

CASE 059-AM-22

PRELIMINARY MEMORANDUM

JULY 19, 2022

Petitioner: Dennis Toeppen

Request: Amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District.

Location: A 5-acre tract in the Northeast Quarter of the Northeast Quarter of Section 24, Township 20 North Range 8 East of the Third Principal Meridian in Hensley Township with an address of 73 East Hensley Road, Champaign.

Site Area: 5 acres

Time Schedule for Development: As soon as possible

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

BACKGROUND

The petitioner would like to construct one warehouse with office area that would be leasable space. He does not have a tenant at this time. He plans a second phase that is dependent on buildout of Phase 1. The petitioner would like to rezone to B-4 General Business because there is a more extensive list of possible land uses that could occupy the building than what is available in the B-3 Highway Business Zoning District.

The petitioner believes that the subject property should not be zoned B-3 Highway Business because it does not have direct access to a highway. It is adjacent to the I-57/Market Street interchange, but only has access on East Hensley Road just west of the interchange.

In 2006 and 2007, Case 555-AM-06 requested the same rezoning from B-3 to B-4 for the subject property. The ZBA and ELUC recommended approval with conditions, but there was a protest from Hensley Township Plan Commission that triggered a supermajority vote at the County Board. The rezoning was denied. Hensley Township's concerns were the possibility of heavy vehicles on a weight-limited road, and that the subject property contained drainage tile that was the only drainage for an upstream property and they did not want the tile to be damaged by development.

In 2017, the petitioner replaced the drainage tile on the property with 15-inch PVC tile. This included remediation for the tile that Ameren broke in 2003 and improved drainage for the neighbor to the north.

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 Hensley Township, which has a Plan Commission. Townships with Plan Commissions have protest rights in Map Amendment cases.

EXISTING LAND USE AND ZONING**Table 1. Land Use and Zoning Summary**

Direction	Land Use	Zoning
Onsite	gravel parking area	B-3 Highway Business (proposed to be rezoned to B-4 General Business)
North	agriculture	AG-1 Agriculture
East	truck terminals	AG-2 Agriculture B-4 General Business
West	commercial	B-4 General Business
South	interchange	I-57 interchange at Market St

DECISION POINTS FOR CASE 059-AM-22

Staff analysis indicates that the proposed Zoning Map amendment and potential use appear to be generally compatible with surrounding land uses and the Champaign County Land Resource Management Plan Goals, Objectives, and Policies adopted by the County Board on April 22, 2010.

Staff has recommended affirmative findings for all decision points for the LRMP Goals, Objectives, and Policies, LaSalle and Sinclair Factors, and Purpose of the Zoning Ordinance. The Board can revise any of these recommended findings.

PROPOSED SPECIAL CONDITION

The following special condition is proposed for the Map Amendment:

- A. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).**

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

Conformance with Land Resource Management Plan Policy 4.2.3.

ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received June 20, 2022:
- Exhibit 4: Phase One Detail
 - Exhibit 5: General Site Plan
- C Letter from Brian T. Schurter, Attorney for Hensley Township Plan Commission, received March 2, 2007
- D LRMP Land Use Goals, Objectives, and Policies (on ZBA meetings website)
- E LRMP Appendix of Defined Terms (on ZBA meetings website)
- F Copy of Right to Farm Resolution 3425
- G Site Visit Photos taken July 5, 2022
- H Draft Finding of Fact and Final Determination dated July 28, 2022

Location Map

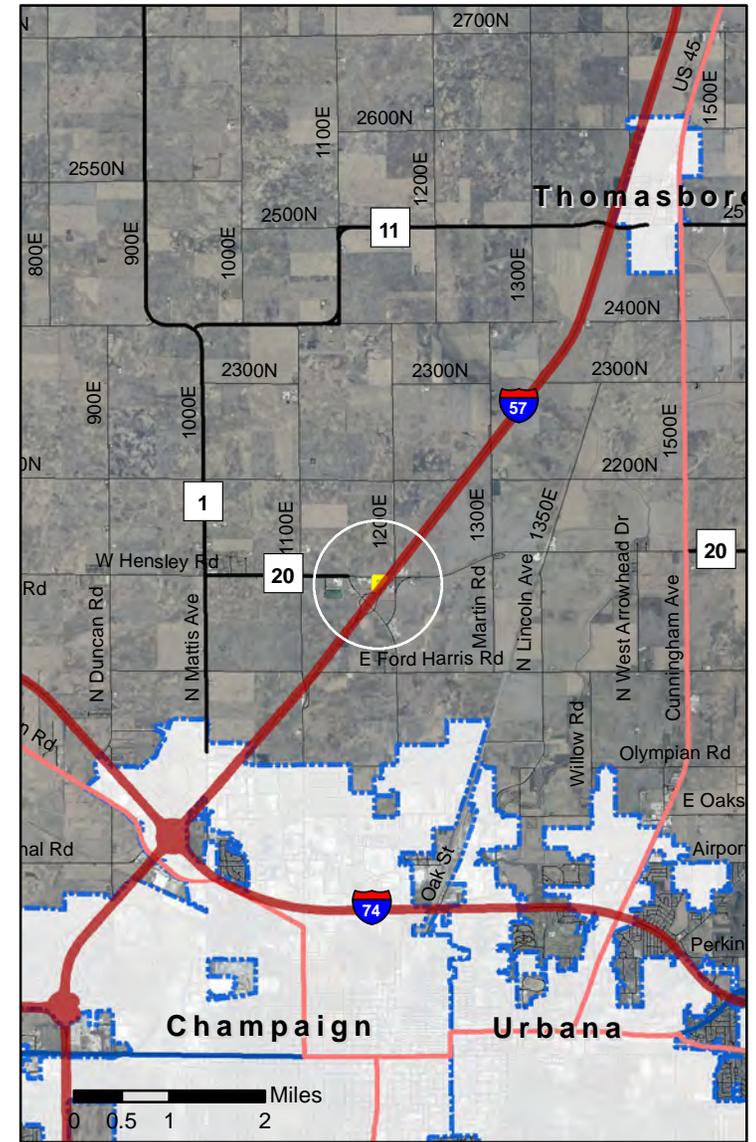
Case 059-AM-22
July 28, 2022

Subject Property



- Subject Property
- Municipal Boundary
- Parcels

Property location in Champaign County



Champaign County
Department of
**PLANNING &
ZONING**

Land Use Map

Case 059-AM-22
July 28, 2022



- | | | |
|------------------|-------------------------|------------|
| Subject Property | Agriculture/Residential | Commercial |
| Agriculture | Residential | Utilities |
| | | Tax Exempt |

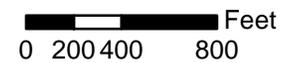
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Champaign County
Department of
PLANNING &
ZONING

