

CASE NO. 872-S-17 and 876-V-17

PRELIMINARY MEMORANDUM

May 4, 2017

Petitioners: Eldean Bergman, d.b.a. Border Magic LLC; with Kyle Britt and Alexander Wilson, d.b.a. Big Rig Diesel Service LLC

Request: Case 872-S-17

Authorize multiple principal uses and buildings on the same lot consisting of an existing landscape materials salesroom, an existing diesel truck maintenance facility, and an existing warehouse as a Special Use in the B-4 General Business Zoning District on the subject property described below.

Case 876-V-17

Authorize two principal structures with 3 feet of open space between them, in lieu of the minimum required 20 feet of open space in the B-4 General Business Zoning District, per Section 4.2.1 F.2. of the Zoning Ordinance on the subject property described below.

Location: Lots 1 and 2 of Pete Johnson Subdivision of Section 21 in Township 21 North, Range 9 East of the Third Principal Meridian in Rantoul Township and commonly known as the Border Magic salesroom and Big Rig Diesel truck repair, with an address of 1503 CR 2700N, Rantoul.

Site Area: 3.1 acres

Time Schedule for Development: Already in use

Prepared by: Susan Burgstrom
Senior Planner

John Hall
Zoning Administrator

BACKGROUND

Petitioner Eldean Bergman owns the subject property. Over the years, a variety of businesses have established in multiple buildings on the subject property, as reflected by several approved Change of Use Permits. On January 10, 2017, P&Z Staff sent a request for information to Kyle Britt and Alexander Wilson, who had recently opened Big Rig Diesel Service LLC on the property without applying for a Change of Use Permit. Further research by staff showed that multiple principal uses are operating on one lot, which requires a Special Use Permit. While multiple principal uses previously operated under Special Use Permit on the subject property, the previous SUP is no longer valid because the uses have changed and different principal buildings are involved. An annotated aerial photo showing the previous SUP buildings and uses, proposed SUP buildings and uses, and the proposed variance was created by staff on May 4, 2017 and included as a Document of Record.

Approximately 10 years ago, Mr. Bergman constructed a freestanding canopy between the 2 eastern buildings so his employees could have a shaded area to take breaks. Mr. Bergman states that he did not know a permit was required because it was not a walled building. Mr. Bergman would like to keep the structure, so a variance is required for the amount of open space available between the 2 eastern buildings.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	Commercial/Industrial	B-4 General Business
North	Commercial/Industrial (Advantage Trucking LLC)	B-4 General Business
East	Agriculture	R-5 Manufactured Home Park
West	Township Facility and Agriculture	AG-1 Agriculture
South	Agriculture	R-5 Manufactured Home Park

EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Rantoul, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases and Variance cases. Notice of the public hearing was sent to the Village.

The subject property is located within Rantoul Township, which has a Plan Commission. Townships with Plan Commissions have protest rights in Map Amendment cases. Notice of the public hearing was sent to the Rantoul Township Plan Commission. No comments have been received.

PROPOSED SPECIAL CONDITIONS

The following are proposed special conditions of approval for Special Use Permit Case 872-S-17:

- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 872-S-17.**

The above special condition is required to ensure the following:

The establishment of the proposed uses shall be properly documented as required by the Zoning Ordinance.

- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

The special conditions stated above are required to ensure the following:

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**

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

That all state accessibility requirements have been met.

- D. **By the end of 2017, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

There are no proposed special conditions of approval for Variance Case 876-V-17.

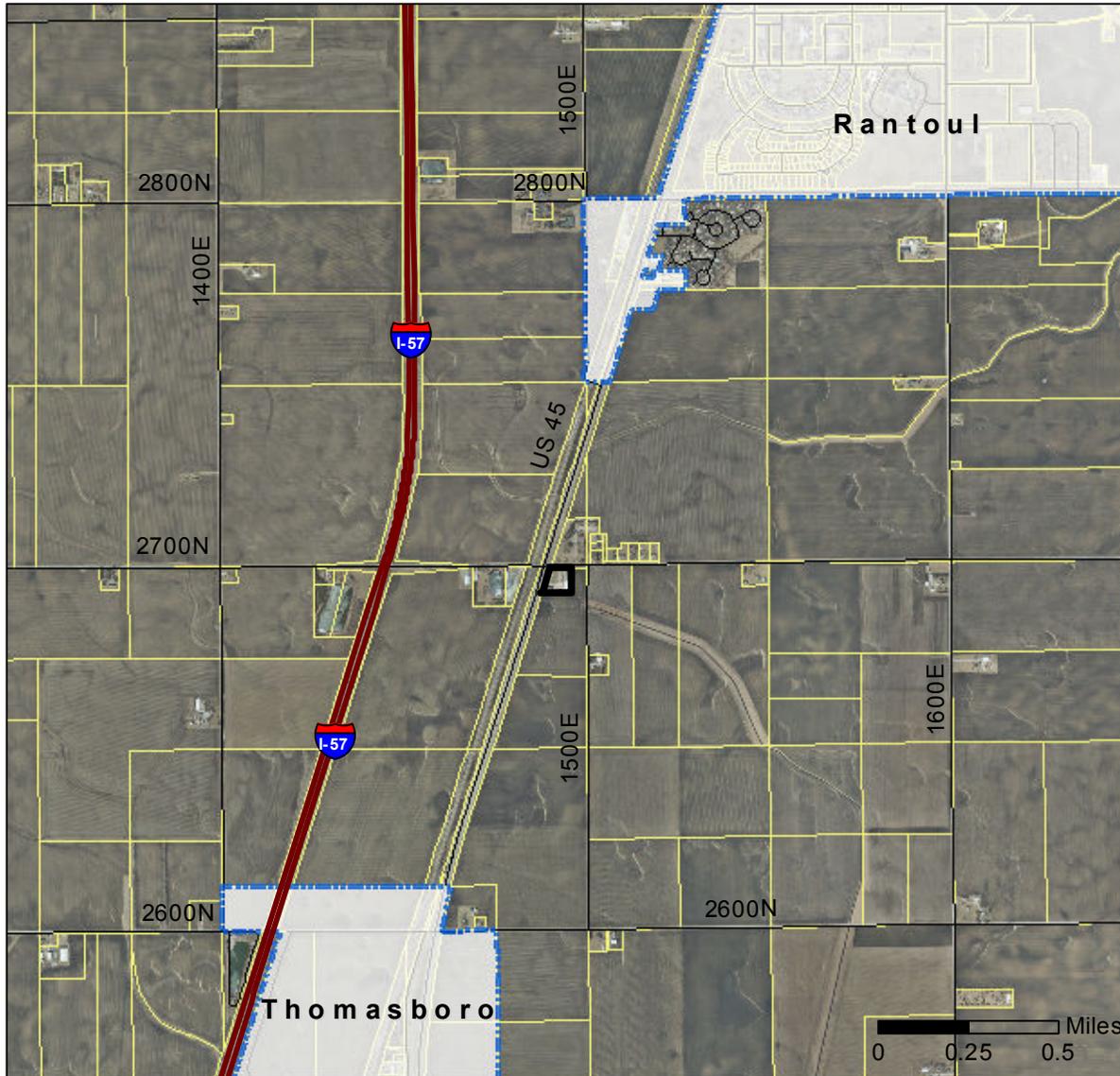
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received April 26, 2017
- C Site Plan from Case 469-S-04, approved November 23, 2004
- D Annotated aerial photo showing previous SUP, proposed SUP, and proposed variance, created by staff on May 4, 2017
- E Letter from P&Z Department to Big Rig Diesel Service dated January 10, 2017
- F Site Images packet
- G Summary of Evidence, Finding of Fact, and Final Determination for Cases 872-S-17 and 876-V-17

