



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **memorandum**

**TO:** The Urbana Plan Commission

**FROM:** Jeff Engstrom, Planner I

**DATE:** November 30, 2007

**SUBJECT: Plan Case 2007-A-03a:** An annexation agreement between the City of Urbana and Champaign Asphalt, LLC / Emulsicoat, Inc. for a 24.786 acre tract of land located at the north end of Saline Court.

**Plan Case 2056-M-07:** A proposed rezoning of a 24.786 acre tract of land located at the north end of Saline Court from its current Champaign County AG-2, Agriculture Zoning District to the City of Urbana IN, Industrial Zoning District upon annexation into the City of Urbana.

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### **Introduction**

Champaign Asphalt, LLC has requested the City of Urbana to annex a 24.786 acre tract of land they are under contract to purchase at the north end of Saline Court (see Exhibit “A” Location Map). The current Champaign County zoning designation for the site (known as Tract “A”) is AG-2, Agriculture. The Urbana Zoning Ordinance Table IV-1 calls for direct conversion of property zoned County AG-2 to City AG zoning upon annexation. This case comes to the Plan Commission for review because the petitioners have requested a rezoning to City IN, Industrial upon annexation. The Annexation Agreement also includes the provision for a special use permit to allow the production of asphalt on the site. A copy of the proposed Annexation Agreement is attached to this memorandum. The approval of this case will allow the City to enter into the annexation agreement after Champaign Asphalt takes ownership of the parcel.

Plan cases 2007-4-03a and 2056-M-07 are a part of a series of interdependent necessary City approvals, including:

- A General Area Plan
- A Preliminary/Final Plat for the Squire Subdivision
- An Annexation Agreement
- A Rezoning to City IN-Industrial District, and
- A Special Use Permit to allow asphalt production in an Industrial District

All the cases regarding Champaign Asphalt Tract “A”—the rezoning, annexation agreement with special use permit, and the subdivision preliminary/final plat—will go to the City Council

regular meeting for approval on December 17, 2007. The Plan Commission will also review the preliminary and final major subdivision plats in a related case. That case involves the approval of the General Area Plan for the long-term development of the Squire Farm and the granting of a waiver for the 1,500 foot cul-de-sac for Saline Court. The approval of these related cases at City Council will facilitate the sale of Tract “A” to Champaign Asphalt from the owners of the Squire Farm.

Champaign Asphalt was recently purchased by Emulsicoat, which has an existing asphalt plant adjacent to the site in question. Champaign Asphalt will consolidate three operations currently located in Champaign and relocate to Urbana. They plan on moving their asphalt production facilities and to have the new site open for business in the spring of 2008. During peak seasons, Champaign Asphalt typically employs several hundred people.

**Description of the Area**

The site is located west of Lincoln Avenue and the Saline Branch drainage ditch. Immediately to the south and west is the Emulsicoat Asphalt plant. To the north and east are undeveloped agricultural lands which are part of the Squire Farm. (See Exhibit “A” Location Map)

The following is a summary of surrounding zoning and land uses for the subject site:

**Zoning and Land Use Table\***

	<b>Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use per 2005 Comprehensive Plan</b>
<b>Site</b>	County AG-2, Agriculture	Agriculture / Vacant	Industrial
<b>North</b>	County AG-2, Agriculture	Agriculture / Vacant	Industrial
<b>South</b>	City IN, Industrial	Industrial—Asphalt Plant	Industrial
<b>West</b>	City IN, Industrial	Industrial—Asphalt Plant	Industrial
<b>East</b>	County AG-2, Agriculture	Agriculture / Vacant	Industrial

\*(Please refer to the attached Zoning, Existing Land Use, and Future Land Use maps for further information.)

**Issues and Discussion**

**Annexation Agreement**

A draft of the annexation agreement is attached to this memorandum. The draft agreement outlines obligations by both the Owner and the City. Annexation agreements are to be reviewed and approved by the City Council, and by state law the Council must hold a public hearing on

the matter. In addition, a Special Use Permit would be granted by City Council under the agreement. Section XI-14 of the Zoning Ordinance states that the Plan Commission must hold a public hearing and make a recommendation to Council on any zoning map amendment included as part of any annexation agreement.