Zoning Map

Case 059-AM-22
July 28, 2022

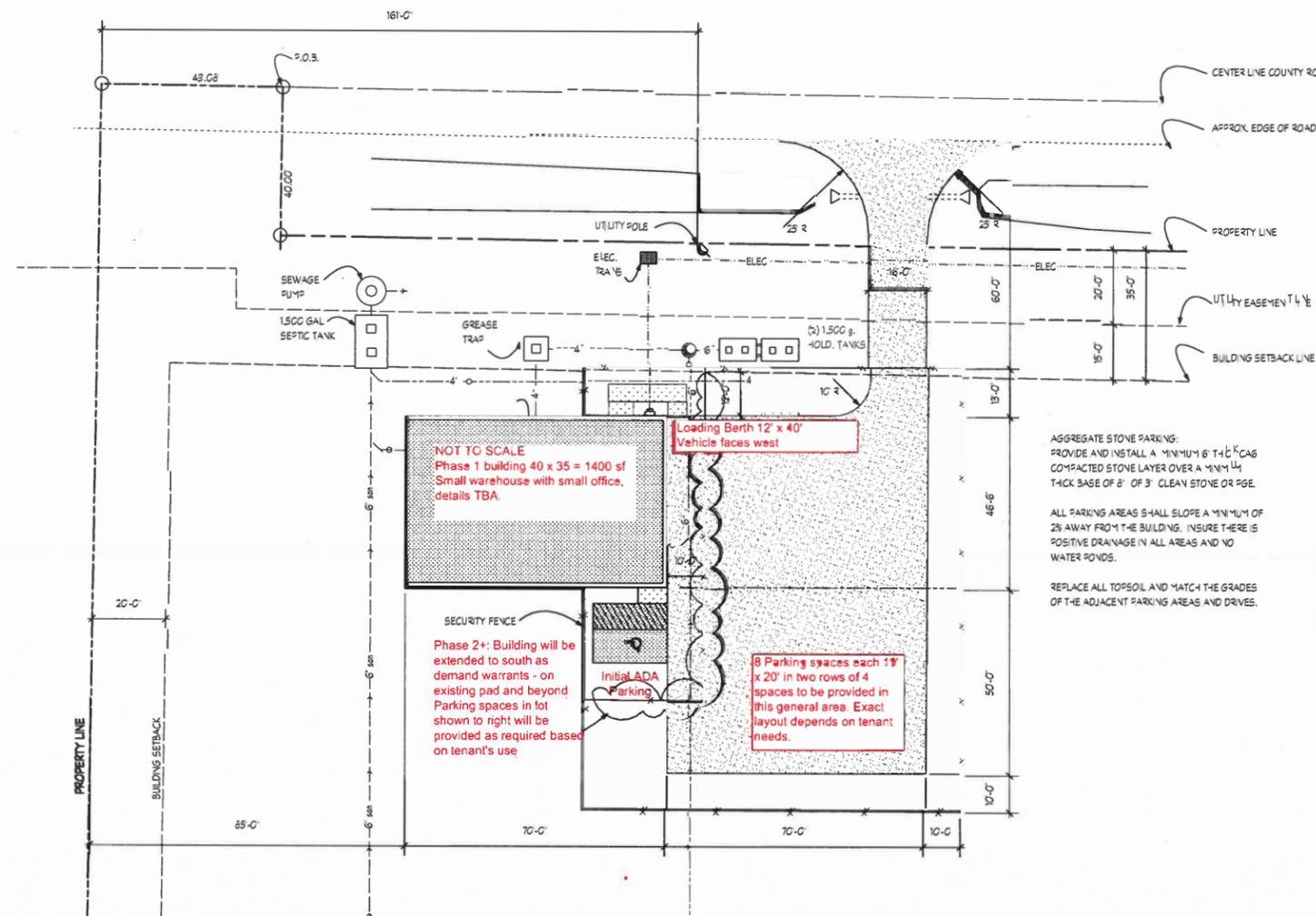


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CHAMPAIGN CO. P & Z DEPARTMENT

Exhibit 4 Phase One Detail



WATER WELL LOCATION

1. INSURE THAT THE WELL LOCATION HAS GOOD DRAINAGE AND IS HIGHER THAN THE SURROUNDING GROUND SURFACE. ALL POSSIBLE SOURCES OF CONTAMINATION SHOULD BE AT A LOWER ELEVATION THAN THE WELL, AND THE DISTANCES TO THESE CONTAMINATION SOURCES MUST BE IN ACCORDANCE WITH THE ILLINOIS WATER WELL CONSTRUCTION CODE (IWWC). SURFACE DRAINAGE SHOULD NOT ALLOW SURFACE WATER TO ACCUMULATE WITHIN A 15-FOOT RADIUS OF THE WELL. A WELL SHOULD BE AT LEAST 10 FEET FROM SEWERS AND 50 FEET FROM SEPTIC TANKS, OR 15 FEET FROM SEWAGE SEEPAGE FIELDS.

ALL WATER WELL PUMPS SHALL BE INSTALLED IN ACCORDANCE WITH THE ILLINOIS WATER WELL PUMP INSTALLATION CODE. IF THE PUMP IS LOCATED AWAY FROM THE WELL, THE 3/4" BORE PIPE LEADING TO THE PUMP FROM THE WELL SHALL BE ENCASED IN ANOTHER PIPE MAINTAINED AT SYSTEM PRESSURE. A DOWN-TURNED 5/8" NOSE SAMPLING FAUCET SHALL BE INSTALLED, NOT LESS THAN 18 INCHES ABOVE THE FLOOR, IN A CONVENIENT LOCATION BETWEEN THE WATER WELL AND THE PRESSURE TANK OR AS NEAR TO THE WELL AS POSSIBLE.

NEW DRILLED WELLS

NEW DRILLED WELLS SHALL NOT BE LOCATED IN PITS. THE WELL CASINGS SHALL TERMINATE AT LEAST 8 INCHES ABOVE GROUND LEVEL. FROST PROTECTION SHOULD BE PROVIDED BY USE OF AN INSULATED PUMP HOUSE OR AN APPROVED FROSTLESS ADAPTER. JET, RECIPROCATING, DEEP WELL TURBINE, AND SUBMERSIBLE PUMPS ARE ALL APPROVED. ALL SUCTION, PRESSURE, VENT, AND ELECTRIC LINES SHALL ENTER THE TOP OF THE CASING THROUGH A WATER-TIGHT SEAL. HAND PUMPS EQUIPPED WITH A PACKING GLAND AROUND THE PUMP ROD, AN ENCLOSED, TURNED-DOWN SPOUT, AND A BELL-TYPE, ONE PIECE BASE MADE AS A PART OF THE PUMP STAND OR ATTACHED TO THE PUMP COLUMN IN A WATER-TIGHT MANNER ARE APPROVED. PUMPS AND PRESSURE TANKS MAY BE LOCATED IN BASEMENTS. ALL WELLS, HOWEVER, MUST BE LOCATED OUTSIDE OF BASEMENT WALLS.

SEPTIC SYSTEM

1. PROVIDE AND INSTALL A COMPLETE AND OPERATING SEPTIC SYSTEM INSTALLED IN ACCORDANCE WITH ILLINOIS DEPARTMENT OF PUBLIC HEALTH REGULATIONS AND CHAMPAIGN COUNTY HEALTH DEPARTMENT

DIVISION 02 EXISTING CONDITIONS 02 00 00 UTILITIES

1. UTILITIES. PRIOR TO CONSTRUCTION, LOCATE AND DO NOT DISTURB UTILITIES (INCLUDING GAS, WATER, SEWER, TELEPHONE) OR DISCONNECT SAME, UNLESS PROPER PRECAUTIONS ARE TAKEN TO PROVIDE THE SAME UTILITIES ON A TEMPORARY BASIS WITHOUT LOSS OF CONTINUITY.

