

**BOARD OF ZONING ADJUSTMENT**  
**June 09, 2011**

The Board of Zoning Adjustment Meeting was held on Thursday, June 09, 2011 in the City Hall 3<sup>rd</sup> Floor Courtroom, Aberdeen, South Dakota with Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Kezar, VanDeRostyne, Babcock, and Weigel. Also present were Ken Hubbart, City Planner, Brett Bill, Planning & Zoning Director, Chad Nilson, Building Inspector, Mike Olson, Code Enforcement Officer, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

VanDeRostyne moved and Kezar seconded to approve the Board of Zoning Adjustment minutes of May 12, 2011, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Jillian Madsen requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R2) Medium Density Residential Zoning District, all on Lot 1, Block 2, Lampert's First Addition, a.k.a. 1226 Harrison Street N. There being no representative this item was moved to the end of the agenda.
- 2) Jeff & Tanya Shafer requested permission, as per site plan submitted, for existing residence to remain 22.5' from the West property line rather than the required 25', which would be a 2.5' Building Variance in order to construct a 6'x4.25' front porch, all on Lot 2, Davie's Second Rearrangement of Lots 14-18, Block 24, Bennett & Thomas Addition, a.k.a. 720 Main Street N. Tanya Shafer was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 3) Stuart Gulden and Curt Hamre requested permission, as per site plan submitted, to allow the sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be a Special Exception, all on Lot 2, Gulden's First Subdivision, in the NE¼ of Sect. 22-T123N-R64W, a.k.a. 2203 Highway 12 W. Ken Hubbart stated that the petitioner withdrew this item. No action taken.
- 4) Scott Brunmaier requested permission, as per site plan submitted, to plat a lot in an (I-2) Unrestricted Industrial Zoning District that is 100' in depth rather than the required 150', which would be a 50' Minimum Lot Depth Variance, all on Proposed Lot 2, Brenner-Moser Addition, a.k.a. 116 East Drive. Scott Brunmaier was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) The submitted petition to annex must be approved, and 2)

the submitted plat must be approved by the Joint Planning Commission and City Council/County Commission. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT DEPTH VARIANCE APPROVED.**

- 5) Judith Baumann requested permission, as per site plan submitted, for existing residence to remain 17.74' from the East property line rather than the required 25', which would be a 7.26' Building Variance in order to construct a deck, all on Lot 1, Otis First Subdivision, a.k.a. 910 State Street S. Cathy McGarry was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 6) Performance Rentals, LLC requested permission, as per site plan submitted, to 1) construct a mini-storage unit, which would be an Appeal to the Board of Zoning Adjustment in an (L-2) Unrestricted Industrial Zoning District, and 2) to construct a mini-storage unit that is 240' in length rather than the required 120', which would be a 120' Maximum Length Variance, all on Proposed Lot 1, Performance Rentals Subdivision, a.k.a. 38422 Highway 12 W. There being no representative this item was moved to the end of the agenda.
- 7) John and Linda Ganje requested permission, as per site plan submitted, for existing residence to remain 4.4' from the South property line rather than the required 15', which would be a 10.6' Building Variance in order to construct back deck, all on The South 62.5' of Lot 16, Block 8, Gorder's Third Addition, except the West 20' to Alley, a.k.a. 1760 Fourth Street S. John Ganje was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 8) Rich Brothers Company and Starr Fireworks requested permission, as per site plan submitted, to allow the sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be a Special Exception, all on Outlot 1, Rich Brothers Outlots in the NW¼ of Sect. 23-T123N-R63W, a.k.a. 6230 Highway 12 E. Kendall Hoellein was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to approve with the following stipulations: 1) Must meet all of Fire Marshal's stipulations or requirements, 2) Any signage must be in accordance with City Ordinance, and 3) Approval is for Starr Fireworks, as long as they are the operator of proposed use. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 9) Rich Brothers Company and So. Dak. Fireworks requested permission, as per site plan submitted, to allow the sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be a Special Exception, all on Outlot 1, Rich Brothers Outlots in the NW¼ of Sect. 23-T123N-R63W, a.k.a. 6230 Highway 12 E. Kendall Hoellein was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Must meet all of Fire Marshal's stipulations or requirements, 2) Any signage must be in accordance with City Ordinance, and 3) Approval is for So. Dak. Fireworks, as long as they are the operator of proposed use. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 10) Linda Ivey requested permission, as per site plan submitted, to 1) construct a 5'x12' addition to residence 1' from the West property line rather than the required 5', which would be a 4' Building Variance and 2) to reside an 8'x12' shed, which is 2' from the North property line rather than the required 5', which would be a 3' Building Variance, all on The 39' Next East of the West 63' of Lots 7&8, Block 29, First Addition to the Highlands, a.k.a. 405 Eighth Avenue NE. Cathy McGarry was present to represent the property. Following discussion Kezar moved and Weigel seconded to deny agenda item #1, all members voting nay, the motion failed. Cathy McGarry explained that this is not going to be an addition but rather just a small uncovered deck to replace the existing dilapidated deck. Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #1 with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, 3) All required inspections must be completed, 4) All runoff must be maintained on property, 5) Construction must be fire rated to Building Code Specifications, and 6) Must meet all fire code requirements. Upon roll call, all members voting aye, the motion carried. Following further discussion Kezar moved and VanDeRostyne seconded to approve agenda item #2, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 1) Jillian Madsen requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R2) Medium Density Residential Zoning District, all on Lot 1, Block 2, Lampert's First Addition, a.k.a. 1226 Harrison Street N. Jillian Madsen was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Any provided yard/play area must be maintained as a fenced in area prior to the operation of this daycare commencing, 2) All applicable state regulations must be met, 3) No more than one individual other than the owner, may work at the daycare at one time, 4) Pending notification that the applicant and members of the household have not been rejected by the state due to abuse or neglect, 5) A floor plan must be submitted for review showing the location used for childcare, 6) Age range of children, the number of children and hours of operation must be submitted, 7) This special exception is for the owner, as long as she/he is the owner/operator of the proposed use, 8) Announced and unannounced inspections must be permitted by operator, 9) The operator must schedule a