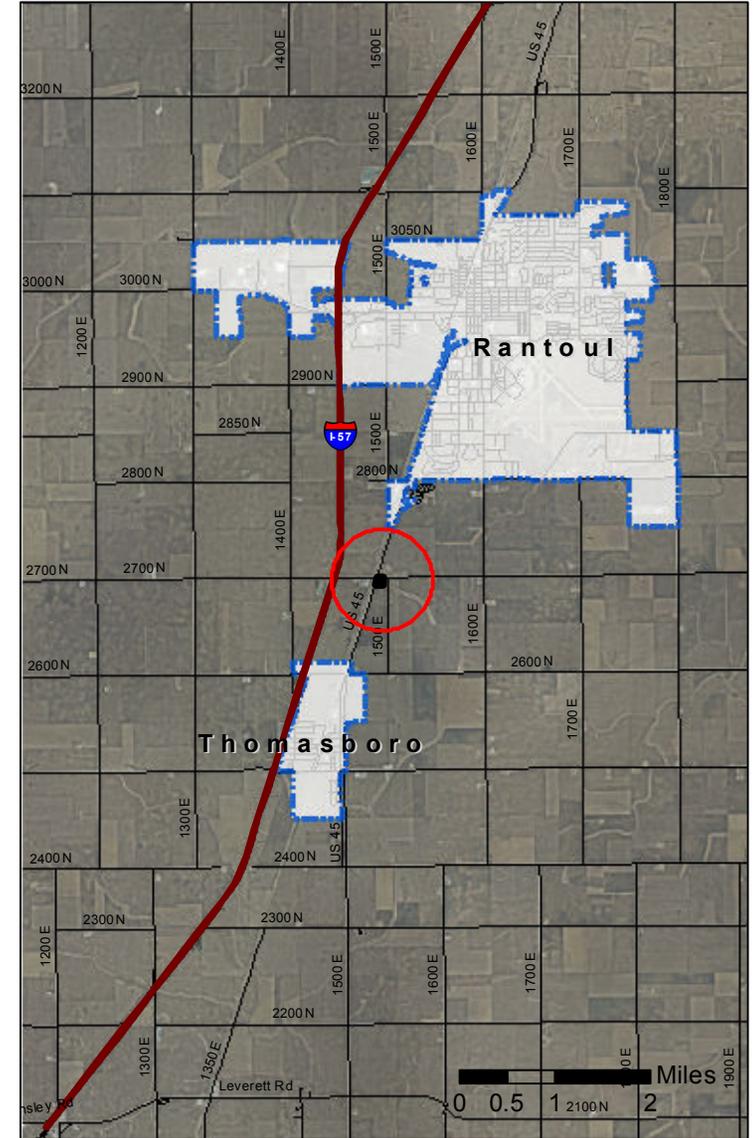
Location Map

Cases 872-S-17 and 876-V-17
May 11, 2017

Subject Property



Property location in Champaign County



Legend

-  Subject Property
-  Corporate Limits
-  Parcels
-  Streets



Champaign County
Department of
**PLANNING &
ZONING**

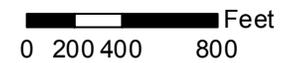
Land Use Map

Cases 872-S-17 and 876-V-17
May 11, 2017



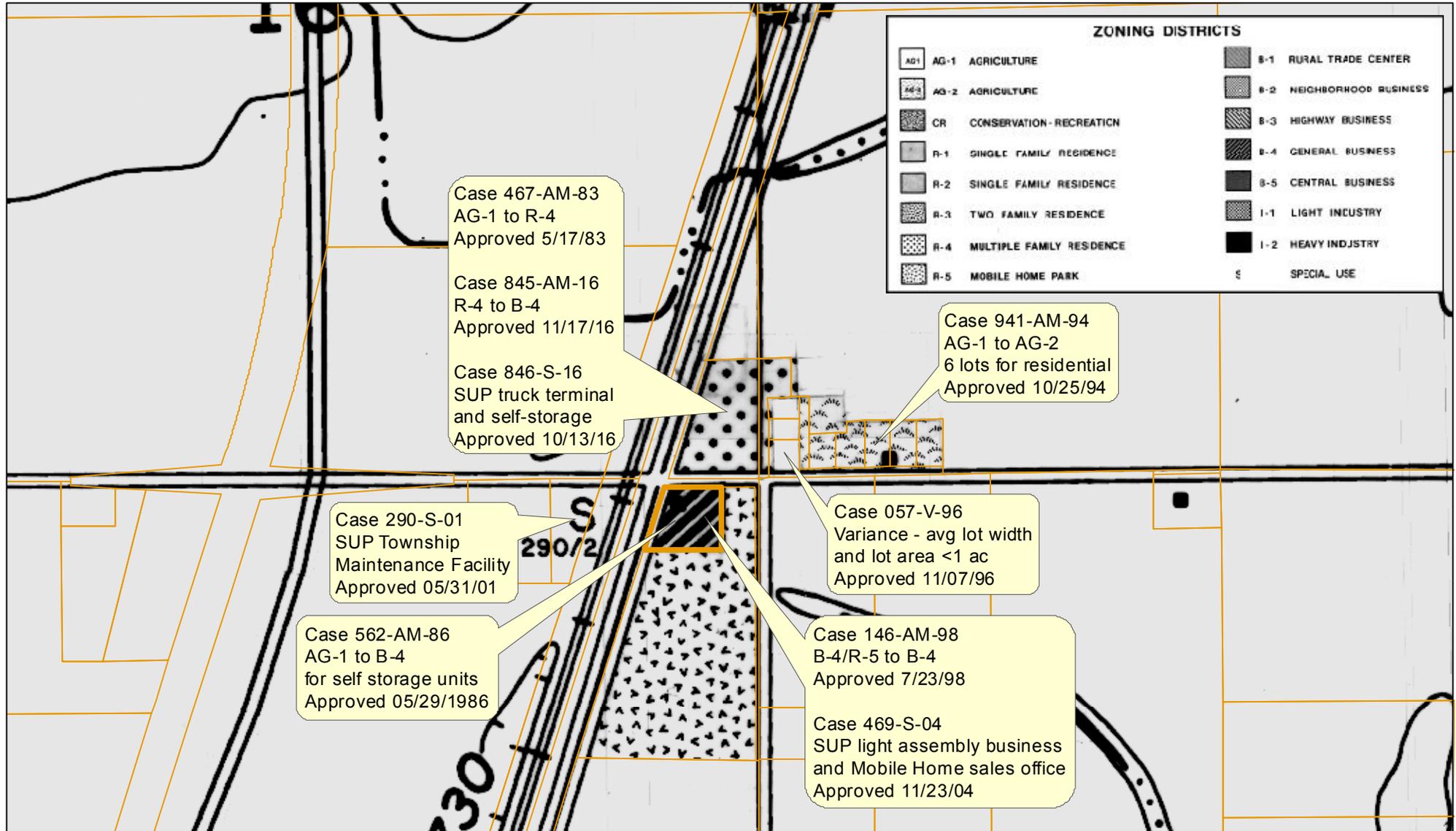
Legend

-  Subject Property
-  Parcels



Zoning Map

Cases 872-S-17 and 876-V-17
May 11, 2017



Legend

- Subject Property
- Parcels

0 200 400 800 Feet



SITE PLAN

COUNTY ROAD 2700 NORTH
N90°00.0'E

NE CORNER SECTION 21,
T21N, R9E 3rd P.M.

U.S. ROUTE 45
375.32'

COUNTY ROAD 1500 EAST

50.00'

N90°00.0'E

50.00'

174.02'

30 BUILDING SET-BACK LINE

150.00'

187.41'

30.00'

DESCRIPTION

LOTS 1 AND 2 OF PETE JOHNSON SUBDIVISION,
A SUBDIVISION IN CHAMPAIGN COUNTY, ILLINOIS.

SECTION LINE

BUILDING SET-BACK LINE

UTILITY EASEMENT

○ PROPOSED PARKING SPACE(S)

⌈ PROPOSED HANDICAPPED PARKING SPACE(S)

I have prepared, or caused to be prepared under my direct supervision, the attached plans and specifications and state that, to the best of my knowledge and belief and to the extent of my contractual obligations, they are in compliance with the Environmental Barriers Act (Ill. Rev. Stat. 1985, ch. 111 1/2, pars. 3711 et. seq. as amended), and the Illinois Accessibility Code, 71 Ill. Adm. Code 400.