SITING WORK

- CONTRACTOR SHALL NOTIFY ALL UTILITY COMPANIES TO VERIFY THE LOCATIONS OF SERVICES PRIOR TO COMMENCING CONSTRUCTION. UTILITY LOCATIONS SHOWN ON THE DRAWINGS AND OTHERS NOT SHOWN SHALL BE FIELD VERIFIED BY THE CONTRACTOR.
- TOPOGRAPHIC ELEVATIONS ARE INDICATED ON THE CIVIL ENGINEERING DRAWINGS AND SHALL BE FIELD VERIFIED BY THE CONTRACTOR.
- AT ALL AREAS TO RECEIVE FOOTINGS FOUNDATIONS SIDEWALKS DRIVEWAYS, PARKING PADS, SLABS ON GRADE, REINFORCE ALL TOPSOIL AND FILL WITH ORGANIC CHAY, SAND OR AGGREGATE STONE.
- ALL FILL AREAS SHALL BE COMPACTED IN 6" LIFTS AND AREAS TO RECEIVE SLABS ON GRADE, SIDEWALKS ETC. SHALL BE COMPACTED TO 95% MODIFIED PROCTOR OR MAXIMUM DRY DENSITY.
- ALL WATER AND DRAINAGE LINES SHALL BE INSTALLED AT A MINIMUM 48" BELOW FINISH GRADE. FOLLOW THE ILLINOIS STATE PLUMBING CODE FOR ALL PLUMBING AND SANITARY SERVICE WORK.

EXCAVATIONS

ALL FOOTINGS SHALL BEAR ON 3,000 P.S.F. (MINIMUM) UNDISTURBED SOIL. REMOVE ALL EXCESS EXCAVATED MATERIALS FROM THE SITE AS DIRECTED. STRIP TOP SOIL AND STOCKPILE. REPLACE A MINIMUM OF TOPSOIL IN LANDSCAPE AREAS. USE CARE TO NOT COMPACT FRESH PLACED TOPSOIL.

REMOVE ALL EXCESS TOP SOIL FROM SITE AS DIRECTED. REMOVE SOILS OF BEARING CAPACITY LESS THAN 3,000 P.S.F. UNDER THE SLAB AREA AND REPLACE WITH COMPACTED GRANULAR FILL. COMPACTION OF GRANULAR FILL FREE OF ORGANIC MATERIAL, SHALL BE SET IN 6" LAYERS (MAXIMUM) AND COMPACTED TO 95% MODIFIED PROCTOR DENSITY (MPD). REMOVE ALL ORGANIC SOIL FROM UNDER PAVING AREAS AND PROVIDE GRANULAR FILL COMPACTED TO 95% MPD.

EXCAVATION

THE SOILS AND ENGINEERING REPORT IS FOR INFORMATIONAL PURPOSES ONLY AND SHALL NOT BE CONSIDERED A PART OF THE CONTRACT DOCUMENTS. FURTHERMORE, NO WARRANTY IS MADE BY THE OWNER WITH REGARD TO THE COMPLETENESS AND ACCURACY OF THE SUBSURFACE INVESTIGATION DATA, SOIL TEST DATA OR STATEMENTS AND INTERPRETATIONS GIVEN.

WATER LEVELS INDICATED ON THE BORING LOGS MAY BE SUBJECT TO SEASONAL AND OR ANNUAL VARIATIONS. A DEWATERING SYSTEM OF SUFFICIENT CAPACITY SHALL BE INSTALLED AND OPERATED TO MAINTAIN THE CONSTRUCTION AREA FREE OF WATER AT ALL TIMES. THE BEARING VALUE OF THE SOIL WAS DETERMINED BY FIELD EXPLORATION AND LABORATORY ANALYSIS. THE FOUNDATION DESIGN IS BASED ON THE FOLLOWING NET ALLOWABLE BEARING PRESSURES. SPREAD FOOTINGS, IF UTILIZED: 3,000 P.S.F. WALL FOOTINGS: 3,000 P.S.F.

IF THE SOIL IS FOUND TO BE OTHERWISE, NOTIFY THE OWNER OR ARCHITECT PRIOR TO POURING ANY CONCRETE FOUNDATION OR SLAB. ALL EXCAVATION BACKFILL AND FOUNDATION WORK SHALL BE CARRIED OUT UNDER THE SUPERVISION OF A LICENSED SOIL ENGINEER.

REMOVE ALL DEBRIS AND UNSUITABLE MATERIAL ENCOUNTERED WITHIN THE AREA OF CONSTRUCTION. THIS EXCAVATED MATERIAL SHALL BE REPLACED WITH APPROVED FILL. THIS FILL SHALL BE PLACED IN LIFTS NOT TO EXCEED 8" IN LOOSE THICKNESS AND COMPACTED A MINIMUM OF 95% MAXIMUM DENSITY OBTAINED IN ACCORDANCE WITH A.S.T.M. SPECIFICATION D-1557. THE MATERIAL AT THE BOTTOM OF THE EXCAVATION SHALL BE INSPECTED AND COMPACTED BY PROOF ROLLING PRIOR TO THE PLACEMENT OF NEW FILL. THE SOILS ENGINEER WILL BE SELECTED AND PAID FOR BY THE OWNER. NO CONCRETE SHALL BE PLACED ON THE FILL OR UNDISTURBED SOIL UNTIL THE MATERIAL HAS BEEN INSPECTED AND APPROVED BY THE SOILS ENGINEER. STONE FILL SHALL BE PLACED ON SOIL HAVING A MINIMUM BEARING CAPACITY OF 3,000 P.S.F.

Revision Notes Date

ARCHITECT

Owner
**MR. DENNIS
TOEPPEN**

Project

Drawing

ENLARGED SITE
PLAN

Sheet No.

A2.0

**TUMMELSON
BRYAN
&KNOX
LLP**

ATTORNEYS AT LAW

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Brian T. Schurter
Of Counsel:
Murshal C. Tummelson

March 1, 2007

BY FAX AND MAIL

Mr. John Hall
Champaign County Zoning Office
1776 E. Washington Street
Urbana, IL 61802
FAX: 328-2426

Re: Case Nos. 555-AM-06 and 576-S-07

Dear Mr. Hall,

As you are aware I represent Hensley Township. Based upon the recommendations of its Planning Commission, the Township wants to make known its objection to the requests sought in both of these cases.

The primary objection is the same for both cases. Currently, both locations are served by a township road. This road has certain weight restrictions. In both cases, the intended final usage should the request be granted would result in a significant increase in oversized traffic. The township already has difficulties maintaining these roads due to heavily weighted traffic that uses the road and these requests would only increase that burden without a corresponding benefit.

Two other points should be noted. In the event that any construction is to occur on the location identified in case 555-AM-06, the property does contain drainage till which is the only source of drainage for a property "upstream" for which some suitable accommodation would need to be made. As to case 576-S-07, there is a property in close proximity to this location that accommodates heavy equipment. However, the other property is located on a section of state highway that is equipped to carry such loads.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Brian T. Schurter

BTS/sl

Cc: Hensley Township

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Attachment D: LRMP Goals, Objectives and Policies

can be found online at: http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php

Attachment E: LRMP Defined Terms

can be found online at: http://www.co.champaign.il.us/CountyBoard/meetings_ZBA.php

RESOLUTION NO. 3425

**A RESOLUTION PERTAINING TO THE
RIGHT TO FARM IN CHAMPAIGN COUNTY**

WHEREAS, the Chairman and the Board of Champaign County have determined that it is in the best interest of the residents of Champaign County to enact a Right to Farm Resolution which reflects the essence of the Farm Nuisance Suit Act as provided for in the Illinois Compiled Statutes, 740 ILCS 70 (1992); and

WHEREAS, the County wishes to conserve, protect, and encourage development and improvement of its agricultural land for the production of food and other agricultural products; and

WHEREAS, when nonagricultural land uses extend into agricultural areas, farms often become the subject of nuisance suits. As a result, farms are sometimes forced to cease operations. Others are discouraged from making investments in farm improvements.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Chairman and the Board of Champaign County as follows:

1. That the purpose of this resolution is to reduce the loss to the county of its agricultural resources by limiting the circumstances under which farming operations are deemed a nuisance.

