

CASE 993-S-20
PRELIMINARY MEMORANDUM
January 5, 2021

Petitioners: Bruce and Brody Block, d.b.a., Block Field Tiling, LLC

Request: Authorize a Contractor’s Facility with Outdoor Storage and Outdoor Operations as a Special Use on one acre in the AG-1 Agriculture Zoning District.

Location: A 35-acre tract in the South Half of the Southeast Quarter of Section 7, Township 17 North, Range 11 East of the Third Principal Meridian in Ayers Township with an address of 2460 CR 400N, Broadlands.

Site Area: Special Use Permit Area is one acre

Time Schedule for Development: Already in use

Prepared by: **Susan Burgstrom**, Senior Planner
John Hall, Zoning Administrator

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

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

BACKGROUND

Petitioners Bruce and Brody Block have revised their proposed Special Use for their demolition and construction materials recycling business from Case 967-S-19, which was denied on August 27, 2020. Instead of occupying up to 5 acres as previously proposed, they plan to limit operations to under one acre in the northwest corner of the former homestead area on the subject property. This would move operations approximately 275 feet farther away from the closest residential neighbor.

The proposed 1-acre facility would include a hoop building for crushing. The proposed 1-acre outdoor operations area is visible to and within 1,000 feet of the residence located southeast of the subject property, so screening will be for the south and east sides of the operations area.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

Direction	Land Use	Zoning
Onsite	Ag production, contractor’s facility	AG-1 Agriculture
North	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
South	Agriculture and residential	AG-1 Agriculture

EXTRATERRITORIAL JURISDICTION

The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning.

The subject property is located within Ayers Township, which does not have a Plan Commission.

VIOLATIONS RESULTING IN ENFORCEMENT BY STATE’S ATTORNEY’S OFFICE

As a result of the denial in Case 967-S-19, P&Z Staff sent the petitioners a Final Notice of Violation on September 9, 2020 regarding the following violations of the Zoning Ordinance and the Public Nuisance Ordinance:

- a. Zoning Ordinance, Section 4.2.1., Establishing a structure or use not in conformity with all the regulations and standards specified for the district in which it is located; and
- b. Zoning Ordinance, Section 5.2.:
 - (a) Establishment and use of a “contractor’s facility, with outdoor storage and operations,” which is allowed only with Special Use Permit in the AG-1 Zoning District; and
 - (b) Recycling of non-hazardous materials (clean construction or demolition debris including but not limited to concrete and asphalt), with all storage and processing outdoors, which is not allowed at all in the AG-1 Zoning District; and
- c. Zoning Ordinance, Section 9.1.2 A.1. Establishing, occupying, or changing the USE of a STRUCTURE, ACCESSORY STRUCTURE, or land either by itself or in addition to another USE without a Zoning Use Permit; and
- d. Public Nuisance Ordinance, Section 3.2.A.1., The deposition, accumulation, maintenance or disposal other than properly permitted and/or licensed facilities of garbage and debris; and
- e. Public Nuisance Ordinance, Section 3.2.A.3, The deposition, accumulation, maintenance or disposal other than in properly permitted and/or licensed facilities of yard waste, brush, or cut timber; and
- f. Public Nuisance Ordinance, Section 3.2.B.1, The storage outside of a fully enclosed building of building materials, recyclable materials, equipment, landscape waste not produced on the property and/or firewood, packaging materials and similar items.

On October 5, 2020, the case was forwarded to the State’s Attorney’s Office for enforcement action. The status of this case at the SAO is unknown other than it has not yet gone to court.

On December 21, 2020, P&Z Staff took photos of the subject property from the road. Overall, it would seem that progress has been made in shifting materials from the northeast corner to the northwest proposed Special Use Permit area. There are fewer and lower stockpiles in the northeast area and more stockpiles in the northwest area. There is still substantial work to be done to reduce the operations area to the proposed 1-acre Special Use Permit area.

STORM WATER DRAINAGE REQUIREMENTS

Reducing the footprint of disturbed land to under one acre makes this facility exempt from the Storm Water Management and Erosion Control Ordinance (SWMEC). Under the previous Case 967-S-19 proposal, the petitioners would have had to contract an engineer to prepare a Storm Water Drainage Plan, apply for an ILR10 Permit from IEPA, and have a stormwater detention basin constructed

onsite. None of these requirements apply to the 1-acre proposal in Case 993-S-20. Since the petitioners have already disturbed 2-3 acres of the subject property in their unpermitted operations, however, they will have to clean up the site enough to revert all but one acre back to a vegetative or crop cover. A special condition has been added to ensure compliance.

PUBLIC COMMENTS FROM CASE 967-S-19

A significant number of comments regarding the proposal from Case 967-S-19 are still relevant. During case 967-S-19, neighbors and landowners near the facility complained about the property being an eyesore, noise, dust, traffic, and potential water well contamination. The comments can be found in the Summary of Evidence for Case 993-S-20 under Section 8.I. starting on page 12 of 35.

IEPA VIOLATIONS

As of August 2020, there were four continuing violations cited by IEPA:

- Cause or allow open dumping of any waste in a manner which results in deposition of general or clean construction or demolition debris;
- Cause or allow open dumping;
- Dispose, treat, store, abandon any waste, or transport any waste into Illinois at or to sites not meeting requirements of the Act; and
- Cause or allow open dumping of any waste in a manner which results in litter.

P&Z Staff sent a FOIA request to IEPA on December 17, 2020 to see if there has been additional activity on their part. On December 28, 2020, staff received a response that no new information was available.

Presumably, as the petitioners clean up the property to bring it into compliance with County Ordinances, there should also be progress on resolving the IEPA violations.

PROPOSED SPECIAL CONDITIONS

- A. **The Special Use Permit area will be limited to no more than one acre, including the 10-foot wide access path, but excluding the area required for screening, as reflected in the Site Plan received October 28, 2020.**
- (1) **The petitioners shall allow access to the property by the Zoning Administrator and/or his representative(s) for the purposes of determining compliance with this condition, as requested by the Zoning Administrator.**
 - (2) **This Special Use Permit shall become void if the Special Use activities and storage areas have not been reduced to no more than the area approved for the Special Use Permit by August 27, 2021. If the petitioners do not meet that deadline, the Zoning Administrator shall request the Champaign County State's Attorney's Office to resume court action against the petitioners.**

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

To achieve the Zoning Ordinance purpose of promoting the public health, safety, comfort, morals, and general welfare.

- B. A Change of Use Permit shall be applied for within 30 days of the approval of Case 993-S-20 by the Zoning Board of Appeals. In order to receive a Zoning Compliance Certificate for the Change of Use Permit, the petitioners must complete the following within 12 months of Change of Use Permit approval:**
- (1) The petitioners must plant sufficient vegetative screening on the subject property to screen the Special Use Permit outdoor storage areas from the residential lot located southeast of the subject property. Per standard Department practice, a sufficient vegetative screen must be four to six feet high at the time of planting, and if recommended spacing of a single row of the selected species will not provide 50% screen in two years, then the screen must be planted in staggered rows.**
 - (2) The petitioners must plant and maintain crops or other vegetative cover in all areas outside the 1-acre Special Use Permit area so that disturbed land remains at one acre or less. Should disturbed land increase to more than one acre, the petitioners will be required to comply with the *Storm Water Management and Erosion Control Ordinance*.**
 - (3) The petitioners must construct paved parking spaces and one loading berth meeting the requirements of Section 7.4 on the subject property.**
 - (4) All crushing of concrete or asphalt on the subject property must be done inside a building with four walls, OR all crushing must cease on the subject property.**
 - (5) The petitioners must demonstrate that the proposed Special Use complies with the Illinois Accessibility Code.**

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

The establishment of the proposed use shall comply with State and local requirements.

- C. The Zoning Administrator shall not authorize a Zoning Use Permit or 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 condition stated above is required to ensure the following:

That the proposed uses are in compliance with the Zoning Ordinance.

- D. The only solid waste that may be brought to the property is “clean construction or demolition debris” as defined by the Illinois Environmental Protection Agency, and/or landscape waste, and must be from demolition projects by Block Field Tiling LLC. Clean construction or demolition debris and/or landscape waste cannot be brought to the property from demolition projects by others.**

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

To ensure that the subject property does not become a waste transfer station or other type of solid waste facility.

- E. **All handling and crushing of clean construction or demolition debris must be in conformance with the requirements of the Illinois Environmental Protection Agency and the petitioners must provide copies of all communications from Illinois EPA to the Zoning Administrator upon request.**

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

To ensure compliance with IEPA requirements to ensure public health and safety.

- F. **Unloading of dump trucks and/or breaking and/or crushing of asphalt and/or concrete may only occur on the property between the hours of 8 a.m. to 5 p.m. on Monday through Friday.**

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

To minimize nuisance conditions for neighbors.