### **Annexation Agreement Provisions**

The attached agreement outlines a variety of provisions for the property to be annexed. In addition to the provisions for zoning designations, the following provisions are highlighted:

- The City agrees to grant a Special Use Permit to allow an asphalt blending, storage and distribution facility on the site.
- In order to facilitate a proposed extension of the City's Enterprise Zone to this property, the Owner agrees to petition for the disconnection of said Tract "A" from Champaign School District Unit #4 and request annexation to Urbana School District #116 per the Illinois State Statute within 60 days of annexation into Urbana.

*Comment:*

*The City of Urbana and City of Champaign have a boundary agreement that locates the subject site within the expansion / annexation territory of the City of Urbana. However that agreement does not apply to the school districts which operate as different entities. The subject site is located within the Champaign School District Unit #4 territory. The City of Urbana asserts that a tax revenue generating business on this tract should benefit the taxing bodies of the host City, including the host city's school district, particularly if economic development assistance is requested such as the proposed extension of the City's Enterprise Zone.*

In addition the Owner agrees to the following conditions of the Special Use Permit. All exhibits referenced are attachments to the actual annexation agreement.

1. This Special Use Permit shall be applicable only to the confines of Tract "A" as depicted in the attached Exhibit "B" Map, and legally described in Exhibit "A"
2. The Special Use Permit is applicable only to the asphalt blending, storage, and distribution plant proposed in the application and depicted in the attached Exhibit "C" Site Diagram.
3. The layout of the site shall be in substantial conformity with Exhibit "C" Site Diagram. Any significant deviation from this Site Diagram shall require an amendment to the Special Use Permit and shall include review by the Urbana Plan Commission and approval by the Urbana City Council.
4. The Owner agrees that all operations, development, construction, or additions to its asphalt blending, storage and distribution plant on Tract "A" as depicted in the attached Exhibit "B" Map, and legally described in Exhibit "A" shall be in conformity with all applicable State and Federal regulations including Environmental Protection regulations

pertaining to chemical emissions, particulate emissions, dust, noise, odor, and groundwater protection.

## **Proposed Rezoning**

Champaign Asphalt proposes to establish an asphalt blending, storage and distribution plant on the site. Table IV-1 of the Zoning Ordinance provides that newly annexed properties currently zoned County AG-2 automatically convert to City AG-Agriculture. An industrial use of that nature would not be permitted in the City's Agricultural zoning district. Therefore the rezoning to industrial is necessary to accommodate the new plant.

Asphalt blending, storage and distribution plants are not listed within the Table of Uses in the Urbana Zoning Ordinance. Such "*Other Industrial Uses*" may be permitted in the IN Industrial zoning district under the provisions of Special Use Permit review. Pursuant to the Urbana Zoning Ordinance, the Plan Commission must recommend approval or denial of the rezoning and forward it to City Council for action.

## **Comprehensive Plan**

The proposed zoning designation would be consistent with the 2005 Comprehensive Plan Future Land Use Map (see Exhibit "D"). The map identifies the area as most appropriate for Industrial uses. In addition the annexation and rezoning of the site is consistent with the following Goals and Objectives of the 2005 Comprehensive Plan:

### **Goal 27.0**

Create a variety of industrial and office developments that can benefit from existing amenities such as convenient access to interstate and rail services and close proximity to the University of Illinois.

#### *Objectives*

*27.1 Encourage the expansion of existing and the creation of new industrial and office park developments in appropriate locations, using a variety of development tools.*

*27.3 Capitalize on development sites with rail and highway access to promote industrial opportunities.*

*27.4 Pursue annexation of new areas (such as North Lincoln Avenue, East University Avenue, North Cunningham Avenue and Oak Street) for industrial development.*

## **Proposed Use**

The proposed use includes the blending, storage and distribution of asphalt products used primarily in the construction of pavements. A variety of products would be stored in bulk tanks for distribution to road construction projects and portable hot mix asphalt plants. The Environmental Protection Agency (EPA) monitors operation of asphalt blending and storage facilities for compliance with emission levels, and an operating permit is required. The facility

will be substantially similar in operation to that of the Emulsicoat facility located at 1302 N. Oak St, Champaign.