2. That the term "farm" as used in this resolution means that part of any parcel of land used for the growing and harvesting of crops, for the feeding, breeding, and management of livestock; for dairying or other agricultural or horticultural use or combination thereof.

3. That no farm or any of its appurtenances should be or become a private or public nuisance because of any changed conditions in the surrounding area occurring after the farm has been in operation for more than one year, when such farm was not a nuisance at the time it began operation.

RESOLUTION NO. 3425

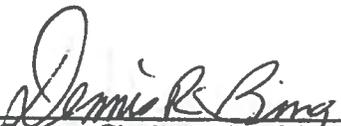
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4. That these provisions shall not apply whenever a nuisance results from the negligent or improper operation of any farm or its appurtenances.

PRESENTED, ADOPTED, APPROVED AND RECORDED this 24th day of May, A.D., 1994.



Chairman, County Board of the
County of Champaign, Illinois

ATTEST: 

County Clerk and Ex-Officio
Clerk of the County Board

059-AM-22 Site Images



From E Hensley Rd facing SW to subject property



From E Hensley Rd facing SE to subject property

059-AM-22 Site Images



At subject property entrance facing south



East Hensley Road in front of subject property

PRELIMINARY DRAFT

059-AM-22

**FINDING OF FACT
AND FINAL DETERMINATION**

of

Champaign County Zoning Board of Appeals

Final Determination: ***{RECOMMEND ENACTMENT / RECOMMEND DENIAL}***

Date: ***{July 28, 2022}***

Petitioner: **Dennis Toeppen**

Request: **Amend the Zoning Map to change the zoning district designation from the B-3 Highway Business Zoning District to the B-4 General Business Zoning District.**

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **July 28, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Dennis Toeppen owns the subject property.
2. The subject property is a 5-acre tract in the Northeast Quarter of the Northeast Quarter of Section 24, Township 20 North Range 8 East of the Third Principal Meridian in Hensley Township with an address of 73 East Hensley Road, Champaign.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - (A) The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality.
 - (B) The subject property is located within Hensley Township, which has a Planning Commission. Townships with Planning Commissions have protest rights in Map Amendment cases.
4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated the following: **“Highway business category seems to stand on the premise that parcels so zoned receive traffic from a nearby highway. In the case of the northwest quadrant of I-57 exit 240, there is virtually no traffic generated by highway. Other than local residents heading to/from their farms, and traffic to two businesses, the only traffic on Hensley between Market and I-57 seems to be people who are lost. They proceed eastbound on Hensley and make u-turns. B-4 adds permissible uses not dependent on highway traffic. B-4 will make subject parcel more useful.”**
5. Regarding comments by the petitioner when asked on the petition what other circumstances justify the rezoning the petitioner has indicated the following: **“1) Neighboring properties 013 (west) and 009 (east) are zoned as B-4. 2) Neighboring property 006 (northeast) has a special use permit for a high-intensity use which is authorized by right under B-4: truck terminal. Other neighbors are I-57 and an agricultural parcel owned by the Atkins Group for future development. 3) Changing zoning classification will facilitate sensible utilization of high-visibility vacant land, resulting in additional tax revenues for county. Development will have no adverse impact on agriculture as this is a small, inconvenient parcel to farm. Development will have no adverse impact on neighbors, who are either businesses or are already just a stone’s throw from I-57 traffic.”**

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

6. Land use and zoning on the subject property and in the vicinity are as follows:
 - A. The subject property is a 5- acre tract and is currently zoned B-3 Highway Business and is in use as a gravel parking area.
 - B. Land to the north of the subject property is zoned AG-1 Agriculture and is in agricultural production.

- C. Land to the west is zoned B-4 General Business and is commercial in use.
 - D. Land to the south is the I-57 interchange at Market Street.
 - E. Land to the east is on the east side of I-57; it is zoned AG-2 Agriculture and B-4 General Business and is commercial and residential in use.
7. Previous zoning cases in the vicinity have been the following:
- A. Case 555-AM-06 on the subject property proposed rezoning from the B-3 District to the B-4 District. The ZBA recommendation was “Recommend Approval with conditions” and ELUC upheld that recommendation, but the County Board failed to override a protest from Hensley Township and the map amendment was denied by the County Board on August 23, 2007.
 - (1) In a letter received August 17, 2007, Brian T. Schurter, Attorney for the Hensley Township Plan Commission, stated, “The Township believes that the proposed rezoning is not compatible with the current usages of surrounding properties. Further, the Board believes that such industrial development should occur contiguous to urban areas, not in rural areas. Finally the Board is concerned with the anticipated increases in heavy traffic to an already difficult to maintain road prior to the development of truck terminals.”
 - B. Case 360-AM-79 was a request to rezone a 10-acre tract south of CH 20 (Hensley Road) and east of Market Street from combined AG-2/B-3 to all B-3 Highway Business and was approved by the County Board on February 19, 1980. The property is now the Tire Central distribution facility.
 - C. Case 636-AM-88 was a request to rezone the 33.95-acre tract between Leverett Road and the I-57 ramp from combined AG-2/B-3 to all B-3 Highway Business and was approved by the County Board on April 19, 1988. This property has since been split and partially rezoned to B-4.
 - D. Case 688-AM-89 was a request to rezone a total of 34.45 acres that consisted of two tracts (the subject property and another tract from combined AG-2/B-3 to all B-3 Highway Business and was approved on January 16, 1990.
 - E. Case 294-AM-01 was a request to rezone a 21-acre tract south of CH 20 (Hensley Road) and west of Market Street from B-3 to I-1 Light Industry and was approved by the County Board on June 10, 2001. This property has since been split and partially rezoned to B-4 in Case 804-AM-15 and 884-AM-17.
 - F. Case 504-AM-05, approved by the County Board on August 18, 2005, established the current B-4 District (from the previous B-3 District) on the east side of the Interstate 57 interchange on property that fronts CH20 (Leverett Road).
 - G. Case 576-S-07, approved by the County Board on May 17, 2007, authorized a plant nursery and self-storage warehouse with heat and utilities on property located about a quarter mile to the east which was later the site of Cases 771-AM-13 and 772-S-13 (see below).

- H. Just west of the subject property, Cases 771-AM-13 and 772-S-13, approved by the County Board on September 18, 2014, rezoned 11.8 acres from B-1 to B-4 and authorized a two-part Special Use Permit consisting of multiple principal buildings on the same lot consisting of Self-Storage Warehouses providing heat and utilities to individual units, as a special use that was previously authorized in Case 576-S-07 and a Landscaping and Maintenance Contractor's Facility with outdoor storage that was the second part of the Special Use Permit.
- I. On Hensley Road on the west side of Market Street, Case 804-AM-15, approved by the County Board on July 23, 2015, rezoned the property from I-1 to B-4 in order to allow Rush Truck Centers to establish their large diesel truck maintenance and sales facility.
8. Regarding site plan and operations of the subject property:
- A. The site plan received June 20, 2022, indicates the following existing and proposed features:
- (1) There is an existing 18,000 square foot gravel area used for parking.
 - (2) Exhibit 4: Phase 1 detail indicates the following proposed features:
 - a. One 40 feet by 35 feet (1,400 square feet) building to be used as a small warehouse with office space;
 - b. One 12 feet by 40 feet loading berth to the east of the proposed building;
 - c. Nine parking spaces, including one accessible space; and
 - d. A septic field to be located in the northeast corner of the subject property.
 - (3) Exhibit 5: General Site Plan shows a view of the entire subject property and a "proposed location of future building Phase 2" just south of the proposed Phase 1 building.
- B. Regarding proposed operations, the petitioner seeks to create leasable warehouse/office space and the B-4 zoning district allows for a more expansive choice of possible tenant uses than the current B-3 zoning district.

GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS

9. Regarding the existing and proposed zoning districts:
- A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:
- (1) The B-3 Highway Business DISTRICT is intended to provide areas for commercial establishments which primarily serve the needs of motorists and are intended for application only adjacent to major thoroughfares in the COUNTY.
 - (2) The B-4 General Business DISTRICT is intended to accommodate a range of commercial USES and is intended for application only adjacent to the urbanized areas of the COUNTY.

PRELIMINARY DRAFT

B. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:

- (1) There are 52 types of uses authorized by right in the B-3 District and there are 122 types of uses authorized by right in the B-4 District:
 - a. The following 3 uses are authorized by right in the B-3 District and are not authorized at all in the B-4 District:
 - (a) TRAVEL TRAILER CAMP;
 - (b) Roadside stand operated by farm operator;
 - (c) Public CAMP or picnic area.
 - b. The following 49 uses are authorized by right in both the B-3 District and B-4 District:
 - (a) HOTEL – no more than 15 LODGING UNITS;
 - (b) HOTEL – over 15 LODGING UNITS;
 - (c) SUBDIVISIONS totaling 3 LOTS or less;
 - (d) SUBDIVISIONS totaling more than 3 LOTS or with new STREETS or PRIVATE ACCESSWAYS;
 - (e) AGRICULTURE, including customary ACCESSORY USES;
 - (f) RURAL SPECIALTY BUSINESS, Minor;
 - (g) RURAL SPECIALTY BUSINESS, Major;
 - (h) Commercial greenhouse;
 - (i) Greenhouse (not exceeding 1,000 sq ft);
 - (j) Garden shop;
 - (k) Plant Nursery;
 - (l) Municipal or GOVERNMENT BUILDING;
 - (m) Township Highway Maintenance Garage;
 - (n) Police station or fire station;
 - (o) Public park or recreational facility;
 - (p) PARKING GARAGE;
 - (q) PARKING LOT;
 - (r) Telephone Exchange;
 - (s) Telegraph office;
 - (t) MOTOR BUS Station;
 - (u) Roadside Produce Sales Stand;
 - (v) ADULT USE CANNABIS TRANSPORTING ORGANIZATION;
 - (w) ADULT USE CANNABIS CULTIVATION CENTER;
 - (x) ADULT USE CANNABIS CRAFT GROWER;
 - (y) Artist Studio;
 - (z) Restaurant (indoor service only);
 - (aa) Supermarket or Grocery Store;
 - (ab) Drive-in Restaurant;
 - (ac) Tavern or Night Club;
 - (ad) Bakery (less than 2,500 sq ft);
 - (ae) Dairy Store;
 - (af) Delicatessen;
 - (ag) Confectionery Store;
 - (ah) Retail Liquor Store;
 - (ai) Locker, Cold Storage for Individual Use;

PRELIMINARY DRAFT

- (aj) Major AUTOMOBILE Repair (all indoors);
 - (ak) Minor AUTOMOBILE Repair (all indoors);
 - (al) Gasoline Service Station;
 - (am) AUTOMOBILE Washing Facility;
 - (an) Automotive accessories (new);
 - (ao) Antique Sales and Service;
 - (ap) Lawnmower Sales and Service;
 - (aq) Bait sales;
 - (ar) Outdoor commercial recreational enterprise (except amusement park);
 - (as) Private Indoor Recreational Development;
 - (at) Commercial Fishing Lake;
 - (au) Christmas Tree Sales Lot;
 - (av) OFF-PREMISES SIGN;
 - (aw) TEMPORARY USES.
- c. The following 68 uses are authorized by right in the B-4 District and not at all in the B-3 District:
- (a) Institution of an Educational, Philanthropic or Eleemosynary Nature;
 - (b) Church, Temple, or church related TEMPORARY USES on church PROPERTY;
 - (c) Library, museum or gallery;
 - (d) Railway Station;
 - (e) Truck Terminal;
 - (f) Barber Shop;
 - (g) Beauty Shop;
 - (h) Reducing Salon;
 - (i) Dressmaking Shop;
 - (j) Drycleaning ESTABLISHMENT;
 - (k) Laundry and/or drycleaning pick-up;
 - (l) Millinery shop;
 - (m) Self-service laundry;
 - (n) Shoe repair shop;
 - (o) Tailor and pressing shop;
 - (p) Diaper Service ESTABLISHMENT;
 - (q) Clothing Repair and Storage;
 - (r) Mortuary or Funeral Home;
 - (s) Medical and Dental CLINIC;
 - (t) Farm Equipment Sales & Service;
 - (u) Feed and Grain (sales only);
 - (v) ADULT USE CANNABIS DISPENSING ORGANIZATION;
 - (w) Banks, Savings and Loan Associations;
 - (x) Insurance and Real Estate Offices;
 - (y) Business Office;
 - (z) Professional Office;
 - (aa) Private Kindergarten or Day Care Facility;
 - (ab) Vocational, Trade or Business SCHOOL;

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- (ac) Meat and Fish Market;
 - (ad) AUTOMOBILE, Truck, Trailer and Boat Sales room (all indoors);
 - (ae) AUTOMOBILE or Trailer Sales area (open lot);
 - (af) Building Material Sales (excluding concrete or asphalt mixing);
 - (ag) Hardware Store;
 - (ah) Electrical or gas appliance Sales and Service;
 - (ai) Department Store;
 - (aj) Apparel Shop;
 - (ak) Shoe Store;
 - (al) Jewelry Store;
 - (am) Stationery-Gift Shop-Art Supplies;
 - (an) Florist;
 - (ao) Newsstand-Bookstore;
 - (ap) Tobacconist;
 - (aq) Variety-Drygoods Store;
 - (ar) Music Store;
 - (as) Drugstore;
 - (at) Photographic Studio & Equipment Sales and Service;
 - (au) Furniture Store – Office Equipment Sales;
 - (av) Used Furniture Sales and Service;
 - (aw) Pet Store;
 - (ax) Bicycle Sales and Service;
 - (ay) Fuel Oil, Ice, coal, wood (sales only);
 - (az) Monument Sales (excludes stone cutting);
 - (ba) Pawn Shop;
 - (bb) Sporting Good Sales & Service;
 - (bc) Heating, Ventilating, Air Conditioning Sales and Service;
 - (bd) Billiard Room;
 - (be) Bowling Alley;
 - (bf) Dancing Academy or hall;
 - (bg) Lodge or private club;
 - (bh) THEATER, indoor;
 - (bi) Wholesale Business;
 - (bj) Auction House (non-animal);
 - (bk) **SEXUALLY ORIENTED BUSINESS;**
 - (bl) Contractors Facilities (with NO Outdoor STORAGE Nor Outdoor OPERATIONS);
 - (bm) Contractors Facilities with Outdoor STORAGE Nor Outdoor OPERATIONS;
 - (bn) AGRICULTURAL DRAINAGE CONTRACTOR Facility with no Outdoor STORAGE and/or Outdoor OPERATIONS;
 - (bo) AGRICULTURAL DRAINAGE CONTRACTOR Facility with Outdoor STORAGE and/or Outdoor OPERATIONS;
 - (bp) SMALL SCALE METAL FABRICATING SHOP.
- d. The following 5 uses are authorized by right in the B-4 District but requires a Special Use Permit in the B-3 District:
- (a) Radio or Television Station;

