



*Rock Island County... Build the future and improve the quality of life for our community*

July 21, 2015

RE: Case Creek Obstacles

To the Rock Island County Zoning Board of Appeals:

On June 9, 2015 Mrs. Beth Stokes emailed a petition to me. The petition calls into validity the Special Use Permit for Case Creek Obstacles (SU-15-201). As you are aware, there is language within our ordinance (3-2-6.3.F included with this letter) that allows "any person whose property is being, or may be adversely affected by operation of the Special Use, may file in writing with the Zoning Board of Appeals requesting the Special Use be modified or revoked. The petitioner shall specifically allege the violations of the conditions under which the permit was granted or facts which would justify modification of the special Use Permit." Mrs. Stoke is requesting a hearing to discuss issues surrounding the Special Use Permit.

#### **The Request**

Mrs. Stokes is requesting that "the amended permit (SU-15-201) to be revoked and the original permit (SU-13-205) be followed in all future events." She goes on further to request that Case Creek be "prohibited from getting a permit or amended permit for three years."

#### **Evidence Provided**

Mrs. Stokes has provided two documents, labeled Exhibits 1 & 2, which are attached to this report. We also have had multiple discussions. *Exhibit 1* is the original document submitted to my office dated September 18, 2013. My investigation will discuss each of the points listed on the document and why it was not treated as a formal petition. Also, no request for revocation or any modifications were made.

*Exhibit 2* is what has been accepted as a petition. This document contains a request to revoke or modify the special use permit, as described in the ordinance. This is a long letter that describes why Mrs. Stokes believes Case Creek should be punished for operating outside the original Special Use Permit. Mrs. Stokes is unhappy that Case Creek operated outside of her interpretation of the original permit for, as she describes, "430 days". Mrs. Stokes believes that if she had been at the second hearing in December 2014, the Board would have denied Case Creek's request.

#### **INVESTIGATION**

##### **Background**

The Rock Island County Zoning Board of Appeals originally heard a petition (SU-13-205) from Mark Zmuda in February 6, 2013 for an Outdoor Special Event. It was granted by this Board. There were no objectors present at that hearing. On December 3<sup>rd</sup>, 2014 we heard an amendment to the original case (SU-15-201) from Case Creek Obstacles. This was also granted

OFFICE OF  
**ZONING & BUILDING SAFETY**  
1504 3<sup>rd</sup> Avenue, Rock Island IL 61201  
Phone:(309) 558-3771 Fax: (309) 786-4456

with no objectors present. They have held four events to date: September 7, 2013; July 12th & August 9th 2014; and July 11, 2015.

On or about September 18<sup>th</sup> 2013, Mrs. Stokes and one neighbor appeared in my office with a document objecting to the event and requested a hearing. This was signed by a handful of people. We followed typical procedure and informed them that we would look into their allegations and address their concerns. The petition contained what I believe to be two issues that held any merit. I will go into each item more specifically later. The first was that a portion of the event was held on Mr. Maring's property. Mr. Maring had contacted me sometime after Mr. Zumda petitioned for the Special Use Permit in February 2013. It was my understanding that a portion of the obstacle course would lead onto Mr. Maring's property. While Mr. Maring offered to amend the original permit, I made the interpretation that it would not significantly change the original request and told Mr. Maring it would be allowed. While I do not believe Mr. Maring was trying to mislead me, Mrs. Stokes provided me information showing that a significant portion of the event took place on Mr. Maring's property. This included parking and registration, along with the location of the announcer. The other valid issue of Mrs. Stokes' petition was the noise from the announcer. For some reason the announcer pointed his speaker away from the event, no one is sure why this happened.

After this was brought to my attention I contacted Mr. Maring and discussed the issues. The announcer/speaker was very easy. They noticed the same issue and promised to resolve this at their next event. I assumed they would. As for the portion of the event taking place on Mr. Maring's property, I cannot recall any substantial conversation about amending the permit right away. Having done this I felt as though we made a good faith attempt to resolve the issue and move forward. I do not recall any other significant conversations with Case Creek or Mrs. Stokes until August 2014. She may have had conversations with other staff members.

On Wednesday, August 6, 2014 (almost a year later) Mrs. Stokes contacted me via phone. She informed me that Case Creek was about to hold another event and was going to provide me with a copy of a map of the planned course. Mrs. Stokes made multiple email attempts to send this map, however, I did not receive one. I contacted Mr. Maring to discuss their plans and discussed that if the event would be held outside of the original special use permit, they would need to amend the original permit, SU-13-205. The event was scheduled for Saturday, August 9th. The event took place. On Monday, August 11<sup>th</sup> at 2:05 pm, after the event, I received an email with a map of the course from Mrs. Stokes.

