

# ZONING BOARD OF APPEALS

**Tuesday, August 19, 2008**  
**6:30 P.M. – City Council Chambers**  
**Rockford City Hall, 425 East State Street**

**Present:**

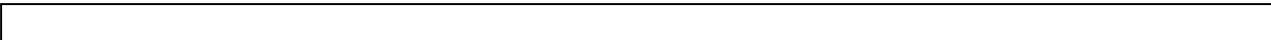
**ZBA Members:** Dan Roszkowski  
Aaron Magdziarz  
Julio Salgado  
Alicia DiBenedetto  
Craig Sockwell  
Scott Sanders

**Absent:**

**Staff:** Jessica Roberts – Planner II  
Sandra Hawthorne – Administrative Assistant  
Jennifer Cacciapaglia – City Attorney  
Jon Hollander – City Engineer, Public Works  
Chief Frank Schmitt - Fire Prevention Division  
Reid Montgomery – Director, Community & Economic Development  
(arrived at 7:22 PM)

**Others:** Kathy Berg, Stenographer  
Alderman Frank Beach  
Applicants and Interested Parties

The meeting started at 7:10 P.M. A **MOTION** was made by Julio Salgado to **APPROVE** the minutes of the July 15, 2008 meeting as submitted. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 6-0.



**031-08**                    **22XX & 2601 N. Bell School Rd**  
Applicant                Attorney Russ Anderson / Spring Creek Development Company  
Ward w/b 1                **Annexation Agreement and Zoning Map Amendment** from County AG to City C-3,  
General Commercial District for Parcel I and II  
**Special Use Permit for a Planned Unit Development** consisting of retail, professional  
office, and medical buildings for Parcel I (40.50 acres) in a C-3, General Commercial  
District  
**Laid Over from June and July meetings**

The subject property is located in unincorporated Winnebago County and is adjacent to City of Rockford property. Attorney Thomas Meyer, David Anderson, and Nathan Bryant were present. Attorney Meyer reviewed the requests. The Annexation parcels are approximately 76 acres. Parcel I is the north 40 acres and that is the area requested for retail, professional office and medical buildings. Attorney Meyer explained this will be a high end development. The Applicant is in agreement with Staff conditions as stated. A tentative PUD plat has been submitted. The primary access points would be from Bell School Road with one access off of Perry Creek Parkway. Perry Creek would be extended to I-90. David Anderson, Spring Creek Development Group, stated the intention is to develop this property to enhance the area. The new interchange proposed on this property would be a new gateway to downtown Rockford. He explained the property would be developed in three “zones” – a retail zone, inner office zone and outer office zone. The retail zone located along Bell School Road would consist of one story

buildings; the inner office zone for general business, office, or clinics would be two stories high, and the outer office zone adjacent to I-90 would be for larger developments of at least 3 stories high. Shared parking will be utilized wherever possible. He stated the area for green space and landscaped islands are larger than what is required by code. Mr. Anderson further explained this development will have stringent guidelines for the buildings and imposed restrictions to contain uses. There will be an extensive network of interior paths that will allow those working or shopping in the development to easily access the local retail establishments, coffee shops, restaurants etc.

Staff Recommendation was for Approval of both items with 11 conditions. No Objectors were present.

Mr. Sanders asked Staff about the Type A buffer requirements. He felt this type of buffer is not normally required in a development of this nature. Jessica Roberts, representing Staff in Todd Cagnoni's absence, explained the Type A buffer in this case would be required as part of a Planned Unit Development.

Nathan Bryant stated it was their intention to exceed landscaping requirements all across the board on this project. If there are any questions on what concept or design should be applied for landscaping, they would comply with whatever the Ordinance requires. Attorney Anderson felt the Applicants were comfortable with the Type A buffer as long as it was workable with staff.