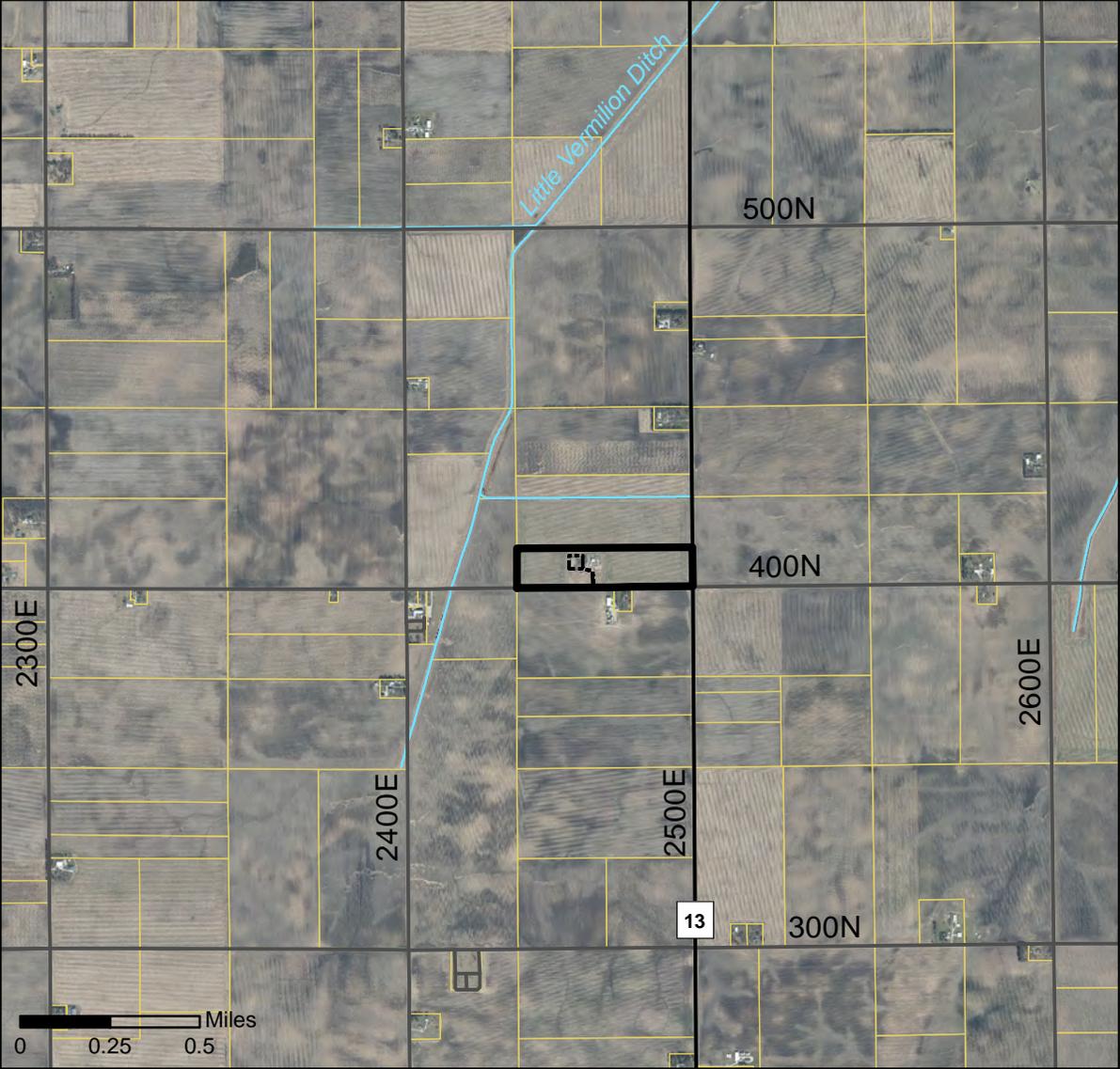
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received October 28, 2020
- C Annotated 2020 Aerial created by P&Z Staff on December 21, 2020
- D IEPA FOIA response dated December 22, 2020 and received December 28, 2020
- E Site Visit Photos taken December 21, 2020
- F Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated January 14, 2021

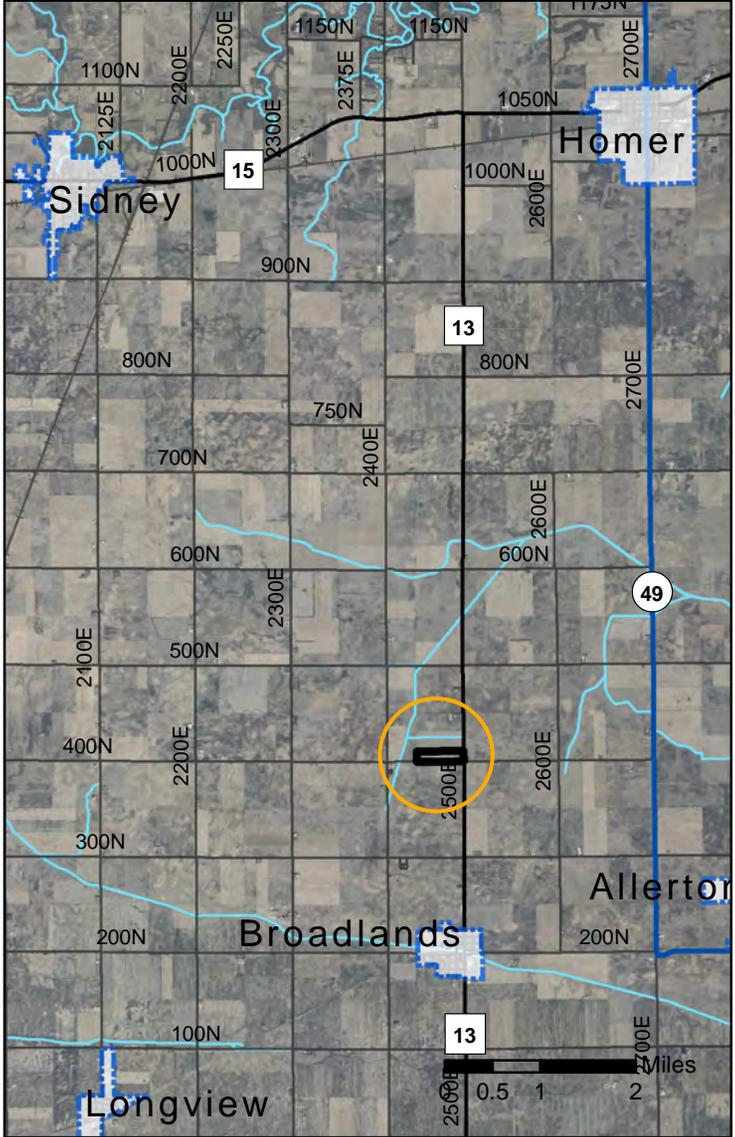
Location Map

Case 993-S-20
January 14, 2021

Subject Property



Property location in Champaign County



Legend

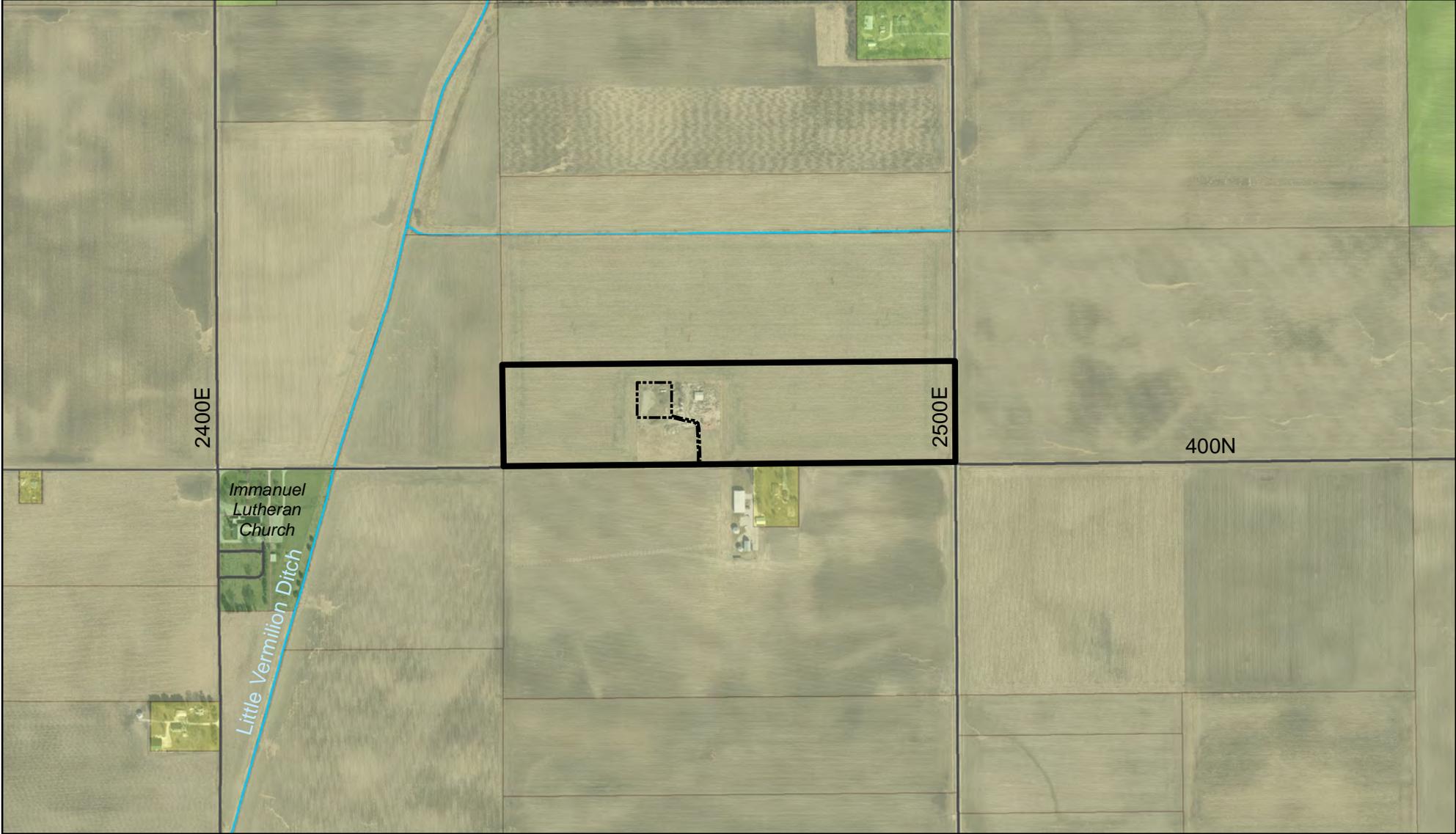
-  Subject Property
-  Proposed 1 acre SUP area
-  Parcels