home inspection with the Building Inspection Department and/or the Fire Marshal in order to verify that Building and Fire Code requirements are met, and any required changes or modifications must be made, and 10) Owner/operator and any employees must be licensed with the City of Aberdeen. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 11) Keith Rath requested permission, as per site plan submitted, to construct a 22'x62'7" addition, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on The 300' North of the South 333' of the East 350' of the NE¼ Sect. 27-T123N-R64W, except Highway, a.k.a. 2402 Highway 281 S. Keith Rath was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, 3) City Landscape requirements must be met, and 4) At such time that any of the three residences or the business cease to exist on the property, they may not be replaced with the current zoning and configuration of property. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 12) Deep Rock Crossing, LLC requested permission, as per site plan submitted, to 1) construct 2 freestanding signs rather than the permitted 1 freestanding sign, which would be a 1 Freestanding Sign Variance, and 2) to permit 422sf of freestanding signage rather than the permitted 300sf, which would be a 122sf Freestanding Sign Variance and 3) to install two 22sf electronic message center signs, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Highland Park Third Subdivision, a.k.a. 1807 Sixth Avenue SW. Heath Johnson was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to deny agenda item #1, all members voting nay, the motion failed. Following further discussion Kezar moved and VanDeRostyne seconded to approve agenda item #1 with the stipulation that sign permits be issued prior to the erection of the signs. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN VARIANCE APPROVED.** Following further discussion Weigel moved and VanDeRostyne seconded to deny agenda item #2, all members voting nay, the motion failed. Following further discussion Kezar moved and VanDeRostyne seconded to approve agenda item #2 with the stipulation that the signs must match submitted site plan. Any variations to signs must be approved by this board. Upon roll call, Kezar-aye, VanDeRostyne-aye, Babcock-aye, Weigel-nay (3-aye,1-nay), the motion failed. **FREESTANDING SIGN VARIANCE DENIED.** Following further discussion VanDeRostyne moved and Kezar seconded to deny agenda item #3, all members voting aye, the motion carried. **APPEAL DENIED.**
- 13) Aberdeen School District 6-1 and Simmon's Elementary School requested permission, as per site plan submitted, to permit 103.8sf of Signage rather than the permitted 36sf, which would be a 67.8sf Sign Variance, all on Lots 1-6 & North 300' of Outlot 2, Block 23,

Simmon's First Addition, a.k.a. 1500 Third Street S. There being no representative this item was moved to the end of the agenda.

