



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **m e m o r a n d u m**

**TO:** The Urbana Plan Commission

**FROM:** Rebecca Bird, Planner

**DATE:** February 13, 2009

**SUBJECT:** CCZBA 611-AM-0: Request by Casey's Retail Company to amend the Champaign County Zoning Map from R-5, Manufactured Home Park to B-4, General Business for a 1.04 acre tract of land located at 2218 E University Avenue

---

### **Introduction**

Casey's Retail Company and Henri Merkelo have submitted an application to Champaign County to rezone a 1.04-acre parcel at 2218 E University Avenue from R-5, Manufactured Home Park Zoning District to B-4, General Business Zoning District. Casey's is proposing to redevelop the subject property as a Casey's General Store (a gas station and convenience store). The property is currently occupied by a vacant house.

The property lies less than 200 feet from the Urbana city limits. By State law, the City has an obligation to review zoning decisions within a one and one-half mile "extra-territorial jurisdiction" (ETJ) area for consistency with the City's Comprehensive Plan. The Plan Commission must vote to make a recommendation to the City Council to either "protest" or "not protest" the rezoning. The Urbana City Council will review the Commission's recommendation and vote to either approve or defeat a resolution of protest. Should the City Council enact a protest of the County rezoning, under State law the County Board could not approve the application except by a three-fourths super majority of affirmative votes.

The Champaign County Zoning Board of Appeals considered the case on January 29, 2009 and continued the case to May 14, 2009. The case is anticipated to be forwarded to the Environmental Land Use Committee and the full County Board in June.

### **Background**

In January 2008, the petitioners contacted City staff regarding the possibility of annexing the subject property into the City and rezoning it to a commercial zoning district. Because the property is not contiguous to the Urbana corporate limits, annexation is not possible at this time. City staff suggested that it would be appropriate for the rezoning to occur in the County's

jurisdiction to allow the neighbors an opportunity to indicate any concerns about the rezoning to the County ZBA. Future City zoning could then be set by means of an annexation agreement.

According to case documentation received from the Champaign County Department of Planning and Zoning, the petitioner is requesting the rezoning in order to construct and operate a Casey’s General Store on the subject property. Currently, a Casey’s General Store is located on a smaller property just to the west of the subject lot. The petitioner is proposing to relocate their business to the subject lot in order to expand.

The subject property is zoned County R-5 Manufactured Home Park. There is currently a vacant single family dwelling on the property. The surrounding properties are zoned for single family residential, manufactured home park, light industry, and neighborhood business (see chart below). The property to the northeast of the subject property is split-zoned, with the eastern half zoned County R-1, Single Family Dwelling and the western half zoned R-5. The lot contains a single-family house. The lot to the east, zoned County R-1, contains the Edge-Scott Fire Protection District station. The lot to the west, zoned County B-2, is part of the manufactured home park. The lot to the south (across US Route 150), zoned County I-1, contains a t-shirt business. (See Exhibits A and B)

<b>Location</b>	<b>County Zoning</b>	<b>Existing Land Use</b>	<b>Urbana Comprehensive Plan - Future Land Use</b>
<b>Site</b>	R-5, Manufactured Home Park	Single Family Residence	Multi-Family Residential
<b>North</b>	R-5, Manufactured Home Park	Manufactured Home Park	Multi-Family Residential
<b>East</b>	R-1, Single-Family Residential	Fire Station	Residential
<b>South</b>	I-1, Light Industry	Commercial	Community Business
<b>West</b>	B-2, Neighborhood Business	Transient Lodging (Motel)	Multi-Family Residential

Further background information on the rezoning case is included with the attached Champaign County Department of Planning and Zoning preliminary memorandum. (See Exhibit D) The following discussion of the issues involved will summarize the essential parts of this information as it pertains to the City’s planning jurisdiction.

According to the Champaign County Department of Planning & Zoning, the case was continued to the May meeting due to concerns by the owners of the properties to the northeast and west of the subject property. The neighbors asked the petitioners for further screening and a slight reconfiguration of the site plan. Any conditions the County would require as part of the rezoning can be included as conditions in a future annexation agreement with the City.

## Issues and Discussion

### County Zoning

According to the Champaign County Zoning Ordinance, the intent of the R-5, Manufactured Home Park Zoning District is:

*“...to accommodate manufactured home parks and their associated uses in a medium density housing environment.” (Section 5.1.8)*

The County’s Zoning Ordinance defines the intent of the B-4, General Business Zoning District as follows:

*“...to accommodate a range of commercial uses and is intended for application only adjacent to the urbanized areas of the county.” (Section 5.1.12)*

A “gasoline service station”, for which a Casey’s General Store (convenience store with gasoline sales) is considered, is not permitted in the R-5 Zoning District. It is however permitted by right in the B-4 Zoning District. Rezoning the property to B-4 would allow the petitioners to proceed with their plans to relocate and expand the existing Casey’s General Store to the subject property. In addition, the B-4 Zoning District is more appropriate in this case due to the location of the property on a Federal highway (US 150).

