet below the lowest floor elevation of the residence.
16. The following special condition would allow the shed to remain but prohibit reconstruction of the shed as it currently exists:

In the event that the shed is damaged or destroyed or needs to be rebuilt for any reason, the shed shall be rebuilt in conformance with the Special Flood Hazards Area Ordinance

to ensure that

if the shed must be rebuilt it is built so as to minimize flood damage.

DOCUMENTS OF RECORD

1. Preliminary Memorandum for Case 527-FV-05, with attachments
 - A Location Map
 - B Excerpt from Flood Insurance Rate Map No. 170894 0100 C
 - C Preliminary Plat of The Meadows Subdivision
 - D Letter dated December 8, 1977, to Walter A. Carey Jr. from L.E. Kirby, Champaign County Zoning Administrator
 - E Site Plan for ZUPA 346-77-01
 - F Letter dated January 17, 1978, to Walter A. Carey Jr. from L.E. Kirby, Champaign County Zoning Administrator
 - G Letter dated February 10, 1978, to Larry Kirby, Champaign County Zoning Administrator from Walter A. Carey Jr.
 - H Site Plan for ZUPA 273-05-04
 - I Letter dated October 21, 2005, to John Hall from David E. Atchley, HDC Engineering
 - J Letter dated November 7, 2005, to John Hall from David E. Atchley, HDC Engineering
 - K Letter dated November 8, 2005, to John Hall from Tim Asire
 - L Facsimile copy of wall section received November 21, 2005
 - M Facsimile copy of foundation plan with Smart Vents received November 21, 2005
 - N Letter received November 9, 2005, from Robert Geising, Senior Permit Engineer, Director of Illinois Department of Natural Resources with /IDNR/ OWR
 - O Zoning Use Permit 273-05-04FP dated November 23, 2005
 - P Photographs of shed openings and list of relevant information
 - Q Draft Finding of Fact for Case 527-FV-05

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 527-FV-06 held on **April 13, 2006**, the Zoning Board of Appeals of Champaign County finds that:

1. The development activity **CANNOT** be located outside the floodplain because the proposed addition is intended to match the existing elevation of the home it is to be added onto and the whole subject property is located entirely within the SFHA.
2. An exceptional hardship **WOULD** result if the floodplain variance were not granted because the existing shed would be unusable and the Petitioner would be unable to sell the property or home and the Zoning Administrator at the time rounded the BFE down and the builder made every reasonable attempt to comply with Zoning Administrator's request.
3. The relief requested **SUBJECT TO THE PROPOSED CONDITION IS** the minimum necessary because it allows the shed to be used but if damaged or destroyed it must be rebuilt to the Special Flood Hazard Area requirements and the addition will match the floor level of the existing home.
4. The requested floodplain variance **SUBJECT TO THE PROPOSED CONDITION WILL NOT** result in any additional threat to public health and safety or creation of a nuisance because the addition is added onto an existing structure and the shed has not caused any nuisance in the past.
5. The requested floodplain variance **SUBJECT TO THE PROPOSED CONDITION WILL NOT** result in additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities because it is an existing facility and there is no additional risk to emergency vehicles or increase in traffic.
6. The applicant's circumstances **SUBJECT TO THE PROPOSED CONDITION ARE** unique and **DO NOT** establish a pattern inconsistent with the National Flood Insurance Program because this is only the fifteenth flood hazard area variance applied for in Champaign County under the *Special Flood Hazard Areas Ordinance* and there have been over 2,000 zoning use permits issued.
7. All other required state and federal permits **HAVE** been obtained.
8. The Special Condition proposed here is required to ensure compliance with the criteria for variance and for the particular purposes described below:

In the event that the shed is damaged or destroyed or needs to be rebuilt for any reason, the shed shall be rebuilt in conformance with the Special Flood Hazards Area Ordinance

to ensure that

if the shed must be rebuilt it is built so as to minimize flood damage.

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 10a. of the *Special Flood Hazard Areas Ordinance* **HAVE** been met, and determines that:

The Floodplain Variances requested in Case 527-FV-05 is hereby **GRANTED** to the Petitioner, Tim Asire, to authorize the following variances from the *Champaign County Special Flood Hazard Areas Ordinance*:

- A. Authorize the use of an existing dwelling in which the top of the lowest floor is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.
- B. Authorize the construction and use of an addition to a dwelling in which the top of the lowest floor of the addition is 8.5 inches above the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation.
- C. Authorize the use of an existing shed in which the top of the lowest floor is 4 feet 7 inches below the Base Flood Elevation instead of 1.0 feet above the Base Flood Elevation and that is 720 square feet in area instead of no more than 500 square feet in area.

and subject to the following special condition:

In the event that the shed is damaged or destroyed or needs to be rebuilt for any reason, the shed shall be rebuilt in conformance with the Special Flood Hazards Area Ordinance to ensure that if the shed must be rebuilt it is built so as to minimize flood damage.

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

SIGNED:

Debra Griest, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

AS APPROVED

ATTEST:

Secretary to the Zoning Board of Appeals

Date

Champaign
County
Department of



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

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

To: **Environment and Land Use Committee**
From: **John Hall**, Director, Zoning Administrator
J.R. Knight, Temp Planner
Date: **May 4, 2006**
RE: **Zoning Case 532-AT-05**

Zoning Case 523-AT-05

Request: **Part A. Add "Fuel Ethanol Manufacturing" and authorize by Special Use Permit in the I-2, Heavy Industrial Zoning District**

Petitioner: **Zoning Administrator**

STATUS

Both Champaign and Urbana will protest the amendment unless conditions are added that address their concerns. All conditions of protest are reviewed briefly below and summarized in Attachment D. Champaign's three conditions are shared by Urbana which also has five additional conditions. One of the Urbana conditions is not feasible at this time. The ZBA in fact considered all but one of the municipal concerns in the Finding of Fact and the ZBA's recommendation would allow (but not require) all of the municipal concerns to be addressed in the Special Use Permit process as necessary on a case by case basis. A letter is also attached from Carl Webber, counsel for The Andersons.

Alternative Committee recommendations are briefly reviewed. Unless all conditions of protest are incorporated into the amendment the municipal protest will require a supermajority (21 of 27 elected members) of County Board members to defeat. Alternative C addresses the problematic condition required by Urbana and incorporates all other municipal conditions of protest

The State's Attorney may recommend that any change to the amendment should be remanded to the Zoning Board of Appeals. A recommendation should be available at the meeting.

