



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### m e m o r a n d u m

**TO:** Mayor Diane Wolfe Marlin and City Council

**FROM:** John A. Schneider, MPA, Manager, Community Development Services Department

**DATE:** June 14, 2018

**SUBJECT:** A Resolution Of Protest Against A Proposed Map Amendment To The Champaign County Zoning Map (Rezoning 3310 North Cunningham Avenue From County B-3 And County Ag-2 To County B-4 / Cczba-905-Am-18) .

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### **Introduction and Background**

A petition has been submitted to Champaign County to rezone a 2-acre parcel at 3310 North Cunningham Avenue, which is located within the extraterritorial jurisdiction (ETJ) of the City of Urbana. The site is currently split-zoned for County B-3, Highway Business, and County AG-2, Agriculture; it is proposed that the parcel be rezoned to B-4, General Business. At present, there is a vacant house on the southwest corner of the property, which the petitioner plans to convert to an office space for an internet service company.

As the property is east of Urbana's corporate limits and within the City's ETJ, the City of Urbana may choose to exercise its right to protest the zoning map amendment. Should the City Council enact a protest against the County rezoning, under State law the County Board could only approve the petitioner's application with a three-fourths super majority of affirmative votes.

The Urbana City Council may either defeat or adopt a resolution of protest depending on the compatibility of the request with the City's Comprehensive Plan and Future Land Use designations.

### **Background**

Among the several proposed alterations to the property, the petitioner plans to remove the existing portion of driveway access along East Oaks Road and construct a new driveway access approximately 145 feet to the east of the existing portion. Ultimately, there would be two driveways on the property: one with access to Cunningham Avenue and the other with access to Oaks Road.

To mitigate potential safety hazards related to traffic exiting from the site onto Cunningham Avenue, the petitioner has proposed a one-way driveway such that egress from the site would only be allowed onto Oaks Road. (See Exhibit A for site plan.)

## **Discussion**

### **County Zoning (Exhibit B)**

The County's Zoning Ordinance describes the purpose of the B-3 Zoning District as follows:

*"The B-3 Highway Business Zoning 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."* (Section 5.1.11)

The County's Zoning Ordinance describes the AG-2 Zoning District as one which:

*"... is intended to prevent scattered indiscriminate urban development and to preserve the agricultural nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This district is intended generally for application to areas within one and one-half miles of existing communities in the county."* (Section 5.1.2)

According to the Champaign County Zoning Ordinance, the intent of the B-4 General Business Zoning District is:

*"... to accommodate a range of commercial uses and is intended for application only adjacent to the urbanized areas of the County."* (Section 5.1.12)

### **City of Urbana Comprehensive Plan, 2005**

The Future Land Use Map #2 (Exhibit C) of the City of Urbana's 2005 Comprehensive Plan indicates the ideal future use of the land at 3310 North Cunningham Avenue to be "Regional Business" and the eastern portion of the site as "Residential". The Plan defines "Regional Business" land use classification as follows:

*"Regional Business centers are intended to serve regional as well as local demand. Typically located in a high-visibility area that offers convenient access and parking. The intensity of development may range from large-scale "big box" uses to smaller-scale buildings supporting out lot business opportunities. Although Regional Business areas are typically oriented primarily to automobile traffic, their design should include adequate facilities for pedestrians, bicyclists and public transit."* (Page 62)

The Plan defines the “Residential” land use classification as being:

*“... intended primarily for single-family residential development in areas with unique natural features. Commonly located in areas beyond the corporate limits that may be served by septic systems. Lots are typically larger than in conventional residential subdivisions, although clustering of lots may be appropriate in order to protect natural amenities. Champaign County has zoning jurisdiction outside city limits.”*

While the Comprehensive Plan envisioned two Future Land Use designations in this area, the Plan is a guidance document and context should be considered when determining appropriate zoning. As one single two-acre lot, it is unlikely to be subdivided and then developed with both uses (commercial on the west half and residential uses on the east half). Additionally, to encourage safe access to and from the site, the commercial entrance from Oaks Road should be set back as far as possible from Cunningham Avenue. According to the site plan, the driveway with access to US Route 45, or Cunningham Avenue, would only allow entrance to the site, mitigating possible safety hazards associated with exiting from a lot near an intersection on a moderately busy street and crossing multiple lanes of traffic.