### 2005 Comprehensive Plan and Urbana Zoning

The City of Urbana’s 2005 Comprehensive Plan, Future Land Use Map #5 shows the future land use of the property as “Multi-Family.” There is a discrepancy between the Future Land Use Map #5 and the Overall Future Land Use Map, which shows the subject property as “Residential,” as opposed to “Multi-Family.” However, as the overall Future Land Use Map “is a compilation of the 14 individual area maps,” the classification on the individual area map should be considered the correct classification. The plan defines the land use classification as:

*“Multi-Family residential is for areas planned primarily for apartment complexes and other multi-family buildings. Located close to major centers of activity such as business centers, downtown, and campus. **May include supporting business services** for convenience needs of the residents.” (emphasis added)*

Although the Comprehensive Plan shows the subject property as multi-family residential, a Community Business Zoning District is one parcel away from the subject property. Multi-family residential allows for the inclusion of “supporting business services” in the district. In addition, the subject property is located on a federal highway, between a motel and a fire station.

In the event the subject property is annexed into the City, its County zoning designation would be converted to a City zoning designation on the basis of Urbana Zoning Ordinance Table IV-1. Should the subject property be rezoned to County B-4, the zoning would automatically convert to B-3, General Business unless otherwise provided for through an annexation agreement.

According to the Urbana Zoning Ordinance, the intent of the B-3, General Business Zoning District is:

*“...is to provide areas for a range of commercial uses wider than that of Neighborhood Business but at a lower intensity than Central Business, meeting the general business needs of the City.”*

A “convenience store”, for which a Casey’s General Store is considered, is permitted by right in Urbana’s B-3 Zoning District. Based on the above information, staff finds the rezoning in the County from R-5 to B-4 would not be inconsistent with the goals and objectives of the 2005 Comprehensive Plan.

### **The La Salle National Bank Criteria**

In the case of La Salle National Bank v. County of Cook (La Salle), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of the nearby property.*

*This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.*

There is a variety of zoning districts and land uses in the immediate area. The proposed County B-4 zoning designation would be generally consistent with the zoning districts and existing land uses. The proposed County zoning district would also be consistent with the proposed land use. In addition it is generally consistent with the zoning of property abutting the corporate limits of the City of Urbana.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

*This is the difference in the value of the property as zoned and the value it would have if it were rezoned to permit the proposed use.*

It is assumed that the value of the subject property would be positively impacted because the rezoning would allow the petitioners to construct and operate a Casey’s General Store. It is unknown as to the impact, if any, the rezoning will have on the value of surrounding properties. However, the property owners to the northeast and the west expressed concern about screening at the County ZBA meeting. The petitioners agreed to try and mitigate the property owners’ concerns and the County ZBA will continue the case at their May 14, 2009 meeting.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*
4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

*The question here applies to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?*

The subject property is zoned manufactured home park, yet it contains a vacant deteriorated single family dwelling, is 1.04 acres, and is located on a Federal highway. The County R-5 zoning district is quite restrictive, allowing little other than a manufactured home park, which generally requires a minimum lot size of five acres. The existing zoning imposes a burden on the property owner as developing a manufactured home park on such a small lot on a Federal highway is most likely not financially viable. Rezoning the property would ease the burden on the property owner. The property is between a motel and a fire station, with commercially zoned property just to the west and industrially zoned property to the south. The proposed rezoning from County R-5 to County B-4 would be beneficial to the owners as well as the general public in that an existing business could relocate and expand. Additionally, the lot currently contains a vacant single-family house in poor condition. The proposed rezoning would allow an existing blighted lot to be redeveloped.

5. *The suitability of the subject property for the zoned purposes.*

*The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.*

The location of the property on federal highway US 150 favors the proposed use over the existing use. The existing single-family house is not an allowed use in the R-5 zoning district, and is not an ideal use on such a busy street.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

The subject property has been vacant for two to three years. In the context of land development, the rezoning would allow the proposed use.

## **Summary of Staff Findings**

1. The site is within the City's Extra-Territorial Jurisdiction.

2. The proposed rezoning is generally consistent with the Urbana Comprehensive Plan Future Land Use multi-family designation for the site and the commercially zoned properties to the west.
3. The proposed rezoning and land use is generally compatible with the surrounding County zoning and land uses.
4. The evaluation of the LaSalle Criteria reinforces the findings above. The proposed zoning change is acceptable because the site and surrounding area are generally suitable for the proposed zoning district.

## **Options**

In CCZBA Case No. 611-AM-08, the Plan Commission has the following options:

- a. Forward the plan case to the City Council with a recommendation of “no protest” to the proposed map amendment; or
- b. Forward the plan case to the City Council with a recommendation of “protest” to the proposed map amendment.

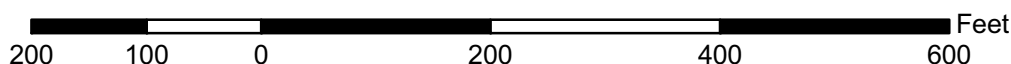
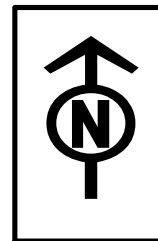
## **Staff Recommendation**

Based upon the findings above, Staff recommends that the Plan Commission forward to the City Council a recommendation to **defeat a resolution of protest**.