CITY OF CHAMPAIGN PLAN COMMISSION RECOMMENDED CONDITIONS OF PROTEST

The City of Champaign Plan Commission accepted their staff recommendation that the City protest the amendment unless three conditions are added to the amendment. The conditions do not appear to be burdensome and based on the testimony of Larry Wood of The Andersons the ethanol plant that is anticipated to be proposed by The Andersons will meet the first two conditions even if not required by the County. The three conditions of protest are as follows:

- 1. Only fuel ethanol plants utilizing a dry mill process should be permitted.**

Item 19.C. of the ZBA's Finding of Fact summarized the testimony of Larry Wood at the ZBA regarding some basic differences between the "wet mill" and "dry mill" processes employed in production of fuel ethanol. Based on the testimony of Larry Wood, the ethanol

City of Champaign Conditions (continued)

plant that is anticipated to be proposed by The Andersons is anticipated to be a dry mill process.

The ZBA recommendation did not address the type of process and it leaves the process as one of the factors to be considered in the Special Use Permit.

Because the type of process is so basic to the type of use that is authorized this recommendation may be more appropriate to include as a footnote in Section 5.2 Table of Authorized Uses rather than as a Standard Condition for the Special Use Permit along with the other recommendations of the ZBA.

2. Fuel ethanol plants shall be required to install thermal oxidizers to remove the volatile organic compounds (VOCs) and reduce odors emanating from the facility.

Item 19.A. of the ZBA's Finding of Fact summarized the testimony of Larry Wood at the ZBA regarding the benefits of thermal oxidizers in reducing the odors associated with production of fuel ethanol. Based on the testimony of Larry Wood, the ethanol plant that is anticipated to be proposed by The Andersons is anticipated to include thermal oxidizers.

The ZBA recommendation did not require thermal oxidizers and it leaves this component to be another factor to be considered in the Special Use Permit. It is conceivable that not every location where a fuel ethanol plant may be proposed in Champaign County would merit this level of odor control.

The use of thermal oxidizers is not a basic component to the fuel ethanol process and could be a Standard Condition for the Special Use Permit. However, the City of Champaign Plan Commission recommendation clearly attaches a great importance to this requirement and it could also be included as a footnote in Section 5.2 Table of Authorized Uses.

3. The petitioner is required to provide a Traffic Impact Analysis (TIA) performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County and that the petitioner be required to make the necessary improvements identified in the TIA.

Item 18.C. of the ZBA's Finding of Fact briefly considered the traffic impacts of a fuel ethanol plant. The ZBA recommendation did not require a Traffic Impact Analysis (TIA) and it leaves this analysis as another consideration in the Special Use Permit. The ZBA regularly reviews TIAs as part of Special Use Permits currently that are proposed within the Champaign-Urbana Urbanized Area. even TIAs are not specifically required for any Special Use Permit. Those TIAs are currently provided by the Champaign-Urbana Urbanized Area Transportation Study (CUUATS) at no charge to the petitioner. Specifically requiring a TIA for any Fuel Ethanol Plant would relieve CUUATS of this burden and would ensure TIAs are available for Fuel Ethanol Plants proposed at any location.

City of Champaign Conditions (continued)

A Traffic Impact Analysis could be required as a Standard Condition for the Special Use Permit.

Note that a petitioner can only be required to make improvements identified in the TIA that are specifically and uniquely attributable to the proposed Special Use Permit.

Also note that if a Traffic Impact Analysis (TIA) is added to the *Zoning Ordinance* as a standard condition for Fuel Ethanol Manufacturing there should be an immediate additional amendment to the *Zoning Ordinance* to clarify that the ZBA may require a TIA for any Special Use Permit or map amendment even if not indicated in the standard conditions or otherwise required by the *Zoning Ordinance*.

CITY OF URBANA CITY COUNCIL CONDITIONS OF PROTEST

At their meeting on May 1, 2006, the Urbana City Council adopted a resolution of protest against Case 523-AT-05 but states that the protest would be withdrawn if the amendment is revised to do the following:

1. Add a standard condition to read as follows:

“The petitioner is required to provide a water study on the potential impacts of any proposed ethanol production facility on the Mahomet Aquifer, or other groundwater source if applicable, in terms of adverse impacts to the aquifer; rate of draw down, including analysis of drawdown rate and the effect on shallow wells; capacity analysis; and seasonality impacts. The water study shall be based on the following:

- (1) A review of relevant well records, hydrogeologic reports, and other pertinent correspondence; and**
- (2) Determination of existing ground water levels in neighboring wells provided that access is permitted by the well owner; and**
- (3) Exploratory test hole drilling and geophysical exploration as required including possible geophysical logging of test holes; and**
- (4) If adequate aquifer hydraulic property information is not otherwise available, test data shall be provided from a test well, monitoring well and other observation wells, or other appropriate existing wells, sufficient to serve as serve as the basis for estimating a distance-drawdown relationship; and**
- (5) An estimated distance-drawdown relationship shall also be included in the letter report.**

City of Urbana Conditions (continued)

Such water study shall be performed by either an Illinois Licensed Geologist or an Illinois Professional Engineer. No Special Use Permit for an ethanol facility shall be approved unless said water study determines no significant adverse impact with mitigation measures on the Mahomet Aquifer or other groundwater source. The County reserves the right to have the report reviewed by a similarly competent Illinois Licensed Geologist or an Illinois Professional Engineer.”

Item 18.A. of the ZBA’s Finding of Fact reviewed evidence relevant to the groundwater condition recommended by the ZBA. Items (1) through (5) of the above condition are identical to the similar parts of the ZBA recommendation. However, whereas the ZBA recommendation recognized that it is only possible at this time to assess the impacts on nearby wells, the Urbana condition clearly indicates that this condition is intended to identify adverse impacts to the aquifer as well as the effect on shallow wells.

For this reason this condition is not achievable at this time and would be of very questionable benefit if it were added to the *Zoning Ordinance*.

2. Add a standard condition to read as follows:

“The petitioner is required to provide a traffic impact analysis (TIA) performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County and that the petitioner be required to make the necessary improvements identified in the TIA.”

This recommendation is essentially the same as the City of Champaign recommendation (see above).

3. Add a standard condition to read as follows:

“Only ethanol production facilities utilizing a dry mill process shall be permitted.”

This recommendation is essentially the same as the City of Champaign recommendation (see above).

4. Add a standard condition to read as follows:

“Fuel ethanol plants shall be required to install thermal oxidizers or other similar technology to remove the volatile organic compounds (VOCs) to reduce odors.”

This recommendation is essentially the same as the City of Champaign recommendation (see above).

5. Add a standard condition to read as follows:

“When a fuel ethanol plant is not proposed to be connected to a public sanitary sewer system, sufficient information shall be provided in the Special Use Permit application to prove that an adequate drainage outlet is available for all anticipated discharges to surface waters.”

City of Urbana Conditions (continued)

Item 18.B. of the ZBA's Finding of Fact reviewed evidence relevant to the surface water discharge condition recommended by the ZBA and this is essentially the same.