Mr. Sanders wished to amend condition #5 to state compliance with the landscaping Ordinance. Mr. Bryant stated they were not necessary opposed to this, but would prefer to work with Staff as condition 5 states. Attorney Meyer stated it was his understanding that as the development proceeds forward, landscaping plans and design plans would be submitted for approval. He raised the question that if the landscaping was required by code, would there be no need for condition #6. Mr. Sanders withdrew his request for amendment.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Annexation Agreement and Zoning Map Amendment from County AG to City C-3, General Commercial District for Parcel I and II; and to **APPROVE** the Special Use Permit for a Planned Unit Development consisting of retail, professional office, and medical buildings for Parcel I (40.50 acres) in a C-3, General Commercial District at 22XX & 2601 North Bell School Road. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 5-0 with Dan Roszkowski abstaining.

Approval is subject to the following conditions:

1. The terms of the Annexation Agreement
2. Submittal of a PUD/Final Plat for review and approval.
3. That the PUD/Final Plat conform with the requirements of Public Works to accommodate an interchange at I-90 and the extension of Perry Creek to accommodate an interchange at I-90 and the extension of Perry Creek.
4. Submittal of a detailed site plan for staff review and approval
5. Submittal of a detailed landscaping plan including size and botanical name of species for staff review and approval. The landscaping plan shall include a Type "A" Buffer around the perimeter of the site.
6. Submittal of elevation drawings and floor plans for staff review and approval.
7. Submittal of a detailed detention and drainage plan for public works review and approval.
8. Submittal of the Owner's Association Document for staff review and approval.
9. Submittal of an illumination (photometrics plan) for staff review and approval.
10. Future development on Parcel II will require a submittal of a tentative/PUD and final/PUD for review and approval.
11. Compliance with all building and fire codes.

**ZBA 031-08**  
**Findings of Fact for an Annexation Agreement and Zoning Map Amendment**  
**From County AG to City C-3, General Commercial District**  
**For Parcel I and II at**  
**22XX and 2601 North Bell School Road**

**Approval** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:
  - a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property as CO-RM, commercial-office, residential-medium density.

**ZBA 031-08**  
**Findings of Fact for a Special Use Permit**  
**For a Planned Unit Development / Tentative Plat**  
**Consisting of Retail Profession Office, and Medical Buildings**  
**For Parcel I (40.50 ACRES)**  
**In a C-3, General Commercial District at**  
**22XX and 2601 North Bell School Road**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The subject property is an appropriate location for the proposed commercial uses because of the way this part of the city is developing and it is adjacent to I-90.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided. Two main access roads will be provided off of Bell School Road, one main access road will be provided off of Perry Creek, and an I-90 Interchange.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets. Entries from a road providing access to a lot's parking area would not be permitted.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, General Commercial Zoning District in which it is located.

019-08

Applicant  
Ward 1

**7801 East State Street**

Rapid Graphics & Signs

**Special Use Permit** for an on-premise electronic graphic display sign that exceeds the allowable 36 square feet to 136.5 square feet

**Special Use Permit** to allow an additional free-standing sign

**Variation** to increase the allowable height of a free-standing sign from eight (8) feet to sixty-six and one half (66 ½) feet along Interstate 90 in a C-3, Commercial General Zoning District

**Referred back to ZBA from City Council Codes & Regulations Committee and Laid Over from July meeting**

The subject property is located south of the East State Street and Interstate 90 interchange. Neither Applicant nor Representative were present. Mrs. Roberts stated Staff has not heard from the Applicant nor Representative as to the status of this application. Attorney Partridge explained the Alderman had some concerns on this item and it was referred back to the Zoning Board. He recommended another Lay Over at this time.

A **MOTION** was made by Alicia DiBenedetto to **LAY OVER** the Special Use Permit for an on-premise electronic graphic display sign that exceeds the allowable 36 square feet to 136.5 square feet; the Special Use Permit to allow an additional free-standing sign; the Variation to increase the allowable height of a free-standing sign from eight (8) feet to sixty-six and one half (66 ½) feet along Interstate 90 in a C-3, Commercial General Zoning District at 7801 East State Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

037-08

Applicant  
Ward 4

**69XX Hiatt Drive**

Teresita Endencia

**Renewal of Special Use Permit #045-06 for a Planned Residential Development** for homes for the aged/independent living for residents over the age of 60 for Parcel 1 and 2 in an R-1, Single Family Residential District, and R-3, Multi-family Residential District.