Attachments: Exhibit A: Location and Existing Land Use Map  
Exhibit B: Existing Zoning  
Exhibit C: Urbana Future Land Use Map  
Exhibit D: Champaign County Zoning Board of Appeals Case No. 611-AM-08  
Staff Memo

cc: John Hall, Champaign County Planning and Zoning  
Vegrzyn, Sarver and Associates, Inc. 24 E Green St, Ste 18, Champaign 61820

# EXHIBIT A: Location & Existing Land Use Map



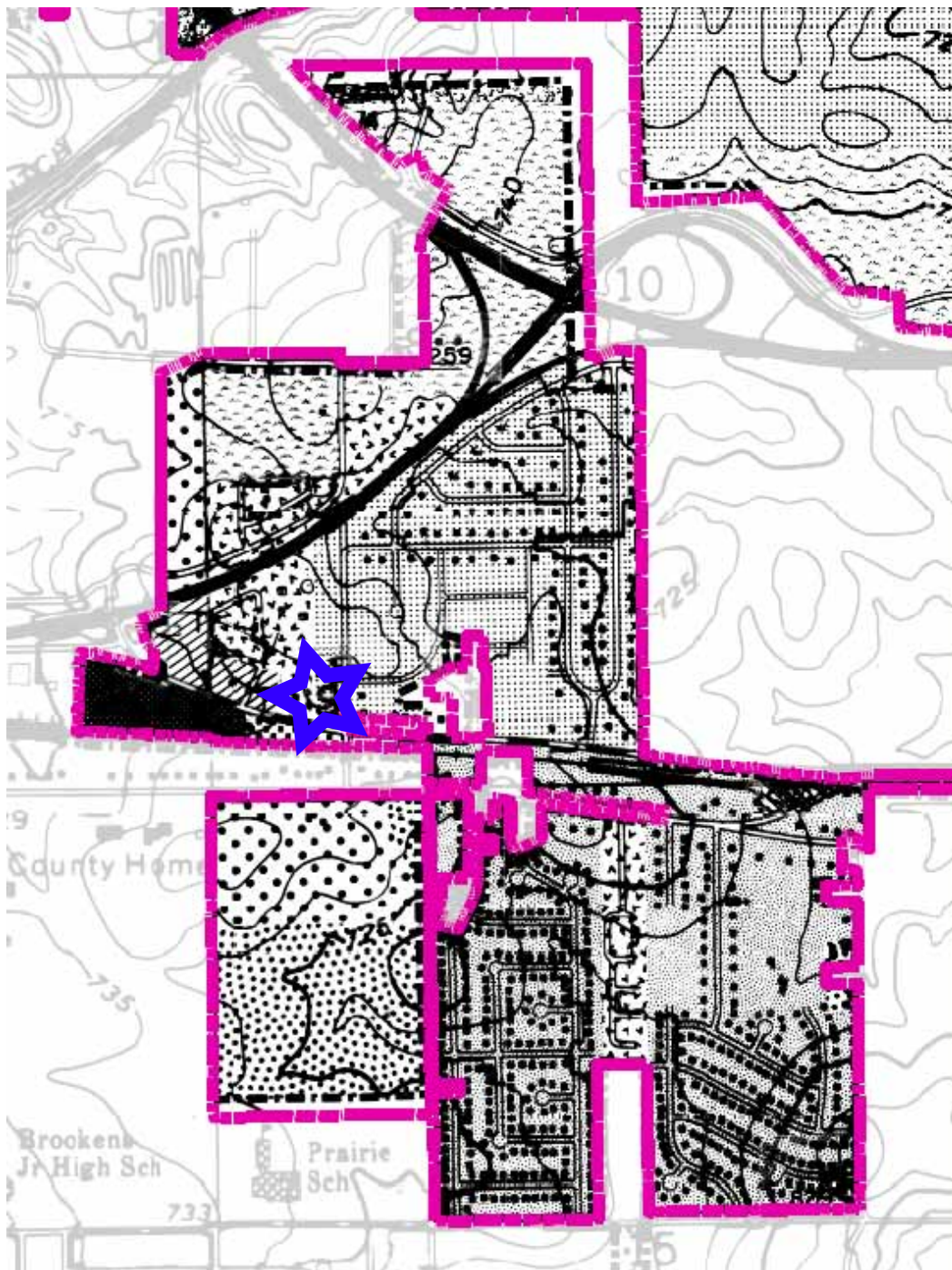
**CCZBA Case:** 611-AM-08  
**Subject:** Amend Champaign County Zoning Map from R-5 Manufactured Home Park to B-4 General Business  
**Location:** 2218 E University Avenue, Urbana  
**Petitioner:** Casey's Retail Company and Henri Merkelo

- Subject Property
- COM Commercial
- Du Duplex
- EX Exempt
- MHP Mobile Home Park
- TL Transient Lodging

*Prepared 1/30/2009 by Community Development Services - rlb*



# EXHIBIT B: Existing Zoning



	AG-1	AGRICULTURE
	AG-2	AGRICULTURE
	CR	CONSERVATION - RECREATION
	R-1	SINGLE FAMILY RESIDENCE
	R-2	SINGLE FAMILY RESIDENCE
	R-3	TWO FAMILY RESIDENCE
	R-4	MULTIPLE FAMILY RESIDENCE
	R-5	MOBILE HOME PARK
	B-1	RURAL TRADE CENTER
	B-2	NEIGHBORHOOD BUSINESS
	B-3	HIGHWAY BUSINESS
	B-4	GENERAL BUSINESS
	B-5	CENTRAL BUSINESS
	I-1	LIGHT INDUSTRY
	I-2	HEAVY INDUSTRY
	S	SPECIAL USE