6. Add a standard condition to read as follows:

“The petitioner is required to file with the County Zoning Administrator the following:

- (a) Emergency Action Plan which meets OSHA standards with written approval from the responding service providers.**
- (b) Sewer Connection Permit from the sanitary district and any required Connection Permit from IEPA if the manufacturing facility discharges into a municipal sanitary sewer.**
- (c) Certificate of Compliance or Letter of Approval as a result of the application under the Clean Water Act.**
- (d) Air Permit issued by the IEPA.”**

Item 12.C. of the ZBA's Finding of Fact is a brief overview of the permits requirements for the Clean Air Act and item 12.D. is a brief overview of the wastewater permits required for compliance with the Clean Water Act. The ZBA recommendation does not require any of the above and leaves these concerns to be considered in the Special Use Permit. These recommendations do not appear to establish any new requirements for a petitioner and seem to merely require that copies be provided to the Zoning Administrator. It is also not clear when these submittals should all occur.

7. Add a standard condition to read as follows:

“The petitioner shall provide a letter from a Registered Illinois Professional Engineer indicated [sic], based on the proposed design, the factory is not expected to violate the Illinois Noise Statute. Post construction, the petitioner shall place on file a letter from a Registered Illinois Professional Engineer indicated [sic] that while operating, the plat [sic] does not violate the Illinois Noise Statute.”

The ZBA recommendation did not address noise nor was noise considered in the Finding of Fact as it is not known to be a significant problem with fuel ethanol production. As a practical matter, there is no “Illinois Noise Statute” and a citation to the Illinois Administrative Code is necessary.

8. Maintain the required yards for Fuel Ethanol Manufacturing as stated in Section 6.1.3 Schedule of Requirements and Standard Conditions as set forth in the memo to the Environmental [sic] and Land Use Committee dated April 5, 2006.

City of Urbana Conditions (continued)

The April 5, 2006, ELUC memo did not include any yard requirements that were different than those ordinarily required in the I-2 District. Thus, this condition is already provided in the existing Zoning Ordinance and does not have to be included in the amendment .

ALTERNATIVES

The following is a brief overview of the Committee's most obvious alternatives:

Alternative A. Recommend the County Board adopt the ZBA recommendation and override the municipal protests.

The ZBA in fact considered all but one of the municipal concerns in the Finding of Fact and the ZBA's recommendation would allow (but not require) all of the municipal concerns to be addressed in the Special Use Permit process as necessary on a case by case basis. Municipalities are invited to comment on Special Use Permits within the extraterritorial jurisdiction but there are no protest rights on Special Use Permits.

Unless all conditions of protest are incorporated into the amendment the municipal protest will require a supermajority (21 of 27 elected members) of County Board members to defeat.

Alternative B. Recommend the County Board adopt the ZBA recommendation amended with all feasible municipal recommendations.

The part of the groundwater study recommended by Urbana that requires assessment of the impact on the aquifer is not feasible and adding impossible requirements to the Zoning Ordinance is not generally recommended.

The other conditions of protest do not appear to be particularly burdensome. Based on the testimony of Larry Wood of The Andersons, The Andersons had expected to provide the safeguards in the first two Champaign conditions (and Urbana's third and fourth) even if not required by the County. A letter is attached from Carl Webber, counsel for The Andersons, in which Mr. Webber proposes conditions intended to accommodate the concerns of the Plan Commissions for both Champaign and Urbana. See attached.

The requirement for a Traffic Impact Analysis (Champaign's third and Urbana's second) is also not unduly burdensome and in all likelihood would be required by the ZBA at almost any location. The fifth Urbana condition is also a recommendation of the ZBA. The sixth Urbana condition is mostly documentation of compliance with the Illinois Environmental Protection Agency. The eighth Urbana condition is already provided in the Zoning Ordinance and does not need to be included in the amendment.

However, this alternative would still require an override of the Urbana protest. See Attachment E for the substance of this amendment alternative.

Alternatives (continued)

Alternative C. Recommend the County Board adopt the ZBA recommendation amended with all municipal recommendations.

Alternative C avoids the difficulty of overriding any municipal protest by taking advantage of the provision in the Zoning Ordinance that allows the ZBA to waive standard conditions when it is justified. In this alternative the part of Urbana's groundwater study condition that is currently not feasible should be expected to be routinely waived by the ZBA until such time as the impacts on the aquifer can actually be identified. The rest of the groundwater study is feasible and in fact was a concern of the ZBA from the beginning.

See the discussion under Alternative B regarding the reasonableness of other municipal conditions of protest. Also see the attached letter from Carl Webber, counsel for The Andersons, in which Mr. Webber proposes conditions intended to accommodate the concerns of the Plan Commissions for both Champaign and Urbana.

See Attachment F for the substance of this amendment alternative.

ATTACHMENTS

- A City of Champaign Report To Plan Commission dated April 14, 2006 (without ELUC memo dated April 5, 2006)**
- B City of Urbana Resolution No. 2006-05-014R**
- C Letter dated April 25, 2006, from Carl Webber**
- D Comparison of Land Use Concerns, ZBA Recommendation, and Municipal Conditions of Protest For Case 523-AT-05**
- E Amendment for Alternative B**
- F Amendment for Alternative C**



REPORT TO PLAN COMMISSION

FROM: Bruce A. Knight, FAICP, Planning Director

DATE: April 14, 2006

SUBJECT: CASE NO. PL06-0029 **COUNTY ZONING ORDINANCE
TEXT AMENDMENTS
Case 523-AT-05 (Ethanol Plant as a Special Use
in I-2, Heavy Industrial District)**

A. Introduction: The Plan Commission is requested to consider a recommendation to protest a Text Amendment that Champaign County is proposing to permit Ethanol Plants in the I-2, Heavy Industrial Zoning District as Special Uses. The letter to protest the text amendment requests additional provisions that staff recommends the County include in the text amendment.

B. Recommended Action: The Planning staff recommends that the Plan Commission forward the County Text Amendment to the City Council with a recommendation to protest, along with the consideration to withdraw the protest if additional conditions suggested by the City are included in the proposed Text Amendment.

C. Prior Council Action: The City Council has not directly taken action regarding this case. However, the City Council has made several protests over the years for Rezoning and Special Use requests that are proposed within the City's one-and-half mile extra-territorial jurisdictional area and that have a potential for adverse impacts.

