**Sangamon County, Illinois**
**ZONING BOARD OF APPEALS**

The Zoning Board of Appeals met on **December 19, 2019** at 7:00 P.M. in the County Board Chamber in the County Complex.

**ATTENDANCE** **(X) denotes present**

**(X) Chairman Chimento**
**(X) Committee Member Wulf**
**(X) Committee Member Spiro**
**(X) Committee Member Mares**
**(X) Committee Member Sudeth**
**(X) Committee Member Beaty**

**STAFF PRESENT:**
Molly Berns, Executive Director, Spfld-Sang County Regional Planning Commission
Steve Keenan, Senior Planner, Spfld-Sang County Regional Planning Commission
Emily Prather, Associate Planner, Spfld-Sang County Regional Planning Commission
Joel Benoit, Assistant States Attorney, States Attorney's Office
Trustin Harrison, Zoning Administrator, Sangamon County Zoning

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Chairman Chimento called the meeting to order.
Approval of November 21, 2019 Minutes

**Committee Member Anthony Mares made a motion to approve the November minutes.**

**Committee Member Don Wulf seconds the motion.**

**Motion carries 5/0/0**

**Docket 2019-043 Charles B. Flatt for property located at the 3100 Block of Young Road, Mechanicsburg, IL 62545**

PETITIONER(S): Charles B. Flatt III

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: "A" Agricultural District and "I-1" General Industrial District

REQUESTING: Petitioner requests pursuant to Chapters 17.68 and 17.12, for Proposed Parcel 1: a rezoning from "A" Agricultural District and "I-2" General Industrial District to "R-1" Single-Family Residence District; pursuant to Chapter 17.66, a variance of Section 17.36.010(B) to allow an accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District; a variance of Chapter 17.04 (Lot depth) to allow the lot depth to be greater than two and one-half (2.5) times the lot width; and, pursuant to Chapters 17.68 and 17.10, for Proposed Parcel 2: a rezoning from "A" Agricultural District and "I-2" General Industrial District to "A" Agricultural District.

STAFF RECOMMENDATION: Recommend approval. The purpose of the request is to reconfigure the two parcels to develop a buildable site and provide road frontage for a proposed residence. Granting the requested lot width-depth variance will allow the buildable area to be separated from the quarry, thereby improving the subject property's economic yield. Proposed Parcel 1 received a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency (FEMA) mitigating the floodplain on part of the proposed parcel and indicating a buildable area of at least one (1) acre outside the floodplain. The LESA score of 112 indicates the property is acceptable for non-agricultural development. The subject property is very unlikely to be farmed because it is surrounded by floodplain and a quarry. Allowing an accessory structure to be 24 feet instead of 18 feet in the R-1 District would be consistent with the height of accessory structures located on properties in this area that are zoned Agricultural, which has no height restriction. The Standards for Variation are met.

Charles (Chase) Flatt III sworn in.

Charles Flatt Jr. sworn in.

Emily Prather reads petitioner's request and staff recommendation.

ZBA Chimento: Any Questions? County Board? Any Objectors?

**Committee Member Anthony Mares made a motion to recommend approval of the staff recommendation.**

**Committee Member JD Sudeth seconded the motion.**
**Motion carries 5/0/0**

**Docket 2019-044 Frederick & Peggy Ostermeier for property located at 9072 Tip Top Road, Chatham, IL 62629**

PETITIONER(S): Frederick & Peggy Ostermeier

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: Petitioners request pursuant to Chapter 17.66, for Proposed Parcel 1: a variance of Section 17.38.030 to allow one (1) parcel less than forty (40) acres (approximately 1 acre).

STAFF RECOMMENDATION: Recommend approval. Granting the variance would facilitate a division of the subject property to split the existing single-family residence from the cropland for estate planning purposes. The Standards for Variation are met.

Peggy Ostermeier sworn in.

Emily Prather reads petitioner's request and staff recommendation.

ZBA Chimento: Any Questions? County Board? Any Objectors?

**Committee Member Don Wulf made a motion to recommend approval of the staff recommendation.**

**Committee Member Anthony Mares seconded the motion.**
**Motion carries 5/0/0**

**Docket 2019-045 Richard & Joan Batson for property located at 7380 E. State Rt. 54, Riverton, IL 62561**

PETITIONER(S): Richard & Joan Batson

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: "I-1" Restricted Industrial District

REQUESTING: Petitioners request pursuant to Chapters 17.68 and 17.12, a rezoning from "I-1" Restricted Industrial District to "R-1" Single-Family Residence District.

STAFF RECOMMENDATION: Recommend approval. The petitioners are planning to sell the residence and the bank is requesting the zoning be residential. The subject property contains a single-family residence and garage which is better suited in the proposed R-1 District as a residence is not a permitted use in the I-1 District.

Richard Batson Sworn in.

Emily Prather reads petitioner's request and staff recommendation.

ZBA Chimento: Any Questions? County Board? Any Objectors?

**Committee Member Andrew Spiro made a motion to recommend approval of the staff recommendation.**

**Committee Member Anthony Mares seconded the motion.**
**Motion carries 5/0/0**

**Docket 2019-046 Gym of Springfield, Inc. for property located at 1823 Camp Lincoln Road, Springfield, IL 62707**

PETITIONER(S): Al Klunick

OBJECTOR(S): Yes

PRESENT ZONING CLASSIFICATION: B-3 General Business District with Conditional Permitted Uses for a private outdoor recreation center and a tavern.

REQUESTING: Petitioner requests pursuant to Chapter 17.66, a variance of Chapter 17.04 (Lot) to allow three (3) principal uses on one (1) parcel: (1) an indoor recreation center with a tavern, (2) a private outdoor recreation center, and (3) a greenhouse with a watchman's quarters; and, a variance of Section 17.26.010 to allow an "I-1" Restricted Industrial District Permitted Use for a watchman's quarters in the "B-3" General Business District.

STAFF RECOMMENDATION: Recommend approval. The subject property contains a hardship in that it is not able to be split to place the proposed uses on separate parcels because it has limited access for road frontage. The greenhouse is a permitted use in the B-3 District and does not necessarily require a watchman's quarters; however, the petitioner's intent is to grow hemp in the greenhouse. The proposed watchman's quarters will be ancillary to the greenhouse and will serve as an added security measure so an individual will be on the subject property at all times. The Standards for Variation are met.

Al Klunick sworn in.

Emily Prather reads petitioner's request and staff recommendation.

ZBA Chimento: Any Questions? County Board? Any Objectors?

Objection.

Roger Deatherage sworn in.

Deatherage: I object to having a tavern there. It's right in my neighborhood. It's a gym for kids to play basketball, and there doesn't need to be alcohol around the kids. That's my main concern, but then there is going to be a greenhouse that I believe is going to have cannabis grown in it.

ZBA Chimento: He said hemp, that's different.

Deatherage: Yea, well I don't want that in my neighborhood either. That's my main objectives.

Trustin Harrison: Mr. Chairman, for clarification. The tavern is already a granted use there. It has been there for several years.

Deatherage: In the Gym?

Trustin Harrison: Yes, they have just never gotten a liquor license for it. So, they have had the right to have a tavern there for several years.

Deatherage: I was here about 11 years ago and they dismissed it from happening.

Trustin Harrison: Currently on the books they are allowed to have a tavern there. They were granted a conditional permitted use to do so, but have never actually put the tavern in place.

Klunick: That was 20 years ago when we first got the property. We never really wanted it but we do have the zoning for it.

Trustin Harrison: Correct.

Deatherage: Well I don't like selling it around kids.

Klunick: We haven't done it and have no intentions to do so.

ZBA Chimento: That's not the way we run the meeting back and forth. You can have a rebuttal.

Deatherage: The greenhouse, I don't want them growing anything up there. They dug a big pond up there and it's contaminating my well.

ZBA Chimento: Any more objectors?

ZBA Wulf: Mr. Chairman, if I can clarify something. This says its intended to grow hemp in the greenhouse, is this a personal hemp or cannabis?

Trustin Harrison: Right now to grow hemp in Sangamon County, it's considered an agricultural crop. The intent is to grow hemp as an agricultural crop. The cannabis would require special licensing and special zoning to do so.

ZBA Wulf: It is hemp.

ZBA Sudeth: Have you acquired your license from the Department of Ag to grow hemp yet?

Klunick: No. We were planning on doing that once we got the zoning. We were planning on the greenhouse and outside of the greenhouse in the field.

Deatherage: And that's 50 yards away from my house.

ZBA Sudeth: You plan to grow indoor and outdoor hemp?

Klunick: Yes, and that's hemp not cannabis.

ZBA Sudeth: And you don't have any inclination that you might grow cannabis someday?

Klunick: I have no intentions on doing that. I don't want to say 100%, but I don't have any intentions.