The proposed asphalt plant facility will be compatible with the intent of the IN Industrial district.

The site plan, attached as Exhibit “C” of the annexation agreement, shows the general layout of the proposed plant. Access would be from Saline Court to the south. There would be a landscape berm along the eastern edge of the property to visually screen the site from neighboring properties.

### **The La Salle National Bank Criteria**

In the case of La Salle National Bank v. County of Cook (the “La Salle” case), the Illinois Supreme Court developed a list of factors that are paramount in evaluating the legal validity of a zoning classification for a particular property. Each of these factors will be discussed as they pertain to a comparison of the existing zoning with that proposed by the Petitioner.

1. *The existing land uses and zoning of the nearby property.*

This factor relates to the degree to which the existing and proposed zoning districts are compatible with existing land uses and land use regulations in the immediate area.

The proposed IN, Industrial Zoning District for the tract would be consistent with the 2005 Comprehensive Plan. The plan identifies the area as most appropriate for Industrial uses. There are similar uses on sites adjacent to the property to the south, all of which are zoned IN-Industrial. The site also has access to railroad lines and the interstate. The proposed zoning is therefore compatible with the existing land uses and regulations in the area.

2. *The extent to which property values are diminished by the restrictions of the ordinance.*

This is the difference in the value of the property as zoned for Agriculture and the value it would have if it were rezoned to Industrial to permit the proposed use.

The site is currently in agricultural use. Under IN, Industrial zoning designation agricultural cropping uses may continue because they are permitted by right. The Agricultural Zoning District does not permit industrial uses. The owners intend to establish an asphalt blending, storage and distribution facility on the tract. In order to do this rezoning to the IN district is necessary. Rezoning to the IN district is expected to increase, rather than diminish the property values.

It should be noted that City Planning Division staff are not qualified as professional appraisers and that a professional appraiser has not been consulted regarding the impact on the value of the property. Therefore, any discussion pertaining to property values must be considered speculative and inconclusive.

3. *The extent to which the ordinance promotes the health, safety, morals or general welfare of the public.*

4. *The relative gain to the public as compared to the hardship imposed on the individual property owner.*

Questions 3 and 4 apply to the current zoning restrictions: do the restrictions promote the public welfare in some significant way so as to offset any hardship imposed on the property owner by the restrictions?

The proposed zoning will contribute to the welfare of the community and the district by allowing the development of a tract of land with excellent access to the adjacent transportation facilities. Saline Court serves only industrial properties. This is as anticipated by the 2005 Urbana Comprehensive Plan's future land use designation of "Industrial" and as implemented by the City's Industrial zoning. This industrial park is isolated from potentially conflicting urban land use by its location north of I-74 and west of the railroad track. Thus, residential, office, and commercial land uses are only minimally impacted by this industrial park. The anticipated truck traffic produced by Champaign Asphalt – approximately 400 ADT – will add to industrial traffic on Saline Court and N. Lincoln Ave. It is not anticipated to impact the public health, safety and welfare of the community or neighboring properties, nor to cause a hardship on adjoining properties now used for industrial and agricultural uses.

5. *The suitability of the subject property for the zoned purposes.*

The issue here is whether there are certain features of the property which favor the type and intensity of uses permitted in either the current or the proposed zoning district.

The property is located in an area that is planned for industrial uses and especially suited for that because of the excellent access to the adjacent rail and interstate highway facilities, and because it is compatible with other nearby industrial uses, including the Emulsicoat pavement production facility, the Cross Construction concrete recycling facility, and the University Construction pavement production facility.

6. *The length of time the property has been vacant as zoned, considered in the context of land development, in the area, in the vicinity of the subject property.*

Another test of the validity of the current zoning district is whether it can be shown that the property has remained vacant for a significant period of time because of restrictions in that zoning district.