Signed: *Roger O Meyer*
Architect/Engineer

ILLINOIS REGISTRATION NO. 52503

Date: *Aug. 26, 1998*

RECEIVED

JUN 30 2004

CHAMPAIGN CO. P & Z DEPARTMENT

MOORE SURVEYING & MAPPING
PAXTON, ILLINOIS

CLIENT ELDEAN BERGMAN	DATE AUG. 26, 1998	SCALE 1"=50'	JOB NO. 2545
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RECEIVED

APR 26 2017

CHAMPAIGN CO. P & Z DEPARTMENT

EB 4-26-17

N

50.00'

174.02'

30 BUILDING SET-BACK LINE

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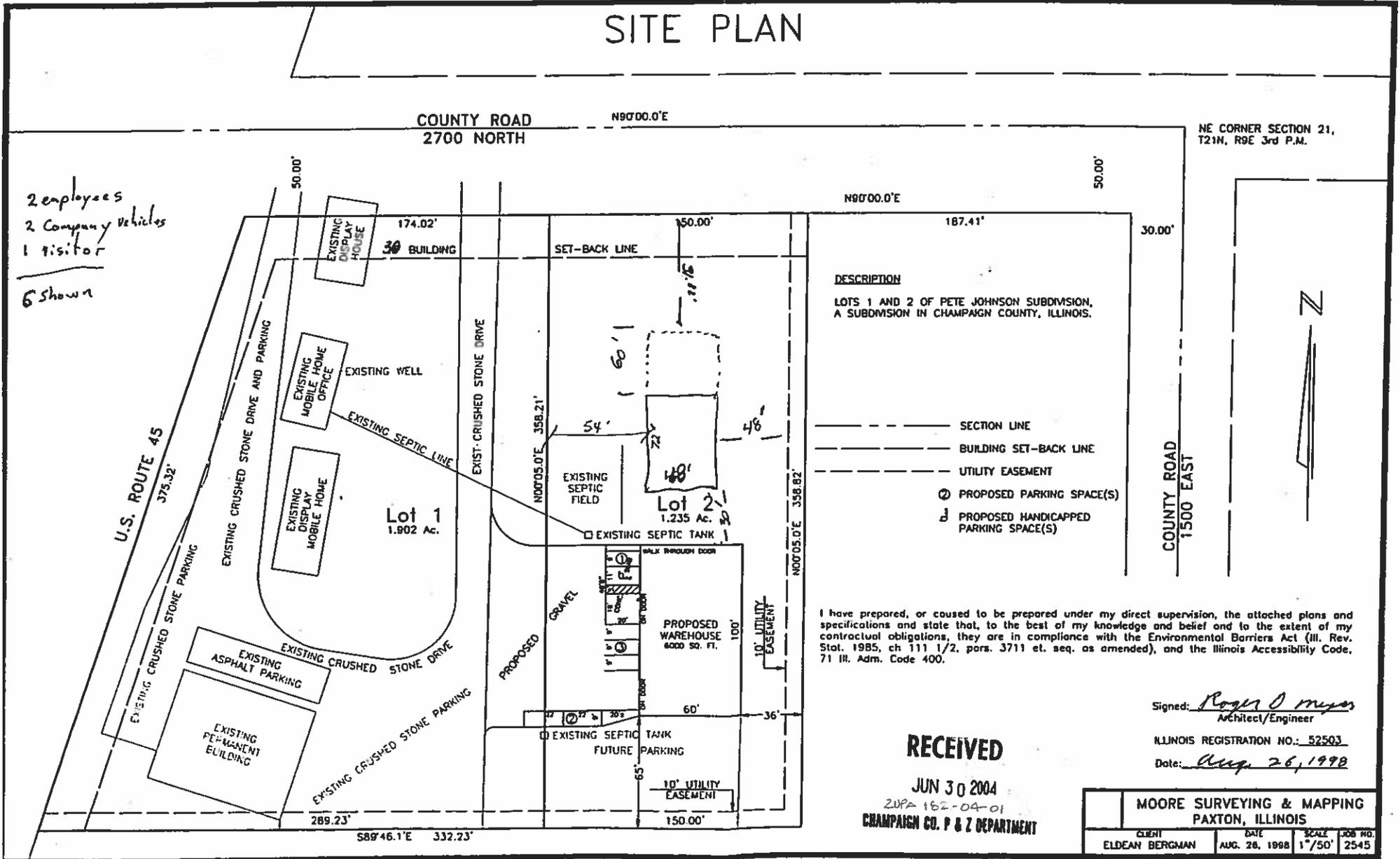
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SITE PLAN