**Committee Member Don Wulf made a motion to recommend approval of the staff recommendation.**

**Committee Member Anthony Mares seconded the motion.**
**Motion carries 5/0/0**

**Docket 2019-047 Adam Ehrman for property located at 7130 Fulton Road, New Berlin, IL 62670**

PETITIONER(S): Adam Ehrman

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: Petitioner requests pursuant to Chapter 17.66, a variance of Section 17.36.010(A) and Section 17.38.010 to allow an accessory structure within the front yard with a front yard setback to be approximately one (1) foot instead of the required thirty (30) feet.

STAFF RECOMMENDATION: Recommend denial. The petitioner previously filed Zoning Case #2019-028 requesting variances to allow an accessory structure within the front yard setback and the proposed right-of-way, which was denied. The petitioner has now refiled requesting the accessory structure be granted a one foot front yard setback variance. No conditions have changed since the previous Zoning Case #2019-028, and a negative precedent could be set if the variance is granted as the hardship is solely created by the property owner. Further, the petition states: "the topography of the property is unique and the property is covered with large adult trees. The flooding and sloping of the land inhibits to place it elsewhere." Upon the site visit and further investigation of available LIDAR data, staff finds there are adequate places to construct an accessory structure on both sides of the driveway in compliance with the Zoning Ordinance that would not cause any more topographic disturbance than any other typical construction project. Likewise, the subject property has large trees, but there are alternate sites (see attached pictures) that would meet the setback requirement and not require major tree removal. While the petitioner is now requesting a one (1) foot variance, the previous request was for zero (0) feet. Absent a boundary survey, which would be the responsibility of the property owner, staff is unsure if the requested one (1) foot is accurate. The Standards for Variation are not met.

Adam Ehrman passes out minutes from his passed meeting.

Adam Ehrman sworn in.

Lacy Ehrman sworn in.

Emily Prather reads petitioner's request and staff recommendation.

ZBA Chimento: Ok.

Adam Ehrman: We were here in August. That is when I had the conversation with the board about the shed being built and the concrete being poured, and it was 10 feet into the right of way. During that hearing, if you could turn to page 12 of the minutes, the attorney for the county said that this type of relief that we are talking about tonight, and I don't know of any documents that would solve that function. I just want everybody to be aware that there are more issues than just a variance. Board member Spiro said essentially he built on township land. That was kind of in question format. To which the attorney said that is my understanding. This is legally incorrect and has been acknowledged since then that it actually was not on township land. The point that I'm making here is that after that, the last words that I was able to say was, no objectors. Cause there was no objectors, my neighbors are all for this. What I'm trying to get to is that we had the county board meeting, even with it being 10 feet in on the right of way, 16 county board members acknowledged that it was ok. What I'm trying to do now is save as much of the concrete that I can and not have to completely tear down the building by moving it basically 11 feet so that it is not in the right of way at all. I will still have to take down this big windmill that is there, I think I found somebody with a truck to be able to do that. I'm doing my best to make a bad situation ok, it's not going

to be perfect because I have to move the entire thing 11 feet. So what I'm asking for is a little bit of logic and understanding that I am trying to do the absolute best I can do to make this situation go. I do believe that at the last hearing in August, we might have had a different opinion if there was acknowledgment that it wasn't on township land. The entire time this has been on my property, it was just in the right of way. Now I'm moving it completely out of the right of way. It's just the variance of that 30 feet setback.

ZBA Chimento: You have it surveyed?

Adam Ehrman: No, but the county has brought an Engineer out to look at it and it was confirmed that it was on my property. Where it stands right now, even without moving it.

ZBA Chimento: It's on your property right now without moving it?

Adam Ehrman: Yes. But I will still be moving it 11 feet. So I would have leftover concrete that would still be there, the whole concrete was just poured, you guys have pictures of that. So it would be moving that and adding some concrete to the front, then trying to move all the wood pillars over. It's just trying to shift it.

ZBA Chimento: He will be 10 feet off the line instead of 15?

Trustin Harrison: He would be 1 foot off the property line instead of the required 30 feet.

ZBA Chimento: Oh 1 foot.

Trustin Harrison: The front yard is a required 30 feet.

Adam Ehrman: Can I clarify the property line verses the setback, front right of way. So it was in the right of way, but on my property.

Trustin Harrison: Let me make a point of clarification. The way the right of way is determined in Sangamon County, each road has a designated width. In this case it is an 80 foot road. Half of the road, which is 40 feet, that is measured from the center of the road. In this case where Mr. Ehrman is, the road actually curves a little bit, so it appears to come onto his property. But it is still measured from the centerline of the road. That is the right of way line and that is where the assumed front property line is. So whether we are talking about an assumed front property line or the right of way line, they are basically the same thing just with some different terminology. So the line in question, he would be 1 foot off that line.

Adam Ehrman: So what we did was to make sure that we talked to the township supervisors and road commissioner and got letters to state that they had no concerns even where it stood at that point in time. We presented those to the county board. We were able to show that not only where it was to the county board, that it was not going to be a problem ever in the future. I am still trying to get out of the right of way because it seemed to be a major hang up to not have that be an issue. Letting somebody have a structure in the right of way. That's the essence of trying to move it out of that right of way and take away the obstacle and setting a precedent in the future about the right of way.

ZBA Mares: Question for staff, from the middle of the road 40 feet is the right of way, which would be on his property, correct?

Trustin Harrison: Correct.

ZBA Mares: Because that road is considered the front of his property and setback would have to be 30, so he would have to be 70 feet from the middle of the road.

Trustin Harrison: Correct.

ZBA Mares: Thank you.

Trustin Harrison: And that is common for all construction in the unincorporated Sangamon County. That is the expectation of all property owners.

ZBA Chimento: Anybody else got any questions? County board? No objectors?

Adam Ehrman: No, and actually I have a supporting letter that I had provided last time as well.

ZBA Sudeth: Staff, have you seen these letters from the township officials?

Trustin Harrison: Yes.

ZBA Sudeth: How big of a pad do you have poured there?

Adam Ehrman: 28 by 24. There is a little ramp in the front.

ZBA Sudeth: Ok.

ZBA Chimento: If there are no objectors, let's entertain a motion.

ZBA Sudeth: Staff, is denial based on we don't want to set a precedent?

Emily Prather: Yes, we don't want to set a precedence of allowing a structure within the front yard setback area. And since there are other locations that we have cited in our recommendation that he could place his accessory structure.

Adam Ehrman: If I put the shed in the locations that were suggested, we would have objectors from my neighbors that it would be in the front yard. The uniqueness of the property and where it's at, that is when they would show up upset because it just wouldn't make sense. It would pull down my property value, as well as theirs.

Trustin Harrison: If they do move, it would be a by right use. So there wouldn't be any more boards. It would just be a building permit at that point. So there wouldn't be another public forum for objectors.

Adam Ehrman: I think I understand that. I was trying to figure out the by right.

Trustin Harrison: If you meet the setback in the ordinance, you can do that without this.

Adam Ehrman: They just might show up to my house to object.

Joel Benoit: Is the board feeling like your needing further evidence on this issue?

ZBA Sudeth: It a pretty unique situation. Is there a variance footage that you would be ok with?

Emily Prather: Placing it 30 feet back.

ZBA Sudeth: Ok.

**Committee Member Don Wulf made a motion to recommend approval of the staff recommendation.**

**Committee Member Charlie Chimento seconded the motion.**
**Motion carries 5/0/0**

**Docket 2019-048 Ken & Lisa Wyatt for property located at 7700 Roberts Road, New Berlin, IL 62670**

PETITIONER(S): Ken & Lisa Wyatt

OBJECTOR(S): No

PRESENT ZONING CLASSIFICATION: "A" Agricultural District

REQUESTING: Petitioners request pursuant to Chapters 17.68 and 17.12, for Proposed Parcels 1 & 2: a rezoning from "A" Agricultural District to "R-1" Single-Family Residence District; and, pursuant to Chapter 17.66, for Proposed Parcel 1: a variance of Section 17.36.010(B) to allow an accessory structure to be approximately twenty-four (24) feet instead of the maximum height of eighteen (18) feet allowed in the "R-1" Single-Family Residence District.

STAFF RECOMMENDATION: Recommend approval. The purpose of the request is to divide the subject property into two parcels in order to construct an additional residence. The LESA score of 136 indicates the property is acceptable for non-agricultural development. There is a trend toward rural residences in the area. Allowing an accessory structure to be 24 feet instead of 18 feet in the R-1 District would be consistent with the height of accessory structures located on properties in this area that are zoned Agricultural, which has no height restriction. The Standards for Variation are met.

Kenneth Wyatt sworn in.

Lisa Wyatt sworn in.

Emily Prather reads petitioner's request and staff recommendation.

ZBA Chimento: Any Questions? County Board? Any Objectors?

**Committee Member Anthony Mares made a motion to recommend approval of the staff recommendation.**

**Committee Member JD Sudeth seconded the motion.**
**Motion carries 5/0/0**

**Docket 2019-049 Text Amendment Chapter 17 of the Sangamon County Zoning Ordinance related to adult use cannabis organizations**

Molly Berns reads power point presentation (See attached).