The subject property is approximately 1163 feet south of East Riverside Boulevard and 294 feet southeast of Hiatt Drive. This property was issued a Special Use Permit in September 2006, which is about to expire. Teresita Endencia, Applicant, reviewed the request for Renewal of Special Use Permit. She explained this project requires an renewal of the original Special Use Permit as the project has not yet started and the Special Use Permit is due to expire.

Staff Recommendation was for Approval with the original 3 conditions. No Objectors were present.

A **MOTION** was made by Scott Sanders to **APPROVE** the renewal of Special Use Permit #045-06 for a Planned Residential Development for homes for the aged/independent living for residents over the age of 60 for Parcel 1 and 2 in an R-1, Single-Family Residential District and R-3, Multi-family Residential District at 69XX Hiatt Drive. The Motion was **SECONDED** by Julio Salgado and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a detailed landscaping plan and illumination plan for staff's review and approval.
3. Submittal and approval of a tentative and final plat prior to issuance of a building permit.

**ZBA 037-08**  
**Findings of Fact for the Renewal of a Special Use Permit #045-06**  
**For a Planned Residential Development**  
**For Homes for the Aged/Independent Living**  
**For Residents Over the Age of 60 For Parcel 1 and 2**  
**In an R-1, Single-Family Residential District and**  
**R-3, Multi-Family Residential District at**  
**69XX Hiatt Drive**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1 and R-3 Zoning Districts in which it is located.

**038-08**                      **1390 North Mulford Road**  
Applicant                George Bruton  
Ward 1                     **Renewal of Special Use Permit #061-06** (Ordinance #2006-195-0) for a Planned Mixed-Use Development consisting of a long-term care hospital and parking in a C-1, Limited Office District

The subject property is located at the northwest corner of the intersection of Guilford Road and North Mulford Road. This property was granted a Special Use Permit in November, 2006 for the above use and will expire in November of this year. George Bruton, Applicant, reviewed the request for Renewal of Special Use Permit. He stated they have purchased the land and completed construction documents. Since the original Special Use Permit was granted, the Government has put a moratorium on long-term care hospitals. A clear definition of a long-term care facility will be decided upon this Fall and this project can hopefully proceed at that time.

Staff Recommendation was for Approval with the 7 previous conditions applied. No Objectors were present.

A **MOTION** was made by Craig Sockwell to **APPROVE** the Renewal of Special Use Permit #061-06 (Ordinance #2006-195-0) for a Planned Mixed-Use Development consisting of a long-term care hospital and parking in a C-1, Limited Office District at 1390 North Mulford Road. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a tentative and final plat for staff review prior to the issuance of a building permit.

3. submittal of a landscaping plan for staff review and approval with the addition of a 4-foot high berm that does not interfere with the preservation of the existing tree line along the north property line.
4. All lighting shall be facing downward, shall be directed away from residential, and shall not exceed 20 feet in height. There will be no freestanding light poles north of the proposed building.
5. Only two access drives shall be allowed for this site that included one from Guilford Road and the second from Mulford Road.
6. All uses will be restricted to those in the C-1, Limited Office Zoning District, except for the proposed long-term care hospital.
7. That a revised site plan be submitted that includes a 50' minimum setback from the north property line to the edge of the curb as shown on the submitted site plan.

**ZBA 038-08**  
**Findings of Fact for Renewal of Special Use Permit #061-06**  
**(Ordinance #2006-195-0) for a Special Use Permit**  
**For a Planned Mixed-Use Development Consisting of a Long-Term Care Hospital and Parking**  
**In a C-1, Limited Office District at**  
**1390 North Mulford Road**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1, Limited Office Zoning District in which it is located.