In October of 2014, Mr. Maring began discussions with staff for the process of amending the original Special Use Permit leading to the case in December of 2014. Again, a second public hearing was held and no objectors appeared. All proper procedures for notification as required by County code were followed.

On April 6, 2015 I received an email from County Board Chairman Maranda that he forwarded me from Mrs. Stokes. Evidentially she had been trying to contact me but misspelled my name/email address. She set a time to meet with me (April 10, 2015 @ 1:30 PM) to discuss her concerns. This discussion turned into more of a deposition. She was demanding that I know intimate details of everything that had happened up until that point. I recorded the conversation.



*Rock Island County... Build the future and improve the quality of life for our community*

One of the issues we had was that no one has ever used the section of the ordinance to petition to hold a hearing. We have a process in place to apply for a hearing, that part is easy, however, the process and requirements for "any person who may be adversely affected" to apply for a hearing to modify or revoke an existing Special Use Permit needed to be clarified. I consulted with many colleagues from other municipalities and the State's Attorney's office. Correspondence dated June 19<sup>th</sup>, 2015 was provided to all Board members (exhibit 3) describing my interpretation of this process and this section of the ordinance. You have since had a chance to review and ask questions.

In the meantime, I worked with Mrs. Stokes to submit a document detailing her request. On June 9<sup>th</sup>, I received an email with an attachment that I have accepted as a formal petition. This is labeled as *Exhibit 2*. While this document does not layout a strong case as to why granting SU-15-201 does not meet the standards of a Special Use Permit and why it should be revoked, it is the first time Mrs. Stokes actually described what modification she was requesting or if she wished to revoke the permit.

#### **Review of Evidence Submitted**

**Exhibit 1.** This is a single page document dated September 18, 2013. Three pages of this were submitted with different people signing each. Nowhere in this document was there a request to revoke or deny the Special Use Permit. I will discuss each point individually:

- *Increased traffic* – I believe that all members of this Board understood that with this type of event, traffic would be increased and gave this consideration at both public hearings. To lessen the impact, the event will only be held twice a year. To help control traffic and reduce congestion, Case Creek staggers participants start times every 15 minutes so a huge influx of people do not show up or leave at one time. We looked at uses of adjoining properties as shown on the map marked as Exhibit 4. Three similar uses in the area are Creekdise Vineyards, Arrowhead Ranch and Pinnacle County Club. This event shares a property line with Creekside Vineyards. Creekside has outdoor events with music every Saturday and Sunday from May through October. While Creekside would be on a smaller scale in the number of attendees, these events could happen 54 times in 2015. *Exhibit 6* includes a screenshot of their website describing the activities and pictures of signage on Knoxville Road. Next, Arrowhead ranch is located about a half mile to the East. They have an annual auction. This event can be a traffic nightmare. Similar to other auctions, cars can be parked on both sides of the road. Thirdly, Pinnacle Country Club is a little over 1.5 miles to the West. All of these events bring increased traffic to the area. I do not believe Case Creek to be unreasonable compared to others uses in the area.
- *Increase of people that are not familiar to the neighborhood* – Again I believe that all members of the Board knew that this would be true and gave this consideration at both

OFFICE OF

### **ZONING & BUILDING SAFETY**

1504 3<sup>rd</sup> Avenue, Rock Island IL 61201

Phone:(309) 558-3771 Fax: (309) 786-4456

public hearings. This could be true with anyone who visits a neighbor or as new people move into the neighborhood. The same could be said for Arrowhead Ranch, Creekside Vineyards and/or Pinnacle County Club.

- *Public Safety Issues* – This seems to tie into the above issues, traffic and people not familiar to the area.
- *Unreasonable constant music and announcer comments during entire event* – Yes there is an announcer at the events and they do play music. After the first event in 2013 Case Creek made efforts to reduce this impact on the neighboring properties. Again when I look at an event like an annual auction at Arrowhead or the live music events at Creekside, this type of activity is not out of the norm for the area. Case Creek did recognize issues with the first announcer/DJ and made adjustments for future events.
- *Negative impact on property taxes* – No evidence has been provided to suggest that property taxes have gone up directly related to the events at Case Creek. I spoke with the Rural Township Assessor, Richard Quigg, and Chief Deputy Supervisor of Assessments, Amy Deaton about this issue. Both experts in the area of property values and taxation agree that this event, since it only happened twice a year, would have no effect at all to property taxes of properties in the area of the event.
- *Negative Impact on property values* – No evidence has been provided to suggest that property values have decreased directly related to the events at Case Creek. I spoke with the Rural Township Assessor, Richard Quigg, and Chief Deputy Supervisor of Assessments, Amy Deaton about this issue. Both experts in the area of property values and taxation agree that this event, since it only happens twice a year, would have no effect at all to property values of properties in the area of the event.
- *The events will evolve into rezoning the area commercial and turn the events into a business* – This office has not received any request for commercial zoning in this area. The Rock island County Land Use Plan and maps do not call for commercial zoning in this area. It mostly consists of medium to low density uses.
- *We request a hearing to discuss the above matter.* Hearings are not held to rehash these types of issues that are non-issues or can be handled with a simple phone call. A public hearing had already been held where they could have voiced these concerns.