There is no indication that the land has remained undeveloped due to its current zoning. The property has been used as farmland. The area around the site has development potential due to the access to rail facilities. It is anticipated the area will continue to see development for industrial use.

## **Summary of Staff Findings**

1. The proposed IN, Industrial zoning would be consistent with the current Industrial zoning in the general vicinity.
2. The proposed annexation agreement includes provisions for the development of an asphalt blending, storage and distribution facility that will provide a convenient service to the community.
3. The proposed rezoning would not be detrimental to the public health, safety or general welfare.

4. The proposed rezoning is consistent with the Goals and Objectives and Future Land Use Map designation of the 2005 Comprehensive Plan.
5. The proposed rezoning appears to generally meet the LaSalle Case criteria as discussed above.

## Options

The Plan Commission has the following options for recommendations to the City Council. In Plan Case **2007-A-03a**, the Plan Commission may:

- a. Forward the Annexation Agreement to the City Council with a recommendation for approval;
- b. Forward the Annexation Agreement to the City Council with a recommendation for approval with recommended modifications. Note that modifications to the agreement must be agreed upon by both the City and the Petitioners; or
- c. Forward the Annexation Agreement to the City Council with a recommendation for denial.

The Plan Commission has the following options for recommendations to the City Council. In Plan Case **2056-M-07**, the Plan Commission may:

- a. Forward the rezoning request to the Urbana City Council with a recommendation of approval; or
- b. Forward the rezoning request to the Urbana City Council with a recommendation of denial.

## Staff Recommendation

Based on the evidence presented in the discussion above, and without the benefit of considering additional evidence that may be presented at the public hearing, staff recommends that the Plan Commission forward Plan Cases No. 2056-M-07 and 2007-A-03a to the Urbana City Council with a recommendation for **approval**.

Attachments:

- |            |   |
|------------|---|
| Exhibit A: | Location Map                                |
| Exhibit B: | Zoning Map                                  |
| Exhibit C: | Current Land Use Map w/ Aerial Photo        |
| Exhibit D: | Future Land Use Map                         |
| Exhibit E: | Draft Annexation Agreement with attachments |