The following Goals and Objectives of the 2005 Urbana Comprehensive Plan relate to this case:

- |                       |   |
|-----------------------|---|
| <i>Goal 16.0</i>      | Ensure that new land uses are compatible with and enhance the existing community.   |
| <i>Objective 16.3</i> | Encourage development in locations that can be served with existing or easily extended infrastructure and city services.                        |
| <i>Goal 21.0</i>      | Identify and address issues created by overlapping jurisdictions in the one and one-half mile ETJ.  |
| <i>Objective 21.1</i> | Coordinate with Champaign County on issues of zoning and subdivision in the ETJ.  |
| <i>Goal 23.0</i>      | Promote Urbana’s potential for technology-related businesses.   |
| <i>Objective 23.3</i> | Enhance the community’s internet connection capabilities.   |
| <i>Goal 25.0</i>      | Create additional commercial areas to strengthen the city’s tax base and service base.  |
| <i>Objective 25.1</i> | Provide a sufficient amount of land designated for various types of community and regional commercial uses to serve the needs of the community. |
| <i>Objective 25.2</i> | Promote new commercial areas that are convenient to existing and future neighborhoods.  |

*Objective 25.4* Find new locations for commercial uses and enhance existing locations so Urbana residents can fulfill their commercial and service needs locally.

The proposed rezoning of the site from County B-3/AG-2 to County B-4 would conform to the City's Future Land Use designation for a portion of area of "Regional Business", as well as many of the Goals and Objectives outlined in the City's Comprehensive Plan.

### **City of Urbana Zoning**

In evaluating the proposed rezoning from the City's perspective, one question to address is "does the use match the type of uses that would be permitted in the same or similar zoning district in the City?" In the event that a property is annexed into the City, its County zoning designation is converted to a City zoning designation based on Table IV-1 of Urbana's Zoning Ordinance. Should this property be rezoned to County B-4, upon annexation to the City, the zoning would automatically convert to City B-3, General Business. The City's B-3 zoning district would allow the proposed use and would conform to the City's Future Land Use designation for the area. Therefore, the proposed County zoning designation is appropriate, should the City annex the site in the future..

### **Plan Commission**

The Urbana Plan Commission heard Case CCZBA 905-AM-18 at their June 7, 2018, meeting. The members of the Commission discussed the safety implications of a driveway with access to US Route 45/Cunningham Avenue; that the Future Land Use Map #3 has a separate designation for each of the two halves of the parcel (Regional Business and Residential); and whether the Regional Business designation, which is consistent with the proposed use of this request, should take precedence over the neighboring Residential designation. The Commission agreed that, because of this parcel's proximity to a major regional corridor, it is appropriate to prioritize the Regional Business designation over the Residential designation. The Plan Commission also decided that the logistics of the driveway with access to Cunningham Avenue are beyond their administrative authority, and that this issue can be resolved between the petitioner and IDOT.

The Plan Commission voted unanimously (5 ayes to zero nays) to recommend that the City Council defeat a resolution of protest.

### **Summary of Staff Findings**

1. The site is within the City's extraterritorial jurisdiction (ETJ).
2. The site is currently split-zoned County B-3, Highway Business Zoning District, and AG-2, Agriculture, and is proposed to be rezoned County B-4, General Business Zoning District, to facilitate the operation of an internet service company.

3. The proposed rezoning and land use are generally compatible with the Future Land Use designations and notations highlighted in the Urbana Comprehensive Plan, specifically the Sensible Growth and Services and Infrastructure Land Use Policy goals for the site and surrounding areas.
4. The proposed rezoning and land use are compatible with the surrounding County zoning and land uses.

## Options

The City Council has the following options in Case CCZBA 905-AM-18, a request to rezone a property from B-3/AG-2 to B-4:

1. Defeat a resolution of protest; or
2. Defeat a resolution of protest contingent upon some specific revision(s) to the proposed zoning amendment, or;
3. Adopt a resolution of protest.

## Staff Recommendation

Based on the findings above, Staff recommend that the City Council **DEFEAT a resolution of protest** for the proposed Champaign County Zoning Map amendment.