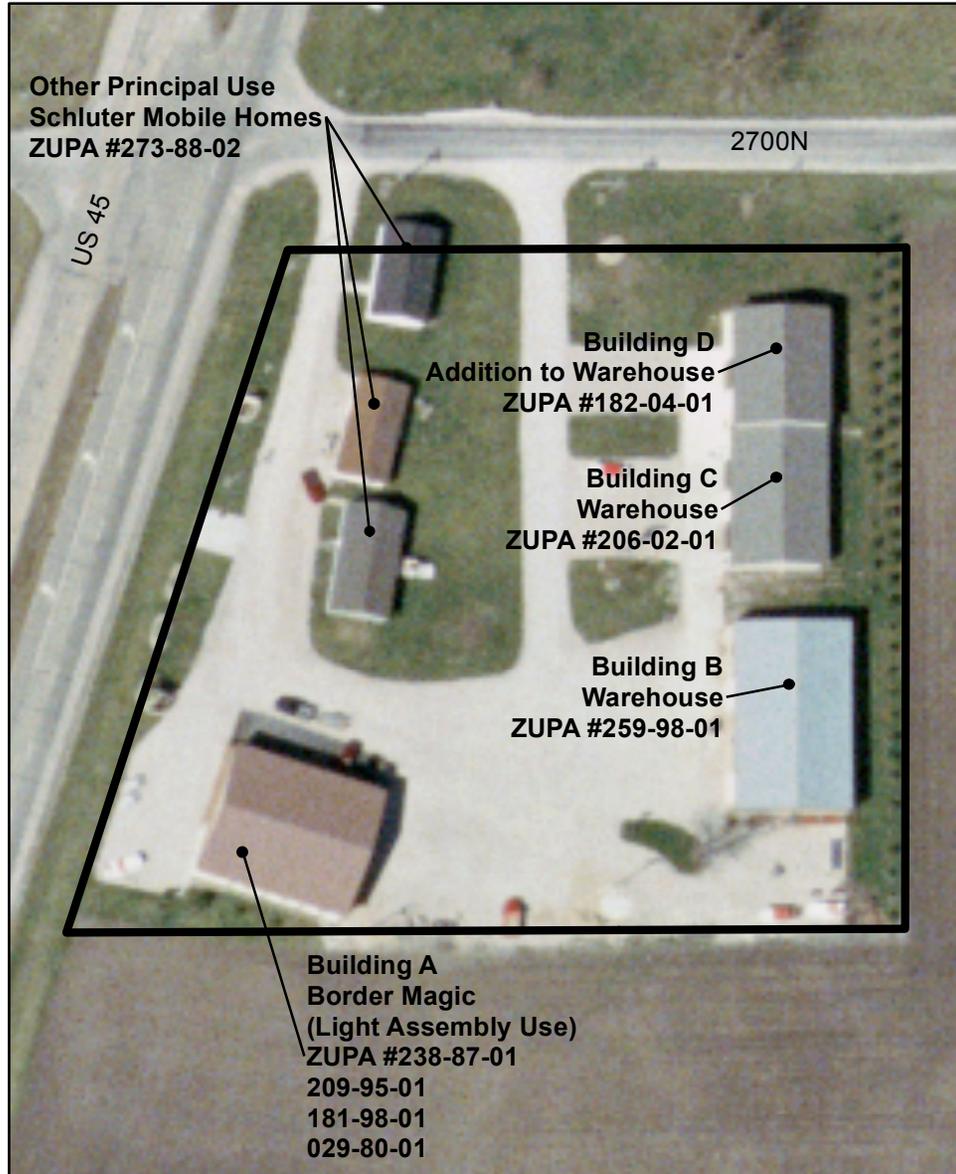


Site Plan for Case 469-S-04

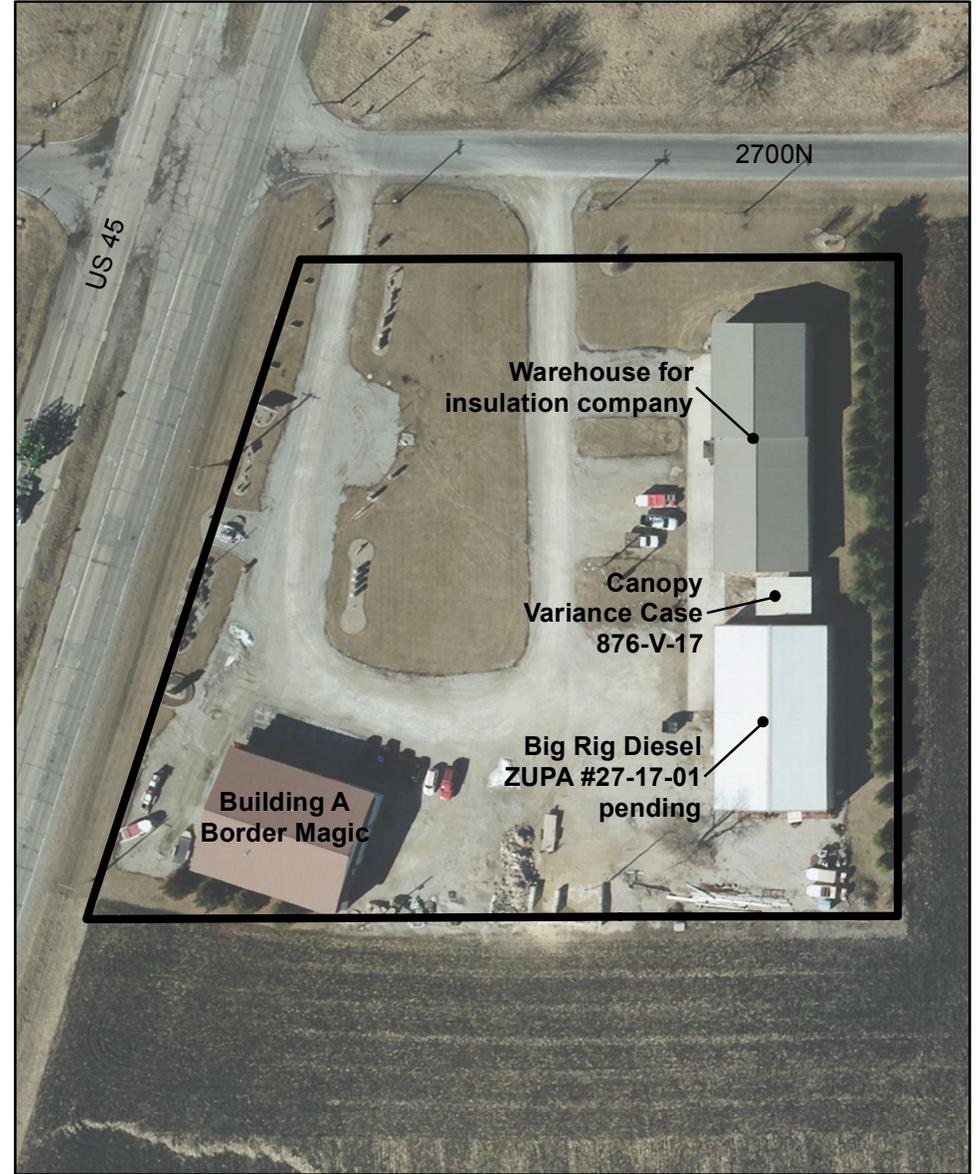
Annotated Aerial: Comparison of Cases 469-S-04 and 872-S-17

Cases 872-S-17 & 876-V-17
 May 11, 2017

Case 469-S-04 (2005 aerial)



Case 872-S-17 (2014 aerial)



Legend

Subject Property

0 25 50 100 Feet



Department of
 PLANNING &
 ZONING

January 10, 2017

Champaign
County
Department of



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

(217) 384-3708

Big Rig Diesel Service LLC
Kyle Britt & Alexander Wilson
1503 County Road 2700N
Rantoul, IL 61866

RE: Land Disturbance and Zoning Use Permit Application to Change the Use of an existing building to a diesel repair shop

Dear Mr. Britt and Mr. Wilson:

It has recently come to our attention that you are operating a business, *Big Rig Diesel Service LLC*, at 1503 County Road 2700N, Rantoul, Illinois, PIN: 20-09-21-200-011, the south building on Lot 2 of Pete Johnson Subdivision, without first obtaining a Change of Use Permit from the Champaign County Department of Planning & Zoning. The subject property is zoned B-4, General Business, which allows a Major Automobile Repair business as long as the repairs and activities associated with the business (storage of parts) are conducted *indoors*. The fee for a Change of Use Permit is \$65.

If another business is or will be occupying the north building on Lot 2 of Pete Johnson Subdivision, a Special Use Permit will be required to authorize two principal uses on one lot. If it is vacant or if you are occupying that space, then a Special Use Permit is not required.

If you are proposing to place a wall sign on the building, you should include it on this permit. You can install no more than 3 wall signs on the buildings that encompass no more than 15% of the wall face. The fee for each wall sign is \$33 plus a one-time Zoning Compliance Certificate fee of \$33.

If you are proposing a freestanding sign, no more than one sign can be placed along County Road 2700N, no less than 25 feet east of the existing gravel drive surface. You cannot place a sign along Route 45 because your property (Lot 2 of Pete Johnson Subdivision) does not have frontage on Route 45. The fee for a freestanding sign is based on the square footage of the sign.

Please complete the Land Disturbance and Zoning Use Permit Application (Change of Use and possible sign(s)) and return it, along with the fees, to our office by no later than **January 26, 2017**. Once your application is received by our office, it is reviewed for compliance with the Champaign County Zoning Ordinance. Other approvals may be required. If you have any questions regarding this letter, please contact our office at 217-384-3708.

Sincerely,

Lori Busboom
Planning & Zoning Technician

Enclosures: LDZUPA, B-4 Handout, Special Use information & letter

Case 872-S-17 and 876-V-17 Images



Warehouse on left, Big Rig Diesel on right



Big Rig Diesel on left, Border Magic on right

Case 872-S-17 and 876-V-17 Images



872-S-17/876-V-17
04-20-17

Big Rig Diesel



872-S-17/876-V-17
04-20-17

Warehouse on left, Big Rig Diesel on right, canopy structure in middle

Case 872-S-17 and 876-V-17 Images



Canopy between warehouse and Big Rig Diesel



Stockpiles behind truck, south end of property

PRELIMINARY DRAFT

872-S-17 and 876-V-17

**SUMMARY OF EVIDENCE, FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

Final Determination: ***{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}***

Date: ***{May 11, 2017}***

Petitioners: **Eldean Bergman, d.b.a. Border Magic LLC; with Kyle Britt and Alexander Wilson, d.b.a. Big Rig Diesel Service LLC**

Request: **CASE 872-S-17**

Authorize multiple principal uses and buildings on the same lot consisting of an existing landscape materials salesroom, an existing diesel truck maintenance facility, and an existing warehouse as a Special Use in the B-4 General Business Zoning District on the subject property described below.

CASE 876-V-17

Authorize two principal structures with 3 feet of open space between them, in lieu of the minimum required 20 feet of open space in the B-4 General Business Zoning District, per Section 4.2.1 F.2. of the Zoning Ordinance on the subject property described below.

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Case 876-V-17 Final Determination 29

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 11, 2017**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Eldean Bergman, 32 N 2280E, Paxton, d.b.a. Border Magic LLC, owns the subject property. Co-petitioners Kyle Britt and Alexander Wilson, 1503 CR 2700 N, Rantoul, d.b.a. Big Rig Diesel Service LLC, rent their facility from Mr. Bergman.
2. The subject property is Lots 1 and 2 of Pete Johnson Subdivision of Section 21 in Township 21 North, Range 9 East of the Third Principal Meridian in Rantoul Township and commonly known as the Border Magic salesroom and Big Rig Diesel truck repair, with an address of 1503 CR 2700N, Rantoul.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is located within the one and one-half mile extraterritorial jurisdiction of the Village of Rantoul, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases and Variance cases. Notice of the public hearing was sent to the Village.
 - B. The subject property is located within Rantoul Township, which has a Plan Commission. Townships with Plan Commissions have protest rights in Variance cases. Notice of the public hearing was sent to the Rantoul Township Plan Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 3.1 acre tract and is currently zoned B-4 General Business. Land use is the Border Magic salesroom, Big Rig Diesel truck maintenance facility, and a warehouse rented by an insulation company.
 - a. The diesel truck maintenance facility is classified as the “Major AUTOMOBILE Repair (all indoors)” land use for *Zoning Ordinance* purposes.
 - b. Case 469-S-04 was approved on November 23, 2004, for a multiple use Special Use Permit for a light assembly business and Mobile Home sales office. While multiple principal uses previously operated under Special Use Permit 469-S-04 on the subject property, that SUP is no longer valid because the uses have changed and different principal buildings are involved.
 - c. An annotated aerial photo showing the previous SUP buildings and uses, proposed SUP buildings and uses, and the proposed variance was created by staff on May 4, 2017 and included as a Document of Record.
 - B. Land to the north of the subject property is zoned B-4 General Business and is pending construction of a truck terminal and self-storage warehouses (Advantage Trucking).
 - C. Land to the south and east of the subject property is zoned R-5 Manufactured Home Park and is in agricultural production.