D. Background:

1. Interest in Ethanol Plants. There is an interest to locate as many as three ethanol plants in Champaign County due to its access to plentiful feedstock (corn) and ample water supply, which are the two most important ingredients for ethanol production. Ethanol plants are currently not listed as a permitted use in any zoning district in the County. Therefore, the County is considering a text amendment to include ethanol plants in the I-2, Heavy Industrial District only as a Special Use and requiring special provisions to protect the public safety. The recommended special provisions are as follows:

- When a Fuel Ethanol Manufacturing plant is proposed to utilize a private waterwell to any extent for process water rather than a connected public water supply system or utilize untreated water from a public water supply system, the petitioner shall provide a letter report assessing the likely groundwater impacts on adjacent wells of finishing a waterwell for the proposed ethanol plant. The letter report shall be prepared by either an Illinois

Licensed Geologist or an Illinois Professional Engineer either of which shall have extensive experience with groundwater hydrology, or other similarly competent groundwater hydrology professional. The County reserves the right to have the report reviewed by a similarly competent Illinois Licensed Geologist or an Illinois Professional Engineer. The letter report shall be based on the following:

- a) A review of relevant well records, hydrogeologic reports, and other pertinent correspondence
 - b) Determination of existing groundwater levels in neighboring wells provided that access is permitted by the well owner.
 - c) Exploratory test hole drilling and geophysical exploration as required including possible geophysical logging of test holes.
 - d) If adequate aquifer hydraulic property information is not otherwise available, test data shall be provided from a test well and other observation wells, or other appropriate existing wells, sufficient to serve as the basis for estimating a distance drawdown relationship.
 - e) An estimated distance drawdown relationship shall also be included in the letter report.
- When a Fuel Ethanol Manufacturing plant is not proposed to be connected to a connected public sanitary sewer system sufficient information shall be provided in the Special Use Permit application to prove that an adequate drainage outlet is available for all anticipated discharges to surface waters.

2. City Staff Suggestions. The Planning Department staff believes that the provisions listed above are valid but do not address other potential impacts that should be considered as part of the Special Use. Staff feels that odor and traffic have the potential to create negative impacts on surrounding property and should be considered during the review of a special use permit. To ensure this, specific conditions should be included in the requirements. Listed below are additional provisions that Champaign staff believe should be added to the text amendment:

- **That only fuel ethanol plants utilizing a dry mill process be permitted.**
- **Fuel ethanol plants shall be required to install thermal oxidizers to remove the volatile organic compounds (VOCs) and reduce odors emanating from the facility**
- **The petitioner is required to provide a Traffic Impact Analysis(TIA) performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County and that the petitioner be required to make the necessary improvements identified in the TIA**

The dry mill technology has significantly less odor associated with it than the wet mill process. Research indicates dry mill is the most common type of plant being built today, and the top two conditions would ensure that no wet mill plants would be constructed and that thermal oxidizers are installed to further reduce odors emanating from the facility.

It has also been determined that ethanol plants generate high volumes of truck traffic to and from the facility. Staff believes that adequate measures should be taken to mitigate the impacts from that traffic. Some of the outcomes of the TIA may be, but not limited to, turn lanes, center turn lanes, traffic lights, road widening etc. The City believes that the TIA can help alleviate traffic issues for the use as well as traffic on adjacent street and highways.

3. City's Right On County's Actions: The City can choose to protest a Text Amendment. However, the protest does not trigger any special procedures for County Board Action. A 2/3 majority vote of the County Board would be necessary to trigger such action. The County is usually very receptive to the City's comments and suggestions.

E. Alternatives:

1. Forward the Letter of Protest to the City Council with a recommendation to protest the proposed text amendment considered in County Zoning Case 523-AT-05, provided that if the additional recommended conditions are added to the amendment, the protest is withdrawn.
2. Forward a recommendation to the City Council to not protest the proposed text amendment considered in County Zoning Case 523-AT-05.

F. Discussion of Alternatives:

Alternative 1 will recommend that the City Council protest the text amendment as proposed and withdraw the protest if the recommended conditions are added to the amendment.

a. Advantages

- Will notify the County of the City's issues regarding the ethanol plant amendment.
- Provides an opportunity for the City to request additional conditions.
- Will require a 2/3 majority vote of the County Board to approve if the conditions are not added.

b. Disadvantages

- None.

Alternative 2 recommends that the City Council not protest the proposed text amendment. The Commission should choose this Alternative if it finds that the proposed text amendment sufficiently addresses all the impacts of an ethanol plant.

a. Advantages

- None.

b. Disadvantages

- Will not provide an opportunity for the City to request additional conditions to be added to the text amendment.
- Will not inform the County on the City's position regarding the amendment.
- Will allow passage of the text amendment by a simple majority.

G. Community Input: Champaign County is required to issue public notice of the text amendment. The City does not hold a public hearing for County amendments. The City Plan Commission and City Council meetings will provide opportunities for input, as will the County ELUC and Board meetings. The City of Urbana will also review the text amendment.

H. Budget Impact: There are no budget impacts to protest the text amendment. However, if an ethanol plant would request to locate within a mile and a half of the City and require subdivision, an Annexation Agreement will be required.

I. Staffing Impact: Staff at various levels within the organization has spent significant time researching the impacts of an ethanol plant. Staff has also gone on a site visit to an existing ethanol plant in Illinois to get a first hand look at its operation and impacts on its surroundings.

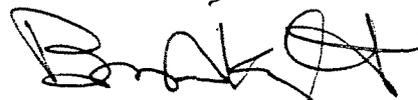
Depending on the County's text amendment or any proposals to locate an ethanol plant within Champaign's ETJ, the level of staffing impact will be higher.

Prepared by:



Rajesh "Cac" Kamak
Planner II

Reviewed by:



Rob Kowalski, AICP
Assistant Planning Director

Attachment: County Report to the Environment and Land Use Committee.

G:\County Zoning Ordinance\County Zoning Ordinance Review\Report to Plan Commission on Case 523-AT-05.doc

RESOLUTION NO. 2006-05-014R

A RESOLUTION OF PROTEST AGAINST A PROPOSED TEXT AMENDMENT TO THE
CHAMPAIGN COUNTY ZONING ORDINANCE

(Request by the Champaign County Zoning Administrator to amend Sections 5.2 and 6.1 of the Champaign County Zoning Ordinance to authorize "Ethanol Manufacturing" by Special Use Permit with standard conditions in the I-2, Heavy Industry Zoning District - CCZBA Case No. 523-AT-05)

WHEREAS, Mr. John Hall, Champaign County Zoning Administrator, has petitioned the County of Champaign for an amendment to the text of the Champaign County Zoning Ordinance in Champaign County ZBA Case No. 523-AT-05 to authorize "Ethanol Manufacturing" by Special Use Permit with standard conditions in the I-2, Heavy Industry Zoning District; and

WHEREAS, the Urbana Plan Commission, after considering the matters pertaining to the proposed zoning text amendment at their April 20, 2006 meeting, has recommended by a vote of 5-0 that the City Council pass a resolution of protest against said proposed amendment with conditions:

WHEREAS, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed text amendment is not in the best interest of the City of Urbana because the standard conditions proposed for "Ethanol Manufacturing" do not fully address the potential negative impacts of such a facility on the City, the City's extraterritorial jurisdictional area.