Prepared by:

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Emily Hutchinson, Planning Intern

Attachments: Draft Resolution of Protest  
Exhibit A: County Zoning Map  
Exhibit B: Future Land Use Map #2  
Exhibit C: Excerpt of County memorandum

cc: Susan Burgstrom, Champaign County Planning and Zoning  
John Hall, Champaign County Planning and Zoning  
Peter Folk, d.b.a. Gargoyle Technologies

**RESOLUTION NO. 2018-06-026R**

**A Resolution of Protest Against a Proposed Map Amendment  
to the Champaign County Zoning Map**

(Rezoning 3310 North Cunningham Avenue from County B-3  
and County AG-2 to County B-4 / CCZBA-905-AM-18)

**WHEREAS**, Peter Folk, d.b.a. Gargoyle Technologies, has petitioned Champaign County in Champaign County ZBA Case No. 905-AM-18 to change the zoning map from County B-3, Highway Business District, and County AG-2, Agricultural, to County B-4, General Business Zoning for a 2-acre tract of land known as 3310 North Cunningham Avenue, located in Champaign County; and

**WHEREAS**, said proposed map amendment has been submitted to the City of Urbana for review and is being considered by the City of Urbana under the name of “CCZBA-905-AM-18”; and

**WHEREAS**, pursuant to the provisions of State of Illinois Compiled Statutes 55 ILCS 5/5-12014 that states in cases of any proposed map amendment where the land affected lies within 1 1/2 miles of the limits of a zoned municipality, the corporate authorities of the zoned municipality may by resolution issue written protest against the proposed map amendment; and

**WHEREAS**, the proposed map amendment is compatible with the Goals and Objectives and Future Land Use Map of the 2005 City of Urbana Comprehensive Plan, and generally meets the LaSalle Criteria; and

**WHEREAS**, the Urbana Plan Commission met on June 7, 2018 to consider the request and subsequently voted five ayes and zero nays to recommend that the Urbana City Council defeat a resolution of protest against the proposed map amendment; and

**WHEREAS**, the Urbana City Council, having duly considered all matters pertaining thereto, finds and determines that the proposed map amendment is in the best interest of the City of Urbana.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS,** as follows:

Section 1. The City Council finds and determines that the facts contained in the above recitations are true.

Section 2. That the Urbana City Council hereby resolves that the City of Urbana, pursuant to the provisions of 55 ILCS 5/5-12014, does hereby APPROVE a Resolution of Protest against the proposed map amendment as presented in CCZBA-905-AM-18.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Charles A. Smyth, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Diane Wolfe Marlin, Mayor

**Zoning Map**  
 Case 905-AM-18  
 May 31, 2018

Case 905-AM-18, ZBA 05/31/18, Attachment A Page 3 of 3

Official Zoning Map does not scale exactly to the official CCGIS parcel layer. Subject property is split zoned B-3 and AG-2.