PRELIMINARY DRAFT**Cases 872-S-17 & 876-V-17**

Page 3 of 29

- D. Land to the west is zoned AG-1 Agriculture and is the Rantoul Township facility surrounded by land in agricultural production.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the site plan and operations of the proposed Special Use:
- A. The site plan received April 26, 2017, indicates the following existing features:
- (1) One 5,200 square feet building on the southwest corner of the subject property, which houses Border Magic;
 - (2) One 6,480 square feet warehouse on the northeast portion of the subject property, rented by an insulation company;
 - (3) One 6,000 square feet building on the southeast portion of the subject property, which houses Big Rig Diesel Truck Repair;
 - (4) One CANOPY between Big Rig Diesel and the warehouse, originally built for employees to use as a shaded break area, but currently used for open storage;
 - (5) An existing crushed stone driveway providing access to all 3 buildings;
 - (6) Paved parking areas in front of each building, with one accessible parking space in front of Big Rig Diesel Truck Repair;
 - (7) A materials stockpile area surrounded on three sides by concrete blocks on the south end (rear yard) of the subject property;
 - (8) A septic tank northwest of Big Rig Diesel, which the petitioner believes is not in use;
 - (9) A septic tank southwest of Big Rig Diesel, which the petitioner believes connects to the Border Magic building;
 - (10) A new septic tank northeast of Big Rig Diesel, which connects to the Big Rig Diesel building; and
 - (11) A 10 feet wide utility easement on the south and east property lines.
- B. Previous Zoning Use Permits on the subject property are as follows:
- (1) Case 469-S-04 Preliminary Memorandum dated November 18, 2004 provided a timeline of permits for the subject property:
 - a. ZUPA #029-80-01 was a Change of Use Permit approved on February 26, 1980, for Dick Bement to establish the Route 45 North Auction Center.
 - b. ZUPA #044-80-01 was approved for Dick Bement on February 20, 1980, for placement of a freestanding sign.
 - c. ZUPA #321-84-04 was approved for Dick Bement on November 16, 1984, for placement of a freestanding sign.

PRELIMINARY DRAFT

- d. ZUPA #238-87-01 was a Change of Use Permit approved on August 26, 1987, for Eldean Bergman to establish B&H Investments wholesale business in the building that now houses Border Magic.
- e. ZUPA #28-88-01 was approved for Eldean Bergman on January 28, 1988, for placement of a wall sign.
- f. ZUPA #273-88-02 was approved on September 29, 1988, for Schluter Homes, Inc. to construct a new mobile home sales office in the northwest portion of Lot 1.
- g. ZUPA #209-95-01 was a Change of Use Permit approved on July 31, 1995, for Deborah Dancker d.b.a. Visions on Glass to establish a building materials sales business in the building that now houses Border Magic.
- h. The “Border Magic” name first appears in the zoning records in 1998 in the following actions:
 - (a) In order to expand his contracting business known as Border Magic that was located in the same building on the same property as Visions on Glass, Mr. Bergman purchased an additional strip of land 107 feet wide and abutting the east side of the property and subdivided a two-lot subdivision, the Pete Johnson Subdivision that was approved by the Village of Rantoul and applied on June 19, 1998 to rezone Lot 2 to B-4 General Business zoning, the same as Lot 1, in Case 146-AM-98 that was approved by the Champaign County Board on July 23, 1998.
 - (b) On June 30, 1998, Eldean Bergman d.b.a. Border Magic submitted ZUPA #181-98-01 for a Change of Use to establish a contractor’s facility for the Border Magic Business. The site plan indicates that the Border Magic business was to occupy the same portion of the block building as the previous Visions on Glass.
- i. ZUPA #259-98-01 was approved for Eldean Bergman on September 16, 1998, to construct a 60 feet by 100 feet detached storage building (now used by Big Rig Diesel) as a joint lot development on Lots 1 and 2 of the subject property.
- j. ZUPA #206-02-01 was approved for Eldean Bergman on August 20, 2002, to construct a 48 feet by 72 feet storage building as a joint lot development on Lots 1 and 2 of the subject property.
- k. ZUPA #182-04-01 was approved for Eldean Bergman on July 16, 2004, to expand the warehouse authorized by ZUPA #206-02-01 by 2,880 square feet. Upon inspection of the subject property, Jeffry Roseman, Zoning Administrator, determined that the volume of materials onsite related to light assembly of the Border Magic trailers required that the use be considered a Light Assembly use which requires a Special Use Permit in the B-4 District (Case 469-S-04, approved November 23, 2004).

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- (2) ZUPA #27-17-01 is a Change of Use Permit request for Big Rig Diesel, pending approval of these zoning cases.
- C. Previous Zoning Cases on the subject property are as follows:
- (1) Case 146-AM-98 approved July 23, 1998, was to rezone Lot 2 from R-5 Manufactured Home Park zoning to B-4 General Business.
 - (2) Case 469-S-04 was approved on November 23, 2004, for a multiple use Special Use Permit for a light assembly business and Mobile Home sales office.
- D. Previous Zoning Cases in the immediate area of the subject property are as follows:
- (1) Case 562-AM-86 was approved on May 29, 1986, to rezone the property on the southwest corner of CR2700N and US45 North from AG-1 to B-4 zoning in order to establish self-storage units.
 - (2) Case 941-AM-94 approved October 25, 1994, was to rezone a subdivision from AG-1 to AG-2 to create 6 residential lots northeast of the subject property.
 - (3) Case 057-V-96 approved November 7, 1996, was a variance for average lot width and for a lot area of less than one acre on a residential property northeast of the subject property.
 - (4) Case 290-S-01 was approved on May 31, 2001, for a new Rantoul Township maintenance facility on the southwest corner of CR2700N and US45 North.
 - (5) Cases 845-AM-16 and 846-S-16 were approved on November 17, 2016, for rezoning from R-4 to B-4 in order to establish and operate multiple principal uses including a truck terminal and self-storage warehouses at the former Cherry Orchard property directly north of the subject property.
- E. The required Variance is to authorize two principal structures with 3 feet of open space between them, in lieu of the minimum required 20 feet of open space in the B-4 General Business Zoning District, per Section 4.2.1 F.2. of the Zoning Ordinance.
- (1) The relevant buildings for the variance are the warehouse at the north end of Lot 2 and the building occupied by Big Rig Diesel on the south end of Lot 2.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for a landscape materials salesroom, a diesel truck maintenance facility, and a warehouse on the same lot in the B-4 General Business Zoning DISTRICT in the *Zoning Ordinance*:
- A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
- (1) “ACCESSORY USE” is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
 - (2) “AREA, LOT” is the total area within the LOT LINES.

