

OVERVIEW OF ZONING CASE 973-AT-20

1. Adds the following types of cannabis business uses (each is defined) and each must comply with all State requirements and that compliance must be documented in the County files. The cannabis business uses are as follows:
 - Dispensing Organization
 - Transporting Organization
 - Infusing Organization (Infuser)
 - Processing Organization (Processor)
 - Cultivation Center
 - Craft Grower
2. Dispensing Organization, Transporting Organization, Infuser, and Processor are only authorized within 1.5 miles of Champaign and Urbana (home rule municipalities with 20,000 or more population) in zoning districts where similar uses are already authorized.
3. Dispensing Organization:
 - Authorized “by right” in the B-4 General Business Zoning District within 1.5 miles of Champaign and Urbana (home rule municipalities with 20,000 or more population).
 - Under State law cannot be located within 1,500 feet of another Dispensing Organization.
 - If located within 1.5 miles of a home rule municipality that has minimum separation requirements to a public or private elementary or secondary school (Urbana), then that same separation is required.
 - If located within 1.5 miles of a home rule municipality that allows consumption (neither currently do), then consumption is allowed
4. Infuser or Processor Organization:
 - Each is authorized “by right” in the I-2 Heavy Industry Zoning District within 1.5 miles of Champaign and Urbana
 - Either may be on the same premises as a Craft Grower.
5. Transporting Organization:
 - Authorized “by right” in the B-3 Highway Business, B-4 General Business, I-1 Light Industry, and I-2 Heavy Industry Zoning Districts within 1.5 miles of Champaign and Urbana.
 - Also authorized as a Special Use Permit in the AG-2 Agriculture Zoning District within 1.5 miles of Champaign and Urbana and as a “Home Occupation” in any Zoning District within 1.5 miles of Champaign and Urbana subject to Zoning Ordinance limits on Home Occupation.

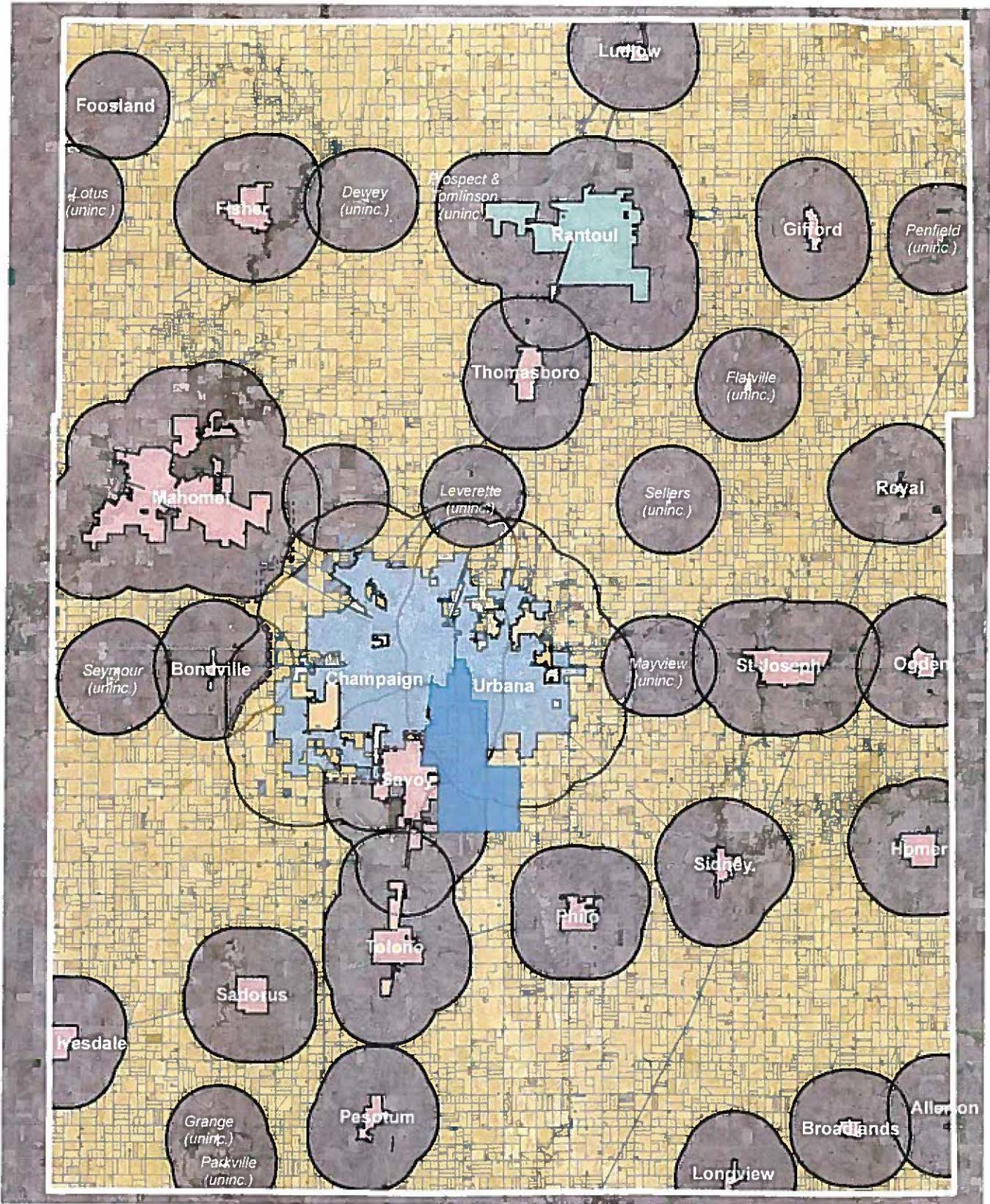
OVERVIEW OF ZONING CASE 973-AT-20 (continued)