Molly Berns: The reason that I did want to present this information is that any sort of decision that is made by any entity in terms of a regulatory stand point in terms of distances, needs to have an evidentiary basis behind it. We worked very hard to come up with what we thought the appropriate structure in terms of similarities of uses and trying to decide the appropriate distances. Any Questions?

ZBA Mares: Dispensaries, county board said 2 correct?

Molly Berns: Yes.

ZBA Mares: Those still require state licensing, correct?

Molly Berns: Yes.

ZBA Mares: So, that could be down the road, maybe?

Molly Berns: Yes, and to explain what's going on with that. There is a medicinal cannabis on Adams and one in Grandview. The state law allows one of those entities to also have an adult use dispensary on site with those medical, so that's 2 for Grandview and City of Springfield. Each of those entities may also have an additional dispensary offsite of their current location. They would each get another one, so that would be 4 and then according to state law the Sangamon and Menard Bureau of labor statistical area is only entitled to 1 more. That could be anywhere in Sangamon or Menard County. So that would be your total of 5, but keep in mind that the limit of 2 doesn't count the 2 medicinal and the 1 each that they get. It's 2 additional over that, but technically there is probably on going to be 1. But it did plan for the future. And I know that's kind of confusing, but it's not one of those things that I anticipate a huge proliferation of the dispensing organizations or cultivation centers because the state regulations are going to be extremely tight in the number of licenses they give. I do believe that by July 1st of next year which includes the current license that they are in and the one that is in April and May. I think that they will be up to 185 total state wide. And their 5 year labor statistical area, so it is very structured so it's not a proliferation of one area. The state law does cap the total number of licenses currently at 500. My contacts anticipate between the 185 and 500 could take between 5, 8, to 10 years if that. There are some dispensaries that currently have medicinal that are not going to open in their area. In fact, the one in Grandview, I'm not sure has made a decision.

ZBA Mares: An additional?

Molly Berns: Yes, their additional offsite one. Now it is also possible under the state law, and I haven't been able to get ahold of regulations yet, but for example if you have a medicinal marijuana dispensary in Jacksonville and your additional one you get, you didn't want to put it in Jacksonville, you could put it somewhere else. Which is why you hear that there is going to be a dispensary in Springfield but they are

also talking about one at the old Outback and also maybe one south of town. But again, it still limits the number of licenses and it's based on who already has them and then there is an open application process for people who are not in the system to apply for as well. Sangamon County would have 2 in the unincorporated area according to what the current Sangamon County code says.

ZBA Mares: 2 possible?

Molly Berns: Up to 2 would be allowed according to the zoning ordinance and according to the resolution that passed last week.

ZBA Spiro: And that's dispensing organizations.

Molly Berns: Dispensaries.

ZBA Spiro: They can't smoke on site?

Molly Berns: Correct. On premises consumption is prohibited according to the resolution that was adopted by the county board last week.

ZBA Spiro: Throughout the county.

Molly Berns: Dispensary, on site consumption dispensary. You still as a private citizen will be able to smoke cannabis anywhere that is not in public. The state law does not allow the consumption of cannabis in public. So you can't just walk down the street and smoke or you will be breaking the law.

ZBA Spiro: You can't smoke in any place like a bar or restaurant.

Molly Berns: Correct. That is the current law.

ZBA Spiro: You can only smoke in your house.

Molly Berns: That is the current law.

ZBA Mares: For the craft growing and cultivation processing, the 1500 feet is the buffer zone that county board agreed on?

Molly Berns: No, that is what the PHSWZ committee agreed to. That is the 1500 restriction that the committee adopted and sent this text amendment forward for your consideration. It has not yet gone to the county board.

ZBA Wulf: And that was based upon your analysis?

Molly Berns: It was based on the same analysis that the PHSWZ committee saw. Mostly the same presentation about the buffers and made the decision to do the 1500.

ZBA Spiro: So in the 1500 feet there wouldn't be any craft growers, cultivation centers?

ZBA Wulf: It could be out in the country.

ZBA Spiro: It could be out in the county but not in the city.

Molly Berns: Correct.

ZBA Spiro: From those maps you showed with the 1500 feet, there is no place…

Molly Berns: No, there is a couple areas around the airport that might work. The cultivation centers, at least the ones that I have seen, are large, they have a lot of lights, and they have a lot of fencing.

ZBA Spiro: They are an industry.

Molly Berns: There an industry. Good zoning practices would say they should not be in organized areas. They should in fact be out where they're not disruptive to residential life.

ZBA Sudeth: So why are we putting them in industrial areas that are somewhat close to more residential sensitive areas? If we are opening that door, why aren't we just keeping them in agriculture area as far as craft grower, cultivation center, transporting and processing?

Molly Berns: I think the thought behind it was that because of the nature of the affect that it was a manufacturing thing certainly to open it up to the Ag would be something that would be acceptable. But there were also a few areas like the airport, were a significant distance away.

ZBA Sudeth: So what was the discussion of their potentially limiting future growth in those areas? If you have these centers and I come in here with some other industrial use and go, I don't want to be next to that.

Molly Berns: That question was asked in committee and it was discussed briefly, and my response to that was that can be said about any industry that comes in. For example, a meat packing plant is certainly going to affect the industries around it. A chicken plucking plant or something that has a lot of odors or objectionable influences, or a lot of noise, or a significant amount of 3 shift traffic. It would be hard to evaluate why a cultivation center might have as much or more impact than any of the other types of industries that would be permitted as a right in an industrial zoning district.

ZBA Mares: It would appear that with the 1500 foot buffer it would pretty much eliminate all I-1 and I-2 within the county. When it comes to the other 4 besides the dispensing, are there certain sizes? Does the state have any guidelines as far as, if you did have a sliver in I-1, does the state say it needs to be 1000 feet by 1000 feet? How does that work? It appears that the I-1 and I-2, with a 1500 foot buffer would probably not be very realistic.

Molly Berns: The state licenses are based on the amount of square footage, the processing and how much production you are able to produce. A craft grower obviously is much less significant. In many cases state law does allow them to be located on the same site as a cultivation center. It's just that the buds and all the plants have to be kept separate, separate ventilation systems, that kind of thing. The same way with medicinal marijuana, they can be on the same site, but it has to be different systems so that there is no cross contamination. So it really depends on the size of what's being proposed. Your right, there is no

question that the 1500 feet does eliminate part of the appropriate zoned property. That is not to say that someone could not petition Sangamon County to rezone a property. If they only had 5 acres, and they needed 15, and they have the adjoining properties. They could in fact request a rezoning of the property and it would go through the process of the publication process and the findings of fact and everything that would be required as if any other industry was going to come in and request an industrial use in ag zoning district and they didn't have the latitude of it already being part of the Ag zoning district.

ZBA Mares: And again, if were essentially eliminating I-1 and I-2, were looking at the other 5 situations that are mostly in agriculture, and again, they still have the restrictions already mandated by the state with regards to safety, security, signs and things like that, correct?

Molly Berns: They have requirements they have to meet in terms of the security and the safety of the site. There are no distances in state law. But the mere presence of what would be required of the state requirements does in fact have an effect on the immediate area.

ZBA Mares: And even if were looking at mostly agricultural, we would still have the 1500 foot buffer for residentially zoned areas.

Molly Berns: You would.

ZBA Sudeth: So it appears we came to the 250 to make it easier for someone to site a dispensary, is that correct?

Molly Berns: I'm going to turn the wording around, but I know what you're getting at. Yes and no. We came to the 250 because a dispensary is a retail shop with more lights on the outside and more security. That's all it is. So, the 250 was an adequate buffer based on how far really is 250. Then dispensaries, in almost all cases, they are going to want to be along an urbanized area. It's like a liquor store, you want to go where it's easy for people to stop in and do their business. That's just the way it is. Also, with the 250, when you look at the width of an arterial roadway like, Wabash Avenue, from Pasta House over to the Outback, you're working across an arterial roadway. So from a planning standpoint, it makes sense. Where if you say 100 feet, there is a lot of neighborhood pockets. Where it would be more difficult, much like it would be a neighborhood tavern, neighborhood liquor store, that kind of thing. So it wasn't random to make it easier, it's just that that particular use requires more of an urbanized retail setting. You're not going to want to put one way out on Darnell road.

ZBA Sudeth: I am guessing the procurement people who want to procure this, will go wherever it is.

Molly Berns: Maybe, but it is not an ideal situation for somebody who is investing hundreds of thousands of dollars. From a development standpoint, it does not make sense. Nonetheless, being very cognoscente of the public health safety and welfare of the community and making sure that sensitive areas are protected to the extent that Sangamon County has a nature to want to be able to do that. Then 250 appeared to be adequate based on the zoning and the distances from the residentially zoned properties, as well as other planning principles.

ZBA Mares: With regards to the dispensary buffer, we know that the sale of alcohol is legal. I know that there is certain... from churches, right now I think its 100 feet for a tavern or bar or liquor store, correct?

Molly Berns: It is.

ZBA Mares: Are the other setbacks like for churches and schools, is that included in the 250 also?

Molly Berns: Yes, the sensitive areas means pre-existing or public private preschools, elementary or secondary schools, daycare facilities, daycare homes, group daycare homes, park child care facility, a religious institution, a public or private park or residentially zoned district.