- (3) “BERTH, LOADING” is a stall of dimensions herein specified, adjacent to a LOADING DOCK for the maneuvering and parking of a vehicle for loading and unloading purposes.
- (4) “BUILDING” is an enclosed STRUCTURE having a roof supported by columns, walls, arches, or other devices and used for the housing, shelter, or enclosure of persons, animal, and chattels.
- (5) “BUILDING, DETACHED” is a BUILDING having no walls in common with other BUILDINGS.
- (6) “BUILDING, MAIN or PRINCIPAL” is the BUILDING in which is conducted the main or principal USE of the LOT on which it is located.
- (7) “BY RIGHT” is a term to describe a USE permitted or allowed in the DISTRICT involved, without review by the BOARD or GOVERNING BODY, and complying with provisions of the Zoning Ordinance and with other applicable ordinances and regulations.
- (8) “CANOPY” is a non-retractable roof-like STRUCTURE of either a permanent or non-permanent nature which projects from the wall of a STRUCTURE, is supported above the surface of the ground by poles, posts, columns, beams, girders, or other similar framework attached to the ground, and overhangs or covers the public way or adjacent YARD or COURT.
- (9) “DISCRETIONARY DEVELOPMENT” is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations
- (10) “ESTABLISHMENT” is a business, retail, office, or commercial USE. When used in the singular this term shall be construed to mean a single USE, BUILDING, STRUCTURE, or PREMISES of one of the types here noted.
- (11) “LIGHT ASSEMBLY” is the manufacture of finished goods from components manufactured elsewhere and not involving hazardous materials of such a type or in such quantities or concentrations as are not customary with other uses permitted as of right in the DISTRICT; and not creating noise, vibration, odor, fumes, smoke, heat, glare or electromagnetic fields discernable beyond the BUILDING or BUILDINGS in which such manufacture occurs.
- (12) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (13) “LOT, CORNER” is a LOT located:
 - (a) at the junction of and abutting two or more intersecting STREETS; or

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- (b) at the junction of and abutting a STREET and the nearest shoreline or high water line of a storm or floodwater runoff channel or basin; or
 - (c) at and abutting the point of abrupt change of a single STREET where the interior angle is less than 135 degrees and the radius of the STREET is less than 100 feet.
- (14) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
- (15) “LOT LINES” are the lines bounding a LOT.
- (16) “OPEN SPACE” is the unoccupied space open to the sky on the same LOT with a STRUCTURE.
- (17) “OPERATIONS” are processing, assembly, fabrication, or handling of materials or products or movement of bulk materials or products not in containers or pipelines.
- (18) “PARCEL” is a designated tract of land entered as a separate item on the real estate tax assessment rolls for the purpose of taxation.
- (19) “PLAT” is a map, plan or layout showing the SUBDIVISION of land and indicating the location and boundaries of individual LOTS.
- (20) “SCREEN” is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.
- (21) “SCREEN PLANTING” is a vegetative material of sufficient height and density to filter adequately from view, in adjoining DISTRICTS, STRUCTURES, and USES on the PREMISES upon which the SCREEN PLANTING is located.
- (22) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (23) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (24) “STORAGE” is the presence of equipment, or raw materials or finished goods (packaged or bulk) including goods to be salvaged and items awaiting maintenance or repair and excluding the parking of operable vehicles.
- (25) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS

are identified on the Official Zoning Map according to type of USE, and generally as follows:

- (a) MAJOR STREET: Federal or State highways.
 - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
 - (c) MINOR STREET: Township roads and other local roads.
- (26) “STRUCTURE” is anything CONSTRUCTED or erected with a fixed location on the surface of the ground or affixed to something having a fixed location on the surface of the ground. Among other things, STRUCTURES include BUILDINGS, walls, fences, billboards, and SIGNS.
- (27) “STRUCTURE, MAIN or PRINCIPAL” is the STRUCTURE in or on which is conducted the main or principal USE of the LOT on which it is located.
- (28) “SUITED OVERALL” is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be SUITED OVERALL if the site meets these criteria:
- a. The site features or site location will not detract from the proposed use;
 - b. The site will not create a risk to health, safety or property of the occupants, the neighbors or the general public;
 - c. The site is not clearly inadequate in one respect even if it is acceptable in other respects;
 - d. Necessary infrastructure is in place or provided by the proposed development; and
 - e. Available public services are adequate to support the proposed development effectively and safely.
- (29) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
- (30) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
- (31) “WAREHOUSE” is a BUILDING within which raw materials, goods, or equipment including vehicles, are kept and wherein no manufacturing, assembly, construction, repair, sales or other activity is performed except for the packaging of goods and materials for shipment.
- B. Section 4.2.1.F. states that more than one main or principal structure or building per lot is authorized by Special Use Permit in the R-4 Multiple Family Residence, B-1 Rural Trade Center, B-2 Neighborhood Business, B-3 Highway Business, B-4 General Business, B-5 Central Business, I-1 Light Industry, and I-2 Heavy Industry Zoning Districts.
- 1. Subsection 4.2.1.F.2 identifies the criteria that must be met:
 - a. The requirements of Section 9.1.11, SPECIAL USES, shall be met.

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- b. The USES are permitted either by right or as a SPECIAL USE in the DISTRICT in which the LOT or parcel of land is located.
 - c. The regulations and standards for the DISTRICT in which the LOT is located shall be met.
 - d. A LOT may be occupied by two or more MAIN or PRINCIPAL STRUCTURES or BUILDINGS as authorized by a SPECIAL USE under this section, when adequate OPEN SPACE is provided between all STRUCTURES and BUILDINGS in accordance with the following standards:
 - (a) For STRUCTURES in the Business or Industrial DISTRICTS the required minimum depth of such OPEN SPACE shall be determined by doubling the required SIDE YARD in the DISTRICT in which the LOT or parcel is located.
 - (b) The minimum depth of such OPEN SPACE, for the purpose of these standards, shall be measured at the closest point between BUILDINGS including any projecting eave, balcony, canopy, awning, or other similar projection.
 - (c) Single Family, Two-Family, Multiple Family or institutional BUILDINGS shall be located on the LOT in conformance to the provisions of Section 4.2.2C.
- C. Section 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.

- D. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:
- (1) Section 7.4.1 A. states, “All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served”.
 - (2) Section 7.4.1 C.2. states, “The number of such PARKING SPACES shall be the sum of the individual requirements of the various individual ESTABLISHMENTS computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.”
 - (3) Section 7.4.1 C.3.e. states, “Any other establishments than specified will provide one parking space for every 200 square feet of floor area.”
 - (4) Section 7.4.1 C.4. states, “Required parking SCREENS for commercial ESTABLISHMENTS shall be provided as follows:
 - a. Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a TYPE B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.
 - b. Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.”
 - (6) Section 7.4.1 D. states, “Off-street PARKING SPACES for Industrial USES shall be provided as follows:
 - a. One space shall be provided for each three employees based upon the maximum number of persons employed during one work period during the day or night, plus one space for each VEHICLE used in the conduct of such USE. A minimum of one additional space shall be designated as a visitor PARKING SPACE.
 - b. All such spaces shall be surfaced with an all-weather dustless material.
 - c. Required parking SCREENS for industrial USES shall be provided as required in paragraph 7.4.1 C.4.
 - (7) Section 7.4.2 refers to off-street LOADING BERTHS:

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- a. All LOADING BERTHS shall have vertical clearance of at least 14 feet.
 - b. All LOADING BERTHS shall be designed with appropriate means of vehicular access to a STREET or ALLEY in a manner which will least interfere with traffic movement.
 - c. No VEHICLE repair or service work shall be performed on any LOADING BERTH.
 - d. No LOADING BERTH shall be located less than 10 feet from any FRONT LOT LINE and less than five feet from any side or REAR LOT LINE.
 - e. Section 7.4.2 C. states, “Off-street LOADING BERTHS for commercial ESTABLISHMENTS shall be provided as follows:
 - (a) All LOADING BERTHS shall be located on the same LOT or tract of land as the ESTABLISHMENT served except when serving adjacent ESTABLISHMENTS when the LOADING BERTH requirement is sufficient to serve both ESTABLISHMENTS.
 - (b) No such BERTH shall be located within any YARD abutting a residential DISTRICT or located less than 100 feet from the BUILDING RESTRICTION LINE of any LOT in the R DISTRICT or any LOT containing a DWELLING conforming as to USE unless such BERTH is screened from public view by a Type C SCREEN. If the berth is located adjacent to an elevated loading dock, however, a Type D SCREEN shall be used to screen both the loading berth and the loading dock.
 - (c) No LOADING BERTH shall be located within 50 feet of the nearest point of intersection of two STREETS.
 - (d) All LOADING BERTHS shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - (e) Schedule of off-street LOADING BERTHS is provided under Section 7.4.2 C.5. on page 7-23 of the Zoning Ordinance.
- E. Section 7.6 establishes the following conditions for Outdoor Storage and/or Outdoor Operations:
- (1) Part 7.6.1 states that “Outdoor STORAGE and/or OPERATIONS shall be allowed in all DISTRICTS only as ACCESSORY USES unless permitted as a principal USE in Section 5.2 and shall be allowed in any YARD in all DISTRICTS subject to the provisions of Section 7.2 without a permit provided that outdoor STORAGE and/or outdoor OPERATIONS shall not be located in any required off-street PARKING SPACES or LOADING BERTHS.