WHEREAS, the proposed text amendment would allow a zoning use that could have a potential adverse impact on the Mahomet Aquifer, a vital resource for the City, the region and East-Central Illinois.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby approve a Resolution of Protest against the proposed text amendment as presented in Champaign County ZBA Case No. 523-AT-05.

Section 3. This protest is withdrawn, however, if the text to the proposed amendment is revised to do the following:

1. Add a standard condition to read as follows: "The petitioner is required to provide a water study on the potential impacts of any proposed ethanol production facility on the Mahomet Aquifer, or other groundwater source if applicable, in terms of adverse impacts to the aquifer; rate of draw down, including analysis of drawdown rate and the effect on shallow wells; capacity analysis; and seasonality impacts. The water study shall be based on the following:

- a) A review of relevant well records, hydrogeologic reports, and other pertinent correspondence; and
- b) Determination of existing ground water levels in neighboring wells provided that access is permitted by the well owner; and
- c) Exploratory test hole drilling and geophysical exploration as required including possible geophysical logging of test holes; and
- d) If adequate aquifer hydraulic property information is not otherwise available, test data shall be provided from a test well, monitoring well, and other observation wells, or other appropriate existing wells, sufficient to serve as the basis for estimating a distance-drawdown relationship; and
- e) An estimated distance-drawdown relationship shall also be included in the water study.

Such water study shall be performed by either an Illinois Licensed Geologist or an Illinois professional Engineer. No Special Use Permit for an ethanol facility shall be approved unless said water study determines no significant adverse impact with mitigation measures on the Mahomet Aquifer or other groundwater source. The County reserves the right to have the report reviewed by a similarly competent Illinois Licensed Geologist or an Illinois Professional Engineer."

- 2. Add a standard condition to read as follows: "The petitioner is required to provide a traffic impact analysis (TIA) performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County and that the petitioner be required to make the necessary improvements identified by the TIA."
- 3. Add a standard condition to read as follows: "Only ethanol production facilities utilizing a dry mill process shall be permitted."
- 4. Add a standard condition to read as follows: "Fuel ethanol plants shall be required to install thermal oxidizers or other similar technology to remove the volatile organic compounds (VOCs) to reduce odors."
- 5. Add a standard condition to read as follows: "When a fuel ethanol plant is not proposed to be connected to a public sanitary sewer system, sufficient information shall be

provided in the Special Use Permit application to prove that an adequate drainage outlet is available for all anticipated discharges to surface waters."

6. Add a standard condition to read as follows: "The petitioner is required to file with the County Zoning Administrator the following:
 - (a) Emergency Action Plan which meets OHSA standards with written approval from the responding service providers.
 - (b) Sewer Connection Permit from the sanitary district and any required Connection Permit from the IEPA if the manufacturing facility discharges into a municipal sanitary sewer
 - (c) Certificate of Compliance or Letter of Approval as a result of the application under the Clean Water Act
 - (d) Air Permit issued by the IEPA"

7. Add a standard condition to read as follows: "The petitioner shall provide a letter from a Registered Illinois Professional Engineer indicated, based on the proposed design, the factory is not expected to violate the Illinois Noise Statute. Post construction, the petitioner shall place on file a letter from a Registered Illinois Professional Engineer indicated that while operating, the plat does not violate the Illinois Noise Statute."

8. Maintain the required yards for Fuel Ethanol Manufacturing as stated in Section 6.1.3 Schedule of Requirements and Standard Conditions as set forth in the memo to the Environmental and Land Use Committee dated April 5, 2006.

Section 4. The City Clerk of the City of Urbana is authorized and directed to file a certified copy of the Resolution of Protest with the County Clerk of the County of Champaign, and to mail a certified copy of this resolution to the Petitioner, Mr. John Hall at 1776 East Washington, Urbana, Illinois, 61801 and to Ms. Julia Reitz, State's Attorney for Champaign County and Attorney for the Petitioner, at the Champaign County Courthouse, Urbana, Illinois, 61801.

PASSED by the City Council this _____ day of _____, 2006.

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, 2006.

Laurel Lunt Prussing, Mayor

WEBBER & THIES, P.C.

ATTORNEYS AT LAW

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URBANA, ILLINOIS 61803-0189

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HOLTEN D. SUMMERS
JOHN E. THIES
PHILLIP VAN NESS
CHRISTINA A. PAPAVALIIOU
AMY L. TWOHEY

April 25, 2006

VIA E-MAIL and FIRST CLASS MAIL

Mr. John Hall
Director
Champaign County Planning & Zoning Dept.
1776 E. Washington
Urbana, IL 61801

Mr. Bruce Knight
Planning Director
City of Champaign
102 North Neil
Champaign, IL 61820

Ms. Elizabeth Tyler
Community Development Director
City of Urbana
400 South Vine Street
Urbana, IL 61801

Dear John, Bruce and Libby:

After the Planning Commission hearings in Urbana and Champaign, I took the liberty of attempting to incorporate comments into the proposed county ordinance. I am forwarding this suggestion to the three of you with the request that you determined whether or not you find it to be satisfactory. I am out of town today and so my secretary is forwarding this draft. I should be in the office most all of Wednesday and Thursday and would appreciate it if you would call at your convenience.

Very truly yours,

WEBBER & THIES, P.C.

Carl M. Webber

kr
Enc.

bc: John Wood
Naran Burchinow

PROPOSED AMENDMENT

- (1) When a Fuel Ethanol Manufacturing plant is proposed to utilize either a private waterwell to any extent for process water rather than a connected public water supply system; or utilize untreated water from a public water supply system, the petitioner shall provide a letter report assessing the likely groundwater impacts on neighboring wells of finishing a waterwell for the proposed ethanol plant. The letter report shall be prepared by either an Illinois Licensed Geologist or an Illinois Professional Engineer either of which shall have extensive experience with groundwater hydrology, or other similarly competent groundwater hydrology professional. The County reserves the right to have the report reviewed by a similarly competent Illinois Licensed Geologist or an Illinois Professional Engineer. The letter report shall be based on the following:
 - (a) A review of relevant well records, hydrogeologic reports, and other pertinent correspondence.
 - (b) Determination of existing ground water levels in neighboring wells provided that access is permitted by the well owner.
 - (c) Exploratory test hole drilling and geophysical exploration as required including possible geophysical logging of test holes.
 - (d) If adequate aquifer hydraulic property information is not otherwise available, test data shall be provided from a test well and other observation wells, or other appropriate existing wells, sufficient to serve as the basis for estimating a distance-drawdown relationship.
 - (e) An estimated distance-drawdown relationship shall also be included in the letter report.
- (2) When a Fuel Ethanol Manufacturing plant is not proposed to be connected to a public sanitary sewer system, sufficient information shall be provided in the Special Use Permit application to prove that an adequate drainage outlet is available for all anticipated discharges to surface waters.
- (3) That only fuel ethanol plants utilizing a dry mill process be permitted.
- (4) Fuel ethanol plants shall be required to install thermal oxidizers or the latest available technology to remove the volatile organic compounds (VOCs) and reduce odors emanating from the facility.
- (5) The petitioner is required to provide a Traffic Impact Analysis (TIA) performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County and that the petitioner be required to make the necessary improvements identified in the TIA.