- 14) Tony Arampatzis requested permission, as per site plan submitted, to construct a 12'x14' shed 0' from the North property line rather than the required 35', which would be a 35' Setback Variance, all on Lots 1&2, Block 31, Corrected Plat of the Highlands, a.k.a. 1224 Washington Street N. Tony Arampatzis was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **SETBACK VARIANCE APPROVED.**
- 15) Bette Sandvig requested permission, as per site plan submitted, to construct a 30'x120' ministorage, which would be an Appeal to the Board of Zoning Adjustment in a (C3/R4) Central Business/Special Density Residential Zoning District, all on Lot 12, Block 24, First Addition, a.k.a. 215 Fourth Avenue SW. Bill Hinds of Steel Structures was present to represent the property. Following discussion VanDeRostyne moved and Babcock seconded to deny. Upon roll call, Kezar-nay, VanDeRostyne-aye, Weigel-nay, Babcock-nay (1-aye,4-nay), the motion failed. Following further discussion Weigel moved and Kezar seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, 3) All required inspections must be completed, 4) Landscaping must be approved by City Forester, 5) All areas other than building and landscaping must be hard surfaced, 6) The South wall must have horizontal siding and the remaining walls with doors must contain a minimum of 4' brick or split face stone. Upon roll call, Kezar-aye, VanDeRostyne-nay, Weigel-aye, Babcock-nay (2-aye,2-nay), the motion failed. Upon roll call, all members voting aye, the motion failed. **APPEAL DENIED.**
- 16) K.O. Lee & Company and Donald Moffenbeier requested permission, as per site plan submitted, to construct five 30'x110' ministorage units, which would be an Appeal to the Board of Zoning Adjustment in a (I-2) Unrestricted Industrial District, all on Lots 4-6, K.O. Lee Second Addition, a.k.a. 104, 110 & 116 Congress Street S. Donald Moffenbeier was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny, all members voting aye, the motion carried. **APPEAL DENIED.**
- 17) Keeley Lumber and Emily Heintzman requested permission, as per site plan submitted to permit the open storage of storage containers, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Keeley Outlot 1, SE¼ Sect. 15-T123N-R64W, a.k.a. 1916 Sixth Avenue SW. Emily Heintzman was present to represent the property. Following discussion Kezar moved and Babcock seconded to deny. Upon roll call, Kezar-aye, VanDeRostyne-nay, Weigel-nay, Babcock-nay (1-aye,3-nay), the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve

with the following stipulations: 1) A screened storage area (6' opaque fence) shall be installed and all storage shall be conducted inside said area, 2) Open storage shall be for "pods" only. No items for sale, etc., 3) "Pods" may not be set out for display or advertising purposes, 4) Property shall be maintained in a neat and orderly manner at all times, 5) No storage in corner visibility triangle (35' in each direction from corner property pin), and 6) Any applicable landscape requirements must also be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 18) Ken Jensen requested permission, as per site plan submitted, to construct a 30'x40' detached garage 15' from the North property line rather than the required 25', which would be a 10' Setback Variance, all on The N½ of Lots 1-4, Block 10, West Hill Addition, a.k.a. 202 Fourteenth Street S. Ken Jensen was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to deny. Upon roll call, Kezar-nay, VanDeRostyne-aye, Weigel-nay, Babcock-nay (1-aye,3-nay), the motion failed. Following further discussion Kezar moved and Babcock seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, 3) All required inspections must be completed, and 4) Boulevard trees must be installed as required by City Forester. Upon roll call, all members voting aye, the motion carried. **SETBACK VARIANCE APPROVED.**
- 19) Northern Plains Baptist Church requested permission, as per site plan submitted, to construct a 5'4"x8' (42.66sf) freestanding sign rather than the permitted 16sf, which would be a 26.66sf Freestanding Sign Variance, all on Lot 1, Bud Smith First Addition, SE¼ Sect. 20-T123N-R63W, a.k.a. 1604 Melgaard Road S. Patrick King of QQP Creative Signs was present to represent the property. Following discussion Kezar moved and Babcock seconded to approve with the following stipulations: 1) Sign permit must be obtained prior to erection of sign, 2) Sign installer must locate property lines and verify setbacks, and 3) Sign must match submitted site plan. Any variations to sign must be approved by this board. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN VARIANCE APPROVED.**
- 20) M.J. Salem Corp. d.b.a. McDonald's requested permission, as per site plan submitted, to install a multicolor electronic message center on existing freestanding sign, which would be an Appeal to the Board of Zoning Adjustment, all on Lots 1-8, & the S½ of Lot 9, Block 42, Bennett & Thomas Addition, except Highway 281 R.O.W. & Vacated Alley Adjacent to and Between Said Lots, a.k.a. 403 Second Street N. Mike Salem was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) All electronic message board signs shall be in compliance with all other applicable codes regarding signs, 2) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, 3) Each message displayed shall remain static for a minimum of one hour, with all change sequences to be instantaneous, no fading,

dissolving, spinning in/out, etc., 4) Electronic message board signs shall not contain animated images or graphics, audio components, scrolling, blinking, flashing, pulsating, or fluttering images or the appearance or illusion of writing, printing, or other movement, 5) Electronic message board signs shall not be operated to display a message or graphic that is entirely red or blue in color. Monochrome electronic message board signs shall be limited to utilizing only amber colored lights, 6) Violation of the previous stipulations may result in a citation with a penalty of \$500 for each day that the violation persists. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**