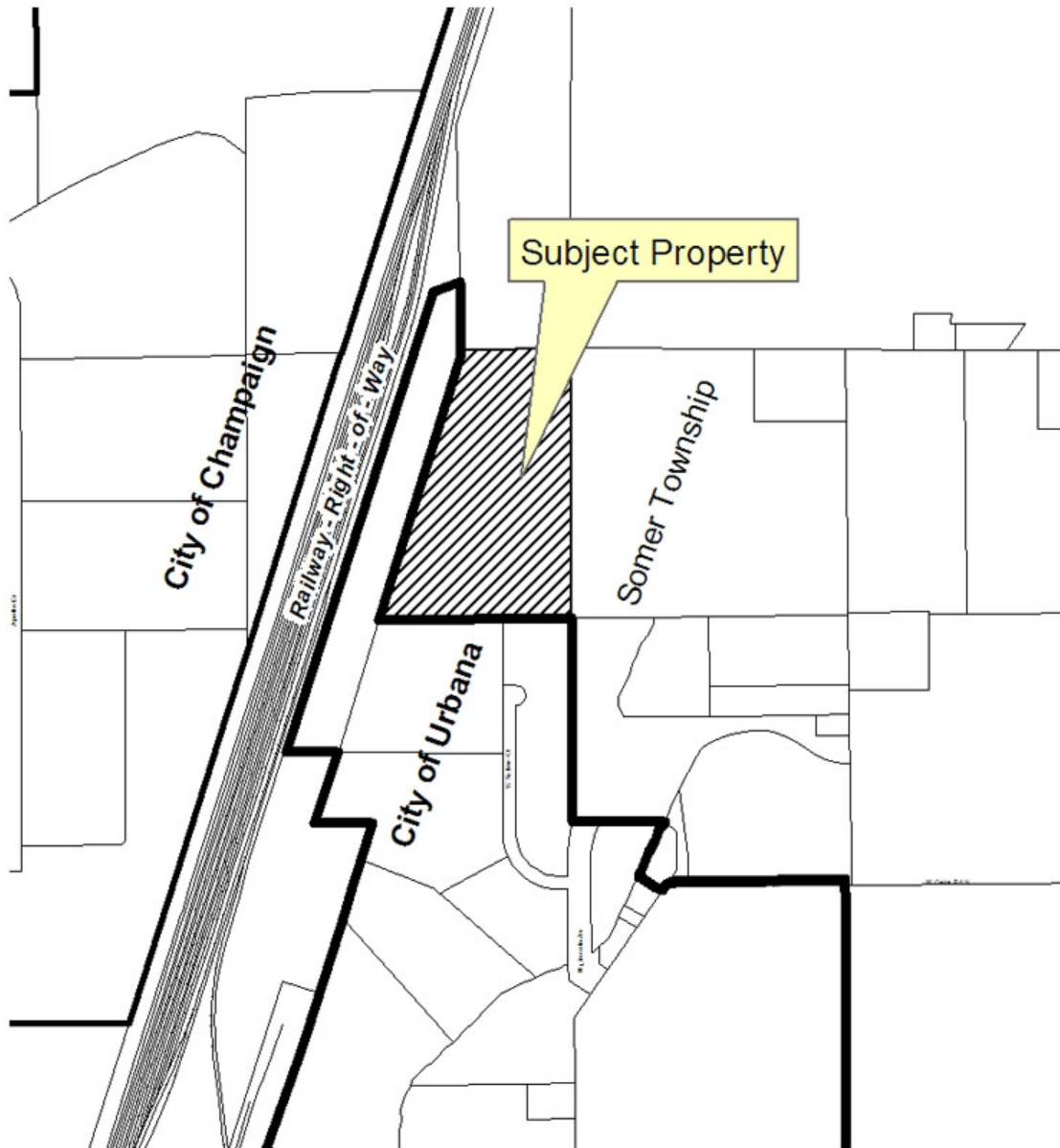
Cc:

Champaign Asphalt Attn: Joe Lamb P.O. Box 1730 Urbana, IL 61801	Emulsicoat, Inc. Attn: Rick Beyers, 705 E. University Ave. Urbana, IL 61802
Foth Attn: Thomas Jordan 1610 Broadmoor Drive Champaign, IL 61821	