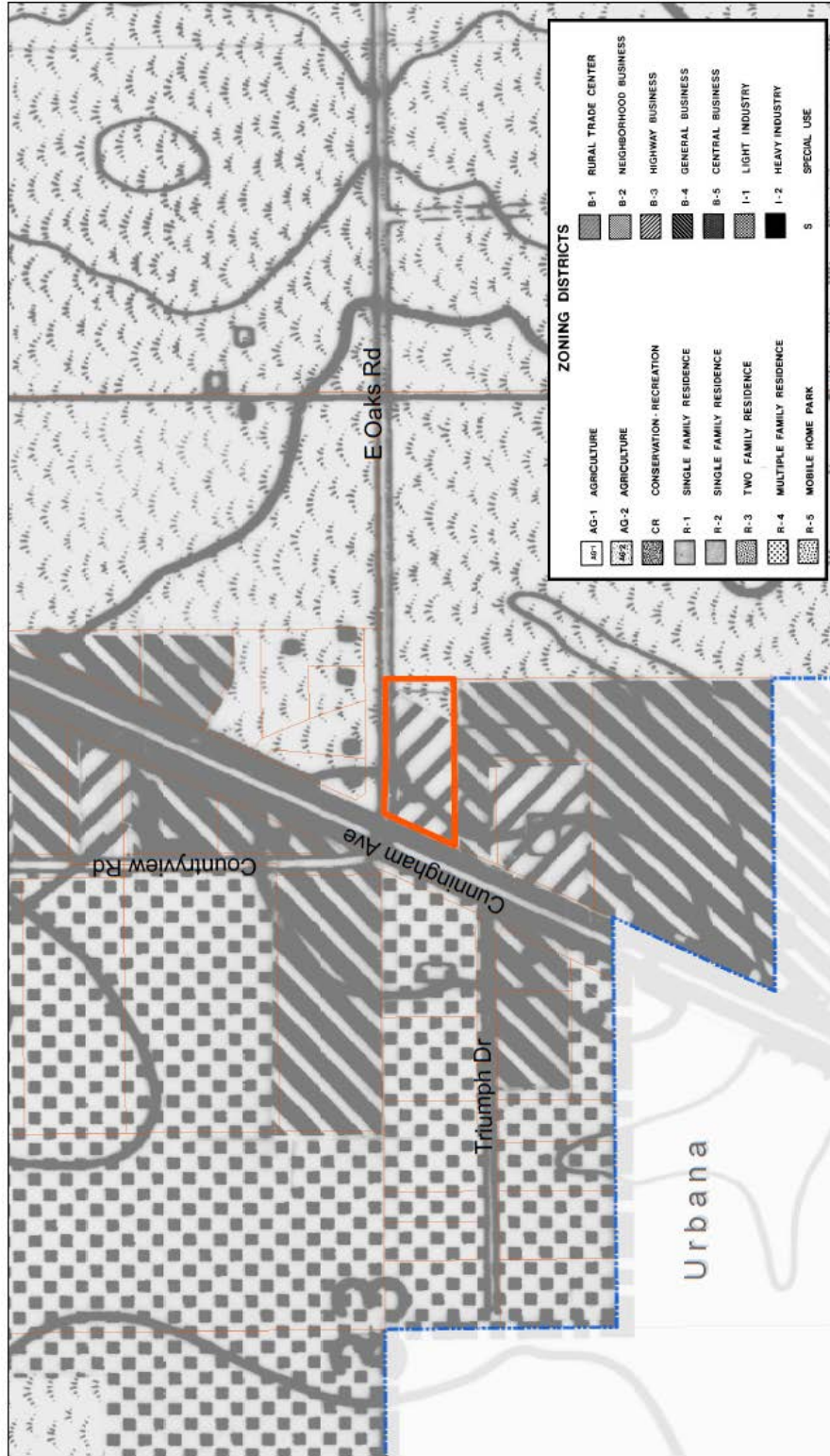


Exhibit A

**Legend**

- Subject Property
- Parcels
- Urbana Corporate Limit

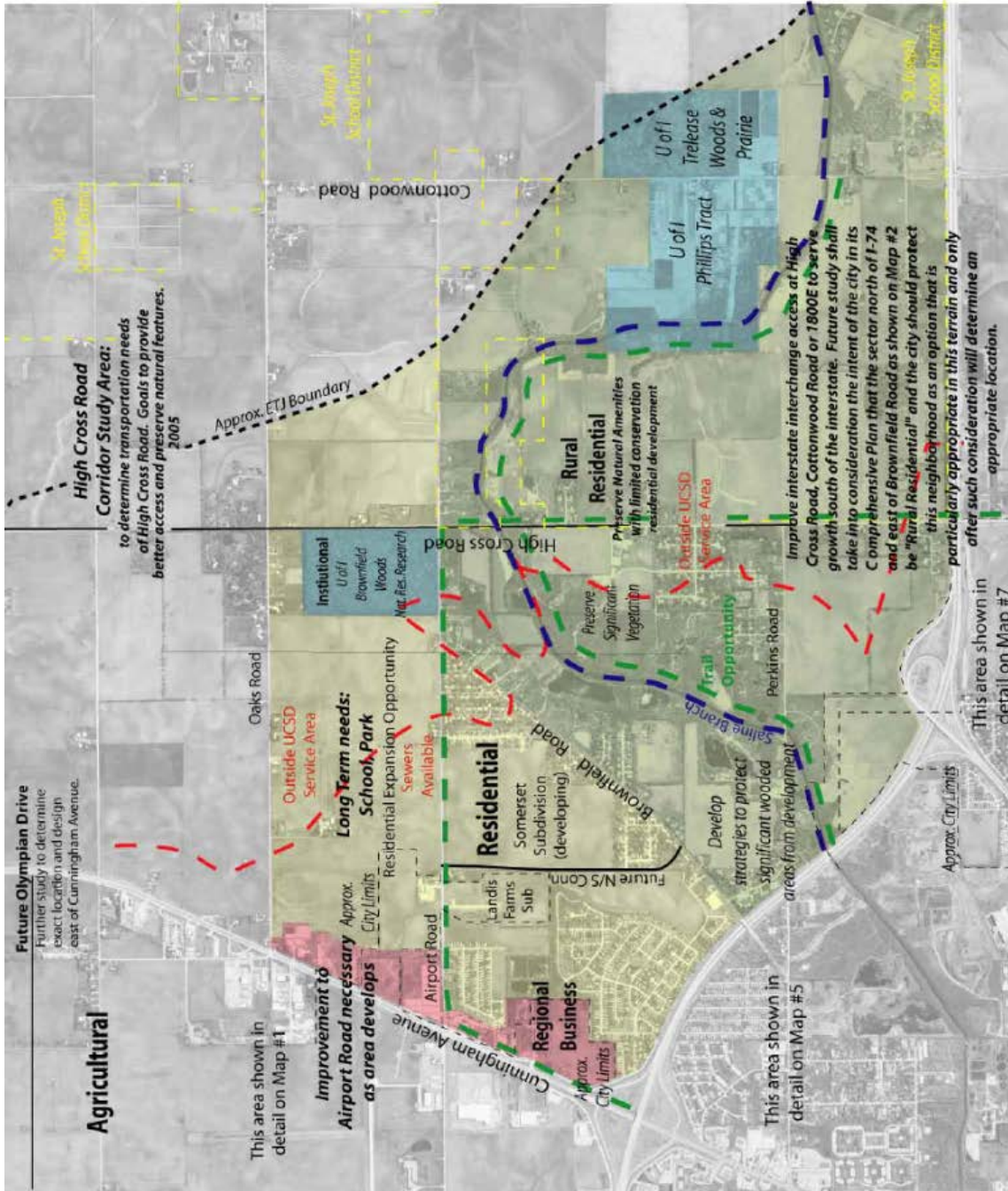
0 100 200 400 Feet

Champaign County  
 Department of  
**PLANNING &  
 ZONING**



# Map #2

## Northeast Urbana / Champaign County



**ADOPTED**

April 11, 2005  
Map Created by City of Urbana  
Community Development Services Dept.

# CASE NO. 905-AM-18

PRELIMINARY MEMORANDUM

MAY 24, 2018

- Petitioners:** Peter Folk, d.b.a. Gargoyle Technologies
- Request:** Amend the Zoning Map to change the zoning district designation from the AG-2 Agriculture and B-3 Highway Business Zoning District to the B-4 General Business Zoning District in order to establish and operate a business office.
- Location:** A tract in the Northeast Quarter of the Southwest Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township with an address of 3310 N. Cunningham Ave., Urbana.
- Site Area:** 2 acres
- Time Schedule for Development:** As soon as possible
- Prepared by:** **Susan Burgstrom**  
Senior Planner
- John Hall**  
Zoning Administrator

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

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[www.co.champaign.il.us/zoning](http://www.co.champaign.il.us/zoning)

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## BACKGROUND

The petitioners would like to establish a business office in the vacant residential structure on the west half of the property. Future development would include a fenced outdoor storage area and two detached accessory structures for office expansion and storage. A business office is not an authorized use in the B-3 Highway Business or AG-2 Agriculture Zoning Districts, but is allowed by-right in the B-4 Zoning District.

## EXISTING LAND USE AND ZONING

**Table 1. Land Use and Zoning Summary**

Direction	Land Use	Zoning
Onsite	Vacant building, agriculture	B-3 Highway Business and AG-2 Agriculture (Proposed rezoning to B-4)