- 21) Lien Restoration, LLC & Crossroads Truck Center requested permission, as per site plan submitted, to 1) construct and operate an operation and maintenance terminal for trucks and related large equipment, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, and 2) to permit the open storage, parking or sale of vehicles, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on Lien Outlot A, SW¼ Sect. 14 and the SE¼ Sect. 15-123N-R64W, a.k.a. 2204 Highway 12 W. Jason Lien, Ron Clemensen, and Robert Thompson of Crossroads Truck Center were present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times, 2) All signage must be approved in accordance with City Sign Ordinance, 3) All vehicles must be licensed & operable and available for sale, and 4) All complaints shall be resolved by the owner immediately upon notification. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 22) Lew Raderschadt requested permission, as per site plan submitted, to allow the sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be a Special Exception, all on Lot 5, East Highway 12 Addition, NE¼ Sect. 22-123-63, a.k.a. 5990 Highway 12 E. Lew Raderschadt was present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to approve with the following stipulations: 1) Must meet all of Fire Marshal's stipulations or requirements, 2) Any signage must be in accordance with City Ordinance, and 3) Approval is for Dan & Lew Raderschadt as long as they are the co-owners/operators of proposed use. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 23) Stu Gulden and Lew Raderschadt requested permission, as per site plan submitted, to allow the sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be a Special Exception, all on Lots 1-3, Gulden's First Subdivision, NE¼ Sect. 22-T123N-R64W, a.k.a. 2203 Highway 12 W. Lew Raderschadt was present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to approve with the following stipulations: 1) Must meet all of Fire Marshal's stipulations or requirements, 2) Any signage must be in accordance with City Ordinance, and 3) Approval is for Dan & Lew Raderschadt as long as they are the co-owners/operators of proposed use. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 24) Charles Hedges and Lew Raderschadt requested permission, as per site plan submitted, to allow the sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be a Special Exception, all on NE¼ Sect. 21-T123N-R64W, South of Highway Except Land Deeded and Except Highway, a.k.a. 1306 385<sup>th</sup> Avenue S. Lew Raderschadt was present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to approve with the following stipulations: 1) Must meet all of Fire Marshal's stipulations or requirements, 2) Any signage must be in accordance with City Ordinance, 3) Approval is for Dan & Lew Raderschadt as long as they are the co-owners/operators of proposed use, and 4) Plans must be submitted for review to ensure building can be relocated to this lot. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 25) Aberdeen School District 6-1 requested permission, as per site plan submitted, to construct a freestanding sign 6'3" from the East property line rather than the required 10', which would be a 3'9" Sign Setback Variance, all on Outlot 1, in the SE¼ Sect. 12-T123N-R64W, First Addition to Highlands & 2' North of South 699' of West 60' of Highlands Outlot 1, a.k.a. 819 Eighth Avenue NE. Bob Pitz of Aberdeen School District and Patrick King of QQP Creative Signs were present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to deny, all members voting nay, the motion failed. Following further discussion Kezar moved and Babcock seconded to approve with the stipulation that the necessary sign permit be obtained for this sign. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 13) Aberdeen School District 6-1 and Simmon's Elementary School requested permission, as per site plan submitted, to permit 103.8sf of Signage rather than the permitted 36sf, which would be a 67.8sf Sign Variance, all on Lots 1-6 & North 300' of Outlot 2, Block 23, Simmon's First Addition, a.k.a. 1500 Third Street S. Bob Pitz of Aberdeen School District and Patrick King of QQP Creative Signs were present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **SIGN VARIANCE APPROVED.**
- 6) Performance Rentals, LLC requested permission, as per site plan submitted, to 1) construct a mini-storage unit, which would be an Appeal to the Board of Zoning Adjustment in an (I-2) Unrestricted Industrial Zoning District, and 2) to construct a mini-storage unit that is 240' in length rather than the required 120', which would be a 120' Maximum Length Variance, all on Proposed Lot 1, Performance Rentals Subdivision, a.k.a. 38422 Highway 12 W. Chris Gross was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve agenda item #1 with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, and 2) Must meet all of Fire Marshal's stipulations or requirements.



Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**  
Following further discussion VanDeRostyne moved and Weigel seconded to approve agenda item #2 with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, and 2) Must meet all of Fire Marshal's stipulations or requirements. Upon roll call, all members voting aye, the motion carried. **MAXIMUM LENGTH VARIANCE APPROVED.**

Following further discussion Weigel moved and VanDeRostyne seconded to adjourn the meeting.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
June 9, 2011