# Location Map

# EXHIBIT "A"



**Plan Case:** 2007-A-03

**Subject:** Annexation Agreement with Rezoning to IN, Industrial

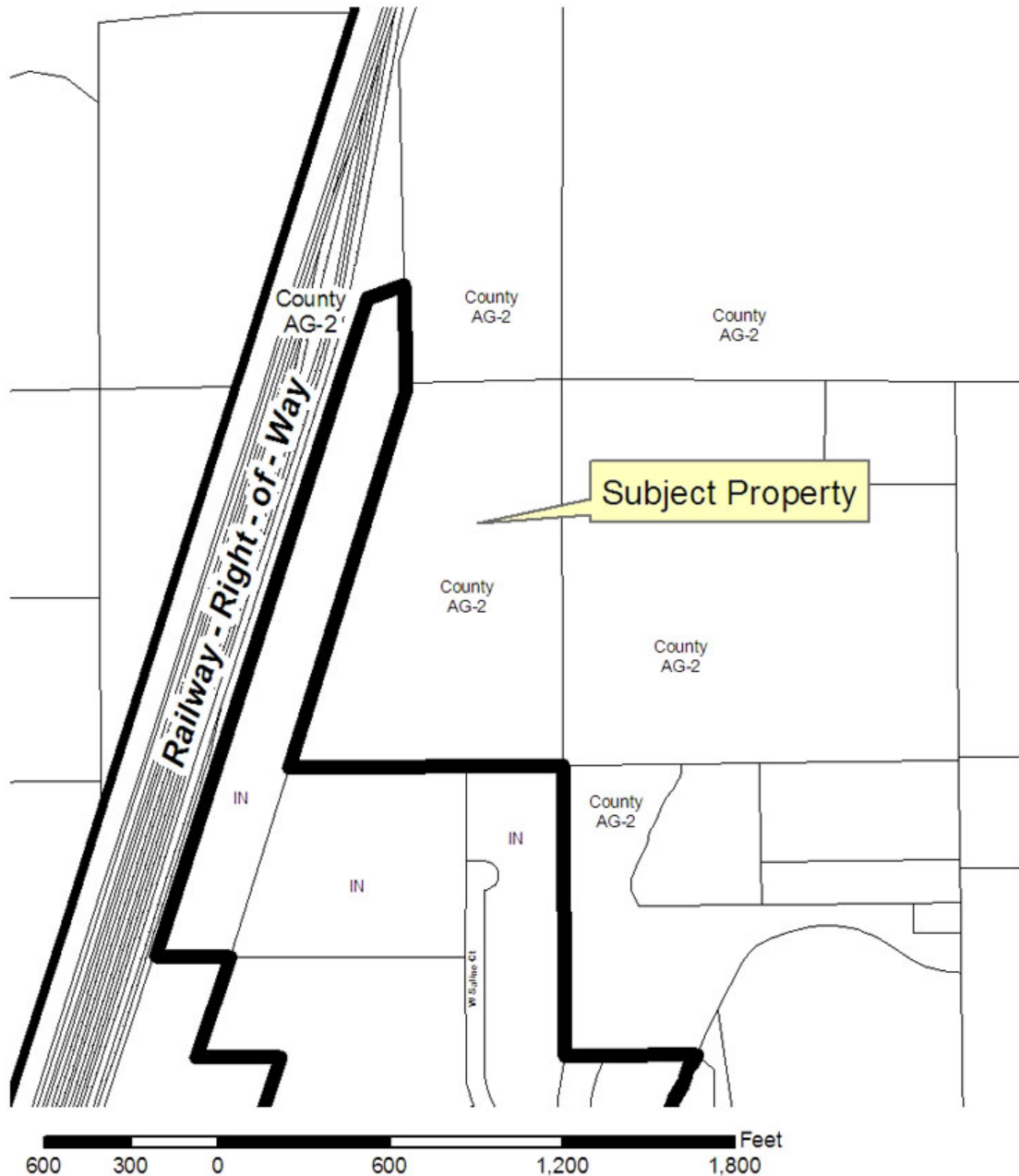
**Location:** North of Saline Court and west of North Lincoln Avenue