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- (b) VETERINARY HOSPITAL;
 - (c) Warehouse;
 - (d) Self-storage Warehouses, providing heat and utilities to individual units;
 - (e) Self-storage Warehouses, not providing heat and utilities to individual units.
- (2) There are 11 types of uses authorized by Special Use Permit (SUP) in the B-3 District (including the 5 uses authorized by right in the B-4 District, see above) and 12 types of uses authorized by SUP in the B-4 District:
- a. The following 4 uses may be authorized by SUP in the both the B-3 District and B-4 District:
 - (a) Adaptive Reuse of GOVERNMENT BUILDINGS for any USE Permitted by Right in B-1, B-2, B-3, B-4, B-5 & I-1;
 - (b) Private or commercial transmission and receiving towers (including antennas) over 100 feet in height;
 - (c) Electrical Substation;
 - (d) HELIPORT-RESTRICTED LANDING AREAS.
 - b. The following 2 uses may be authorized by Special Use Permit in the B-3 District and not at all in the B-4 District:
 - (a) Gasoline and Volatile Oils Storage up to and including 80,000 gallon capacity in the Aggregate;
 - (b) Liquefied Petroleum Gases Storage.
 - c. The following 8 uses may be authorized by SUP in the B-4 District and not at all in the B-3 District:
 - (a) HOSPITAL;
 - (b) Bakery (more than 2,500 sq ft);
 - (c) Amusement Park;
 - (d) KENNEL;
 - (e) Recycling of non-hazardous materials (all storage and processing indoors);
 - (f) Contractors Facilities with Outdoor STORAGE and/or Outdoor OPERATIONS;
 - (g) AGRICULTURAL DRAINAGE CONTRACTOR Facility with Outdoor STORAGE and/or Outdoor OPERATIONS;
 - (h) LIGHT ASSEMBLY.
 - d. There are no uses authorized by SUP in the B-4 District and by right in the B-3 District.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

10. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies,

which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:

- A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:
 “It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows...”
- B. The LRMP defines Goals, Objectives, and Policies as follows:
- (1) Goal: an ideal future condition to which the community aspires
 - (2) Objective: a tangible, measurable outcome leading to the achievement of a goal
 - (3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states,
 “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”

REGARDING RELEVANT LRMP GOALS & POLICIES

(Note: bold italics typeface indicates staff’s recommendation to the ZBA)

11. LRMP Goal 1 is entitled “Planning and Public Involvement” and states:

Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.

Goal 1 is always relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions but the proposed rezoning will **NOT IMPEDE** the achievement of Goal 1 because the rezoning process provides several avenues for gathering and considering public input.

12. LRMP Goal 2 is entitled “Governmental Coordination” and states:

Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

Goal 2 has two objectives and three policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 2 because the proposed rezoning falls outside the 1.5 mile extra-territorial jurisdiction of any municipality.

13. LRMP Goal 3 is entitled “Prosperity” and states:

Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.

Goal 3 has three objectives and no policies. The proposed amendment will ***NOT IMPEDE*** Goal 3.

14. LRMP Goal 4 is entitled “Agriculture” and states:

Champaign County will protect the long term viability of agriculture in Champaign County and its land resource base.

Goal 4 has 9 objectives and 22 policies. The proposed amendment will ***HELP ACHIEVE*** Goal 4 for the following reasons:

A. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states: “Champaign County will require that each discretionary review development is located on a suitable site.”

The proposed rezoning will ***HELP ACHIEVE*** Objective 4.3 because of the following:

(1) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.**

The proposed rezoning will ***HELP ACHIEVE*** Policy 4.3.2 for the following reasons:

- a. The land is best prime farmland and consists of 152A Drummer silty clay loam, 198A Elburn silt loam, and 171B Catlin silt loam, and has an average LE Score of 99.
- b. The subject property has not been in row crop production for almost 15 years.
- c. The small lot size creates limitations for row crop production.
- d. The proposed development is a small warehouse with office space, which does not require any special construction methods or engineering and is therefore well-suited overall.

(2) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support to the proposed development effectively and safely without undue public expense.”**

The proposed rezoning will ***HELP ACHIEVE*** Policy 4.3.3 for the following reasons:

- a. The subject property is located approximately 6.8 road miles from the Thomasboro Fire Protection District Station. The District was notified of the case and no comments were received.

(3) **Policy 4.3.4 states, “The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.3.4 for the following reason:

- a. No improvements to public infrastructure are required for the proposed development.
- (4) **Policy 4.3.5 states, “On best prime farmland, the County will authorize a business or other non-residential use only if:**
- a. **It also serves surrounding agricultural uses or an important public need; and cannot be located in an urban area or on a less productive site; or**
 - b. **the use is otherwise appropriate in a rural area and the site is very well suited to it.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.3.5 for the following reasons:

- a. A warehouse with office area is suitable in both urban and rural areas.
 - b. The subject property is not suitable for efficient row crop production.
 - c. The proposed development would not require additional public expense for infrastructure or services.
- B. Objective 4.2 is entitled “Development Conflicts with Agricultural Operations” and states, “Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.”

The proposed rezoning will **HELP ACHIEVE** Objective 4.2 because of the following:

- (1) **Policy 4.2.1 states, “The County may authorize a proposed business or other non-residential *discretionary review* development in a rural area if the proposed development supports agriculture or involves a product or service that is better provided in a *rural* area than in an urban area.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.1 for the following reasons:

- a. The Land Resource Management Plan (LRMP) provides no guidance regarding what products or services are better provided in a rural area and therefore that determination must be made in each zoning case.
 - b. The subject property is located 0.75 mile from the Market Street I-57 interchange and the B-4 District is at least as appropriate as the B-3 District at this location.
- (2) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
- a. **is a type that does not negatively affect agricultural activities; or**
 - b. **is located and designed to minimize exposure to any negative affect caused by agricultural activities; and**

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- c. **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, rural roads, or other agriculture-related infrastructure.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.2 for the following reasons:

- a. The proposed warehouse/office will be sited on land that is not in row crop production and will not interfere with agricultural activities, nor is it likely to be negatively affected by agricultural activities.
 - b. Case 555-AM-06 denied a rezoning from B-3 to B-4 for the subject property. The case received a protest from Hensley Township because of two concerns outlined in a letter from Hensley Township Plan Commission attorney Brian T Schurter dated March 1, 2017:
 - (a) “The property does contain drainage tile which is the only source of drainage for a property “upstream” for which some suitable accommodation would need to be made.”
 - (b) “This road has certain weight restrictions...the township already has difficulties maintaining these roads due to heavily weighted traffic that uses the road.”
 - (c) It is unknown if drainage has changed for the upstream property, or if the proposed development will attract heavy vehicles.
 - c. In 2017, the petitioner replaced the drainage tile on the property with 15-inch PVC tile. This included remediation for the tile that Ameren broke in 2003 and improved drainage for the neighbor to the north.
- (3) **Policy 4.2.3 states, “The County will require that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.3 for the following reasons:

- a. The Petitioner understands that this is a rural area where agricultural activities take place and does not seek to inhibit agricultural activities.
 - b. A copy of Champaign County Right to Farm Resolution No. 3425 is attached to this map amendment to document the current and future owners’ recognition of the Right to Farm.
- (4) **Policy 4.2.4 states, “To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all *discretionary review* consider whether a buffer between existing agricultural operations and the proposed development is necessary.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.4 for the following reason:

- a. The proposed use on the subject property will **NOT** create nuisance conditions or inhibit adjacent agricultural activities. A buffer between the use and nearby agriculture is not warranted.
- C. Objective 4.1 is entitled “Agricultural Land Fragmentation and Conservation” and states: “Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland.”