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- (2) Part 7.6.2 states that “a Type D SCREEN shall be located so as to obscure or conceal any part of any YARD used for outdoor STORAGE and/or outdoor OPERATIONS which is visible within 1,000 feet from any of the following circumstances:
- a. Any point within the BUILDING RESTRICTION LINE of any LOT located in any R DISTRICT or any LOT occupied by a DWELLING conforming as to USE or occupied by a SCHOOL; church or temple; public park or recreational facility; public library, museum, or gallery; public fairgrounds; nursing home or HOSPITAL; recreational business USE with outdoor facilities; or
 - b. Any designated urban arterial street or MAJOR STREET.”
- (3) Part 7.6.3 A. states that “The screen shall meet the requirements of Sections 4.3.3 E, F and G.”
- F. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - a. That special conditions and circumstances exist which are peculiar to the land or structure involved that are not applicable to other similarly situated land or structures elsewhere in the same district.
 - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
 - d. That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
 - (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.
- G. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;

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- (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
- a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
 - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
 - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
- (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
- (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
- (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- H. Paragraph 9.1.11 D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.
- I. Regarding the proposed variance:
- (1) Minimum OPEN SPACE between two principal structures in the B-4 Zoning District is established in Section 4.2.1 F.2.d. of the Zoning Ordinance as double the required SIDE YARD in the DISTRICT in which the LOT or parcel is located.
 - a. The minimum side yard in the B-4 Zoning District is established in Section 5.3 of the Zoning Ordinance as 10 feet; the minimum OPEN SPACE between principal buildings will thus be 20 feet.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioners testified on the application, **“Reuse of building that was part of Berggie Mfg.”**

- B. The subject property is adjacent to US45 North and is located about 4 miles south of the I-57 interchange at Rantoul.

GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:

- A. The Petitioners have testified on the application, **“It is used as it has been before with no problems.”**
- B. Regarding surface drainage:
- (1) A Natural Resource Report by the Champaign County Soil and Water Conservation District was not required because the site was already developed.
 - (2) The petitioners are not proposing any new construction, so agricultural drainage should not be affected.
- C. Regarding impacts on traffic:
- (1) The subject property fronts the south side of CR2700N and is on the east side of US Route 45 North. The property only has access on CR2700N. Regarding the general traffic conditions on CR2700N at this location and the level of existing traffic and the likely change from the proposed Special Use:
 - a. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). CR2700N had an ADT of 250 near the subject property in 2011. US45 North had an ADT of 7,350 near the subject property in 2015.
 - b. The Illinois Department of Transportation’s *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. There is 2 feet of gravel shoulder on both sides of the 20 feet wide road.
 - c. The pavement surface of CR2700N in the vicinity of the subject property is oil and chip. The pavement width is about 20 feet, which would equate to a maximum recommended traffic volume of no more than 400 ADT.
 - d. Information on the traffic generated by the proposed Special Use was not submitted, but no change in land use is expected that would significantly increase traffic.
 - e. The subject property is adjacent to US Route 45 North and is located about 4 miles south of the I-57 interchange at Rantoul.

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- D. Regarding fire protection on the subject property, the subject property is located approximately 2.2 miles from the Thomasboro Fire Protection District station. A notice of these zoning cases was sent to the Thomasboro Fire Protection District but no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The soil on the subject property is best prime farmland, consists of 149A Brenton silt loam and 152A Drummer silty clay loam, and has an average Land Evaluation (LE) of 100.
- a. The subject property has not been in agricultural production for many years.
- G. Regarding outdoor lighting on the subject property:
- (1) No outdoor lighting was indicated on the Site Plan received April 26, 2017. A special condition has been added to ensure that any future outdoor lighting complies with Section 6.1.2 of the *Zoning Ordinance*.
- H. Regarding wastewater treatment and disposal on the subject property:
- (1) There are 3 septic tanks on the subject property:
 - a. A septic tank northwest of Big Rig Diesel, which the petitioner believes is not in use (was connected to the previous mobile home sales trailer);
 - b. A septic tank southwest of Big Rig Diesel, which the petitioner believes connects to the Border Magic building; and
 - c. A new septic tank northeast of Big Rig Diesel, which connects to the Big Rig Diesel building.
- I. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application: **“Yes, it will be used for previous use.”**
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) A landscape materials salesroom (Business Office) is authorized by-right in the B-4 General Business Zoning District.
 - (2) A Major AUTOMOBILE Repair (all indoors) is authorized by-right in the B-4 General Business Zoning District.

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- (3) A warehouse is authorized by-right in the B-4 General Business Zoning District.
 - (4) More than one main or principal structure or building per lot is authorized by Special Use Permit in the B-4 General Business Zoning District.
 - (5) Regarding parking on the subject property for the existing landscape materials salesroom, an existing diesel truck maintenance facility, and existing warehouse:
 - a. Parking calculations are based on the following buildings and their uses:
 - (a) One 5,200 square feet building on the southwest corner of the subject property, which houses Border Magic, is a Commercial Use for purposes of calculating parking requirements.
 - (b) One 6,336 square feet warehouse on the northeast portion of the subject property, rented by an insulation company for materials storage only, is an Industrial Use for purposes of calculating parking requirements.
 - (c) One 6,000 square feet building on the southeast portion of the subject property, which houses Big Rig Diesel Truck Repair, is an Industrial Use for purposes of calculating parking requirements.
 - b. Commercial uses not specifically listed in the Zoning Ordinance must provide 1 space per every 200 square feet of floor area or portion thereof.
 - (a) The 5,200 square feet Border Magic building will require 26 parking spaces, including at least one loading berth.
 - c. Industrial uses require 1 space for each 3 employees, 1 space for each vehicle used in the conduct of such use, and 1 visitor space.
 - (a) The warehouse rented by the insulation company will require 1 space for employees, 1 space for a company vehicle, 1 visitor space, and 1 loading berth, for a total of 4 spaces.
 - (b) Big Rig Diesel will require 1 parking spaces for employees, 0 spaces for company vehicles, 1 visitor space, and 1 loading berth, for a total of 3 parking spaces.
 - (c) There are 33 total off-street parking spaces required for the subject property, including commercial and industrial uses.
 - d. Regarding handicapped accessible parking spaces, the Illinois Accessibility Code requires a minimum of 2 accessible spaces for 26 to 50 off-street parking spaces. The accessible parking spaces can be included in the total number of required off-street spaces.
 - (a) There is currently one marked accessible space in front of Big Rig Diesel, and no other marked accessible spaces on the property.
- C. Regarding compliance with the *Storm Water Management and Erosion Control Ordinance*:

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- (1) Construction of additions to existing structures when the total increase in impervious area is less than 10,000 square feet relative to the impervious area that existed on February 20, 2003 is exempt from the Storm Water Drainage Plan requirements of the *SWMEC Ordinance*.
 - (2) The only expansion of impervious area on the subject property since February 20, 2003, was authorized by ZPA #184-04-01 on June 30, 2004, for a 2,880 square feet expansion, less than the 10,000 square feet and so the existing development is in compliance with the *SWMEC Ordinance*. The petitioners do not propose any new construction.
- D. Regarding the *Special Flood Hazard Areas Ordinance*, no portion of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is located in the Village of Rantoul subdivision jurisdiction and the subject property is in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the B-4 General Business Zoning District:
- (1) All 3 existing land uses are authorized by-right in the B-4 General Business Zoning District.
 - (2) A Special Use Permit is required because there is more than one main or principal structure or building.
 - (3) The subject property is located on CR2700N. Land use and zoning in the immediate area of the subject property are discussed under Item 4 of this Summary of Evidence.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:
- A. Regarding the proposed Special Uses:
- (1) All 3 existing land uses are authorized by-right in the B-4 General Business Zoning District.
 - (2) A Special Use Permit is required because there is more than one main or principal structure or building.
- B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
- (1) Subsection 5.1.12 of the Ordinance states the general intent of the B-4 District and states as follows (capitalized words are defined in the Ordinance):

The B-4, General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.

- (2) The types of uses authorized in the B-4 District are in fact the types of uses that have been determined to be acceptable in the B-4 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. The proposed Special Use Permit *IS* in harmony with the general purpose of the Zoning Ordinance, as follows:

- (1) Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance; with the exception of the open space requirement between two principal buildings (Case 876-V-17), the proposed site plan appears to be in compliance with those requirements.