- (6) Proposed site must incorporate adequate setbacks from other non-industrial uses which are not connected with the process, taking into consideration the need to be directly adjacent to grain storage buildings and to rail loading areas.
- (7) Petitioner must file with the County Zoning Administrator the following:
 - (a) Emergency Action Plan which meets OSHA standards with written approval from the responding services providers.
 - (b) Sewer Connection Permit from the sanitary district and any required Connection Permit from IEPA if the manufacturing facility discharges into a municipal sanitary sewer.
 - (c) Certificate of Compliance or Letter of Approval as a result of the application under the Clean Water Act.
 - (d) Air Permit issued by IEPA.
- (8) Petitioner shall provide a letter from a Registered Professional Engineer indicating, based on the proposed design, the factory is not expected to violate the Illinois Noise Statute. Post construction, the Petitioner shall place on file a letter from a Registered Professional Engineer indicating that while operating, the plant does not violate the Illinois Noise Statute.

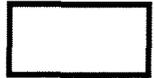
Attachment D. Comparison of Land Use Concerns, ZBA Recommendation, and Municipal Conditions of Protest for Case 523-AT-05

Specific Land Use Concern	Illinois Environmental Protection Agency (IEPA)	Champaign County Zoning Board of Appeals Recommendations	City of Champaign Plan Commission Recommended Conditions of Protest ¹	City of Urbana Conditions of Protest ²
Groundwater Withdrawal: ➤ Impact on Adjacent Wells	NR	Groundwater withdrawal impact study requirement as standard condition	Agreement with ZBA	Agreement with ZBA
➤ Impact on Mahomet Aquifer	NR	Not technologically possible at this time.	NR	Provide a water study on potential impacts
Air Pollution (in general)	➤ Clean Air Act Permit Program (CAAPP) Construction Permit ➤ CAAPP Operating Permit	No specific requirement but would be considered in Special Use Permit	Agreement with ZBA but specific recommendations regarding odor (see below)	Require Air Permit from IEPA to be filed with Zoning Administrator.
Odor	Volatile Organic Compounds (VOC's) are regulated under CAAPP program	No specific requirement but would be considered in Special Use Permit	➤ Require Dry Mill Process ³ ➤ Require Plant to Utilize Thermal Oxidizers ³	➤ Require Dry Mill Process ³ ➤ Require Plant to Install Thermal Oxidizers or Similar Technology ³
Dust	Fugitive dust is regulated under CAAPP program	No specific requirement but would be considered in Special Use Permit	Agreement with ZBA	NR
Water Quality Impacts	General NPDES Permit to discharge Industrial Wastewater	No specific requirement but would be considered in Special Use Permit	Agreement with ZBA	Require Certificate of Compliance or Letter of Approval as a result of application under Clean Water Act.
Wastewater Disposal: ➤ By Sanitary Sewer	No Need for General NPDES Permit, but will need industrial pretreatment agreement	No specific requirements but requirements of relevant sewer jurisdiction would be considered	Agreement with ZBA	Require Sewer Connection Permit from sanitary district and IEPA to be filed with Zoning Administrator
➤ By Drainage to Surface Waters	General NPDES Permit as above	Require Proof of Adequate Drainage Outlet to Surface Waters if no sewer is available (standard condition)	Agreement with ZBA	Agreement with ZBA
Noise	Illinois Noise Regulations are enforced by IEPA	No specific requirement but would be considered in Special Use Permit	Agreement with ZBA	Require pre- and post-construction statement from Illinois Professional Engineer that plant will not violate Illinois Noise Statute
Traffic Generation and Impacts	NA	No specific requirement, but would be considered in Special Use Permit (TIA can be requested at any time)	Require Traffic Impact Analysis (TIA)	Require TIA

Attachment D. Comparison of Land Use Concerns, ZBA Recommendation, and Municipal Conditions of Protest for Case 523-AT-05

Specific Land Use Concern	Illinois Environmental Protection Agency (IEPA)	Champaign County Zoning Board of Appeals Recommendations	City of Champaign Plan Commission Recommended Conditions of Protest ¹	City of Urbana Conditions of Protest ²
Fire and Emergency Services	NA	No specific requirement but relevant Fire Protection District comments are invited and considered in all Special Use Permits	Agreement with ZBA	Require Emergency Access Plan which meets OSHA standards with written approval from local agencies
Site Plan Issues	NA	No specific requirement but would be considered in Special Use Permit	Agreement with ZBA	Maintain required yards as stated in April 15, 2006 ELUC memo
Stormwater Management/Erosion Control	NA	Champaign County's <i>Stormwater Management Policy</i> would regulate these issues	Agreement with ZBA	Agreement with ZBA

Notes



Municipal plan commission recommendation appropriate for inclusion in Section 5.2 of Zoning Ordinance (not subject to waiver or variance)



Municipal Plan commission recommendation suitable as Standard Condition in Section 6.1.3 of Zoning Ordinance (subject to waiver request)

1. See City of Champaign Report to Plan Commission dated April 14, 2006
2. See City of Urbana Resolution No. 2006-05-014R
3. Municipal plan commission requests for only dry mill process and only with thermal oxidizers should probably be honored by including these requirements in Section 5.2 of the Zoning Ordinance which would prohibit any request for a variance or waiver from the requirement. However, if this level of detail is included in Section 5.2 these requirements should also be stated more generally to allow improved technology as it becomes available. See the memorandum.

The amendment for Alternative C is as follows:

- A. Amend Section 5.2 to indicate "Fuel Ethanol Manufacturing" as a Special Use Permit in the I-2 District and add the following footnote to Section 5.2:
 - 14. Fuel ethanol manufacturing shall only be authorized as follows:
 - A. Only the dry mill process shall be authorized.
 - B. Thermal oxidizers or better technology is required to remove the volatile organic compounds (VOCs) to reduce odors.