**Zoning District:** County AG-2

**Petitioner:** Champaign Asphalt, LLC / Emulsicoat, Inc

# Zoning Map

# EXHIBIT "B"

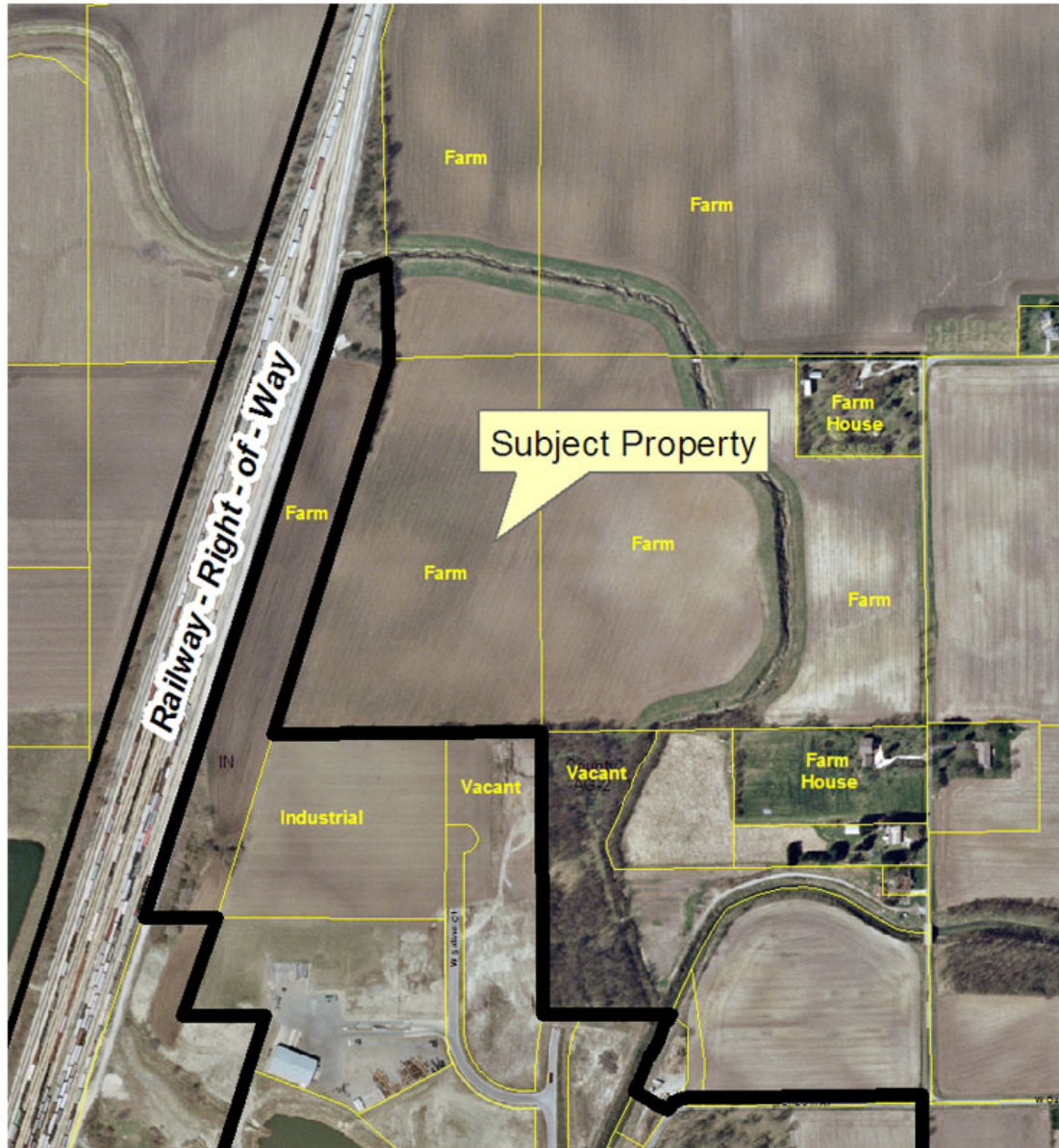


**Plan Case:** 2007-A-03  
**Subject:** Annexation Agreement with Rezoning to IN, Industrial  
**Location:** North of Saline Court and west of North Lincoln Avenue  
**Zoning District:** County AG-2  
**Petitioner:** Champaign Asphalt, LLC / Emulsicoat, Inc

IN - Industrial  
AG-2 - Agriculture (County)