6. Craft Grower and Cultivation Center are authorized by-right in all non-residential zoning districts, but a location within 300 feet of a residentially zoned lot or a residence requires a County Board approved special use permit (similar to Urbana). Also:
- Shall not be located less than 1.5 miles from a non-home rule municipality or a home-rule municipality with less than 20,000 population or any residential zoning district located more than 1.5 miles from home-rule municipality with 20,000 or more population. See the attached map.
 - If located within 1.5 miles from home-rule municipality with 20,000 or more population (Urbana) that requires odor mitigation, then odor mitigation required.
 - Co-location with other cannabis uses allowed as authorized under State law.
 - Nighttime lighting shall be controlled to ensure little to no light escape.

973-AT-20: Cultivation Center or Craft Grower

All cannabis related land uses are subject to State and local requirements

972-AT-20 & 973-AT-20
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Legend

- Cultivation Centers or Craft Growers Allowed
- Home Rule Muni. Area with >20,000 Population
- Home Rule Muni. Area with 20,000 or less Population
- Non-Home Rule Muni. Area
- Unincorporated residential zoned areas
- 1.5 mile separation
- University of Illinois



A County Board approved Special Use Permit is required if a Cultivation Center or Craft Grower seeks to locate 300 feet or less from a Residential District or residence. Unincorporated residential districts within 1.5 miles of Champaign-Urbana are mapped, but municipal residential zoning and parcels with residences are not; they would be identified on a case-by-case basis.

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Champaign County Farm Bureau

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Bradley Uken, *Manager*

June 4, 2020

Dear Members of the Environment and Land Use Committee:

Recently, the Champaign County Farm Bureau has had the opportunity to review zoning cases 972-AT-20 and 973-AT-20. These two cases as you are aware of address cannabis zoning in Champaign County. As an agricultural organization that represents thousands of rural residents in the county, zoning is always an interest of ours. Through the years we have examined and been part of dozens of discussions on various zoning proposals impacting the rural areas of the county. These two proposals are no different.

Our interest with these two proposals is the precedent that they could set in regulating an agricultural land use. While many may not view cannabis as an agricultural product, it is a plant that is grown for legal human consumption. In Illinois its growth is regulated by the Illinois Department of Agriculture. In our view, it fits within the agricultural zoning exemption set forth in the Illinois Statutes: "The powers [of this section] shall not be exercised...so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, which includes the growing of farm crops,...horticulture, nurseries,...or wholesale greenhouses when such agricultural purposes constitute the principle activity on the land,... or with respect to ...buildings or structures used or to be used for agricultural purposes upon such land except that such buildings or structures...may be required to conform to building or set back lines..."¹ Illinois courts, including the Illinois Supreme Court, have construed the agricultural zoning exemption broadly.²

In other words, the Illinois legislature sought to restrict zoning powers for agricultural uses and activities, except for setback limitations. These setback restrictions are generally intended to provide some distance between the building and property boundaries, roads, and public right-of-way. Counties may not use zoning to regulate land and buildings used for agricultural purposes, including limitations on size, location, and design.

Even though the Cannabis Regulation and Tax Act seemingly allows zoning regulation of cannabis businesses, we believe that the County should tread lightly, specifically concerning the agricultural practice of cannabis cultivation (as opposed to processing, sale, etc.). The precedent of attempting to

¹ 55 ILCS 5/5-12001.

² See County of Knox ex rel. Masterson v. Highlands, L.L.C., 188 Ill. 2d 546, 557, 723 N.E.2d 256, 263 (1999)(stating that the definition of "agriculture" is wide-ranging).

zone agricultural production could lead to future attempts to improperly regulate the diverse industry we have here in Champaign County. Could the county at some point say they don't want corn grown here because it creates blind corners for drivers during the summer and fall periods? While this idea would seem crazy to some, once the door has been open to zoning agriculture who exactly knows what future county boards, ZBAs and zoning staff may do to open that door even further.

I hope you better understand our interest in these two zoning cases. We believe that the county should not limit where cannabis cultivation centers and craft growers can locate since they are an agricultural enterprise.

Sincerely,

Mike Briggs, President
Champaign County Farm Bureau

Cc: John Hall