**CCZBA Case:** 611-AM-08

**Subject:** Amend Champaign County Zoning Map from R-5 Manufactured Home Park to B-4 General Business

**Location:** 2218 E University Avenue, Urbana

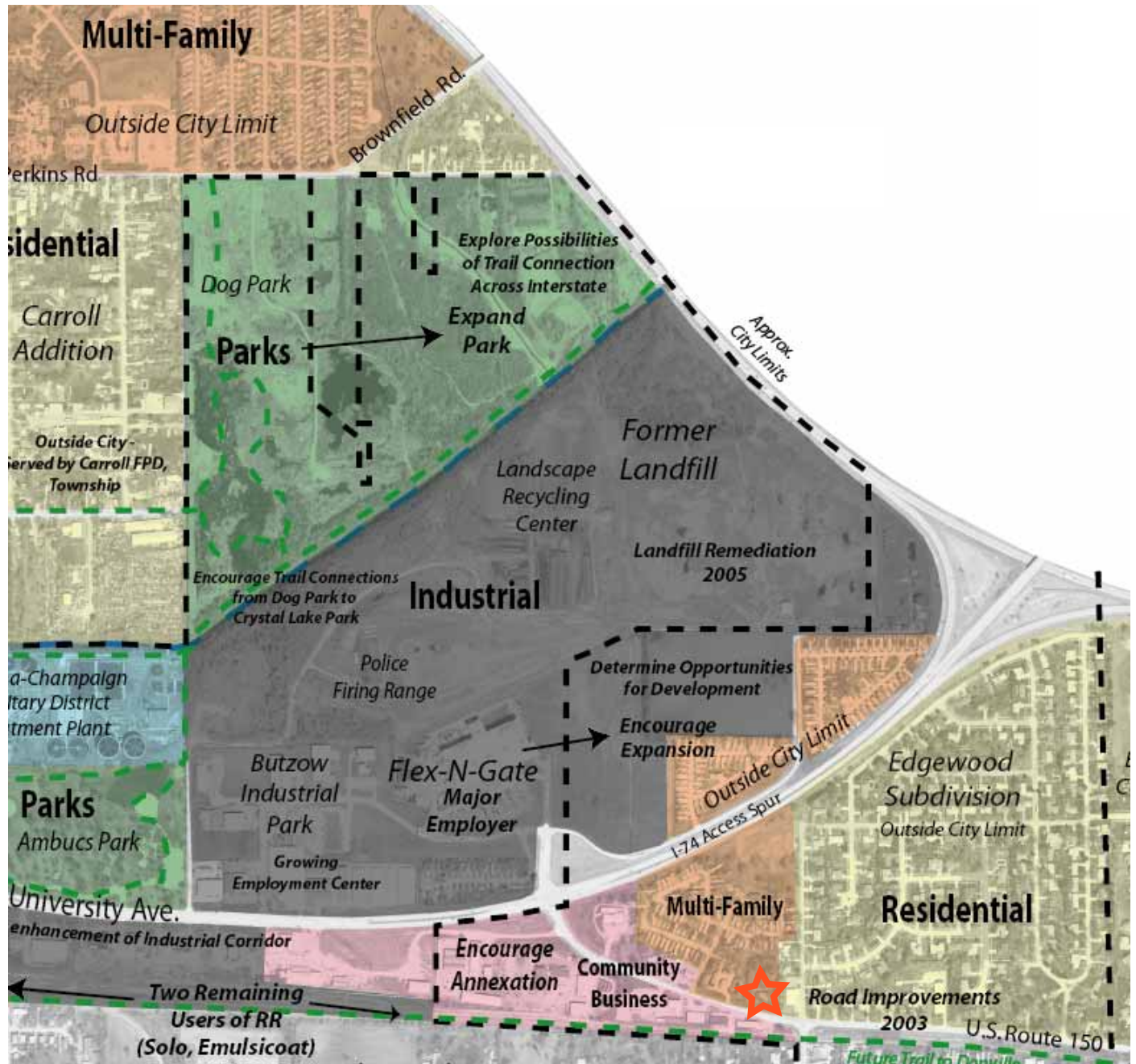
**Petitioner:** Casey's Retail Company and Henri Merkelo




Subject Property



# EXHIBIT C: Future Land Use Map



**CCZBA Case:** 611-AM-08  
**Subject:** Amend Champaign County Zoning Map from R-5 Manufactured Home Park to B-4 General Business  
**Location:** 2218 E University Avenue, Urbana  
**Petitioner:** Casey's Retail Company and Henri Merkelo

 Subject Property

# CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: January 29, 2009  
 Time: 6:30 p.m.  
 Place: Lyle Shields Meeting Room  
 Brookens Administrative Center  
 1776 E. Washington Street  
 Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING  
 FROM WASHINGTON STREET PARKING  
 LOT AFTER 4:30 PM.  
 Use Northeast parking lot via Lierman Ave.,  
 and enter building through Northeast  
 door.**

*If you require special accommodations please notify the Department of Planning & Zoning at  
 (217) 384-3708*

**EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM**

## AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes
5. Continued Public Hearings

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

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

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

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

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

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

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

6. New Public Hearings

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

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

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

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

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

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

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

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

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

7. Staff Report

8. Other Business

9. Audience Participation with respect to matters other than cases pending before the Board

10. Adjournment

---

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

# CASE NO. 611-AM-08

PRELIMINARY MEMORANDUM

January 23, 2009

Champaign  
County  
Department of

**PLANNING &  
ZONING**

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

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

Site Area: **approx. 1.04 acres**

Time Schedule for Development:  
**Immediate**

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

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

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

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

## BACKGROUND

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

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

## EXISTING LAND USE AND ZONING

Table 1 summarizes the land use and zoning on the subject property and adjacent to it.