- B. Add "Fuel Ethanol Manufacturing" as a Special Use in Section 6.1.3 Schedule of Requirements and Standard Conditions and include the following explanatory notes:
 - 1. When a Fuel Ethanol Manufacturing plant is proposed to utilize a private waterwell to any extent for process water rather than a connected public water supply system or utilize untreated water from a public water supply system, the petitioner shall provide a letter report assessing the likely groundwater impacts on adjacent wells of finishing a waterwell for the proposed ethanol plant. The letter report shall be prepared by either an Illinois Licensed Geologist or an Illinois Professional Engineer either of which shall have extensive experience with groundwater hydrology, or other similarly competent groundwater hydrology professional. The County reserves the right to have the report reviewed by a similarly competent Illinois Licensed Geologist or an Illinois Professional Engineer. The letter report shall be based on the following:
 - A. A review of relevant well records, hydrogeologic reports, and other pertinent correspondence.
 - B. Determination of existing ground water levels in neighboring wells provided that access is permitted by the well owner.
 - C. Exploratory test hole drilling and geophysical exploration as required including possible geophysical logging of test holes.
 - D. If adequate aquifer hydraulic property information is not otherwise available, test data shall be provided from a test well and other observation wells, or other appropriate existing wells, sufficient to serve as serve as the basis for estimating a distance- drawdown relationship.
 - E. An estimated distance-drawdown relationship shall also be included in the letter report.

ATTACHMENT E. AMENDMENT FOR ALTERNATIVE "B"
Case 523-AT-05 Part A
MAY 3, 2006

2. When a Fuel Ethanol Manufacturing plant is not proposed to be connected to a connected public sanitary system sufficient information shall be provided in the Special Use Permit application to prove that an adequate drainage outlet is available for all anticipated discharges to surface waters.
3. A traffic impact analysis (TIA) for the proposed Special Use Permit shall be submitted with the Special Use Permit application. The TIA shall meet the requirements of the Illinois Department of Transportation (IDOT) and shall be performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County. The petitioner shall make the necessary improvements identified in the TIA that are specifically and uniquely attributable to the proposed Special Use Permit.
4. The petitioner is required to file with the County Zoning Administrator the following:
 - (a) Emergency Action Plan which meets OSHA standards with written approval from the responding service providers.
 - (b) Sewer Connection Permit from the sanitary district and any required Connection Permit from IEPA if the manufacturing facility discharges into a municipal sanitary sewer.
 - (c) Certificate of Compliance or Letter of Approval as a result of the application under the Clean Water Act.
 - (d) Air Permit issued by the IEPA.
5. The petitioner shall provide a letter from a Registered Illinois Professional Engineer indicating that based on the proposed design the plant is not expected to violate the Illinois Noise Statute. Post construction, the petitioner shall place on file a letter from a Registered Illinois Professional Engineer indicating that while operating the plant does not violate the Illinois Noise Statute.

Note: Condition number eight in the Urbana protest does not establish any requirement beyond that already required by the Zoning Ordinance and so does not need to be included in the amendment.

The amendment for Alternative D is as follows:

- A. Amend Section 5.2 to indicate "Fuel Ethanol Manufacturing" as a Special Use Permit in the I-2 District and add the following footnote to Section 5.2:
14. Fuel ethanol manufacturing shall only be authorized as follows:
- A. Only the dry mill process shall be authorized.
 - B. Thermal oxidizers or better technology is required to remove the volatile organic compounds (VOCs) to reduce odors.
- B. Add "Fuel Ethanol Manufacturing" as a Special Use in Section 6.1.3 Schedule of Requirements and Standard Conditions and include the following explanatory notes:
1. The petitioner is required to provide a water study on the potential impacts of any proposed ethanol production facility on the Mahomet Aquifer, or other groundwater source if applicable, in terms of adverse impacts to the aquifer; rate of draw down, including analysis of drawdown rate and the effect on shallow wells and other adjacent wells; capacity analysis; and seasonality impacts. The water study may be in the form of a letter report and shall be based on the following:
- A. A review of relevant well records, hydrogeologic reports, and other pertinent correspondence.
 - B. Determination of existing ground water levels in neighboring wells provided that access is permitted by the well owner.
 - C. Exploratory test hole drilling and geophysical exploration as required including possible geophysical logging of test holes.
 - D. If adequate aquifer hydraulic property information is not otherwise available, test data shall be provided from a test well and other observation wells, or other appropriate existing wells, sufficient to serve as serve as the basis for estimating a distance- drawdown relationship.
 - E. An estimated distance-drawdown relationship shall also be included in the letter report.

Such water study shall be performed by either an Illinois Licensed Geologist or an Illinois Professional Engineer either of which shall have extensive experience with groundwater hydrology, or other similarly competent groundwater hydrology professional. No Special Use Permit for an ethanol facility shall be approved unless said water study

determines no significant adverse impact with mitigation measures on the Mahomet Aquifer or other groundwater source. The County reserves the right to have the report reviewed by a similarly competent Illinois Licensed Geologist or an Illinois Professional Engineer.

2. When a Fuel Ethanol Manufacturing plant is not proposed to be connected to a connected public sanitary system sufficient information shall be provided in the Special Use Permit application to prove that an adequate drainage outlet is available for all anticipated discharges to surface waters.
3. A traffic impact analysis (TIA) for the proposed Special Use Permit shall be submitted with the Special Use Permit application. The TIA shall meet the requirements of the Illinois Department of Transportation (IDOT) and shall be performed by a professional engineer licensed in Illinois who is prequalified for traffic studies by IDOT and approved by the County. The petitioner shall make the necessary improvements identified in the TIA that are specifically and uniquely attributable to the proposed Special Use Permit.
4. The petitioner is required to file with the County Zoning Administrator the following:
 - (a) Emergency Action Plan which meets OSHA standards with written approval from the responding service providers.
 - (b) Sewer Connection Permit from the sanitary district and any required Connection Permit from IEPA if the manufacturing facility discharges into a municipal sanitary sewer.
 - (c) Certificate of Compliance or Letter of Approval as a result of the application under the Clean Water Act.
 - (d) Air Permit issued by the IEPA.
5. The petitioner shall provide a letter from a Registered Illinois Professional Engineer indicating that based on the proposed design the plant is not expected to violate the Illinois Noise Statute. Post construction, the petitioner shall place on file a letter from a Registered Illinois Professional Engineer indicating that while operating the plant does not violate the Illinois Noise Statute.

Note: Condition number eight in the Urbana protest does not establish any requirement beyond that already required by the Zoning Ordinance and so does not need to be included in the amendment.

Champaign
County
Department of

**PLANNING &
ZONING**

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

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

To: **Environment and Land Use Committee**
From: **John Hall**, Director, Zoning Administrator
Date: **May 4, 2006**
RE: **Regulation of lots in duly approved subdivisions between
May 17, 1977, and February 18, 1997, that have access to
public streets by means of easements of access.**

Background

The Committee voted to recommend denial of Case 517-AT-05 at the April 10, 2006, meeting and it was withdrawn rather than forwarded to the County Board. No municipality had opposed Case 517-AT-05. I had hoped to have it reconsidered by the Committee but starting over with a new case is the most straight forward approach. Any new case must begin with direction from the Committee regarding what changes need to be made to the substance of Case 517-AT-05. This memorandum only reviews two of the substantive considerations in Case 517-AT-05 which are the number of lots and the length of easement of access shared by the lots. I would like to determine if there is any revision that can be made to the substance of Case 517-AT-05 that would allow the Committee to recommend adoption of a new zoning case.