**039-08**                    **3335 11<sup>th</sup> Street**  
Applicant                Troy and Heather Specht  
Ward 6                    **Special Use Permit** for passenger vehicle sales that could not satisfy Performance Standards  
**Variation** to allow landscaping to remain "as is" in a C-3, General Commercial Zoning District

The subject property is located on the northwest corner of Sandy Hollow Road and 11<sup>th</sup> Street and is currently a vacant building. Troy Specht and Rob Belles were present. Mr. Belles, Architect, reviewed the requests of the Applicants. He stated they are concerned with two of Staff's conditions of approval referring to landscaping and of parking – items #2 and #5. Mr. Belles stated there is currently a concrete block retaining wall around part of the property would should be considered as part of landscaping. He explained this property had previously been approved for landscaping in 1998 and again in 2004. Regarding the restriction of 40 vehicles displayed for sale at one time, he stated the Applicant wishes to have 50 vehicles allowed at one time. Mr. Belles then asked no restriction be placed on the quantity of vehicles allowed.

Mr. Specht stated he has done a substantial amount of work with landscaping and blacktopping of the two adjacent lots, and plans to do the same with this lot. He further stated he wishes to stock as many cars as possible on this site. He is currently at the corner of Broadway and 11<sup>th</sup> Street and feels this area is going downhill with drug traffic and crime. It is Mr. Specht's opinion that this new location can easily hold 60 vehicles.

Staff Recommendation was for Approval of the Special Use Permit and Denial of the Variation with 5 conditions. No Objectors were present.

Mrs. Roberts explained this is a Performance Use and it is Staff's opinion that the amount of vehicles be restricted to 40 due to density concerns. Mr. Sanders felt he did not share Staff's concern. Mr. Sockwell stated this is a beautiful building and this property is on a main entrance to the City. He is concerned with the number of vehicles and also with what condition the vehicles would be. He stated he does not feel allowing 50 or 60 vehicles would be appropriate. Mr. Specht responded he would deal with classy looking vehicles. He reiterated that 50 or 65 vehicles on this property would not be a problem. Mr. Roszkowski stated he does not remember any past vehicle sales being limited to the number of vehicles on the lot. Mr. Sanders felt the block wall served the intent of some of the landscaping requirements. He suggested replacing the existing tall bushes with 6 trees. Mr. Specht stated he is concerned with the idea of shade trees that may block the view of his vehicles. Mr. Sanders explained there are trees that would provide landscaping and minimize view blockage and gave examples of species.

The majority of the Board members were in agreement to adding a condition of 6 shade trees per landscaping requirements to condition 2, and amending condition 5 to allow 60 vehicles.

A **MOTION** was made by Alicia DiBenedetto to **APPROVE** the Special Use Permit for passenger vehicle sales that could not satisfy Performance Standards; and to **DENY** the Variation to allow landscaping to remain "as is", with amendments to conditions #2 and #5, in a C-3, General Commercial Zoning District at 3335 11<sup>th</sup> Street. The Motion was **SECONDED** by Scott Sanders and **CARRIED** by a vote of 5-1 with Craig Sockwell voting Nay.

Approval is subject to the following conditions:

1. Meet all Building and Fire Codes.
2. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval. Six shade trees shall be installed on site as part of the landscaping requirements.
3. No outside storage of any auto parts, equipment, materials or inoperable vehicles.
4. All conditions must be met prior to establishment of use.
5. That the property is developed as per Exhibit E, and that no more than 60 vehicles shall be displayed for sale or stand outside.

**ZBA 039-08**  
**Findings of Fact for a Special Use Permit**  
**For Passenger Vehicle Sales that Could Not Satisfy Performance Standards**  
**In a C-3, General Commercial Zoning District at**  
**3335 11<sup>th</sup> Street**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

**ZBA 039-08**  
**Findings of Fact for a Variation**  
**To Allow Landscaping to Remain “As Is”**  
**In a C-3, General Commercial Zoning District at**  
**3335 11<sup>th</sup> Street**

**Denial** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would not result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The required landscaping could be accommodated in the parking lot layout.
2. The conditions upon which a petition for a Variation is based are not unique to the property for which the Variation is sought and are applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is not caused by this Ordinance and has been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does not comply with the spirit and intent of restrictions imposed by this Ordinance.