North	Residential	AG-2 Agriculture
East	Agriculture	AG-2 Agriculture
West	Commercial (Cross Construction)	I-1 Light Industrial
South	Commercial (truck parts and service)	B-4 General Business

## EXTRATERRITORIAL JURISDICTION

The subject property is located within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities have protest rights in Map Amendment cases. Notice of the public hearing was sent to the City.

The subject property is located within Somer Township, which does not have a Plan Commission. Townships with Plan Commissions have protest rights in Map Amendment cases.

## DECISION POINTS

Regarding LRMP Goal 4 Agriculture, Objective 4.1/Policy 4.1.1: While staff does not recommend any negative findings under this Goal, the ZBA is being asked to consider whether this Objective is achieved because the property is Best Prime Farmland with an LE of 100, but is also surrounded by industrial, commercial, and residential uses on 3 sides. The map amendment would not remove any farmland from production, but the by-right proposed use would remove approximately 1.15 acres of farmland from production.

- D. 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/WILL NOT} HELP ACHIEVE** Objective 4.1 because of the following:

- (1) Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, 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/WILL NOT} HELP ACHIEVE** Policy 4.1.1 because the Site Plan received April 4, 2018, will remove approximately 1.15 acres from agricultural production.

## PROPOSED SPECIAL CONDITIONS

The following special conditions are 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 above special condition is necessary to ensure the following:

**Conformance with Land Resource Management Plan Policy 4.2.3.**

- B. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

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

**That the drainage improvements conform to the requirements of the Stormwater Management and Erosion Control Ordinance.**