Case 517-AT-05 was intended to "grandfather" certain lots that were rendered unusable when the *Zoning Ordinance* was amended on February 17, 1997, with the adoption of Ordinance No. 527 (Case 055-AT-96) which prohibited the use of easements of access as the only means of access to zoning lots. Between May 17, 1977, and December 18, 1996, the County Board approved eight subdivisions with lots that did not front on public streets and had access to public streets only by means of a shared easement of access. Ordinance No. 527 contained no "grandfathering" provisions for lots in duly approved subdivisions. Thus, some of the lots in duly approved subdivisions that had been reviewed by the County Board were rendered unbuildable by Ordinance No. 527. There may also be a few municipal or village approved subdivisions similarly effected.

The eight County approved subdivisions during that period created a total of 33 lots and 22 of the lots have been built upon to date. Eight of those 22 existing homes were constructed after the *Zoning Ordinance* was amended on February 18, 1997, and Zoning Use Permits were approved in error. At this time no further Zoning Use Permits could be approved on those lots without variance approvals and it would be difficult to deny the variance requests since the previous Zoning Use Permits were approved.

Eleven lots in four of the subdivisions remain unbuilt and unbuildable without a variance from the requirement for frontage on a public street. Two of these lots (both in the same subdivision) have variance cases pending at the Zoning Board of Appeals since the zoning use permit application that prompted Case 517-AT-05.

Case 517-AT-05 Recommendation

Case 517-AT-05 was intended to accommodate all previous County approved plats of subdivision during this time period in terms of the number of lots per easement of access and the overall length of easement. It would have eliminated the need for **19 variance cases** by allowing as many as **six homes** to share an easement of access that was as long as **1,100 feet** provided that other requirements were met. The other requirements included a recorded private maintenance covenant (including maintaining a minimum clear height of vegetation above the pavement), minimum paving requirements (six inches of gravel 20 feet wide), and a means of turnaround for emergency vehicles.

Case 517-AT-05 provided for a subdivision that does not exist. Only one of the subject subdivisions has an easement that was as long as 1,050 feet and it is used by only three lots. Two subdivisions have easements that are 900 feet long and with two to three lots each. Only one of the subject subdivisions has as many as six lots sharing an easement of access and that easement is 700 feet in length. Most of the subdivisions have no more than three lots sharing an easement of access. None of the subject subdivisions have six homes sharing an easement that is 1,100 feet long.

Also, Case 517-AT-05 would not have had any effect on nonconforming lots outside of platted subdivisions and such lots that were not in separate ownership as of February 17, 1997, would still be required to have variances.

Alternatives To The Recommendations In Case 517-AT-05

Reducing the number of homes served and the length of the easement of access may help make a new case more acceptable but it would also be less effective at reducing the number of variance cases. The following are some alternatives:

- A new case providing for **three homes** to share an easement of access that is no more than **675 feet long** would eliminate the need for **14 variance cases**.
- A new case providing for **two homes** to share an easement of access that is no more **650 feet long** would eliminate the need for **six variance cases**.
- A new case providing for **two homes** to share an easement of access that is no more than **400 feet long** would eliminate the need for **five variance cases**. This would eliminate the two pending variance cases.
- A new case providing for **two homes** to share an easement of access that is no more than **200 feet long** would eliminate the need for **three variance cases**.

If the Committee feels that any of the above are acceptable I would like to proceed with a new zoning case. There should be little or no new research beyond what was done in Case 517-AT-05 and I would also ask the ZBA to expedite the case so that it could return to ELUC as soon as possible.



TO:	Environment and Land Use Committee
FROM:	Susan Monte
DATE:	May 2, 2006
RE:	Notice of Intent to Apply for Pre-Disaster Mitigation Planning Funds
REQUESTED ACTION:	Authorize the County Planner to apply for available federal Pre-Disaster Mitigation planning funds for development of a Local Mitigation Plan
RECOMMENDATION:	Champaign County should utilize presently available federal funds to develop a Local Mitigation Plan that meets FEMA standards

BACKGROUND

Champaign County ESDA Coordinator Bill Keller recently requested planning assistance in developing a Local Mitigation Plan that meets Federal Emergency Management Agency (FEMA) requirements. The Hazard Mitigation Plan previously submitted to FEMA in 1997 does not meet current FEMA planning criteria.

Since November, 2004, local governments must have a FEMA-approved local mitigation plan in place in order to receive federal *pre-* and *post-*disaster mitigation funds. Presently, in the event of a natural disaster, the County is not in a position to receive the full amount of FEMA mitigation funds otherwise available with a FEMA-approved local mitigation plan in place.

FEMA provides assistance to local governments for dealing with natural disasters, including the Hazard Mitigation Grant Program or HMGP. HMGP assists states and local communities in implementing long-term hazard mitigation measures following a major disaster declaration. The types of projects funded by HMGP include:

- developing a local mitigation plan under the Pre-Disaster Mitigation program
- acquiring and relocating structures from hazard-prone areas
- retrofitting structures to protect them from floods, high winds, earthquakes, or other natural hazards
- constructing certain types of minor and localized flood control projects
- constructing safe rooms inside schools or other buildings in tornado-prone areas

Presently, Pre-Disaster Mitigation (PDM) program funds are available through the Illinois Emergency Management Agency for the development of a local mitigation plan. May 10, 2006 is the deadline to submit a Notice of Intent to Apply for currently available PDM funds. The Application deadline is May 30, 2006.

Local Mitigation Plan Highlights:

- The proposed plan would cover the County and interested communities.
- The *Champaign County Regional Planning Commission* would manage the planning project providing coordination, administrative services, research, document preparation, public involvement and mapping.

- The plan will be prepared by a task force consisting of representatives from all participating communities and other interested parties and will follow the FEMA planning process.
- The plan and the planning process will meet the criteria for qualifying Champaign County and interested municipalities to receive hazard mitigation funds under the *Disaster Mitigation Act of 2000* and for receiving credit under the Community Rating System (CRS).

BUDGET / STAFFING IMPACT

No additional County staffing or County funds are required. Requested PDM funds would cover 75% of the total costs of local mitigation plan development. The 25% matching fund requirement could be met under the County contract for planning services from the Champaign County Regional Planning Commission.

An estimated timetable for completion of the FEMA planning process to develop a Local Mitigation Plan is approximately 10 or 12 months. (The PDM grant application indicates that funds awarded must be utilized within a three-year period.)

STAFF RECOMMENDATION:

Authorize the County Planner to apply for presently available PDM funds to develop a Local Mitigation Plan

- 1) It is beneficial to the County to have a FEMA-approved Local Mitigation Plan in place
- 2) Federal funds are available for development of a Local Mitigation Plan
- 3) No additional County funding or staffing is requested