**040-08**                      **3427 East State Street**  
Applicant                 Timothy R. Javurek  
Ward 10                    **Modification of Special Use Permit #124-89** for a building addition of 956 square feet which is greater than ten percent (10%) of the existing building.  
**Variation** to reduce parking to thirty (30) spaces in a C-3, General Commercial Zoning District

The subject property is located on the southwest corner of Fairview Avenue and East State Street. Timothy Javurek and Peggy L. Javurek owners of T.J.'s Auto Center were present. Because of TIF funds

now available through the City's Miracle Mile Plan, the Applicant wishes to take the opportunity to expand their building and improve the façade. Mr. Javurek stated he feels the entire TIF idea of enhancement to the area is a great advantage to businesses. He further indicated that they are definitely open to complying with all of Staff conditions and intend to get as close to landscaping requirements as they possibly can.

Staff Recommendation was for Approval of both items with 4 conditions. No Objectors were present.

Mrs. Roberts explained Staff is comfortable with what the Applicants have submitted thus far and pointed out that the Applicants are working with the City requirements for the Miracle Mile as well.

A **MOTION** was made by Aaron Magdziarz to **APPROVE** the Modification of Special Use Permit #124-89 for a building addition of 956 square feet which is greater than ten percent (10%) of the existing building and to **APPROVE** the Variation to reduce parking to thirty (30) spaces in a C-3, General Commercial Zoning District at 3427 East State Street. The Motion was **SECONDED** by Alicia DiBenedetto and **CARRIED** by a vote of 6-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. There shall be no overnight outdoor storage of vehicles on the property.
3. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.
4. Site plan showing dumpster enclosure and material that must be approved by Staff.

**ZBA 040-08**  
**Findings of Fact for a Modification of Special Use Permit #124-89)**  
**For a Building Addition of 956 Sq. Ft.**  
**Which is Greater than Ten Percent (10%) of the Existing Building**  
**In a C-3, General Commercial Zoning District at**  
**3427 East State Street**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

**ZBA 040-08**  
**Findings of Fact for a Variation**  
**To Reduce Parking to Thirty (30) Spaces**  
**In a C-3, General Commercial Zoning District at**  
**3427 East State Street**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for this Variation are based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of this Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of this Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**041-08**                    **5825-5947 East Riverside Boulevard**  
Applicant             Paul Hemmer Companies / Andrew Balzer  
Ward 4                    **Modification of Special Use Permit #051-93** (Ordinance #1993-170-0) for a Precise Plan Development to allow two additional outlots (Lots 5 & 6) for a fast food restaurant on Lot 5, and additional retail on Lot 6, to allow an increase in gross square footage from 110,000 square feet approved in July, 1993 to a maximum of 120,000 square feet to allow parking based on current code allowing for shared parking, and updating the perimeter landscape along Riverside Boulevard in an R-1, Single-Family Residential District

The subject property is located at the southwest corner of Riverside Boulevard and North Mulford Road intersection. Larry Peterman and Andrew Balzer were present. Mr. Peterman, Landscape Architect, reviewed the request. He requested clarification of Staff Condition number 1 concerning the prohibition of a full service fast food restaurant on Lot #6. He wanted to confirm that a restaurant could be located on the lot, just not a full service fast food establishment. Mrs. Roberts explained this condition was due to circulation issues, but that a restaurant could be located there as long as the parking requirements were met on the site. She explained that the Applicant has the option to apply for an additional Modification if the use were to change in the future. Mr. Balzer stated a dinner/movie theater establishment is also under consideration as a possibility for this development.