**Exhibit 2.** This is a six (6) page document that basically describes Mrs. Stokes interaction with our department. It is also a timeline of events. There is no information contained in this document disputing the standards by which this Board makes its decision. This is a tough read so I will try and investigate each page.

- Page one – While I did receive the “petition” as Mrs. Stokes states, there was not a process in place as how to deal with these types of request. No one has ever invoked this section of the ordinance. Typically people would bring their concerns to our attention and staff has dealt with them. However, Mrs. Stokes did not request revocation or modification of the permit. I did indeed investigate Mrs. Stokes concerns and addressed them with Case Creek. I felt as though we had addressed Mrs. Stokes concerns. Mrs Stokes also states that she “would not be satisfied if a permit was granted



# Rock Island County

*Rock Island County... Build the future and improve the quality of life for our community*

that allowed it to expand so that Mr. Zmuda would be in compliance." However, that was the request before the Board of how to bring this situation into compliance (SU-15-201).

- Page 2 - While I cannot confirm the date of July 22, 2014 I do recall Mrs. Stokes bringing such pictures to my office. We discussed how I interpreted the permit as granted by the ZBA. The event shifting 600 feet to the West did not significantly change the request. All of the same types of activities as expected were still occurring. It is true that under the original request that Zmuda's intention was to hold the event on his property which was approximately 60 acres. However, as discussed in the *Background* section above, after the original hearing, he partnered with Maring. At no time do I think it was the intention of Case Creek to deceive. We do not keep records of when these events happen, nor do we require them to notify staff. While I cannot confirm a specific time and date, sometime after the phone call on Wednesday August 6 from Mrs. Stoke and before I left work on Friday August 8<sup>th</sup>, I had a conversation with Maring about needing to update the Special Use Permit. An event was already scheduled and Case Creek would work with staff to amend the original permit if they planned to continue the events.
- Page 3 - Mrs. Stokes states that I did not respond to her emails. You are all well aware that this office has more responsibilities than just zoning. And while Mrs. Stokes feels she is the most important person to be dealt with, in reality she is not. I responded to her emails on August 27<sup>th</sup> at 6:36 PM (*Exhibit 6*). This was a very busy time for my office and as you can see by the time of the email, I was working late. The process began for amending the original Special Use Permit with multiple emails and phone conversations leading to a meeting on September 12<sup>th</sup> with Case Creek. All proper notification processes were followed as described within County Code. While Mrs. Stokes is unhappy with how the situation was handled, we followed County Code for proper notification. This office does the best it can with the resources provided. While a hearing could have been held to discuss the conditions of the permit, I'm not sure what resolution would have been accomplished. Case Creek was willing to work with staff to apply and amend the original permit and present their amended plan.
- Page 4 – Mrs. Stokes states “the most important part of the case” is a statement at the bottom of the Special Use Permit (*Exhibit 7*) that is given to special use permit holders after Board approval. The intent of this document is to list the parameters of the Special Use Permit. While this document was signed, the legal process to revoke or modify the request must be done in petition form. No one did that. Mrs. Stokes states, “Everyone involved with this matter knows he did not comply with the requirements. This matter must be resolved with us immediately.” Legally, this matter has been resolved, the Special Use Permit was amended, and a public hearing was held to amend the original

OFFICE OF

## **ZONING & BUILDING SAFETY**

1504 3<sup>rd</sup> Avenue, Rock Island IL 61201

Phone:(309) 558-3771 Fax: (309) 786-4456

request. I'm not sure about Mrs. Stokes statement that "he did not comply". Case Creek has been represented as a partnership. I'm not sure who "he" is. This seems very personal. In the third paragraph Mrs. Stokes asks two questions:

- *Why was an investigation not conducted by the administrative officer?* - While I did investigate Mrs. Stokes concerns the same way we have investigated concerns in the past, it was not done in the manner that this investigation is being done as I had no petition requesting revocation or modification of the permit.
- *Why was Mr. Zmuda rewarded with an amended permit....* – As all members are aware, a good portion of requests done before the Board are to address violations of County Ordinances that people performed not knowing they were a violation. This Boards purpose is not to punish the petitioner. If the Board feels the request fits the standards, then the Board approves the request. As I have stated, I do not feel as though Case Creek tried to misrepresent their case.