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 993-S-20
January 14, 2021



Legend

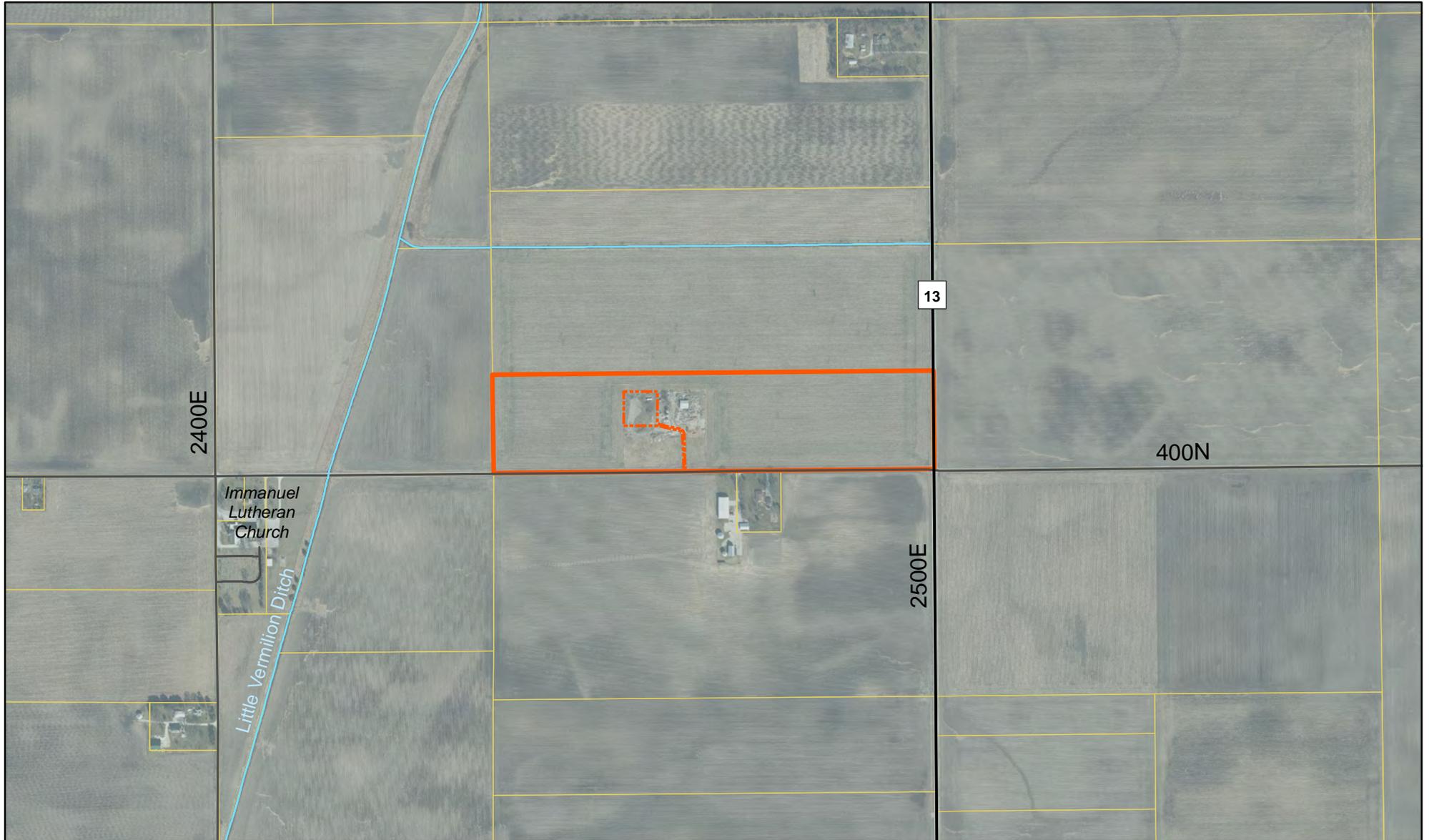
- Subject Property
- Proposed 1 acre SUP area
- Residential
- Agriculture
- Ag/Residential
- Tax Exempt



Champaign County
Department of
**PLANNING &
ZONING**

Zoning Map

Case 993-S-20
January 14, 2021



Legend

- Subject Property
- Proposed 1 acre SUP area
- Parcels
- AG-1 Agriculture

0 200 400 800 Feet



Annotated Site Plan for Case 967-S-19

Notes reflect site visit by P&Z Staff on 8/17/20
White lines and numbers are 2008 contours with elevations

asphalt millings

concrete to crush

concrete to crush (pile sizes fluctuate)

concrete to crush (pile sizes fluctuate)

This area being cleaned of All Concrete & meta

200 fy.

The northwest corner of the 5-acre Special Use Permit area is the lowest topographical area and the best location for a detention basin, but is currently where asphalt millings and concrete are located.

dirt driveway

junk

48'
46'
existing building

metal demo debris

34x46 crushed asphalt

dirt & debris

crushed rock

crushed rock

concrete and brick to crush

concrete blocks

crushed brick

crushed rock

crushed brick

3 grain bins

shed (brought)

crushed rock

tree trunks

crushed rock

concrete to crush

80'
36'
proposed building for crushing

storage shed

crushed rock

dirt

crushed brick

198 ft. pile

dirt 160 ft. 101

crushed rock

450'

dirt

Approved Special Use Permit Area should be north of the red dashed line, leaving south 75 feet for agriculture/grass only, unless petitioner requests a larger area.

Type D screen required around Special Use Permit area on west, south and east sides

grass area

grass area (normally bale for hay)

686

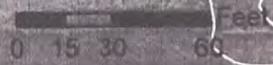
688

690

RECEIVED

OCT 28 2020

CHAMPAIGN CO. P & Z DEPARTMENT



485'

229' 672'

Case 967-S-19, ZBA 08/27/20, Supp. Memo #3, Attachment B, Page 1 of 1

Created by S Burgstrom 08/18/20



36' x 48'
proposed
hoop building
for crushing

200'

198'

Type D screen required to
screen outdoor operations area
from residence to southeast

48'
46'
existing
building

10' wide access path
(part of 1-acre SUP area)

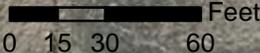
grass area
(normally bale for hay)

Everything except 46x48 building
and 3 grain silos must be removed

Disturbed land outside 1-acre SUP
area must be clean and have crop
or other vegetative cover

Annotated 2020 Aerial for Case 993-S-20

 Proposed 1 acre SUP area



Susan Burgstrom

From: Dowson, Sharon <Sharon.Dowson@Illinois.gov>
Sent: Tuesday, December 22, 2020 3:35 PM
To: Susan Burgstrom
Subject: Illinois EPA FOIA Response

CAUTION: External email, be careful when opening.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 • (217) 782-3397

JB PRITZKER, GOVERNOR

JOHN J. KIM, DIRECTOR

December 22, 2020

Champaign County Planning & Zoning
Attn: Ms. Susan Burgstrom
1776 East Washington St
Urbana, IL 61802

RECEIVED

DEC 28 2020

CHAMPAIGN CO. P & Z DEPARTMENT

Re: Freedom of Information Act Request - 115119

Dear Ms. Burgstrom:

This letter is in response to your Freedom of Information Act (FOIA) (5 ILCS 140/1 et seq.) request dated December 17, 2020 and received by the Illinois Environmental Protection Agency (Illinois EPA) on December 17, 2020.

Following a search, the Illinois EPA has determined there to be no information responsive to your request.

Requested Information

Block Bruce - .25 Mi W of 2500E & 400N, Broadlands

Sincerely,

Anwar Johnson
Illinois EPA FOIA Officer
217.558.5101

<http://www.epa.illinois.gov/foia/index>

993-S-20 Site Images Comparison 2019 vs 2020



12/2019: From closest driveway across street from proposed SUP area, facing Northwest from end of subject property driveway facing north



12/2020 (from neighbor's driveway a bit east from picture above)

993-S-20 Site Images Comparison 2019 vs 2020



12/2019: from CR 400N at driveway



12/2020: from CR 400N at driveway

993-S-20 Site Images Comparison 2019 vs 2020



12/2019: From CR 400N facing NW to storage building



12/2020: From CR 400N facing NW to storage building

993-S-20 Site Images Comparison 2019 vs 2020



12/2019: from driveway facing NNE



12/2020: from driveway facing NNE

993-S-20 Site Images Comparison 2019 vs 2020



12/2019: from CR 400N just west of 5 acre area facing NE



12/2020: from CR 400N just west of 5 acre area facing NE

993-S-20 Site Images Comparison 2019 vs 2020



08/2020: from site facing NW toward asphalt millings and demo debris piles



12/2020: from road facing NE toward asphalt millings and demo debris piles

PRELIMINARY DRAFT

993-S-20

**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: ***{January 14, 2021}***

Petitioners: **Bruce and Brody Block, d.b.a., Block Field Tiling, LLC**

Request: **Authorize a Contractor’s Facility with Outdoor Storage and Outdoor Operations as a Special Use on one acre of land in the AG-1 Agriculture Zoning District.**

Table of Contents

General Application Information.....2 - 5
Specific Ordinance Requirements5 - 10
Special Use Evidence11 - 29
Documents of Record..... 30
Case 993-S-20 Finding of Fact31 - 33
Case 993-S-20 Final Determination.....34 - 35

PRELIMINARY DRAFT**SUMMARY OF EVIDENCE**

Note: All underlined text is new since denial of Case 967-S-19 on August 27, 2020.