Staff Recommendation was for Approval with 7 conditions. One letter of objection was received from Attorney Woodruff Burt on behalf of Scott M. King, who operates a Wendy's store on this property. The letter stated the concern that the proposed further development of this lot would limit the exit on the west

border of the property. Mr. Sanders and Mr. Roszkowski both felt the concerns of this Objector were unwarranted, since the exit would not be affected by this submitted plan.

One Objector was present. Ken Wales, 5965 East Riverside expressed the same concerns as the letter from Mr. King. He felt the establishment of a fast food restaurant on this property would cause traffic to seek another access drive.

A **MOTION** was made by Scott Sanders to **APPROVE** the Modification of Special Use Permit #051-93 (Ordinance #1993-170-0) for a Precise Plan Development to allow two additional outlots (Lots 5 & 6) for a fast food restaurant on Lot 5, and additional retail on Lot 6, to allow an increase in gross square footage from 110,000 square feet approved in July, 1993 to a maximum of 120,000 square feet to allow parking based on current code allowing for shared parking, and updating the perimeter landscape along Riverside Boulevard in an R-1, Single-Family Residential District at 5825-5947 East Riverside Boulevard. The Motion was **SECONDED** by Aaron Magdziarz and **CARRIED** by a vote of 6-0. Approval is subject to the following conditions:

1. A full service fast food restaurant on Lot #6 shall be prohibited.
2. Compliance with Special Use Permit #051-03 conditions of approval, specifically signage regulations.
3. A civil site plan shall be submitted for staff review and approval.
4. Detailed elevations shall be submitted to staff for review and are subject to staff approval.
5. A detailed landscaping plan shall be submitted for staff review and approval.
6. An illumination (photometric) plan shall be submitted for staff review and approval.
7. The property shall develop in general conformance with the submitted plans.

#### **ZBA 041-08**

**Findings of Fact for a Modification of Special Use Permit #051-93 (Ord. #1993-170-0)  
For a Precise Plan Development to Allow Two Additional Outlots (Lots 5 & 6)  
For a Fast Food Restaurant on Lot 5 and Additional Retail on Lot 6,  
Allow an Increase in Gross Square Footage from 110,000 Sq. Ft. Approved in July, 1993  
To a Maximum of 120,000 Sq. Ft.; Allow Parking Based on Current Code  
Allowing for Shared Parking; and Updating the Perimeter Landscape  
Along Riverside Boulevard  
In an R-1, Single-Family Residential District at  
5825-5947 East Riverside Boulevard**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The proposed development will be consistent with other development in the area and will provide the necessary landscaping to enhance the development.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

6. The special use shall, in all other respects, conform to the applicable regulations of the R-1, Single-Family Residential Zoning District in which it is located.

**042-08**                    **1710 Arlington Avenue**  
Applicant                Mel Motley / American Tower Corporation  
Ward 3                    **Special Use Permit** for a fifteen (15) foot extension to an existing cell tower in an R-1, Single-family Residential Zoning District

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the September 16<sup>th</sup> agenda.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Special Use Permit for a fifteen (15) foot extension to an existing cell tower in an R-1, Single-family Residential Zoning District at 1710 Arlington Avenue. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

**043-08**                    **1405-1407 North Main Street**  
Applicant                City of Rockford Department of Law  
Ward 3                    **Revocation of Special Use Permit #102-05** for indoor retail liquor sales by the drink in conjunction with a full service restaurant in a C-2, Commercial Community District

Prior to the meeting a request was received from the City of Rockford Department of Law to Lay Over this item to the September 16<sup>th</sup> meeting.

A **MOTION** was made by Scott Sanders to **LAY OVER** the Revocation of Special Use Permit #102-05 for indoor retail liquor sales by the drink in conjunction with a full service restaurant in a C-2, Commercial Community District at 1405-1407 North Main Street. The Motion was **SECONDED** by Craig Sockwell and **CARRIED** by a vote of 6-0.

With no further business to come before the Board, the meeting was adjourned at 8:40 PM

Respectfully submitted,  
Sandra A. Hawthorne  
Administrative Assistant  
Zoning Board of Appeals