The proposed rezoning will **HELP ACHIEVE** Objective 4.1 because of the following:

- (1) Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.5, 4.1.8, and 4.1.9 do not appear to be relevant to the proposed rezoning.
- (2) Policy 4.1.1 states, **“Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.”**

The proposed rezoning will **NOT IMPEDE** Policy 4.1.1 because the subject property has not been in row crop production for almost 15 years.

- (3) Policy 4.1.4 states: **“The County will guarantee landowners of one or more lawfully created lots that are recorded or lawfully conveyed and are considered a good zoning lot (i.e., a lot that meets County zoning requirements in effect at the time the lot is created) the by right development allowance to establish a new single family dwelling or non-agricultural land use on each such lot, provided that current public health, safety and transportation standards are met.**

The proposed rezoning will **HELP ACHIEVE** Policy 4.1.4 for the following reasons:

- a. The proposed lot meets County zoning requirements.
- b. Traffic would not be expected to increase significantly for the size of development proposed.
- (4) Policy 4.1.6 states: **“Provided that the use, design, site and location are consistent with County policies regarding:**
- i. **Suitability of the site for the proposed use;**
 - ii. **Adequacy of infrastructure and public services for the proposed use;**
 - iii. **Minimizing conflict with agriculture;**
 - iv. **Minimizing the conversion of farmland; and**
 - v. **Minimizing the disturbance of natural areas; then**
 - a) **On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres**

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- plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or**
- b) On best prime farmland, the County may authorize non-residential discretionary development; or**
 - c) The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.1.6 for the following reasons:

- a. The land is best prime farmland and consists of 152A Drummer silty clay loam, 198A Elburn silt loam, and 171B Catlin silt loam, and has an average LE Score of 99.
 - b. The subject property has not been in row crop production for almost 15 years.
- (5) Policy 4.1.7 states: **“To minimize the conversion of best prime farmland, the County will require a maximum lot size limit on new lots established as by right development on best prime farmland.”**

The proposed rezoning will **NOT IMPEDE** Policy 4.1.7, because best prime farmland maximum lot area requirements only apply in the CR, AG-1, and AG-2 Zoning Districts.

15. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:

Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.

Goal 5 has 3 objectives and 15 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 5.

16. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:

Champaign County will ensure protection of the public health and public safety in land resource management decisions.

Goal 6 has 4 objectives and 7 policies. The proposed amendment will **HELP ACHIEVE** Goal 6 for the following reasons:

- A. Objectives 6.2, 6.3, and 6.4 do not appear to be relevant to the proposed rezoning.
- B. Objective 6.1 states, “Champaign County will seek to ensure that development in unincorporated areas of the County does not endanger public health or safety.”

The proposed rezoning will **HELP ACHIEVE** Objective 6.1 because of the following:

- (1) Policy 6.1.2 states, “The County will ensure that the proposed wastewater disposal and treatment systems of discretionary development will not endanger public

health, create nuisance conditions for adjacent uses, or negatively impact surface or groundwater quality.”

The proposed rezoning will **HELP ACHIEVE** Policy 6.1.2 because all new wastewater and treatment systems must be approved by the Champaign County Health Department.

- (2) Policies 6.1.1, 6.1.3, and 6.1.4 do not appear to be relevant to the proposed rezoning.

17. LRMP Goal 7 is entitled “Transportation” and states as follows:

Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.

Goal 7 has 2 objectives and 7 policies. The proposed amendment will **HELP ACHIEVE** Goal 7 for the following reasons:

- A. Objective 7.1 states, “**Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.**”

The proposed rezoning will **HELP ACHIEVE** Objective 7.1 because of the following:

- (1) Policy 7.1.1 states, “**The County will include traffic impact analyses in discretionary review development proposals with significant traffic generation.**”

The proposed rezoning will **HELP ACHIEVE** Policy 7.1.1 because traffic would not be expected to significantly increase with the proposed warehouse/office space.

- B. The proposed amendment will **NOT IMPEDE** the achievement of Objective 7.2 and its policies.

18. LRMP Goal 8 is entitled “Natural Resources” and states as follows:

Champaign County will strive to conserve and enhance the County’s landscape and natural resources and ensure their sustainable use.

The proposed amendment will **NOT IMPEDE** the achievement of Goal 8 because the subject property does not contain any natural features.

19. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:

Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

The proposed amendment will **NOT IMPEDE** the achievement of Goal 9.

20. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:

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The proposed amendment will **NOT IMPEDE** the achievement of Goal 10 because there are no known cultural amenities on the subject property.

GENERALLY REGARDING THE LASALLE FACTORS

21. In the case of *LaSalle National Bank of Chicago v. County of Cook*, the Illinois Supreme Court reviewed previous cases and identified six factors that should be considered in determining the validity of any proposed rezoning. Those six factors are referred to as the *LaSalle* factors. Two other factors were added in later years from the case of *Sinclair Pipe Line Co. v. Village of Richton Park*. The *Champaign County Zoning Ordinance* does not require that map amendment cases be explicitly reviewed using all of the *LaSalle* factors, but it is a reasonable consideration in controversial map amendments and any time that conditional zoning is anticipated. The proposed map amendment compares to the *LaSalle* and *Sinclair* factors as follows:

A. ***LaSalle* factor: The existing uses and zoning of nearby property.**

Table 1 below summarizes the land uses and zoning of the subject property and properties nearby.

Table 1. Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	gravel parking area	B-3 Highway Business (proposed to be rezoned to B-4 General Business)
North	agriculture	AG-1 Agriculture
East	truck terminals	AG-2 Agriculture B-4 General Business
West	commercial	B-4 General Business
South	interchange	I-57 interchange at Market St

B. ***LaSalle* factor: The extent to which property values are diminished by the particular zoning restrictions.**

- (1) It is impossible to establish values without a formal real estate appraisal, which has not been requested nor provided, and so any discussion of values is necessarily general.
- (2) There are no nearby residential properties.
- (3) This area was zoned B-3 from the adoption of the Zoning Ordinance on October 10, 1973. Nothing except the gravel parking area has been built on the property since then.
- (4) The petitioner has owned the property since 2017 and has been unable to develop it under the existing B-3 zoning, which has fewer land uses than B-4 zoning offers.

- C. ***LaSalle* factor: The extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public.**

There has been no evidence submitted regarding property values. The proposed rezoning should not have a negative effect on the public health, safety, and welfare.

- D. ***LaSalle* factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.**

The gain to the public of the proposed rezoning is positive because the proposed amendment would allow for development that has not been realized with decades being zoned in B-3.

- E. ***LaSalle* factor: The suitability of the subject property for the zoned purposes.**

The subject property is suitable for the proposed zoned purposes; nothing developed on the property under the current B-3 zoning, which has been in place since 1973.

- F. ***LaSalle* factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.**

The property has been vacant as zoned since 1973. Adjacent properties that were rezoned to B-4 have since been developed.