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 14, 2021**, the Zoning Board of Appeals of Champaign County finds that:

1. Co-petitioner Bruce Block owns the subject property and is co-owner of Block Field Tiling, LLC. His son, Brody Block, is co-owner. They are the sole officers and shareholders in Block Field Tiling, LLC.
2. The subject property is a 35-acre tract in the South Half of the Southeast Quarter of Section 7, Township 17 North, Range 11 East of the Third Principal Meridian in Ayers Township with an address of 2460 CR 400N, Broadlands.
 - A. The Special Use Permit area is on one acre located in the northwest corner of the former home site on the subject property, as shown on the case maps.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - A. The subject property is not located within the one and one-half mile extraterritorial of a municipality with zoning.
 - B. The subject property is located in Ayers Township, which does not have a 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 adjacent to the subject property are as follows:
 - A. The 35-acre subject property is zoned AG-1 Agriculture and is approximately 30 acres in agricultural production and five acres in asphalt, brick, and concrete crushing and recycled material sales.
 - (1) The Special Use Permit area proposed in Case 993-S-20 reduces the 5-acre operations area to a 1-acre area in the northwest corner of the former homestead.
 - B. Land to the north, east, south and west of the subject property is zoned AG-1 Agriculture and is in agricultural production. There is one residence located southeast of the subject property.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the site plan and operations of the proposed Special Use:
 - A. The Site Plan received October 29, 2020, includes the following existing and proposed features:
 - (1) Existing features within the former 475 feet by 450 feet (5 acre) operations area include:
 - a. A 44 feet by 48 feet (2,112 square feet) pole barn;
 - b. Three grain bins;
 - c. An 8 feet by 20 feet storage trailer (no wheels);
 - d. A small schoolhouse-like shed brought on site in 2020;

PRELIMINARY DRAFT**Case 993-S-20****Page 3 of 35**

- e. A driveway accessing CR 400N and an oval interior driveway in the west half of the operations area;
 - f. Various stockpiles of concrete, crushed rock, asphalt millings, concrete block, metal, crushed brick, dirt, and miscellaneous debris, as found during a site visit by P&Z Staff on August 17, 2020 during previous related case 967-S-19; and
 - g. Grass areas in the western and southern parts of the Special Use Permit area.
- (2) Proposed features to be located within the 1-acre operations area include:
- a. One 34 feet by 48 feet (1,632 square feet) building located within the proposed 1-acre Special Use Permit area;
 - (a) Note that the 36 feet by 80 feet “proposed building for crushing” shown on the east side of the former homestead is no longer part of the project.
 - b. The existing grain bins and 44 feet by 48 feet pole barn are not located within the 1-acre proposed operations area and cannot be used for contractor’s facility operations or storage.
 - c. In an email received December 21, 2020, Mr. Bruce Block said that the storage building and the small schoolhouse-looking building that they brought onsite will not be located in the proposed 1-acre area.
 - d. There is no mention of restrooms or a septic system on the Site Plan received October 29, 2020.
- B. In a statement received with the application on October 28, 2020, the petitioner stated, “Proposing an area 200 feet by 198 feet with a 10 foot lane for entering and exiting. Lane would be 385 feet. Total area is 43,540 square feet. That is less than 1 acre. Bureau of Water permit would not be required. Would erect a 34 feet by 48 feet hoop building for crushing.”
- C. Regarding operations, in an email received October 9, 2019 during previous case 967-S-19, Bruce Block stated the following:
- (1) We operate a demolition business and bring some concrete and bricks to this site that we recycle into rock with our crusher. We also have crushed some asphalt with our machine.
 - (2) We have concrete, bricks and asphalt stored here as well as the material that has been crushed which we are starting to sell.
 - (3) Normally our crusher is stored here. It is a 2108 Rebel Crusher. It is a jaw crusher which doesn’t make much noise other than the engine running. We usually have 2 Kubota 90-2 skid loaders there and sometimes a Caterpillar 315 excavator. We also park our semi-trucks there sometimes. We have 2 International trucks and a Volvo truck and some dump trailers. Our crusher is portable and we move it to other job sites at different times.

PRELIMINARY DRAFT

- (4) We operate on Monday through Friday normally 8-5. We don't operate every day here. We run the crusher sometimes 2 or 3 days at a time and then may not run it at all for a couple of weeks.
 - (5) We also still operate a farm here and store some grain in our grain bins there. Sometimes we have farm equipment parked here and some of our farm drainage equipment which we also do.
 - (6) My son and I work here and have a couple of part time employees.
- D. Regarding operations, the following details were provided at the February 27, 2020 ZBA meeting during previous related case 967-S-19:
- (1) Mr. Bruce Block stated that they purchased a small crusher of their own to install onto their skid loader, although it was quickly determined that it was not big enough to serve their needs, so they purchased a larger portable machine. He said that the new machine will crush approximately 30 tons per hour, and that they crushed for 140 hours at the subject property in the last 1.5 years.
 - (2) Concrete crushing would occur in the proposed new fabric hoop building that would be open on one side; the south and east sides would be closed, the west side would be closed with a door, and the north side would be open.
 - a. No details have been provided in the application for Case 993-S-20 regarding the orientation and doors of the proposed hoop building on the 1-acre Special Use Permit area.
 - (3) On January 29, 2020, Mr. Bruce Block received confirmation from the Illinois Environmental Protection Agency (IEPA) Bureau of Air that the site is a participant in the IEPA Registration of Smaller Sources (ROSS) Program, which is for businesses with a low level of emissions. Should the site exceed an emissions level stipulated by the ROSS Program, the petitioners would have to apply for a higher-level permit. The site must renew its registration yearly.
 - a. Mr. Block stated that the ROSS registration is the only permit they had obtained for the site.
 - (4) "Mr. Bruce Block stated that physically, they can only do so much because they are a small operation and they can't handle much more than they are doing currently. He said that he and his son do most of the work with a small amount of part-time help. He said that they do not operate at the site every day and currently their crusher is in Paris, Illinois for a job. He said that the crusher is small enough that it can be hauled on a semi-trailer and generally they are at other sites completing contracted jobs. He said that when they get caught up with their off-site work, they start crushing the concrete that is at the site and move it off the property. He said that there are times when they do not work at the subject site for two weeks in a row, and at other times they may work three or four days in a row, or a couple of afternoons a week. He said that their operation at the subject site is not a full-time everyday operation that starts at 8:00 a.m. and ends at 5:00 p.m. He said that out of respect for others, they do not usually operate at the site on Saturdays or Sundays so that everyone can enjoy their weekend being quiet."

PRELIMINARY DRAFT**Case 993-S-20****Page 5 of 35**

- (5) Mr. Bruce Block said that they sometimes have one or two part-time employees onsite.
 - (6) Mr. Bruce Block stated that they have asphalt, brick, concrete and metal onsite.
- E. There are no previous Zoning Use Permits for the subject property.
- F. There is one previous zoning case for the subject property:
- (1) Case 967-S-19 was for Bruce and Brody Block to establish a contractors' facility with outdoor operations and storage was denied on August 27, 2020. That case was for a 5-acre Special Use Permit area rather than the 1-acre Special Use Permit area proposed in Case 993-S-20.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

6. Regarding authorization for contractors' facilities both with and without outdoor operations and storage in the AG-1 Agriculture 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 BUILDING" is a BUILDING on the same LOT with the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE, either detached from or attached to the MAIN or PRINCIPAL STRUCTURE, and subordinate to and used for purposes customarily incidental to the MAIN or PRINCIPAL STRUCTURE, or the main or principal USE.
 - (2) "AGRICULTURE" is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry, and the keeping, raising, and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting, and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning, or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
 - (3) "BEST PRIME FARMLAND" is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
 - a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;

PRELIMINARY DRAFT

- b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;
 - c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
- (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) “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.
 - (6) “OPERATIONS” are processing, assembly, fabrication, or handling of materials or products or movement of bulk materials or products not in containers or pipelines.
 - (7) “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.
 - (8) “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.
 - (9) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
 - (10) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (11) “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.
 - (12) “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.
 - (13) “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;

PRELIMINARY DRAFT**Case 993-S-20****Page 7 of 35**

- 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.
- (14) “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.
- (15) WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
- a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
 - b. The site is reasonably well-suited in all respects and has no major defects.
- B Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities with outdoor STORAGE and outdoor OPERATIONS can be established with a Special Use Permit in the AG-1 Agriculture Zoning District.
- C. Subsection 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.

PRELIMINARY DRAFT

- (2) Subsection 6.1.3 establishes the following standard conditions for Contractors Facilities with or without Outdoor STORAGE and/or Outdoor OPERATIONS:
- a. In all DISTRICTS other than the B-5 DISTRICT, outdoor STORAGE and/or outdoor OPERATIONS are allowed as an ACCESSORY USE subject to subsection 7.6.
- 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) For parking purposes, the Zoning Administrator has determined that a Contractor’s Facility is most similar to the parking requirements for industrial uses; those requirements are in Section 7.4.1 D.
 - (3) Section 7.4.1 D.1. states, “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.”
 - (4) Section 7.4.1 D.2. states, “All such spaces shall be surfaced with an all-weather dustless material.”
 - (5) Section 7.4.1 D.3. states, “Required parking SCREENS for industrial USES shall be provided as required in paragraph 7.4.1 C.4.”
 - a. 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.”

PRELIMINARY DRAFT**Case 993-S-20****Page 9 of 35**

- (6) Section 7.4.2 refers to off-street LOADING BERTHS:
- 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 D. states, "Off-street LOADING BERTHS for Industrial USES shall be provided as follows:
 - (a) All LOADING BERTHS shall be located on the same LOT or tract of land as the Industrial USE served.
 - (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 an R DISTRICT or any lot containing a DWELLING conforming as to USE unless such BERTH is screened from public view by a Type D SCREEN.
 - (c) No LOADING BERTH shall be located less than 50 feet from the nearest point of intersection of two STREETS.
 - (d) All LOADING BERTHS shall be improved with a compacted base at least seven inches thick and shall be surfaced with at least two inches of some all-weather dustless material.
 - (e) The schedule of off-street LOADING BERTHS for commercial ESTABLISHMENTS shall also apply to Industrial USES.
 - i. For an establishment with a floor area of less than 9,999 square feet, one 12 feet by 40 feet loading berth is required.
- E. Subsection 7.6 establishes the following conditions for Outdoor Storage and/or Outdoor Operations:
- (1) Paragraph 7.6.1 states: "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."
 - (2) Paragraph 7.6.2 states: "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:

PRELIMINARY DRAFT

- 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.”

- F. 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;
 - (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.

- G. 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.

PRELIMINARY DRAFT**Case 993-S-20****Page 11 of 35****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 Petitioner has testified on the application, **“Allows local farmers and residents to get rock for farm driveways and residential drives.”**
 - B. The Petitioner’s operations would be located within the same area as the original farmstead that existed prior to 1973. The reuse of this already developed part of the 35-acre property will not take additional land out of production.
 - C. The nearest companies known to P&Z Staff that crush concrete are located north of Urbana and in Mahomet, at least 27 miles from the subject property.