**Table 1. Land Use and Zoning In The  
Vicinity Of The Subject Property**

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

---

## CONSIDERATIONS IN MAP AMENDMENTS

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

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

## POLICIES & GOALS WITHOUT CLEAR CONFORMANCE

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

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

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

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

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

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

Land uses appropriately located in terms of:

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



**PROPOSED SPECIAL CONDITIONS OF APPROVAL**

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

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

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

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

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

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

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

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

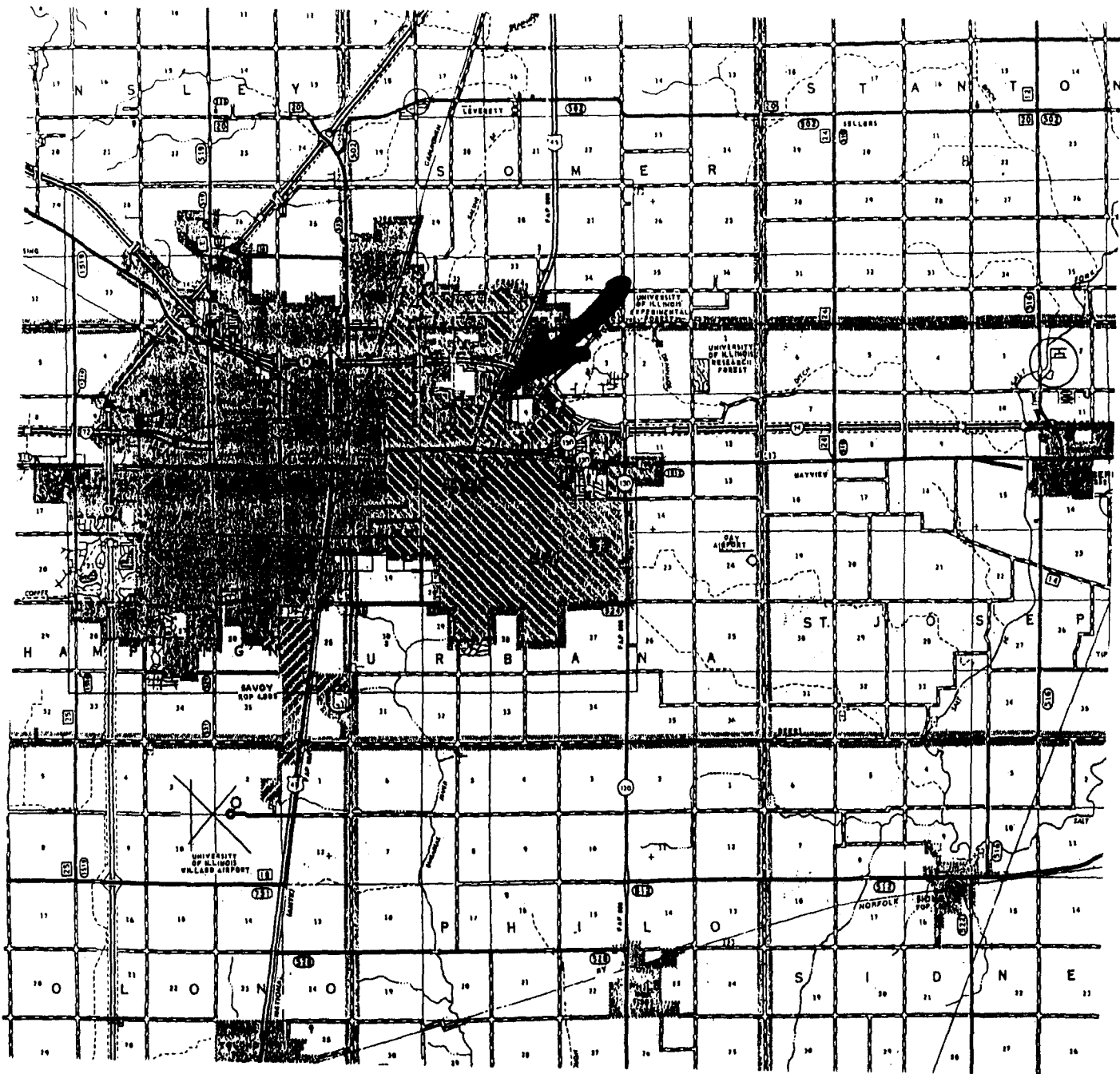
**ATTACHMENTS**

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

ATTACHMENT A. LOCATION MAP

Case 611-AM-08

JANUARY 23, 2009

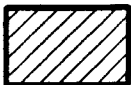
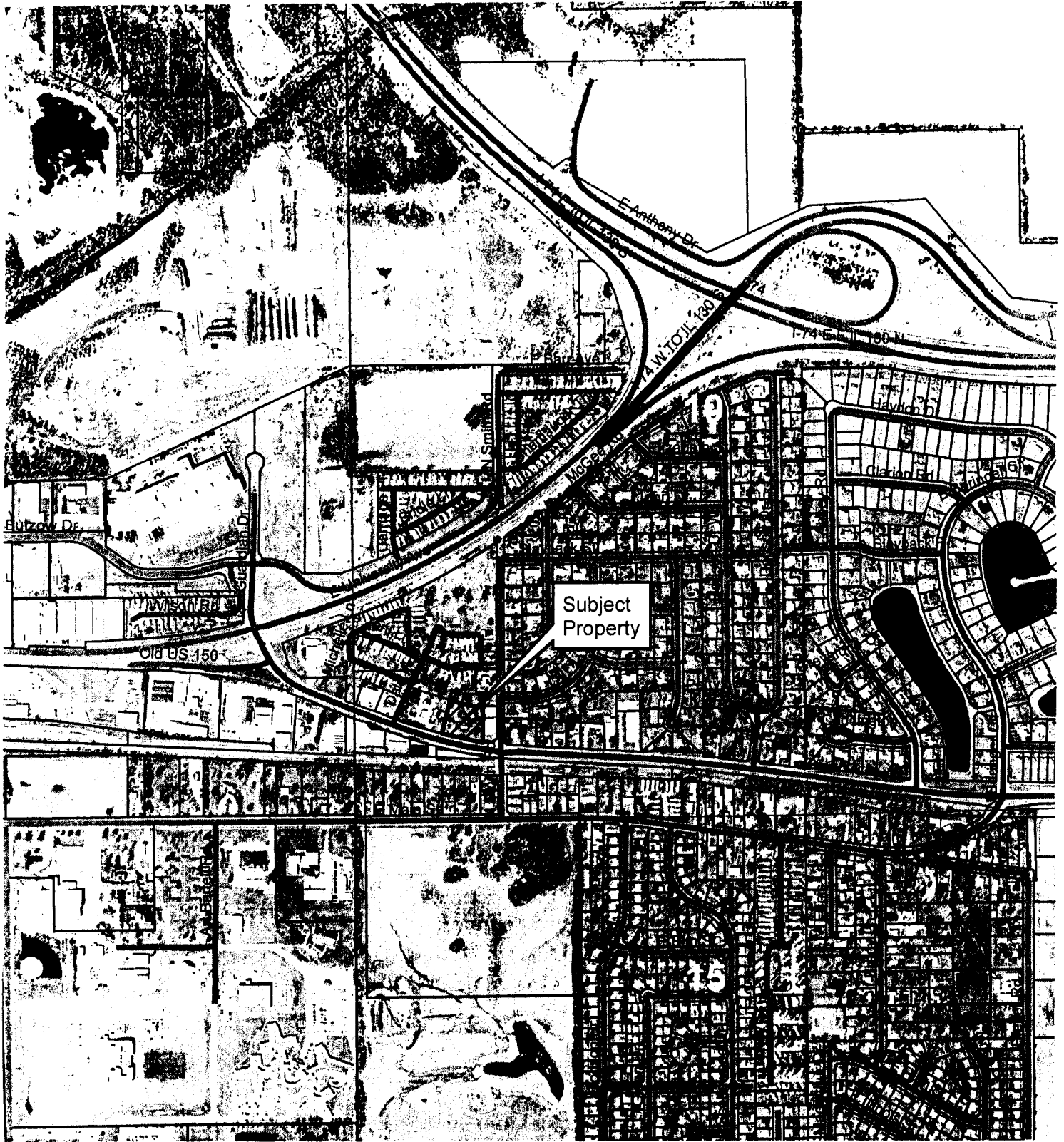