- G. ***Sinclair* factor: The need and demand for the use.**

The petitioner believes that there is demand for warehouse with office space in the area.

- H. ***Sinclair* factor: The extent to which the use conforms to the municipality's comprehensive planning.**

The proposed use generally conforms to the goals and policies of the Champaign County Land Resource Management Plan.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

22. The proposed amendment will ***HELP ACHIEVE*** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. 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.

The petitioner proposes to construct a 1,400 square foot building on a 5-acre lot, which will provide adequate light, pure air, and safety from fire and other dangers.

- B. 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.

The requested rezoning should not decrease the value of nearby properties.

- C. 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.

Traffic would not be expected to increase significantly given the small size of the proposed development.

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

The proposed development does not trigger the requirement for a storm water management plan or storm water detention.

- E. 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.

(1) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.

(2) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

- F. 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.

- G. 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 use and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- H. 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 use will have to be conducted in compliance with those requirements.

- I. 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.
- (1) The proposed warehouse/office does not meet the definition of “urban use” because it would not require a connection to sanitary sewer.
 - (2) The proposed rezoning and proposed use will not take any land out of production.
- J. 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.

- K. 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 rezoning and the proposed use will not require the development of public utilities or transportation facilities.

- L. 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 subject property has not been in agricultural production for almost 15 years.

- M. 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 rezoning will not hinder the development of renewable energy sources.

REGARDING SPECIAL CONDITIONS OF APPROVAL

23. Proposed Special Conditions of Approval:

- A. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

The above special condition is necessary to ensure the following:

Conformance with LRMP Policy 4.2.3.

DOCUMENTS OF RECORD

1. Petition for Zoning Map Amendment received on June 20, 2022, with attachments:
 - A Exhibit 1: Legal description
 - B Exhibit 2: Plat of Survey by Fuhrmann Engineering
 - C Exhibit 3: 2017 Improvements Permit Drawing
 - D Exhibit 4: Phase One Detail
 - E Exhibit 5: General Site Plan
2. Champaign County Land Resource Management Plan (LRMP) Goals, Objectives, and Policies
3. Champaign County Land Resource Management Plan (LRMP) Appendix of Defined Terms
4. Copy of Right to Farm Resolution 3425
5. Letter from Brian T. Schurter, Attorney for Hensley Township Plan Commission, received March 2, 2007
6. Preliminary Memorandum for Case 059-AM-22 dated July 19, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received June 20, 2022:
 - Exhibit 4: Phase One Detail
 - Exhibit 5: General Site Plan
 - C Letter from Brian T. Schurter, Attorney for Hensley Township Plan Commission, received March 2, 2007
 - D LRMP Land Use Goals, Objectives, and Policies (*on ZBA meetings website*)
 - E LRMP Appendix of Defined Terms (*on ZBA meetings website*)
 - F Copy of Right to Farm Resolution 3425
 - G Site Visit Photos taken July 5, 2022
 - H Draft Finding of Fact and Final Determination dated July 28, 2022

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **July 28, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource Management Plan because:
 - A. Regarding Goal 4:
 - (1) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland because it will **HELP ACHIEVE** the following:
 - a. Policy 4.1.1, which states that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils (see Item 14.C.(2)).
 - b. Policy 4.1.4, guaranteeing landowners of a lawfully created lot, the by-right development allowance to establish a new single family dwelling or non-agricultural land use on each such lot, provided that current public health, safety and transportation standards are met (see Item 14.C.(3)).
 - c. Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 14.C.(4)).
 - d. Policy 4.1.7 requiring a maximum lot size limit on new lots established as by right development on best prime farmland (see Item 14.C.(5)).
 - (2) It will **HELP ACHIEVE** Objective 4.2 requiring discretionary development to not interfere with agriculture because it will **HELP ACHIEVE** the following:
 - a. Policy 4.2.1 requiring a proposed business in a rural area to support agriculture or provide a service that is better provided in the rural area (see Item 14.B.(1)).
 - b. Policy 4.2.2 requiring discretionary development in a rural area to not negatively affect or be negatively affected by agricultural activities, and not interfere or negatively affect the operation of ag-related infrastructure (see Item 14.B.(2)).
 - c. Policy 4.2.3 requiring that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land (see Item 14.B.(3)).
 - d. Policy 4.2.4 requiring that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary (see Item 14.B.(4)).

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- (3) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because it will **HELP ACHIEVE** the following:
- a. Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 14.A.(1)).
 - b. Policy 4.3.3 requiring existing public services be adequate to support the proposed development effectively and safely without undue public expense (see Item 14.A.(2)).
 - c. Policy 4.3.4 requiring existing public infrastructure be adequate to support the proposed development effectively and safely without undue public expense (see Item 14.A.(3)).
 - d. Policy 4.3.5 requiring that a business or non-residential use establish on best prime farmland only if it serves surrounding agriculture or is appropriate in a rural area (see Item 14.A.(4)).
- (4) Based on achievement of the above Objectives and Policies, the proposed map amendment will **HELP ACHIEVE** Goal 4 Agriculture.
- C. Regarding Goal 6:
- (1) It will **HELP ACHIEVE** Objective 6.1 regarding public health and safety because it will **HELP ACHIEVE** the following:
- a. Policy 6.1.2 requiring that proposed wastewater disposal and treatment systems of discretionary development will not endanger public health, create nuisance conditions for adjacent uses, or negatively impact surface or groundwater quality (see Item 16.B.(1)).
- (2) Based on achievement of the above Objective and Policy and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment will **HELP ACHIEVE** Goal 6 Public Health and Public Safety.
- D. Regarding Goal 7:
- (1) It will **HELP ACHIEVE** Objective 7.1 considering traffic impact in land use decisions because it will **HELP ACHIEVE** the following:
- a. Policy 7.1.1 requiring traffic impact analyses for projects with significant traffic generation (see Item 17.A.(1)).
- (2) Based on achievement of the above Objectives and Policies and because it will either not impede or is not relevant to the other Objectives and Policies under this goal, the proposed map amendment will **HELP ACHIEVE** Goal 7 Transportation.
- E. The proposed amendment will **NOT IMPEDE** the following LRMP goal(s):
- Goal 1 Planning and Public Involvement
 - Goal 2 Governmental Coordination
 - Goal 3 Prosperity

- Goal 5 Urban Land Use
- Goal 8 Natural Resources
- Goal 9 Energy Conservation
- Goal 10 Cultural Amenities

- F. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource Management Plan.
2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair* factors because of the following:
- A. The gain to the public of the proposed rezoning is positive because the proposed amendment would allow for development that has not been realized with decades being zoned in B-3.
- B. The subject property is suitable for the proposed zoned purposes; nothing developed on the property under the current B-3 zoning, which has been in place since 1973.
- C. The proposed use generally conforms to the goals and policies of the Champaign County Land Resource Management Plan.
3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the Zoning Ordinance because of the following:
- A. The rezoning would achieve Purpose 2.0 (a) to secure adequate light, pure air, and safety from fire and other dangers because the proposed development is a small portion of the 5-acre lot.
- B. The rezoning would achieve Purpose 2.0 (c) to lessen and avoid congestion in the public streets because there would be no significant increase in traffic.
- C. The rezoning would achieve Purpose 2.0 (d) of the Ordinance to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters because the development does not trigger the need for a storm water detention basin or storm water drainage plan.

FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in **Case 059-AM-22** should *{BE ENACTED / NOT BE ENACTED}* by the County Board in the form attached hereto.

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date