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 Petitioner has testified on the application: **“Area is on back corner of an area that has never been farmed except for hay and pasture. It is a use that is not much different than operation of agriculture use.”**
 - B. Regarding surface drainage:
 - (1) The subject property is relatively flat, and generally drains northwest to the Little Vermilion Ditch.
 - C. Regarding traffic in the subject property area:
 - (1) The subject property has an existing driveway on the north side of CR 400N.
 - (2) CR 400N is a two-lane township road that is approximately 18 feet wide.
 - (3) The subject property is located about two road miles west of IL Route 49 (CR 2700E), approximately 1.75 miles north of the Village of Broadlands.
 - (4) 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). The most recent ADT data is from 2016 near the subject property. CR 400N had an ADT of 125 adjacent to the subject property.
 - (5) In previous related case 967-S-19, the petitioners indicated that they have a couple of part time employees, three semi-trucks and dump trailers. It is not known how many trips their vehicles make on any given day.
 - (6) The Ayers Township Highway Commissioner has been notified of this case. During previous related case 967-S-19, in a letter received February 27, 2020, Shawn Walker, Ayers Township Highway Commissioner, stated the following:

PRELIMINARY DRAFT

- a. He understands that neighbors are concerned about what will happen if CR 400N is torn up or permanently damaged because of the added heavy truck traffic. According to the Township attorney, if a person or business is operating illegally and there is permanent damage to the road, the Township has recourse to pursue legal action against them.
 - b. Mr. Walker said there are concerns in general for larger equipment on roads, but did not identify specific concerns about business on the subject property.
 - c. At this time, there is no plan to place load weight limits on any of their roads, or limit the size of vehicles allowed on the roads. As long as they are operating within the legal limits of the law, traffic will be allowed to continue.
 - d. The Township will continue to monitor use of CR 400N, and do what they can to maintain it with the resources they have.
- D. Regarding fire protection on the subject property, the subject property is located approximately 2.9 road miles north of the Broadlands Fire Protection District station in Broadlands. The Fire Chief was notified of this case and no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The 35-acre subject property is considered BEST PRIME FARMLAND. The soil on the subject property consists of 152A Drummer silty clay loam, 198A Elburn silt loam, 481A Raub silt loam and 679B Blackberry silt loam, and has an average LE of 98.
- (1) The proposed 1-acre Special Use Permit area consists of 152A Drummer silty clay loam, a small corner of 198A Elburn silt loam, and a small strip of 481A Raub silt loam in the access drive, and has an average LE of 100.
 - (2) No land has been taken out of production because the Special Use Permit area is on a former homestead that was later a hay field and cattle feed lot prior to the current use.
- G. Regarding outdoor lighting on the subject property:
- (1) No outdoor lighting was indicated on the Site Plan. A special condition has been added regarding any future outdoor lighting for the Special Use Permit area.
- H. Regarding wastewater treatment and disposal on the subject property:
- (1) No septic information was provided with the application.
- I. Regarding comments received during previous case 967-S-19 related to existing operations on the subject property:
- (1) A complaint was received on May 24, 2019 about operations on the subject property. They mentioned the site being noisy and an eyesore.
 - (2) A complaint from a second party was received on October 10, 2019 about operations on the subject property. They mentioned noise from jack hammers, grinders, and trucks; dirt and dust, rats, and significantly increased truck traffic posing a safety hazard.

PRELIMINARY DRAFT**Case 993-S-20
Page 13 of 35**

- (3) A follow-up email from the second party on October 13, 2019, stated that waste materials were being disposed of from the Illinois Route 49 construction project. P&Z Staff requested information about where the Route 49 project materials were being taken, and were informed that the subject property was the recipient of these materials. IDOT staff stated that District 5 did not receive a waste site submittal for the subject property, and therefore the site was rejected and the material associated with the State project would be removed and taken to an approved waste site.
- (4) A complaint from the first party was received on October 12, 2019 mentioning a significant increase in activity and truck traffic.
- (5) The following is a summary of testimony received at the February 27, 2020 ZBA public hearing:
 - a. Ben Goeckner, 1303 Christopher Circle, Apt 7, Urbana, stated that saving material from going to the landfill should be acknowledged. He said that whether or not something is zoned accordingly, if they are going through the correct process to do so, it should be more than acknowledged that what they are doing is good for the community and the people who will be here after us. Upon cross-exam, Mr. Goeckner stated that he works part-time for the petitioners.
 - b. Gary Jacobson, 2475 CR 400N, Broadlands, has lived southeast of the subject property for 19 years. Mr. Jacobson stated that they chose the property because they wanted to live in the country with a piece of property that would accommodate a garden and an orchard, and so that they could enjoy the rural country living atmosphere. He said that the property basically has no neighbors other than the farmer who farms the land around it and that only occurs twice per year. He said that the only neighbor that they have is really the church, and that traffic is generally only during Wednesday evenings and Sunday mornings. He said that the area was pretty quiet and that is what they were searching for. He said that when they first moved there, the 5-acre part of the subject property was used for hay production or as a cattle feed lot, and that they did not mind the cattle being there because they are an expected part of agriculture.

Mr. Jacobson said that currently, there is a lot of semi-truck traffic bringing material onto the property. He said that when the concrete is dumped, it doesn't always come out of the truck until the trailer is extended all the way up, thus the concrete comes out all at once, and it sounds like an explosion when this happens. He said that the dumping, in itself, is a lot of noise, and then the movement of that concrete by the tractors and skid-steers is very noisy, and the most annoying noise is the jackhammer, which the neighbors who are one mile away can hear. He said that it doesn't matter what he is doing inside, but when the Blocks run the jackhammer, he can hear it inside of his home with the windows and doors shut and the television or radio on. Mr. Jacobson stated that he had an appraisal done for his own property, which put the value at \$40,000 less than the value of the last refinancing appraisal. He said that he and his wife have spent approximately \$100,000 on improvements, so the value was very disappointing.

PRELIMINARY DRAFT

Regarding traffic, Mr. Jacobson said that there are a lot of semi-trucks, dump trucks, and other vehicles traveling on the road, but the semi-trucks are his largest concern. He said that truck loaded with concrete taking off from the stop sign east of his street does make a lot of noise when taking off and it makes a lot of noise traveling down the road due to the load that it is carrying. He said that sometimes there are loaded semi-trucks coming in and out of the Block property attempting to get up to speed, thus making a lot of lugging noise. He said that there are a lot more trucks and general traffic than what they are used to, and previously, other than during farming season, the only traffic that the road experienced was due to the church.

Mr. Jacobson provided photos and videos to illustrate operations as they can be seen from his property, which were entered as Documents of Record.

- c. Andrew Bequette, attorney for Gary Jacobson, stated that Mr. Jacobson has lost over \$49,000 already, and if the Block's business is allowed to grow, his loss may increase.

Mr. Bequette said that according to the IEPA, waste is anything that has been discarded or no longer has its original purpose. He said that all waste is referred to as solid waste under IEPA regulations; solid waste and waste means the same thing. He said that if you accept any waste from someone else for treatment, transfer, storage, or disposal, including a facility of your own located at a different address, you have to get a permit from the Bureau of Land. He said that he has not seen anything that is a solid waste permit, and the Blocks have not gone through any of those steps. He said that if you were to build a new structure that would house waste, you have to get a development permit from the IEPA. He said that the Jacobson family drinks water from the well across the street from this facility and there has been no study as to what may be seeping into the ground.

Mr. Bequette said that no plans have been offered for review that indicates a loading berth, paving, parking accommodations, restroom facilities, septic system, accessibility, etc., or how much all of this is going to cost. He said that there are many things that are required for the facility to work, but there is no evidence indicating that it will, so he requested that the Board denies the request now and let them come back with the correct information.

- (6) On August 4, 2020, Susan Burgstrom received an email from neighbor Gary Jacobson that included two attached videos. Mr. Jacobson stated that operations have increased to seven days a week and 12+ hours per day.
- (7) On August 27, 2020, the Zoning Board of Appeals opened the continued hearing from February 27, 2020 for Zoning Case 967-S-19.
- a. Mr. Gary Jacobson testified regarding very loud noises from the subject property, particularly from the trucks unloading concrete, and that operations often occur after dark and on weekends. He said that his property has a dug well; all their drinking water is from water seeping into a hole from

PRELIMINARY DRAFT**Case 993-S-20****Page 15 of 35**

- surrounding land. He said that now they have piles of concrete, piles of asphalt, and he does not know what else, and there is no protection for them from what might be seeping into the ground on the Block property.
- b. Mr. Bob Lewis testified that one of the conditions for the permit to be approved is “to minimize nuisance conditions for neighbors.” He said that by allowing this property to operate as a concrete and asphalt recycling facility along with dumping of materials is not what he considers minimizing nuisance conditions for the neighbors. He complained about noise, dust, traffic, and the facility being an eyesore. He asked what happens if these conditions are not followed. He said they’ve already been in violation of the codes, but yet they have been allowed for six years to continue to run their business without any penalties. If this permit is approved, what makes you think they will follow the established special conditions. He said that said he has seen trucks dumped after 5 p.m. and on Saturdays and Sundays.
- c. Mr. Andrew Bequette, attorney for the Jacobsons, asked that the Board not give them any more time, to please shut it down. He said that he can’t understand why the Board would consider this at all, while there are pending EPA violations that have been going on since 2016. He said that at a minimum, Mr. Block should be told to stop work, clean up the site, and show us the EPA is truly satisfied, and only then are we even going to consider a permit for this.
- d. The Board found the proposed special conditions of approval to be inadequate to bring the property into compliance and denied the Special Use Permit. The Board noted that there was insufficient evidence that the Blocks would mitigate the known EPA violations, have not kept records of materials, dates of materials being dropped off, weights, and other documentation that could help bring them into compliance. They had done nothing in five years to work toward compliance with local and State regulations, and did nothing to work with neighbors in resolving noise complaints. With the Special Use Permit denied, the subject property continues to be in violation of the Zoning Ordinance. Mr. Block was told he could reapply in the future if the situation changes.
- J. Regarding enforcement and compliance activity since denial of Case 967-S-19 at the August 27, 2020 ZBA meeting:
- (1) A Final Notice of Violation was sent to the petitioners on September 9, 2020 citing the following violations, which had a response deadline of September 16, 2020:
- a. Zoning Ordinance, Section 4.2.1., Establishing a structure or use not in conformity with all the regulations and standards specified for the district in which it is located; and
- b. Zoning Ordinance, Section 5.2.:
- (a) Establishment and use of a “contractor’s facility, with outdoor storage and operations,” which is allowed only with Special Use Permit in the AG-1 Zoning District; and