Champaign  
County  
Department of  
**PLANNING &  
ZONING**

ATTACHMENT A. LAND USE MAP

Case 611-AM-08

JANUARY 23, 2009



Area of Concern



Single Family



Farmstead



NORTH

1 inch equals 800 feet

Champaign  
County  
Department of  
**PLANNING &  
ZONING**

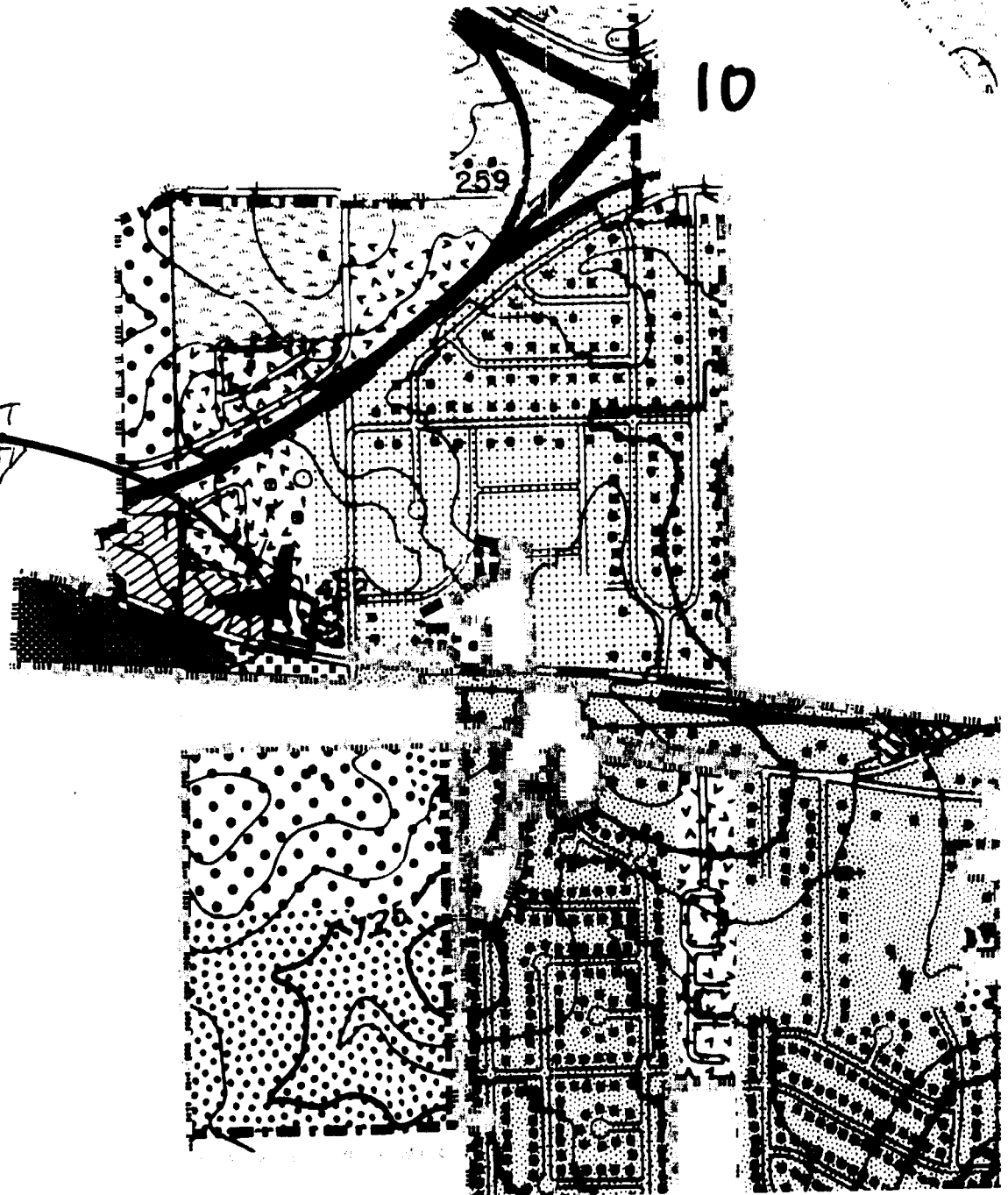
ATTACHMENT A. ZONING MAP

Case 611-AM-08

JANUARY 23, 2009

City  
of  
Urbana

SUBJECT  
PROPERTY



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

Champaign  
County  
Department of  
Planning &  
Development

NORTH





## Attachment "B"

VSA Project No. 14018

### LEGAL DESCRIPTION OF PROPERTY SURVEYED:

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

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

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

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

AND ALSO EXCEPT:

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

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

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







# Illinois Department of Transportation

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

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

RECEIVED

JAN 22 2009

May 20, 2008

CHAMPAIGN CO. P & Z DEPARTMENT

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

Dear Mr. Fidler:

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

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

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

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

Very truly yours,

A handwritten signature in cursive script that reads "Joseph E. Crowe".

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

JCL:jsv

REC'D MAY 27 2008





Illinois Department of Transportation

Highway Permit

District Serial No. 5-30360

Whereas, I (We) Casey's General Stores - c/o Mr. Rick Fidler (Name of Applicant)

One Convenience Boulevard; PO Box 3001 (Mailing Address)

Ankeny Iowa 50021-8045 (City) (State)

hereinafter termed the Applicant,

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

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

APPROVED Director of Public Works, City of Urbana

RECEIVED

JAN 22 2009

CHAMPAIGN CO. P & Z DEPARTMENT

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

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

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

Witness Mailing Address City State

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

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

Approved this day of

Department of Transportation

BY: Deputy Director of Highways, Regional Engineer

*PRELIMINARY DRAFT*

611-AM-08

FINDING OF FACT  
AND FINAL DETERMINATION  
of

**Champaign County Zoning Board of Appeals**

---

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

Date: January 29, 2009

Petitioners: Casey's Retail Company and Henri Merkelo

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

---

**FINDING OF FACT**

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

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

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

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

**PRELIMINARY DRAFT**

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

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

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

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

ITEM 7.C. CONTINUED

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

*PRELIMINARY DRAFT*

ITEM 7.(1)(B) CONTINUED

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

ITEM 7.(1)(B) CONTINUED

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

**PRELIMINARY DRAFT**

ITEM 7.C. CONTINUED

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

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

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

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

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



GENERALLY REGARDING POLICIES FOR COMMERCIAL LAND USE

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

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

(1) Policy 3.2 of the Land Use Goals and Policies states that the County Board will establish, by amendment to the Zoning Ordinance or other means, a process for reviewing petitions for new commercial land to include a determination of the need for new commercial development based on market demand.