- (2) Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
- a. It is not clear whether or not the requested Special Use Permit will have any impact on the value of nearby properties without a formal real estate appraisal, which has not been requested nor provided, and so any discussion of values is necessarily general.
- b. In regards to the value of the subject property, it also is not clear if the requested Special Use Permit would have any effect. Regarding the effect on the value of the subject property, the subject property has had the same buildings and commercial use since 2004.
- (3) Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.

The proposed Special Use is unlikely to increase traffic because there is no proposed change from current conditions.

- (4) Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.

The proposed special use is exempt from the *Storm Water Management and Erosion Control Ordinance*, and is not in a Special Flood Hazard Area. The petitioners do not propose any new construction.

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- (5) Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.
- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits with the exception of the open space between two principal buildings, which is the focus of Case 876-V-17.

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- (8) Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing buildings, structures, or uses in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

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This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with those requirements.

- (9) Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban uses.
- a. The proposed Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.
 - b. The subject property has not been in agricultural production for many years.
- (10) Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The subject property does not contain any natural features.

- (11) Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (12) Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed Special Use will not take any land out of production.

- (13) Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed Special Use will not hinder the development of renewable energy sources.

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GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
 - A. The Petitioners testified on the application: **“No.”**
 - B. The existing use on the property is not a nonconforming use.

RELATED TO THE VARIANCE, GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

12. Generally regarding the *Zoning Ordinance* requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved that are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner has testified on the application, **“Built canopy so past employees could eat lunch outside.”**
 - B. Regarding the proposed variance:
 - (1) The relevant buildings for the variance are the warehouse at the north end of Lot 2 and the building occupied by Big Rig Diesel on the south end of Lot 2.
 - (2) The canopy is not connected to any buildings. It is approximately 22 feet wide by 30 feet deep and shorter than the adjacent buildings. The posts are seated in concrete and the ground is covered with gravel.
 - (3) A special condition has been added to require the petitioner to apply for a Zoning Use Permit for this structure if the variance is approved.

RELATED TO THE VARIANCE, GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

13. Generally regarding the *Zoning Ordinance* requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. The Petitioner has testified on the application, **“If I don’t get variance, I would have to move canopy.”**

RELATED TO THE VARIANCE, GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

14. Generally regarding the *Zoning Ordinance* requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application, **“Did not know/not aware that canopy would be in violation.”**
 - B. The canopy was constructed without a Zoning Use Permit approximately 10 years ago.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

15. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner has testified on the application, **“Provide shade for employees on lunch break.”**
 - B. Regarding the proposed variance, two principal structures with 3 feet of open space between them in lieu of the minimum required 20 feet of open space: the requested variance is 15% of the minimum required, for a variance of 85%.
 - (1) The Zoning Ordinance does not clearly state the considerations that underlie the open space requirement. In general, open space is presumably intended to ensure the following:
 - a. Adequate light and air: The subject property is commercial/industrial in use. The surrounding properties are also commercial/industrial or in agricultural production.
 - b. Separation of structures to prevent conflagration: The subject property is approximately 2.2 miles from the Thomasboro Fire Protection District station. There is no nearby structure on the adjacent property.
 - c. Aesthetics: Aesthetic benefit may be a consideration for any given yard and can be very subjective.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

16. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application: **“Been there for 10 years no problems.”**
 - B. The Rantoul Township Road Commissioner has been notified of this variance and no comments have been received.
 - C. The Thomasboro Fire Protection District has been notified of this variance and no comments have been received.
 - D. There is no nearby structure on the adjacent property.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

17. Generally regarding any other circumstances that justify the Variance:
 - A. The Petitioner did not provide a response.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

18. Regarding proposed special conditions of approval:

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- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 872-S-17.**

The above special condition is required to ensure the following:

The establishment of the proposed uses shall be properly documented as required by the Zoning Ordinance.

- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

The special conditions stated above are required to ensure the following:

That any proposed exterior lighting is in compliance with the Zoning Ordinance.

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**

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

That all state accessibility requirements have been met.

- D. **By the end of 2017, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

DOCUMENTS OF RECORD

1. Application for Special Use Permit received February 21, 2017
2. Application for Variance received April 26, 2017, with attachment:
 - A Site Plan received April 26, 2017
3. Case 469-S-04 documents:
 - A Preliminary Memorandum dated November 18, 2004
 - B Site Plan approved November 23, 2004
4. Annotated aerial photo showing previous SUP, proposed SUP, and proposed variance, created by staff on May 4, 2017
5. Letter from P&Z Department to Big Rig Diesel Service dated January 10, 2017
6. Preliminary Memorandum dated May 4, 2017, for Cases 872-S-17 and 876-V-17, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received April 26, 2017
 - C Site Plan from Case 469-S-04, approved November 23, 2004
 - D Annotated aerial photo showing previous SUP, proposed SUP, and proposed variance, created by staff on May 4, 2017
 - E Letter from P&Z Department to Big Rig Diesel Service dated January 10, 2017
 - F Site Images packet
 - G Summary of Evidence, Finding of Fact, and Final Determination for Cases 872-S-17 and 876-V-17

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FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases **872-S-17** and **876-V-17** held on **May 11, 2017**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:
 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:
 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:
 - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because*}*:
 - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* *{because*}*:

(Note the Board may include other relevant considerations as necessary or desirable in each case.)

*The Board may include additional justification if desired, but it is not required.

- 3a. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* conform to the applicable regulations and standards of the DISTRICT in which it is located.
- 3b. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located because:
 - a. The Special Use will be designed to *{CONFORM / NOT CONFORM}* to all relevant County ordinances and codes.
 - b. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses.
 - c. Public safety will be *{ADEQUATE / INADEQUATE}*.
4. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
 - a. The Special Use is authorized in the District.
 - b. The requested Special Use Permit *{IS/ IS NOT}* necessary for the public convenience at this location.
 - c. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL / WILL NOT}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

- d. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* *{DOES / DOES NOT}* preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use *IS NOT* an existing nonconforming use.
6. Regarding the variance:
- a. Special conditions and circumstances *{DO / DO NOT}* exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
 - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied *{WILL / WILL NOT}* prevent reasonable or otherwise permitted use of the land or structure or construction because:
 - c. The special conditions, circumstances, hardships, or practical difficulties *{DO / DO NOT}* result from actions of the applicant because:
 - d. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* in harmony with the general purpose and intent of the Ordinance because:
 - e. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{WILL / WILL NOT}* be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because:
 - f. The requested variance *{SUBJECT TO THE PROPOSED CONDITION}* *{IS / IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure because:
7. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}***
- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 872-S-17.**

The above special condition is required to ensure the following:
The establishment of the proposed uses shall be properly documented as required by the Zoning Ordinance.
 - B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

The special conditions stated above are required to ensure the following:
That any proposed exterior lighting is in compliance with the Zoning Ordinance.
 - C. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**

The special condition stated above is required to ensure the following:
That all state accessibility requirements have been met.

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- D. **By the end of 2017, all outdoor storage and operations visible from US 45 North, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

That outdoor storage and operations are in compliance with Section 7.6 of the Zoning Ordinance.

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FINAL DETERMINATION FOR CASE 872-S-17

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **872-S-17** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicants, **Eldean Bergman, d.b.a. Border Magic LLC; with Kyle Britt and Alexander Wilson, d.b.a. Big Rig Diesel Service LLC**, to authorize the following as a Special Use on land in the B-4 General Business Zoning District:

Authorize multiple principal uses and buildings on the same lot consisting of an existing landscape materials salesroom, an existing diesel truck maintenance facility, and an existing warehouse as a Special Use in the B-4 General Business Zoning District.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

- A. A Change of Use Permit shall be applied for within 30 days of the approval of Case 872-S-17.**
- B. The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**
- C. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the Petitioner has ensured compliance with the Illinois Accessibility Code.**
- D. By the end of 2017, all outdoor storage and operations, including stockpiles and equipment, must be screened with a Type D Screen to obscure or conceal any part of any yard used for outdoor storage and/or outdoor operations.**

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

SIGNED:

ATTEST:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

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FINAL DETERMINATION FOR CASE 876-V-17

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **876-V-17** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Eldean Bergman, d.b.a. Border Magic LLC**, to authorize the following variance in the B-4 General Business Zoning District:

Authorize two principal structures with 3 feet of open space between them, in lieu of the minimum required 20 feet of open space in the B-4 General Business Zoning District, per Section 4.2.1 F.2. of the Zoning Ordinance.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

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

SIGNED:

ATTEST:

Eric Thorsland, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date