PRELIMINARY DRAFT

- (b) Recycling of non-hazardous materials (clean construction or demolition debris including but not limited to concrete and asphalt), with all storage and processing outdoors, which is not allowed at all in the AG-1 Zoning District; and
 - c. Zoning Ordinance, Section 9.1.2 A.1. Establishing, occupying, or changing the USE of a STRUCTURE, ACCESSORY STRUCTURE, or land either by itself or in addition to another USE without a Zoning Use Permit; and
 - d. Public Nuisance Ordinance, Section 3.2.A.1., The deposition, accumulation, maintenance or disposal other than properly permitted and/or licensed facilities of garbage and debris; and
 - e. Public Nuisance Ordinance, Section 3.2.A.3, The deposition, accumulation, maintenance or disposal other than in properly permitted and/or licensed facilities of yard waste, brush, or cut timber; and
 - f. Public Nuisance Ordinance, Section 3.2.B.1, The storage outside of a fully enclosed building of building materials, recyclable materials, equipment, landscape waste not produced on the property and/or firewood, packaging materials and similar items.
- (2) With insufficient response by the September 16, 2020 deadline, the case was forwarded to the State's Attorney's Office on October 5, 2020. The status of this case at the SAO is unknown other than it has not yet gone to court.
 - (3) On December 21, 2020, P&Z Staff took photos of the subject property from the road. Overall, it would seem that progress has been made in shifting materials from the northeast corner to the northwest proposed Special Use Permit area. There are fewer stockpiles in the northeast area and more stockpiles in the northwest area. There is still substantial work to be done to reduce the operations area to the proposed 1-acre Special Use Permit area.
- K. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.

PRELIMINARY DRAFT**Case 993-S-20
Page 17 of 35**

- c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
 - f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
 - g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
 - i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
 - j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.
- L. Other than as reviewed 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.

PRELIMINARY DRAFT**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.”**
- B. Regarding compliance with the *Zoning Ordinance*:
- (1) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS are authorized by right in the B-1, I-1, and I-2 Zoning DISTRICTS and by right in the B-4 DISTRICT provided that all Outdoor STORAGE is located in the REAR YARD and is completely screened by a Type D SCREEN. They are authorized with a Special Use Permit in the AG-1, AG-2, B-4 (except as noted above), and B-5 Zoning DISTRICTS.
 - (2) Based on the May 24, 2019 complaint mentioned from previous related case 967-S-19, P&Z Staff sent a letter to Bruce Block on June 3, 2019, requesting information about his operations on the subject property. The letter requested a response by June 17, 2019.
 - a. Susan Burgstrom contacted Bruce Block by phone on September 12, 2019 because no information had been received. Mr. Block apologized because the letter got buried on his desk, and stated that he would email her the requested information the following week.
 - b. Susan Burgstrom emailed Bruce Block on October 1, 2019 to remind him to send the information. Mr. Block sent an email with the information on October 9, 2019.
 - c. Based on the details provided on October 9th, Susan Burgstrom sent a letter to Mr. Block dated October 16, 2019, in which she stated that a Special Use Permit application needed to be received by the P&Z Department no later than November 7, 2019 in order to not receive a Notice of Violation.
 - d. Mr. Block applied for the Special Use Permit on November 5, 2019.
 - (3) Regarding parking on the subject property for the proposed Special Use, the following is evidence from previous case 967-S-19:
 - a. For parking purposes, the Zoning Administrator has determined that a Contractor’s Facility is most similar to the requirements for industrial uses.
 - (a) The business has 3 full-time equivalent employees. One parking space is required for every three employees in the industrial land use, for a total of one required employee parking space.
 - (b) There are at least three semi-trucks and an unknown number of dump trailers. In an email received October 9, 2019, Mr. Block stated, “We usually have 2 Kubota 90-2 skid loaders there and sometimes a Caterpillar 315 excavator. We also park our semi-trucks

PRELIMINARY DRAFT**Case 993-S-20
Page 19 of 35**

there sometimes. We have 2 International trucks and a Volvo truck and some dump trailers.”

- (c) Industrial uses also require one visitor parking space.
 - (d) The facility will need a total of five required parking spaces plus one space for every dump trailer, and one of these spaces would need to meet Illinois Accessibility Code standards. Should the number of employee or company vehicles increase, more spaces will be required.
- b. All parking spaces for industrial uses must be surfaced with an all-weather dustless material. Asphalt and concrete are acceptable all-weather dustless materials; gravel is not. A special condition has been added to ensure compliance.
- c. A Type D screen will be required to screen the parking area per paragraph 7.4.1 C.4.b. A Type D screen is “a landscaped berm, or an opaque fence or wall, or SCREEN PLANTING with a minimum HEIGHT of eight feet as measured from the highest adjacent grade.”
- (a) The proposed 1-acre operations area is not within 100 feet of the building restriction line of a lot containing a dwelling conforming as to use, so a Type D screen for parking is no longer required.
- (4) Regarding the required LOADING BERTH:
- a. The petitioner must construct one 12 feet by 40 feet LOADING BERTH per the requirements in Section 7.4.2. A special condition has been added to ensure compliance.
- (5) Regarding outdoor storage and operations, a Type D screen will be required to screen outdoor storage and operations per Section 7.6.2.
- a. In previous case 967-S-19, the petitioners proposed evergreen screening on the east, west, and south sides of the 5-acre facility.
 - (a) The proposed 1-acre outdoor operations area is visible to and within 1,000 feet of the residence located southeast of the subject property. The only required screening will be for the south and east sides of the operations area. The screening can be outside the 1-acre operations area.
 - b. A special condition has been added to ensure compliance with the screening requirements for the Special Use Permit area.
- C. Regarding compliance with the *Storm Water Management and Erosion Control Ordinance*:
- (1) The subject property is exempt from the SWMEC Ordinance because the proposed Special Use Permit area is just under one acre.
 - (2) The remaining acreage disturbed on the subject property would need to be returned to vegetative or crop cover in order to have under one acre of disturbed land.
 - a. A special condition has been added to ensure compliance.

PRELIMINARY DRAFT

- 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 County's subdivision jurisdiction and the subject property is in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-1 Agriculture Zoning District:
- (1) Contractors Facilities with Outdoor Storage and/or Operations are allowed with a Special Use Permit in the AG-1 Agriculture Zoning District.
- G. Regarding operations and compliance with IEPA regulations, the following is evidence from previous related case 967-S-19:
- (1) In an email received December 13, 2019, Bruce Block stated that they do not have a permit and that "people at EPA have told me I didn't need one for crushing the concrete."
 - a. In an email dated December 17, 2019, Susan Burgstrom told Bruce Block that written verification regarding permit requirements for his operations would be needed from Illinois EPA.
 - (2) On January 29, 2020, Mr. Bruce Block received confirmation from the Illinois Environmental Protection Agency (IEPA) Bureau of Air that the site is a participant in the IEPA Registration of Smaller Sources (ROSS) Program, which is for businesses with a low level of emissions. Should the site exceed an emissions level stipulated by the ROSS Program, the petitioners would have to apply for a higher-level permit. The site must renew its registration yearly.
 - a. Mr. Block stated that the ROSS registration is the only permit they had obtained for the site.
 - (3) The Illinois Environmental Protection Act (*415 ILCS 5*) requires at least 25% of the total amount of reclaimed or other asphalt pavement present at a site during a calendar year be transported off of the site during the next calendar year (*415 ILCS 5/3.160(b)*).
 - a. At the February 27, 2020 ZBA meeting, the following testimony was received: Mr. Brody Block stated that the IEPA informed him that he only has to remove 25% of the asphalt annually, and the IEPA representative was at the site two weeks ago. Mr. Bequette asked Mr. Brody Block if he doubled the amount of asphalt that was present last year, does he only need to remove 25% of last year's volume, or this year's volume. He asked how the 25% is calculated. Mr. Brody Block stated that he did not know how the 25% is calculated, but Mr. Bequette could ask the IEPA representative. Mr. Bequette asked Mr. Bruce Block to indicate the name of the IEPA representative. Mr. Bruce Block stated that he could not remember the IEPA representative's name at this time. Mr. Brody Block stated that the IEPA representative was from Champaign. Mr. Bequette asked Mr. Bruce Block if the IEPA representative conducted a site visit. Mr. Bruce Block stated yes. Mr. Brody Block stated that the IEPA representative informed them that what they were doing was perfectly legal. Mr. Bequette asked Mr. Brody Block if

PRELIMINARY DRAFT**Case 993-S-20
Page 21 of 35**

the IEPA representative was present tonight. Mr. Brody Block stated no. Mr. Bequette asked Mr. Brody Block if they had any written materials to submit to the Board from the IEPA representative indicating that what they were doing on the site was perfect. Mr. Block stated no.