The 7<sup>th</sup> paragraph, Mrs. Stokes quotes a section from the Code of Ordinances (3-2-6.3.D) that talks about holding as many hearings as necessary. This is when a hearing has so much information that multiple hearings are required. Two public hearings have been held. No objectors attended either public hearing. There simply was not enough evidence presented at either hearing that would have required multiple hearings.

- Page 5 – This is the first time Mrs. Stokes has requested a modification or revocation of the Special Use Permit in writing. As discussed at the hearing for SU-15-201 in December 3, 2014 all of the valid concerns Mrs. Stokes were addressed. While Mrs. Stokes is unhappy with the timeline, the proper process for amending a Special Use Permit was followed as described in County Code. Again the job of this Board is not to punish petitioners. We work through issues and move on. If the request meets the standards, then the Board should grant the request. In the final two paragraphs, Mrs. Stokes states reasons SU-15-201 should be revoked. She feels that the permit should be revoked since it took 430 days in her eyes to correct these violations. While this is the reason she gives, this is not one of the standards by which we evaluate Special Use Permits. She also goes on to state that Case Creek should be prohibited from making a request for three years. While the Board is allowed to place conditions on special use permits, I do not feel this is a valid condition. Applicants are not allowed to present the same case within a year if denied, however, they may modify their requests and petition again.
- Page 6 - This Board has already granted an amended Special Use Permit. All of the conditions Mrs. Stokes requests could be part of the amended permit if the Board so chooses. I stand by my statement that a valid petition was never filed to hold another hearing. The final two paragraphs discuss reason Mrs. Stokes believes Case Creek should be punished. If the request meets the standards then the Board should approve the request. This was done twice in public hearings.

### **Recommendation**

It is my recommendation that you deny Mrs. Stokes request for a hearing. It is not this Boards job to punish applicants for not following County ordinances. I do not feel that Case Creek



*Rock Island County... Build the future and improve the quality of life for our community*

intentionally tried to deceive the Board or my office with its actions. The idea for this event started with Mr. Zmuda. He made the original petition. It has evolved with Mr. Maring's participation and probably will continue to evolve and improve with every event. While it may have taken longer to resolve the issues than Mrs. Stokes would have liked, there are a multitude of reasons for that. Note that a public hearing has been held to resolve Mrs. Stokes concerns (SU-15-201) and the operation is now operating within the parameters of the Special Use Permit as amended. Mrs. Stokes does not provide any valid reasons why either permit does not meet the standards as required by County code. There is no provision within our ordinance to punish Case Creek. You can either revoke the permit or make modifications to the permit so that the event fits within those modifications.

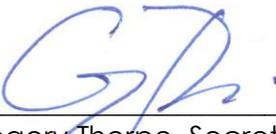
However, if you feel that Mrs. Stokes has not received her fair opportunity to express her concerns and that items she discusses with any of the attached documents would significantly change your view on granting either Special Use Permit, then a hearing should be scheduled at either our September or October hearing. Keep in mind that at the December 2014 hearing we discussed the speaker and noise issue and we discussed the event taking place outside the original permit, on Mr. Maring's property. I do not feel that this event is anymore of a nuisance than Pinnacle Country Club, Arrowhead Ranch or Creekside Vineyards. Creekside Vineyards is directly adjacent to this event and also has outdoor music every weekend during the summer.

#### **Decision**

Please accept this document as the report of the Administrative Officer's investigation of Mrs. Stokes' petition. At the August 5, 2015 Zoning Board of Appeals, I have added this report concerning Mrs. Stokes petition as an agenda item for discussion. It will be up to the Board to decide if Mrs. Stokes petition warrants a hearing to revoke permit SU-15-201 and place restrictions on SU-13-205.

As stated above within the ordinance, it is your decision that after receiving my report, you have 15 days to decide if (1) this matter should be set for hearing within 60 days **or** (2) shall recommend to the County Board to dismiss the petition. This matter needs to be discussed in open meeting and a decision that night should be rendered if you feel Mrs. Stokes concerns warrant a hearing. Your decision shall be done with a vote and a simple statement shall be made on whether or not to hold another hearing. The next two ZBA hearings are scheduled for September 2 and October 7, 2015.

Respectfully submitted \_\_\_\_\_



Gregory Thorpe, Secretary

OFFICE OF  
**ZONING & BUILDING SAFETY**  
1504 3<sup>rd</sup> Avenue, Rock Island IL 61201  
Phone:(309) 558-3771 Fax: (309) 786-4456