ZBA Mares: It also accounts for public wellbeing too.

Molly Berns: It does.

ZBA Mares: Thank you.

ZBA Chimento: Objectors?

Anita Bedell sworn in.

Anita Bedell: I am the director of Illinois Church Action on alcoholic and addiction problems. I listened to the debate on marijuana when it was in the legislature and they said that there are to be no more cultivation centers, they are just going to keep the 21 that they have now. So I think that answers some of your questions about the zoning. Also, state law changes. Just like with alcohol, they keep making the regulations looser and looser. The 100 foot rule for churches is gone for that. It's because people want to make more money. I was very disturbed when she said that retail shops have more lighting and security and they should be easy places for people to shop and buy. That should be the opposite for marijuana. You need to make marijuana harder for people to buy. The closer you have it, the easier it is for people to have more use and abuse for marijuana. Yesterday in the USA Today, it says, is marijuana linked to psychosis and schizophrenia? And the answer is yes. The places that they have legalized it, they have had emergency room calls by ambulance for people who have used it for the first time and they had psychotic episodes. Hospitalizations have more than doubled for serious mental health disorders for 18-25 year olds. You have had more suicides because of it. People who use marijuana, 10 to 20 percent will develop a marijuana use disorder and be at high risk for these kind of mental and physical adverse effects. So you don't want to make it closer for people. You have 1500 feet for the other places, which is fine. But for sensitive areas, where you have daycare centers, schools, churches, why would you want to put something this destructive so close to there. I'm concerned about the public health and the safety and the welfare, not about how much money people invest and have a return on their money. I think that's what you should consider too. The public health and you don't want to make it easier by making it closer to places where you have children and have parks where families are going to go. You want to make it further and further away. I think these are some things that you should consider and I think just make them all 1500 feet. I don't think that this is a good precedent. There are licenses, but they don't have enough people to inspect them. The police are concerned with the adverse effects. Yes it's going to be legal, but the county shouldn't make it so easily accessible for people to buy. Thank you.

ZBA Chimento: Any Questions? Thank you.

Beth Rogers sworn in.

Beth Rogers: I reside in Springfield and I have attended other meetings at the city council and also county board to voice my concerns about the recent law passed to legalize recreational marijuana and I realized that tonight is about zoning issues and technical review. I do believe that our state leaders legalized recreational pot doesn't make it right to be used as recreation. It's going to create more problems for our police and other citizens. Chief Winslow remarked that it is going to create more headaches for the law enforcement community. Another concern is having these cannabis businesses being close to children, residences, churches, 250 feet, what did she say that's like right across the street? That is pretty close to me. In reality, I wish this law had never been legalized. I know you have to comply with the law now and do what you can. As a citizen I don't like to do as much push back as I can against it because I was in Colorado and most people who are users are not going to comply with the laws. They are not going to say "oh I can't smoke that here" they are going to participate dispensary. I can almost guarantee that they are just going to be anywhere and everywhere. So that's too close to the daycares. For instance, if I lived in a duplex and the person next to me lived in the duplex and we all went out on our patio, they can smoke it and it would come in my direction. That's something that Chief Winslow mentioned. I am just recommending and asking that you would try to put the maximum amount of feet away from the schools, daycares and churches. Actually I wish it wasn't even 1500 feet, I wish it were 1500 miles. This is very concerning to me as a citizen. I love my community. At least make it 1500 feet and not 250. Thank you.

ZBA Chimento: Any questions?

Minister Gary Pierce sworn in.

Gary Pierce: I love the State of Illinois. I was born in Missouri, but raised in Illinois. I am very proud of this state. When I moved to Springfield back in 2001 I established my ministry over on Jackson Street. You all are aware of all the activity on Jackson Street? There is a lot of drug activity on Jackson Street. I had my ministry and I had a homeless shelter and some of the guys that were staying there got jumped because someone reported the people that was selling drugs. Officer Finky was the neighborhood police officer who would come through there and help. We were there, my family and I and some members, and we prayed and they ended up closing down the Bullfrog Inn. As soon as I lost my own personal finances to keep that ministry going and I couldn't get no help from the city, I had to close it down and give it to another person. And as soon as I did that the Bullfrog Inn opened right back up. So I do believe that prayer changes things. What some of the ladies said, I agree with them. I believe that there is nothing we can really do about this. The state has already decided to do it, the county has decided to do it and the city has decided to do it. I am also an alcohol/drug counselor and I see the effects of it every day. I wasn't a bad addict myself, but I was addicted to alcohol and I experimented with drugs, and I am not afraid to say that. But I know what they do to you. They slow you down, they slow your motivation down. Marijuana does that because when children from the ages of 17 to 26, their frontal lobe of their brain is developing, their decision making part of the brain. And you all can see all this stuff that is going on right now with the shootings in the community over on the southeast side and it's going to spread once you start allowing the dispensaries all over the city. It's going to spread, so you might as well get ready for it. We have already dealt with the effects of alcohol and I can't believe that we are actually up here talking about legalizing marijuana. January 1, 2020 with this legalization of marijuana, it's going to hit the fan. It's going to be dangerous. My only concern is the children. I saw it, and that's why I ended up doing it. I saw my family and other people in the neighborhood doing drugs and alcohol. And it's going to be the same thing. So when they are talking about 250 feet...when I was over there on Jackson Street I used to see little children going over there and buying alcohol. But I prayed about it. I didn't go over there and attack the bar owner, I just prayed about it. And that's what I'm going to do now. But, I think that those dispensaries should be

1500 feet. Springfield has already said it's going to be 1500 feet from the sensitive areas. And if you all decide that it's going to be 250 feet, well guess what? That's going to give Springfield the option, because I think they follow what the county does. Correct me if I'm wrong. I think that everything else is fine with the other feet, but when it comes to the sensitive areas like churches, schools, parks, anything like that, it should be 1500 feet and I think you should really consider that. And you're talking about someone with experience and also being an alcohol and drug counselor and also a minister. And I'm not trying to put my moral compass on anyone. I see it every day. I care about your children, I care about my children and I care about everyone else's children. Thank you.

ZBA Chimento: Any Questions?

CB Lisa Hills: One point of order for the committee. One of the reasons we looked at 250 feet, is that is a similar use to adult entertainment. Strip clubs and X-rated things are 250 feet.

CB Greg Stumph: I would like to ask Molly, the City of Springfield is 250 feet also, is it not?

Gary Pierce: No, it's 1500.

Steve Keenan: There is no 250 feet for City of Springfield.

Molly Berns: There sensitive areas do not include residential zoned properties. For the one on Adams, they adopted a variance to allow it to be within 1500 feet of a church.

Steve Keenan: And they exempted it out. S-3 District, which is the downtown central district, is 1000 feet from churches, schools and daycares. If you're in areas like with the Horizon drive one, your 1500 feet from churches, daycares, and apartments. So they are slightly different.

Gary Pierce: So the one downtown was grandfathered in.

Steve Keenan: Correct.

Molly Berns: With the S-3, that is correct.

Gary Pierce: Any questions for me?

ZBA Chimento: I guess not. Thank you.

ZBA Chimento: Molly do you have anything else to say?

Molly Berns: I have nothing else to add. I think that the presentation speaks for itself, the evidence that is presented speaks for itself, and I would be happy to answer any other questions for clarification that you might have.

ZBA Spiro: Did you want us to vote on this tonight?

Molly Berns: It would be very helpful, and here is why. The question is, why are we doing all of this now? And that is, the law passes on January 1st. The county board has said that these are businesses they would

allow, however if somebody comes in on January 2nd and stops by Trustin's office and says I want to do a craft grower, what district can I put it in? What Trustin would be faced with doing, is making a zoning administrative interpretation and go down the list of similar businesses and say put it in this zoning district. Absent specific guidance language in the zoning ordinance. We would do the best we can. Much like we've done with micro-breweries in the past, because that is still not in the zoning ordinance. So this provides more structure and more guidance to the zoning administrator and makes it easier for him to actually have compliance with the ordinance in future situations. And it clarifies it from a legal standpoint. Joel, do you have anything to add?

Joel Benoit: I would agree with that. That is the concern to move this along. I think that one of the things that you all can think about, is that if this goes forward tonight and you decide that you do want more restriction. You have got to think about this. For the dispensing organizations, again, we don't even know if there is going to be a license. But if this isn't working, it can be amended. But to leave it wide open is a little troublesome.

ZBA Spiro: So you're saying it would be better to have a regulation, than no regulation?

Joel Benoit: Yes.

ZBA Sudeth: So, if we were to amend this to 1500, would zoning be able to give a variance?

Trustin Harrison: Anything in our ordinance, somebody can request a variance. A variance can always be requested.

ZBA Sudeth: Ok.