- b. P&Z Staff emailed IEPA staff on May 28, 2020 to request information regarding how a business could best track asphalt. In an email received May 28, 2020, Thomas Hubbard, Permits Section of IEPA Bureau of Land, stated, "The most basic tracking would be material received and material sold. If the site can document that they sell at least 25% of their stockpile every year, then the average retention time of the material is less than 4 years. Another option would be segregating the piles yearly (i.e. all the material received in 2019 is one pile and all the material received in 2020 is another pile, etc.) then showing that no pile is more than 4 years old."
- (4) On March 17, 2020, P&Z Staff became aware that Jennifer O'Hearn with IEPA completed an Open Dump Inspection of the subject property on November 1, 2019. Highlights of the report include the following:
- a. Bruce Block was present during the inspection.
 - b. Ms. O'Hearn observed four apparent continuing violations on the subject property dated from August 2015 and August 2106, as noted on page 3 of the report:
 - (a) Cause or allow open dumping of any waste in a manner which results in deposition of general or clean construction or demolition debris;
 - (b) Cause or allow open dumping;
 - (c) Dispose, treat, store, abandon any waste, or transport any waste into Illinois at or to sites not meeting requirements of the Act; and
 - (d) Cause or allow open dumping of any waste in a manner which results in litter.
 - c. Ms. O'Hearn noted, "Not including the area west of the grain bins, 235 cubic yards of new, unprocessed concrete, brick and asphalt has come into site. Around 120 cubic yards of old concrete remains. Around 90 cubic yards of brick and concrete have left the site and around 75 cubic yards appears to have been newly crushed or partially broken. Around 35 cubic yards of metal in total are at the site" (page 3, first full paragraph).
 - d. The remainder of the report includes photos with descriptors.
- (5) In an email dated August 3, 2020, Bruce Block submitted a copy of a letter from Kenneth Smith, of the IEPA Bureau of Land, Division of Land Pollution Control, which included the following information:
- a. Section 3.160(b)(ii) of the Illinois Environmental Protection Act (Act) specifically excludes clean construction or demolition debris, which

PRELIMINARY DRAFT

includes concrete and asphalt pavement, that is recycled such that it is separated or processed and returned to the economic mainstream in the form of raw materials or products if it is not speculatively accumulated and, if used as a fill material, it is used in accordance with Section 3.160(b)(i) of the Act from being classified as a waste. Therefore, the concrete/asphalt recycling would not need a permit from the BOL.

- b. The crusher Mr. Block mentioned in his inquiry might need a permit from the IEPA Bureau of Air.
 - (a) The petitioners are registered in the IEPA Bureau of Air ROSS program as of January 29, 2020.
 - c. If more than one acre is being disturbed, a NPDES permit may be needed from the IEPA Bureau of Water.
 - (a) On August 10, 2020, Susan Burgstrom requested an update from Bruce Block regarding additional IEPA permits. Mr. Block responded that he is applying for the permit from the IEPA Bureau of Water.
- (6) On August 10, 2020, Susan Burgstrom emailed Thomas Hubbard and Jennifer O’Hearn at the IEPA Bureau of Land – Permits Section, requesting an update and was told to submit a FOIA request. Ms. Burgstrom submitted the FOIA request on August 13, 2020.
- a. The FOIA response included the report from the open dump inspection for the subject property on November 1, 2019, and the letter from Kenneth Smith, but no new information was provided.
- (7) On December 17, 2020, P&Z Staff sent a FOIA request to IEPA regarding the status of continuing violations on the subject property.
- a. In an email dated December 22, 2020 and received December 28, 2020, the Illinois EPA FOIA Officer stated that there is no new information since the previous FOIA inquiry on August 13, 2020.
- H. The proposed Special Use must comply with the Illinois Accessibility Code, which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.

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. Section 5.2: Table of Authorized Principal Uses states that Contractors Facilities (with or without outdoor STORAGE and/or outdoor OPERATIONS) can be established with a Special Use Permit in the AG-1 Agriculture Zoning District.

PRELIMINARY DRAFT**Case 993-S-20
Page 23 of 35**

- B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
- (1) Subsection 5.1.1 of the Ordinance states, “The AG-1 Agriculture DISTRICT is intended to protect the areas of the COUNTY where soil and topographic conditions are best adapted to the pursuit of AGRICULTURAL USES and to prevent the admixture of urban and rural USES which would contribute to the premature termination of AGRICULTURE pursuits.”
 - (2) The types of uses authorized in the AG-1 District are in fact the types of uses that have been determined to be acceptable in the AG-1 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. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:
- (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 and 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. Gary Jacobson testified during previous related case 967-S-19 that he provided a professional real estate appraisal for his own property located southeast of the subject property. The appraisal indicates that Mr. Jacobson’s property is worth \$49,000 less than it was in a previous appraisal, despite having invested over \$100,000 in improvements to his property.
 - b. The proposed Special Use Permit area is being reduced from 5 acres in case 967-S-19 to 1 acre in case 993-S-20. The proposed 1-acre area would be approximately 275 feet farther away from the Jacobson property than the existing operations area.
 - c. It is not clear whether the reduction in the proposed Special Use Permit Area from 5 acres to 1 acre 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.
 - (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.
 - a. The proposed Special Use is likely to increase traffic on CR 400N and on CR 2500E (County Highway 13). The increase is not predictable because

PRELIMINARY DRAFT

- operations depend on diverse contracts for area construction waste materials (i.e. asphalt, concrete, etc.).
- b. In a letter received February 27, 2020 during previous case 967-S-19, Shawn Walker, Ayers Township Highway Commissioner, did not identify specific concerns about the volume of traffic related to the business on the subject property.
 - c. The proposed 1-acre Special Use Permit area would have space for less materials to be dropped off and picked up, which would in turn reduce traffic compared to the proposal in previous case 967-S-19.
- (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.
- a. Regarding erosion concerns, the Natural Resource Report completed by the Champaign County Soil and Water Conservation District received December 17, 2019, states: “Construction sites can experience 20 to 200 tons/acre/year of soil loss, which is greater than other land uses, like agriculture, averaging 4-5 tons/acre/year. It is extremely important that the developer employ Best Management Practices, like the ones listed below, to help reduce soil erosion and protect water quality during and after construction.
 - (a) Silt Fencing: A woven geotextile fabric stretched across and attached to supporting posts used to intercept sediment-laden runoff from small drainage areas of disturbed soil. The purpose is to filter out sediment from runoff before it enters a water body.
 - (b) Construction Road Stabilization: The stabilization of temporary construction access routes, subdivision roads, on-site vehicle transportation routes, and construction parking areas with stone immediately after grading the area to reduce erosion.
 - (c) Vegetative Cover: One of the most important means to control runoff is to plant temporary vegetation around the perimeter of the construction site. This provides a natural buffer to filter sediment and chemicals. The CCSWCD recommends that temporary grass be planted (i.e. smooth brome grass, oats, cereal rye) to help protect soil from erosion during construction.”
 - b. The subject property is exempt from the SWMEC Ordinance because the proposed Special Use Permit area is just under one acre.
 - (a) The remaining acreage disturbed on the subject property would need to be returned to vegetative or crop cover in order to have under one acre of disturbed land. A special condition has been added to ensure compliance.

PRELIMINARY DRAFT**Case 993-S-20
Page 25 of 35**

- (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. Complaints have been received from neighbors since May 24, 2019 regarding the site being an eyesore; noise from jack hammers, grinders, and trucks; dirt and dust; rats; and significantly increased truck traffic posing a safety hazard.
 - b. Testimony was received during previous related case 967-S-19; a summary of testimony can be found under Item 8.I.
 - c. Regarding compliance with IEPA, as discussed during previous related case 967-S-19:
 - (a) The petitioners secured an IEPA Registration of Smaller Sources (ROSS) Program confirmation related to air emissions dated November 29, 2020; this registration must be renewed annually.
 - (b) The petitioners received a letter dated June 2, 2020 from the IEPA Bureau of Land that no permit is necessary if certain conditions are met.
 - (c) Violations related to open dumping exist on the subject property, as listed in Item 9.G. above. On August 10, 2020, Susan Burgstrom requested an update from IEPA Bureau of Land on the status of those violations. No new information was provided.
 - (d) On August 10, 2020, Bruce Block indicated that they are applying for the required ILR10 permit from the IEPA Bureau of Water. A special condition has been added to ensure compliance.
 - a. An ILR10 permit is not necessary for the proposed operations area because less than 1 acre of land would be disturbed.
 - (e) On December 17, 2020, P&Z Staff sent a FOIA request to IEPA regarding the status of continuing violations on the subject property.
 - i. In an email dated December 22, 2020 and received December 28, 2020, the Illinois EPA FOIA Officer stated that there is no new information since the previous FOIA inquiry on August 13, 2020.
 - d. As noted during previous related case 967-S-19, on August 4, 2020, Susan Burgstrom received an email from neighbor Gary Jacobson that included two attached videos. Mr. Jacobson stated that operations have increased to seven days a week and 12+ hours per day.
 - e. Since denial of case 967-S-19, the petitioners have started to clean up the site, and have submitted a reduced operations area for case 993-S-20 that is 275 feet farther away from the nearest residential neighbor.

PRELIMINARY DRAFT

- (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.

- (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.

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. Soils on the subject property are BEST PRIME FARMLAND. The proposed Special Use Permit will not take any land out of agricultural production. A

PRELIMINARY DRAFT

special condition has been added limiting the Special Use Permit area to the 1-acre area shown on the Site Plan received October 28, 2020.

- (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 Permit will not take any land out of agricultural production. A special condition has been added limiting the Special Use Permit area to the 1-acre area shown on the Site Plan received October 28, 2020.

- (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.

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 Petitioner has testified on the application: **“Yes.”**
 - B. The existing use on the property is not a nonconforming use.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 12. Regarding proposed special conditions of approval:

PRELIMINARY DRAFT

- A. **The Special Use Permit area will be limited to no more than one acre, including the 10-foot wide access path, but excluding the area required for screening, as reflected in the Site Plan received October 28, 2020.**
- (1) **The petitioners shall allow access to the property by the Zoning Administrator and/or his representative(s) for the purposes of determining compliance with this condition, as requested by the Zoning Administrator.**
 - (2) **This Special Use Permit shall become void if the Special Use activities and storage areas have not been reduced to no more than the area approved for the Special Use Permit by August 27, 2021. If the petitioners do not meet that deadline, the Zoning Administrator shall request the Champaign County State's Attorney's Office to resume court action against the petitioners.**

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

To achieve the Zoning Ordinance purpose of promoting the public health, safety, comfort, morals, and general welfare.