(2) Policy 3.3 of the Land Use Goals and Policies states that the Environment and Land Use Committee will examine the Zoning Ordinance to institute more flexible commercial development controls such as planned unit development and transfer of development rights in order to provide a wider variety of commercial development techniques and better compatibility with non-commercial uses.

(3) Policy 3.7 of the Land Use Goals and Policies states that the County Board will strongly discourage proposals for new commercial development along arterial streets and highways if the proposals contribute to the establishment or maintenance of a strip commercial pattern. As an alternative, concentrated or nodal patterns of development may be considered when there is adequate provision for safe, controlled access to the arterial streets and highways.

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

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

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

(1) The following policies relate to adequacy of utilities and fire protection:

(a) Policy 3.4 of the Land Use Goals and Policies states that the County Board will not encourage major new commercial development except in those areas where sewer, water, adequate fire protection and other utilities are readily available.

(b) Policy 7.3 states that the County Board will encourage development only in areas where both sewer and water systems are available. In areas without public sewer and water systems, development may occur only if it is determined that individual septic systems can be installed and maintained in a manner which will not cause contamination of aquifers and groundwater and will not cause health hazards.

*PRELIMINARY DRAFT*

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

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

ITEM 10.C.(4) CONTINUED

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

The proposed rezoning **CONFORMS** to Policy 3.5 because the subject property is served by the 7 Grey bus route of the Champaign-Urbana Mass Transit District, and it is near the 5 Green bus route.

- E. Policy 3.6 of the Land Use Goals and Policies states that the County Board will strongly discourage proposals for new commercial development not making adequate provisions for drainage and other site considerations.

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

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

**PRELIMINARY DRAFT**

ITEM 10.E. CONTINUED

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

**REGARDING POLICIES FOR RESIDENTIAL LAND USE**

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

ITEM 11.A. CONTINUED

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

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

- (4) Policy 2.7 of the Land Use Goals and Policies states that where housing of greater density than one or two-family units is planned, the Zoning Board of Appeals and the Environment and Land Use Committee and the County Board will encourage the provision of underground or under-building parking to provide the maximum amount of useable open space around the building.

- B. Policy 2.2 of the Land Use Goals and Policies states that the Environment and Land Use Committee will work with municipal plan commissions to review existing zoning patterns and regulations within urban areas and initiate proposals to encourage development and redevelopment of “in-town” areas.

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

- (1) The subject property is located in a developed area, less than 200 feet from the City of Urbana corporate limits, and the proposed rezoning will allow for the redevelopment of a vacant property.
- (2) The proposed use will replace the existing Casey’s General Store location three lots to the west of the subject property. There is no indication at this time whether there is a plan for the old store location or whether it will remain vacant.

- C. Residential policies relevant to the adequacy of water, sewer, and other utilities are as follows:

- (1) Policy 2.3 of the Land Use Goals and Policies states that the County Board will encourage new residential development in areas where public or private sewer and water utility systems are, or easily can be, provided and where police and fire protection are available. The County Board will permit new residential development in areas without

**PRELIMINARY DRAFT**

ITEM 11.C.(1) CONTINUED

- access to public sewer and water utilities only if it can be determined that the use of individual septic systems will not cause contamination of aquifer and groundwater and will not cause health hazards.
- (2) Policy 2.3A states that new subdivisions and zoning changes should meet these (2.3 above) standards and will be considered where they are not in conflict with the goals and policies of this Plan.
  - (3) The proposed rezoning **CONFORMS** to Policies 2.3 and 2.3A to the same degree as it conforms to Policies 3.4, 7.3, and 7.3A (See Item 10.D., above).
- D. Policy 2.6 of the Land Use Goals and Policies states that the County Board will work for the maintenance of sound housing and the improvement, replacement or elimination of deteriorating housing in the County.

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

**REGARDING GOALS FOR COMMERCIAL LAND USES**

12. The commercial land use goals are relevant because the subject property is proposed to be changed to the B-4 DISTRICT. There are four commercial land use goals as follows:
- A. The first and fourth land use goals do not appear to be relevant to any given rezoning, as follows:
    - (1) The first commercial land use goal is provision of a sufficient amount of land designated for various types of commercial land use to serve the needs of the residents of the County.
    - (2) The fourth commercial land use goal is establishment of development procedures to promote appropriate justification for new commercial development.
  - B. The second commercial land use goal is as follows:

Location of commercial uses:

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

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

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

ITEM 12.B.(2) CONTINUED

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

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

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

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

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

**REGARDING GOALS FOR RESIDENTIAL LAND USES**

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



*PRELIMINARY DRAFT*

ITEM 13. CONTINUED

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

*REGARDING GENERAL LAND USE POLICIES*

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

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

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

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

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

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

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

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

*REGARDING GENERAL LAND USE GOALS*

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

Land uses appropriately located in terms of:

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

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

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

Arrangement of land use patterns designed to promote mutual compatibility.

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

*GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL*

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

*PRELIMINARY DRAFT*

ITEM 16.A. CONTINUED

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

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

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

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

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

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

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

**DOCUMENTS OF RECORD**

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

**FINAL DETERMINATION**

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

The rezoning requested in Case 611-AM-08 should be *{ENACTED/NOT ENACTED}* by the County Board *{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS}*.

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

SIGNED:

Doug Bluhm, Chair  
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date