Molly Berns: A variance can in fact be requested. And it would depend on each individual case because we would look at each case when it's presented to us. But after the amount of effort, research, comparison to other states, comparison to other counties, comparison to other municipalities, reviewing all 610 pages of state law multiple times, we believe that the recommendation is solid. So to say 1500 feet, but by the way you can apply for a variance, I'm not sure a variance request at that time would have a positive staff recommendation. If you say 1500, and now you want 950, what is the evidence that says 950 is ok? When 1500 is what you decided was required, and you overwrote 250. It becomes an evidentiary difficult time at that point.

ZBA Sudeth: I understand. I guess my thing is, if we go with 250, its 250. Where if you go to 1000 or 1500, there is a little room for a variance.

ZBA Chimento: As a recommending body, we don't have the final say in this.

Molly Berns: That is very correct. It goes to county board in January.

ZBA Spiro: It's actually an ordinance that would be voted on by the county board.

Molly Berns: Absolutely, it's a text amendment. Just like any other zoning case, it's the same process that goes forward to the county board.

ZBA Chimento: We can do all the recommendations we want, the county board is going to have....

CB Stumph: This is what our committee has put forward onto you guys for approval. We're trying to get this done as soon as possible because of the state laws that become effective January, 1st. Now, the county board, we could change all of it up in January if we wished. But we try not to do that on the floor as a rule.

Molly Berns: If I can add one more thing. The state agencies is still in the process of finalizing their administrative rules. The multiple state agencies. And I will be reviewing those on a regular basis to make sure, first of all, its good information for the county board to have but also, it's a checks and balances on the staff analysis to make sure we and the county are consistent with what the surrounding communities are doing. So this will be an ongoing analysis and at any point in time if I believe that the county has diverted in a slightly different way, and it is not being consistent, I will be notifying committee and go forward with that.

ZBA Spiro: I agree with the premise that we need a regulation rather than no regulation. And the only question is about the 250 feet for the dispensary. And I think the opposition testimony made a very good point. The state in general seems to be rushing along with gambling and marijuana as a panacea to raise revenue. I think they made valid points. So I am in favor of having a regulation. They made some good points on the distance of the dispensary but, I trust your judgment.

ZBA Mares: Question, How many counties have adopted ordinances?

Molly Berns: I don't know what the rolling count is, but I will tell you that I worked very closely with getting information out of Peoria County, I might share that information with you, if I could Mr. Chairman?

ZBA Chimento: Sure.

Molly Berns: They are using 500 for the dispensing organization. They are not allowing on-site consumption, but they are allowing dispensing organizations in zoning districts that would be very similar to B-1 and B-2. So a similar use would be a retail operation. The other thing about Peoria County, and of course each county is unique, is they wanted to push things to the industrial areas. They have a lot of vacant industrial space in Peoria. Along their highway, arterial roadway networks and they are trying to grow that area of town. So they are doing this with all new businesses that they add. They are creating kind of a conduit to move development. Much like we would like to do where there is no water, or no septic or sewer available. We want development to occur where water and sewer is available. It's the same type of thing with this. So they kind of geared it toward that. In terms of what other counties are doing, we are not first, but we are by no means the last. Champaign County is treating dispensaries basically like a Walgreens with a lot more security. In terms of dispensing organizations. So, it just really depends. I can't say that there is a main standard, here is the model.

ZBA Spiro: Someone brought up earlier the adult entertainment. Would you say that our dispensing regulations are the same as that? Cause I think that that might be a good model. If it's more restrictive or the same kind of restriction.

Molly Berns. It is. And thank you Lisa for bringing that up. But that is exactly what it was. Because you look at 100 feet, for a tavern restriction and a liquor store restriction, and I was thumbing through trying

to put this research together and we found the 250 for adult uses. And that is part of the zoning ordinance that there is a 250 feet restriction for adult uses from the same type of lists of sensitive areas.

Trustin Harrison: I did want to add to your comment about the other counties. I did have a meeting this week with several central Illinois counties. Champaign is looking at making it a by right use. In other words, it wouldn't even go in front of the county board. Piatt County has not made any steps and as of Tuesday somebody had come in and requested to put in a dispensary somewhere in the Monticello area. And they have no zoning in place. So, as Molly had said earlier, they are going to have to figure out how to make this work. There are some other counties like Champaign where they are thinking about no restrictions at all.

ZBA Chimento: This is a work in progress.

Molly Berns: It is, which is why I'm committed to tracking it as much as I can and with the various regulations because I want to make sure there is no changes made that have a significant impact.

ZBA Chimento: Entertain a motion?

**Committee Member Andrew Spiro made a motion to recommend the approval of the staff recommendation.**

**Committee Member Charlie Chimento seconded the motion.**
**Motion carries 4/1/0**

**Motion to Adjourn:**

**Committee Member Charlie Chimento made a motion to adjourn.**

**Committee Member JD Sudeth seconded the motion.**
**Motion Carries 5/0/0**

Meeting adjourned.

Respectfully submitted,

Recording Secretary

Chairman

Minutes of **December 19, 2019**
Full record of minutes available upon request in the Zoning Department

# Zoning Case 2019-049 Text Amendment to Chapter 17 related to Adult-use Cannabis Business Establishments

Sangamon County Board
Zoning Board of Appeals
December 19, 2019

## Role of SSCRPC in this process?

- No position regarding cannabis or associated business establishments
- Ensure that planning principles will be maintained
- Develop changes to code that will apply the zoning ordinance in a consistent manner.
- Also watch for issues that might result in court challenges related to zoning (i.e. spot zoning, unreasonableness, etc.)
- PH, SW & Zoning Committee asked for assistance.

## Illinois Cannabis Regulation and Tax Act (effective 1-1-20)

*Defines cannabis business establishments:*

- Dispensing organization (dispensary)
- Craft grower
- Cultivation center
- Infuser organization (infuser)
- Processing organization (processor)
- Transporting organization (transporter)

**Local governments may not prohibit <u>use</u> of cannabis.**

**What can local governments do?**

- "Any unit of local government may enact ordinances to prohibit or significantly limit a cannabis business establishment's location."
- "No unit of local government may ***<u>unreasonably</u>*** restrict the time, place manner, and number of cannabis business establishments authorized by the Act."

December 10, 2019: County Board adopted Resolution 8-1 to add Chapter 5.32 to the Sangamon County Code to allow cannabis business establishments in unincorporated Sangamon County.

- Allows all cannabis business establishments in unincorporated Sangamon.
- Limits the number of adult-use cannabis dispensing organizations allowed in <u>unincorporated</u> areas to two.
- Prohibits on-premises consumption of cannabis at Cannabis Dispensing Organizations.

**Zoning Case 2019-049, Text Amendment:**

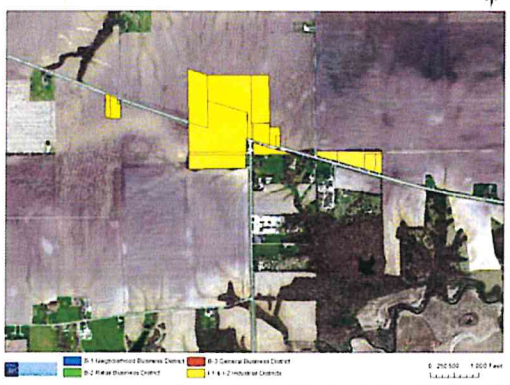
- Adds definitions
- Identifies where the businesses would be allowed (which zoning districts).
- Establishes distances of separation between the principle structure of an adult-use cannabis business establishment to the property line of a use defined as a "sensitive area".

  *"Sensitive areas" means pre-existing public or private preschool, elementary or secondary school, day care facility, day care home, group day care home, part day childcare facility, religious institution, public park, private park, or residential zoned district."*

  - Why use residential zoned district?

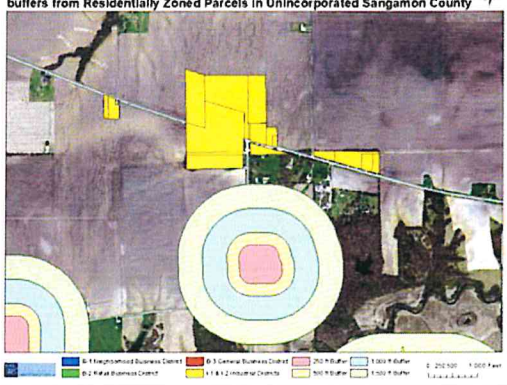
Bradfordton

Unincorporated Sangamon County Business & Industrial Zoning Districts



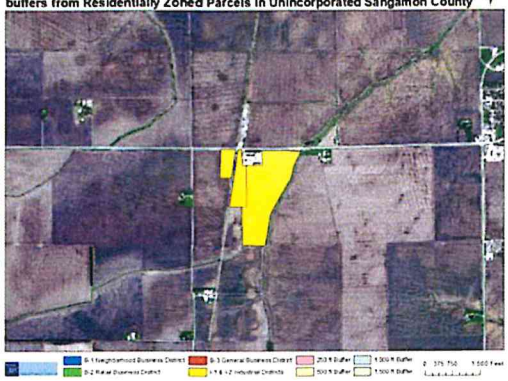
Bradfordton

Unincorporated Sangamon County Business & Industrial Zoning Districts with buffers from Residentially Zoned Parcels in Unincorporated Sangamon County