- B. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 993-S-20 by the Zoning Board of Appeals. In order to receive a Zoning Compliance Certificate for the Change of Use Permit, the petitioners must complete the following within 12 months of Change of Use Permit approval:**
- (1) **The petitioners must plant sufficient vegetative screening on the subject property to screen the Special Use Permit outdoor storage areas from the residential lot located southeast of the subject property. Per standard Department practice, a sufficient vegetative screen must be four to six feet high at the time of planting, and if recommended spacing of a single row of the selected species will not provide 50% screen in two years, then the screen must be planted in staggered rows.**
 - (2) **The petitioners must plant and maintain crops or other vegetative cover in all areas outside the 1-acre Special Use Permit area so that disturbed land remains at one acre or less. Should disturbed land increase to more than one acre, the petitioners will be required to comply with the *Storm Water Management and Erosion Control Ordinance*.**
 - (3) **The petitioners must construct paved parking spaces and one loading berth meeting the requirements of Section 7.4 on the subject property.**
 - (4) **All crushing of concrete or asphalt on the subject property must be done inside a building with four walls, OR all crushing must cease on the subject property.**
 - (5) **The petitioners must demonstrate that the proposed Special Use complies with the Illinois Accessibility Code.**

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

The establishment of the proposed use shall comply with State and local requirements.

PRELIMINARY DRAFT

**Case 993-S-20
Page 29 of 35**

- C. **The Zoning Administrator shall not authorize a Zoning Use Permit or 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 condition stated above is required to ensure the following:

That the proposed uses are in compliance with the Zoning Ordinance.

- D. **The only solid waste that may be brought to the property is “clean construction or demolition debris” as defined by the Illinois Environmental Protection Agency, and/or landscape waste, and must be from demolition projects by Block Field Tiling LLC. Clean construction or demolition debris and/or landscape waste cannot be brought to the property from demolition projects by others.**

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

To ensure that the subject property does not become a waste transfer station or other type of solid waste facility.

- E. **All handling and crushing of clean construction or demolition debris must be in conformance with the requirements of the Illinois Environmental Protection Agency and the petitioners must provide copies of all communications from Illinois EPA to the Zoning Administrator upon request.**

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

To ensure compliance with IEPA requirements to ensure public health and safety.

- F. **Unloading of dump trucks and/or breaking and/or crushing of asphalt and/or concrete may only occur on the property between the hours of 8 a.m. to 5 p.m. on Monday through Friday.**

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

To minimize nuisance conditions for neighbors.

Case 993-S-20
Page 30 of 35

PRELIMINARY DRAFT

DOCUMENTS OF RECORD

1. Application for Special Use Permit received October 28, 2020, with attachment:
 - A Site Plan
 - B Project description
2. P&Z Final Action Notice dated September 9, 2020
3. IEPA FOIA response dated December 22, 2020 and received December 28, 2020
4. Preliminary Memorandum dated January 5, 2021, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received October 28, 2020
 - C Annotated 2020 Aerial created by P&Z Staff on December 21, 2020
 - D IEPA FOIA response dated December 22, 2020 and received December 28, 2020
 - E Site Visit Photos taken December 21, 2020
 - F Preliminary Summary of Evidence, Finding of Fact, and Final Determination dated January 14, 2021

PRELIMINARY DRAFT

Case 993-S-20
Page 31 of 35

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **993-S-20** held on **January 14, 2021**, 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*}*:
 - g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed improvements *{because*}*:
 - h. Existing public services *{ARE/ARE NOT}* available to support the proposed SPECIAL USE without undue public expense *{because*}*:
 - i. Existing public infrastructure together with the proposed development *{IS/IS NOT}* adequate to support the proposed development effectively and safely without undue public expense *{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.

PRELIMINARY DRAFT

- 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. ***{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:***
- A. **The Special Use Permit area will be limited to no more than one acre, including the 10-foot wide access path, but excluding the area required for screening, as reflected in the Site Plan received October 28, 2020.**
- (1) **The petitioners shall allow access to the property by the Zoning Administrator and/or his representative(s) for the purposes of determining compliance with this condition, as requested by the Zoning Administrator.**
 - (2) **This Special Use Permit shall become void if the Special Use activities and storage areas have not been reduced to no more than the area approved for the Special Use Permit by August 27, 2021. If the petitioners do not meet that deadline, the Zoning Administrator shall request the Champaign County State's Attorney's Office to resume court action against the petitioners.**
- The special condition stated above is required to ensure the following:
To achieve the Zoning Ordinance purpose of promoting the public health, safety, comfort, morals, and general welfare.
- B. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 993-S-20 by the Zoning Board of Appeals. In order to receive a Zoning Compliance Certificate for the Change of Use Permit, the petitioners must complete the following within 12 months of Change of Use Permit approval:**
- (1) **The petitioners must plant sufficient vegetative screening on the subject property to screen the Special Use Permit outdoor storage areas from the residential lot located southeast of the subject property. Per standard Department practice, a sufficient vegetative screen must be four to six feet high at the time of planting, and if recommended spacing of a single row of the selected species will not provide 50% screen in two years, then the screen must be planted in staggered rows.**
 - (2) **The petitioners must plant and maintain crops or other vegetative cover in all areas outside the 1-acre Special Use Permit area so that disturbed land remains at one acre or less. Should disturbed land increase to more than one acre, the petitioners will be required to comply with the *Storm Water Management and Erosion Control Ordinance*.**

PRELIMINARY DRAFT

**Case 993-S-20
Page 33 of 35**

- (3) The petitioners must construct paved parking spaces and one loading berth meeting the requirements of Section 7.4 on the subject property.**
- (4) All crushing of concrete or asphalt on the subject property must be done inside a building with four walls, OR all crushing must cease on the subject property.**
- (5) The petitioners must demonstrate that the proposed Special Use complies with the Illinois Accessibility Code.**

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

The establishment of the proposed use shall comply with State and local requirements.

- C. The Zoning Administrator shall not authorize a Zoning Use Permit or 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 condition stated above is required to ensure the following:

That the proposed uses are in compliance with the Zoning Ordinance.

- D. The only solid waste that may be brought to the property is “clean construction or demolition debris” as defined by the Illinois Environmental Protection Agency, and/or landscape waste, and must be from demolition projects by Block Field Tiling LLC. Clean construction or demolition debris and/or landscape waste cannot be brought to the property from demolition projects by others.**

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

To ensure that the subject property does not become a waste transfer station or other type of solid waste facility.

- E. All handling and crushing of clean construction or demolition debris must be in conformance with the requirements of the Illinois Environmental Protection Agency and the petitioners must provide copies of all communications from Illinois EPA to the Zoning Administrator upon request.**

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

To ensure compliance with IEPA requirements to ensure public health and safety.

- F. Unloading of dump trucks and/or breaking and/or crushing of asphalt and/or concrete may only occur on the property between the hours of 8 a.m. to 5 p.m. on Monday through Friday.**

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

To minimize nuisance conditions for neighbors.

PRELIMINARY DRAFT**FINAL DETERMINATION**

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 967-S-19 is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicants, **Bruce and Brody Block, d.b.a., Block Field Tiling, LLC**, to authorize the following:

Authorize a Contractor's Facility with Outdoor Storage and Outdoor Operations as a Special Use in the AG-1 Agriculture Zoning District.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:}

- A. **The Special Use Permit area will be limited to no more than one acre, including the 10-foot wide access path, but excluding the area required for screening, as reflected in the Site Plan received October 28, 2020.**
- (1) **The petitioners shall allow access to the property by the Zoning Administrator and/or his representative(s) for the purposes of determining compliance with this condition, as requested by the Zoning Administrator.**
 - (2) **This Special Use Permit shall become void if the Special Use activities and storage areas have not been reduced to no more than the area approved for the Special Use Permit by August 27, 2021. If the petitioners do not meet that deadline, the Zoning Administrator shall request the Champaign County State's Attorney's Office to resume court action against the petitioners.**
- B. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 993-S-20 by the Zoning Board of Appeals. In order to receive a Zoning Compliance Certificate for the Change of Use Permit, the petitioners must complete the following within 12 months of Change of Use Permit approval:**
- (1) **The petitioners must plant sufficient vegetative screening on the subject property to screen the Special Use Permit outdoor storage areas from the residential lot located southeast of the subject property. Per standard Department practice, a sufficient vegetative screen must be four to six feet high at the time of planting, and if recommended spacing of a single row of the selected species will not provide 50% screen in two years, then the screen must be planted in staggered rows.**
 - (2) **The petitioners must plant and maintain crops or other vegetative cover in all areas outside the 1-acre Special Use Permit area so that disturbed land remains at one acre or less. Should disturbed land increase to more than one acre, the petitioners will be required to comply with the *Storm Water Management and Erosion Control Ordinance*.**
 - (3) **The petitioners must construct paved parking spaces and one loading berth meeting the requirements of Section 7.4 on the subject property.**

PRELIMINARY DRAFT

- (4) All crushing of concrete or asphalt on the subject property must be done inside a building with four walls, OR all crushing must cease on the subject property.**
- (5) The petitioners must demonstrate that the proposed Special Use complies with the Illinois Accessibility Code.**
- C. The Zoning Administrator shall not authorize a Zoning Use Permit or 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.**
- D. The only solid waste that may be brought to the property is “clean construction or demolition debris” as defined by the Illinois Environmental Protection Agency, and/or landscape waste, and must be from demolition projects by Block Field Tiling LLC. Clean construction or demolition debris and/or landscape waste cannot be brought to the property from demolition projects by others.**
- E. All handling and crushing of clean construction or demolition debris must be in conformance with the requirements of the Illinois Environmental Protection Agency and the petitioners must provide copies of all communications from Illinois EPA to the Zoning Administrator upon request.**
- F. Unloading of dump trucks and/or breaking and/or crushing of asphalt and/or concrete may only occur on the property between the hours of 8 a.m. to 5 p.m. on Monday through Friday.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date