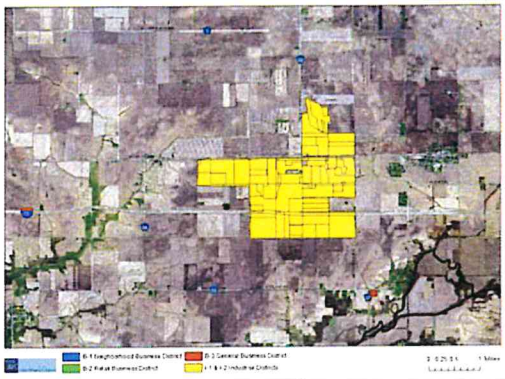
## Springfield Plastics

**Unincorporated Sangamon County Business & Industrial Zoning Districts with buffers from Residentially Zoned Parcels in Unincorporated Sangamon County**



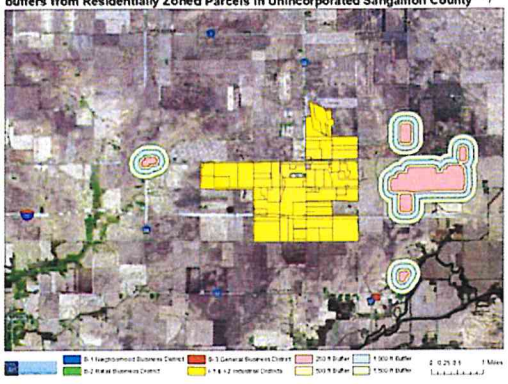
## Formosa Site

**Unincorporated Sangamon County Business & Industrial Zoning Districts**

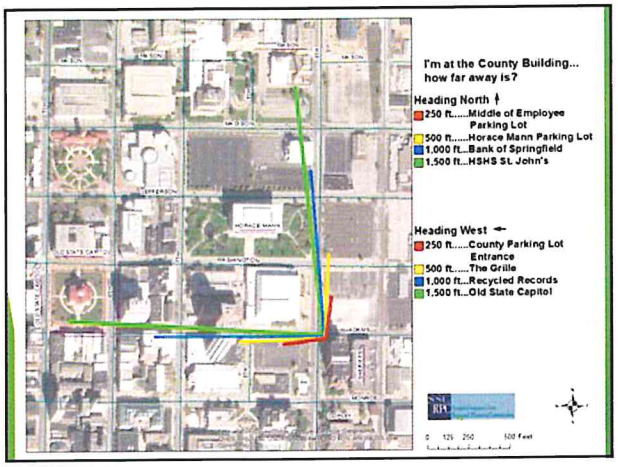


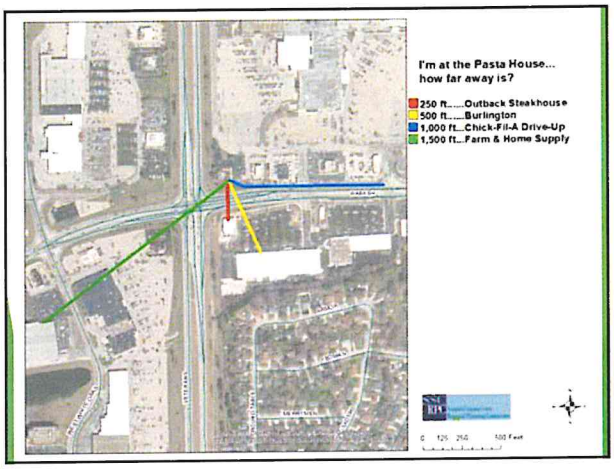
## Formosa Site

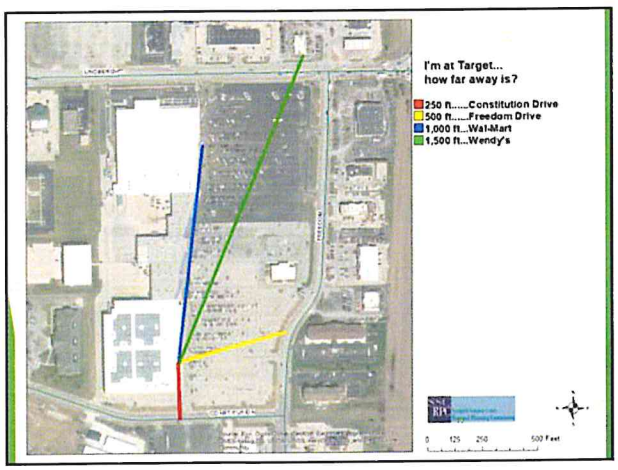
**Unincorporated Sangamon County Business & Industrial Zoning Districts with buffers from Residentially Zoned Parcels in Unincorporated Sangamon County**

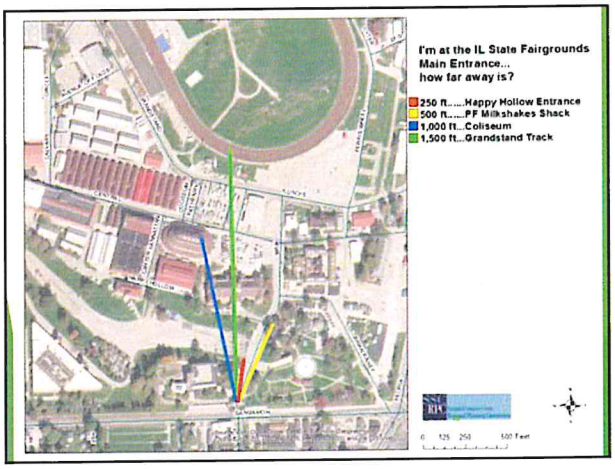


## Identifying possible distances to buffer cannabis businesses from sensitive areas


I'm at the County Building...
how far away is?
Heading North
250 ft.....Middle of Employee Parking Lot
500 ft.....Horace Mann Parking Lot
1,000 ft...Bank of Springfield
1,500 ft...HSHS St. John's
Heading West
250 ft.....County Parking Lot Entrance
500 ft.....The Grille
1,000 ft...Recycled Records
1,500 ft...Old State Capitol
0 125 250 500 Feet


I'm at the Pasta House...
how far away is?
250 ft.....Outback Steakhouse
500 ft.....Burlington
1,000 ft...Chick-Fil-A Drive-Up
1,500 ft...Farm & Home Supply
0 125 250 500 Feet

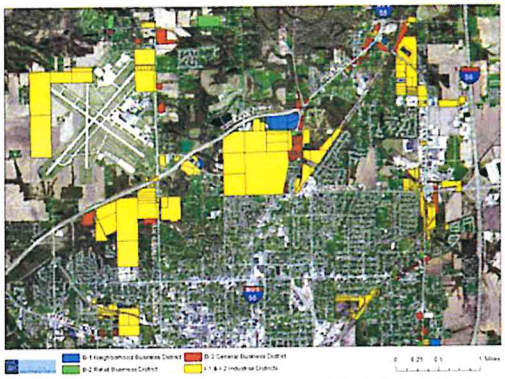

I'm at Target...
how far away is?
250 ft.....Constitution Drive
500 ft.....Freedom Drive
1,000 ft...Wal-Mart
1,500 ft...Wendy's
0 125 250 500 Feet


I'm at the IL State Fairgrounds
Main Entrance...
how far away is?
250 ft.....Happy Hollow Entrance
500 ft.....PF Milkshakes Shack
1,000 ft...Coliseum
1,500 ft...Grandstand Track
0 125 250 500 Feet

# Effect of buffer distances related to existing zoning

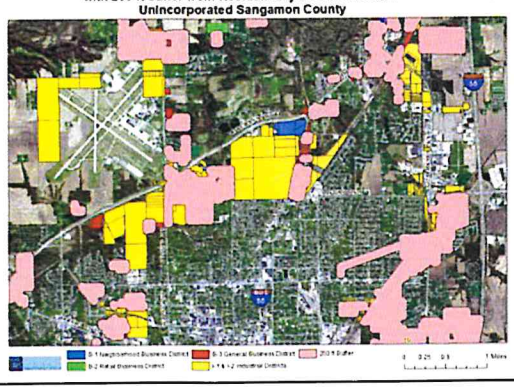
## Area Between the Airport & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts**



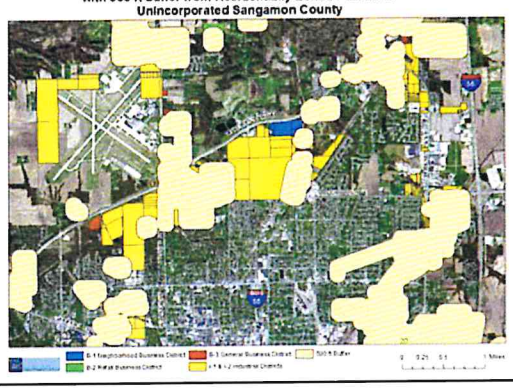
## Area Between the Airport & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 250 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County**



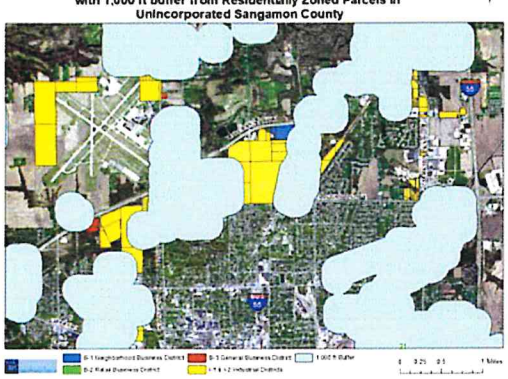
## Area Between the Airport & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 500 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County**



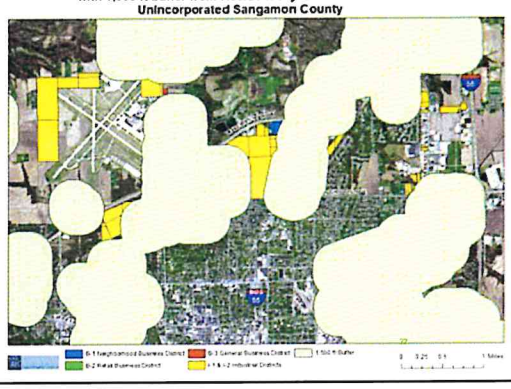
## Area Between the Airport & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 1,000 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County**



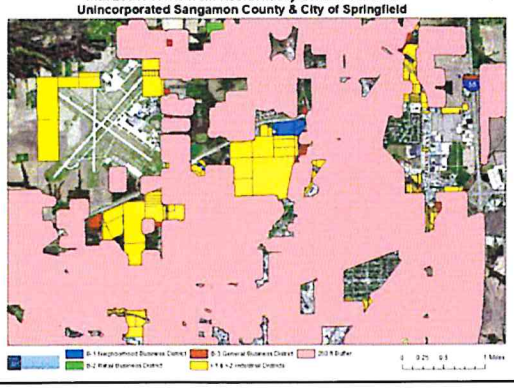
## Area Between the Airport & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 1,500 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County**



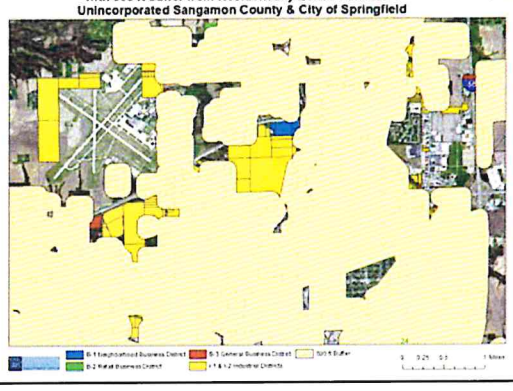
## Area Between the Airport & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 250 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County & City of Springfield**

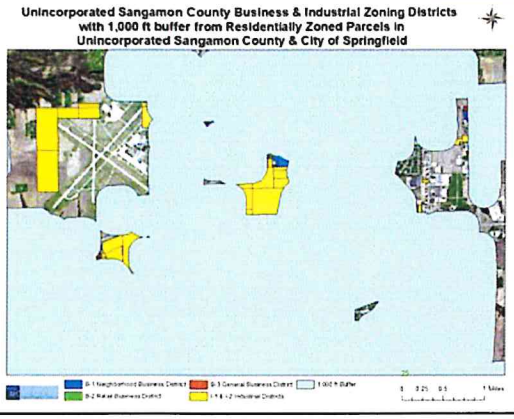


## Area Between the Airport & I-55

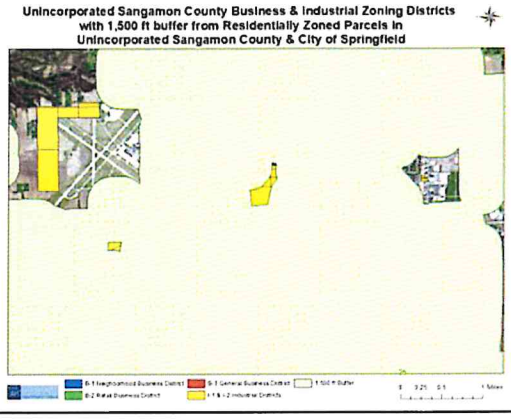
**Unincorporated Sangamon County Business & Industrial Zoning Districts with 500 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County & City of Springfield**



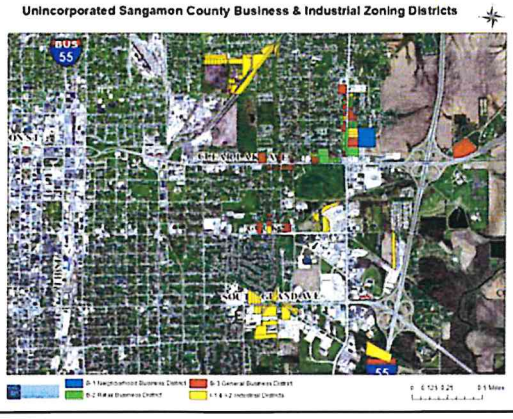
Area Between the Airport & I-55



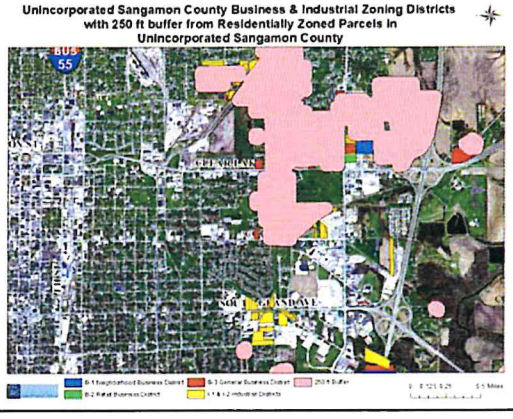

Area Between the Airport & I-55




Area between Clear Lake & South Grand & 9th Street & I-55

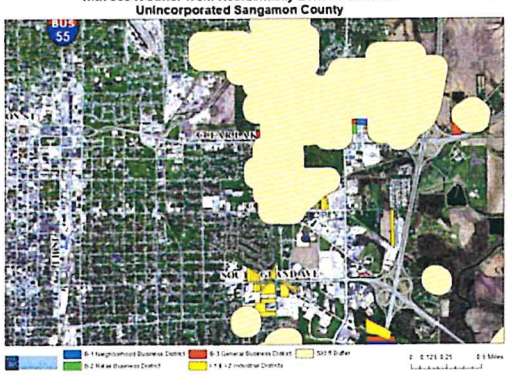



Area between Clear Lake & South Grand & 9th Street & I-55



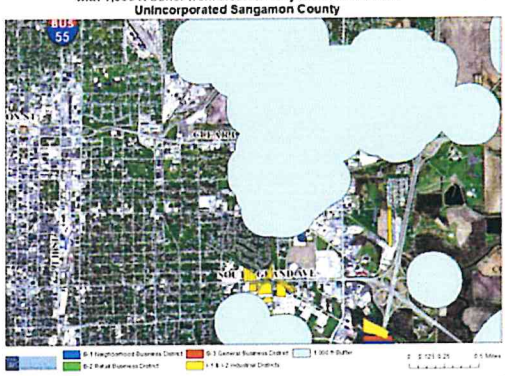
Area between Clear Lake & South Grand & 9th Street & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 500 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County**




Area between Clear Lake & South Grand & 9th Street & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 1,000 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County**




Area between Clear Lake & South Grand & 9th Street & I-55

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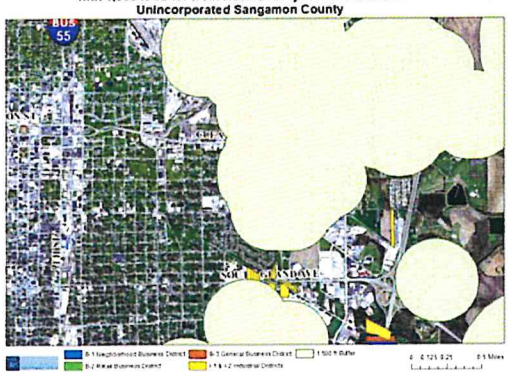
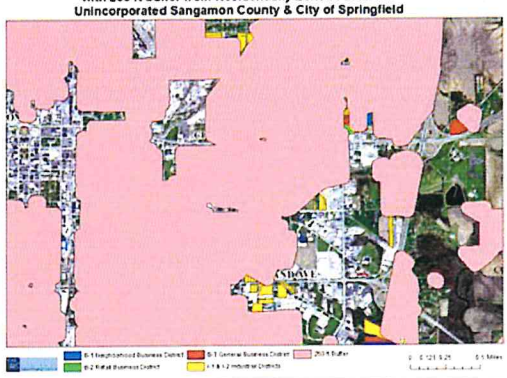



Area between Clear Lake & South Grand & 9th Street & I-55

**Unincorporated Sangamon County Business & Industrial Zoning Districts with 250 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County & City of Springfield**



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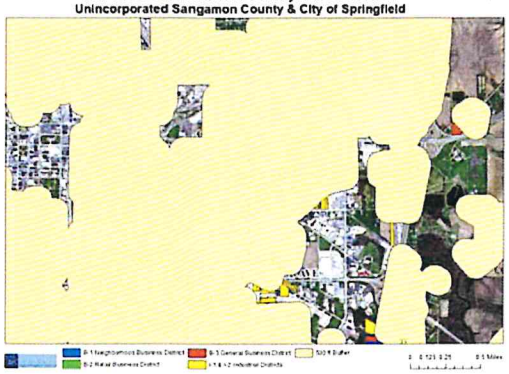
**Unincorporated Sangamon County Business & Industrial Zoning Districts with 500 ft buffer from Residentially Zoned Parcels in Unincorporated Sangamon County & City of Springfield**



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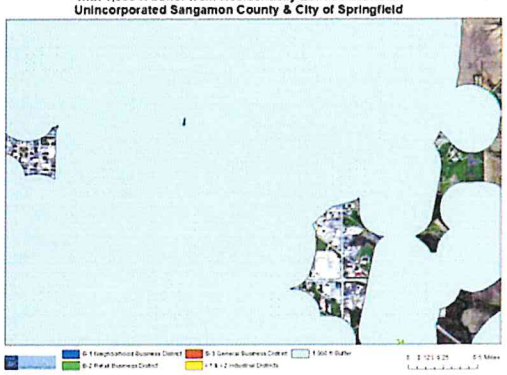

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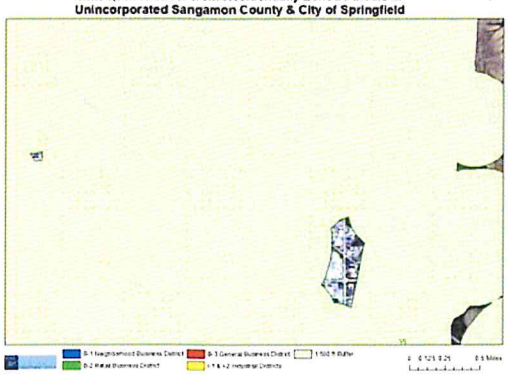
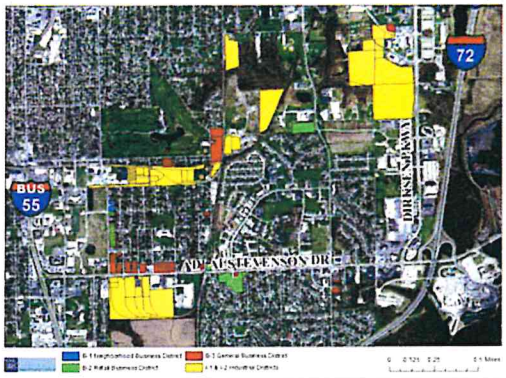


## Stevenson, Dirksen, & 6th Street Area

**Unincorporated Sangamon County Business & Industrial Zoning Districts**



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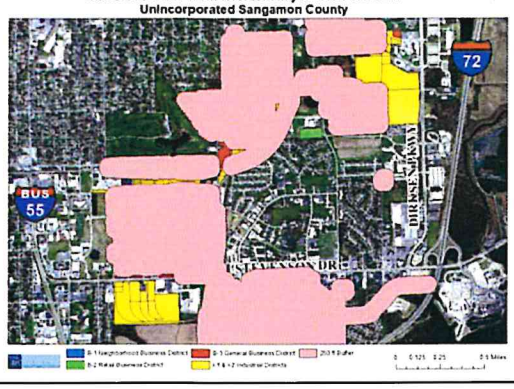


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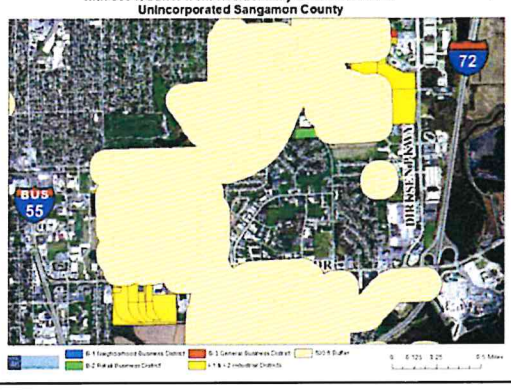


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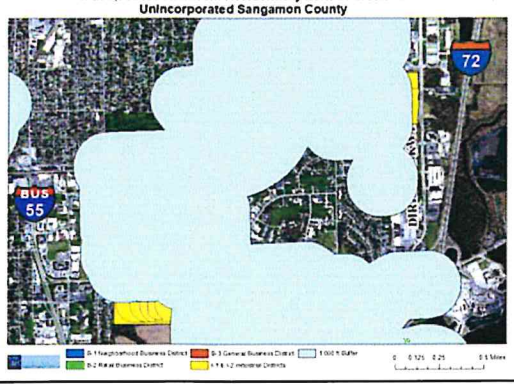


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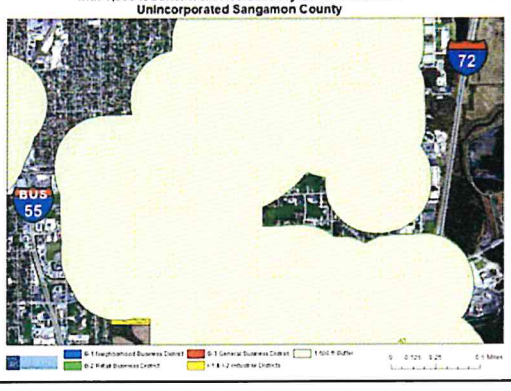

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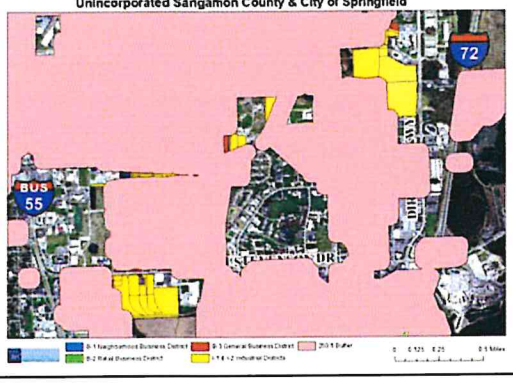


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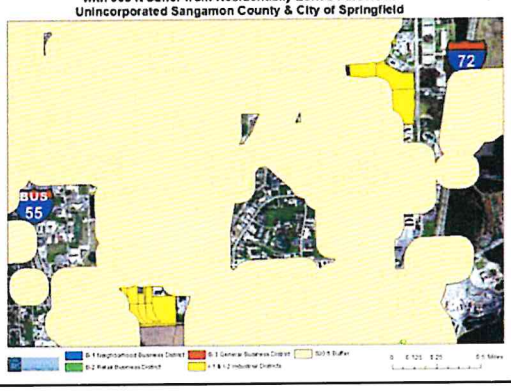


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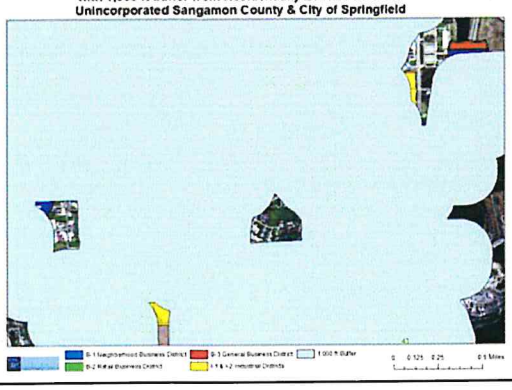

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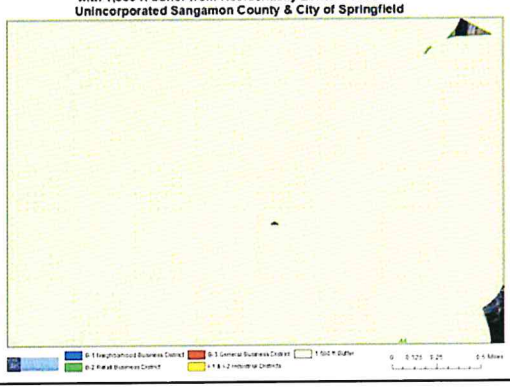

## Zoning Case 2019-049:

| Conditional Permitted Uses | Sangamon County |
|---|---|
| Dispensing Organization | B-2, B-3, I-1, I-2 |
| • On Site Consumption | None |
| Distance | 250' |
| Craft Grower | A, I-1, I-2 |
| Distance | 1,500' |
| Cultivation Center | A, I-1, I-2 |
| Distance | 1,500' |
| Infuser Organization (infuser) | I-1, I-2 |
| Distance | 1,500' |
| Processing Organization (processor) | I-1, I-2 |
| Distance | 1,500' |
| Transporting Organization (transporter) | A, I-1, I-2 |
| Distance | 1,500' |

## Questions?