# Existing Land Use w Aerial Photo

## EXHIBIT "C"



600 300 0 600 1,200 1,800 Feet



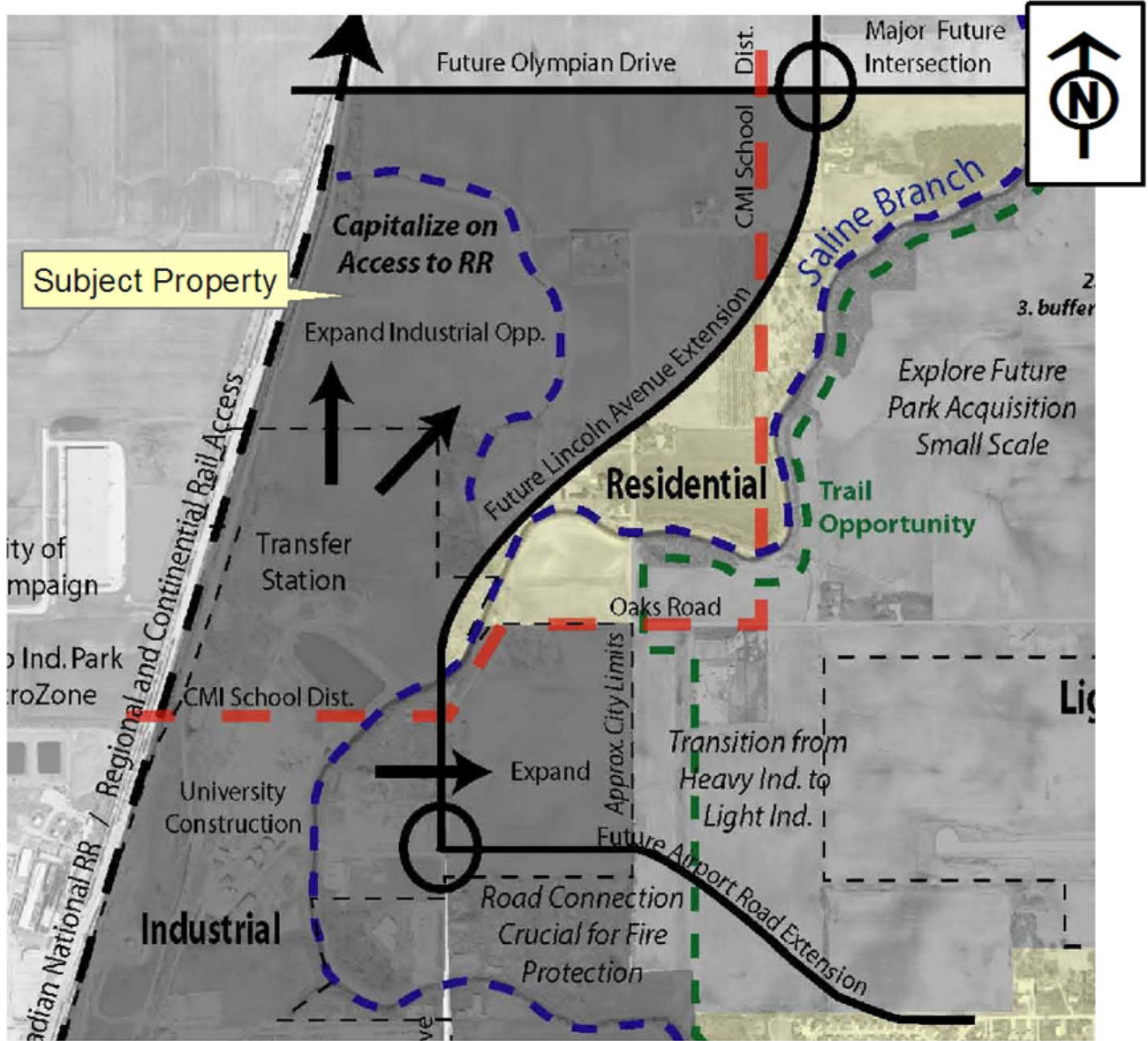
Plan Case: 2007-A-03  
Subject: Annexation Agreement with Rezoning to IN, Industrial  
Location: North of Saline Court and west of North Lincoln Avenue  
Zoning District: County AG-2  
Petitioner: Champaign Asphalt, LLC / Emulsicoat, Inc

Prepared 11/19/2007 by Community Development Services - pal

# Future Land Use Map

# EXHIBIT "D"

Source: Comprehensive Plan Future Land Use  
Map # 1 , p. 72 - Detailed Section



Plan Case: 2007-A-03  
Subject: Annexation Agreement with Rezoning to IN, Industrial  
Location: North of Saline Court and west of North Lincoln Avenue  
Zoning District: County AG-2  
Petitioner: Champaign Asphalt, LLC / Emulsicoat, Inc

# Annexation Agreement

(Champaign Asphalt)

THIS Agreement is made and entered into by and between the **City of Urbana**, Illinois, (hereinafter sometimes referred to as the "Corporate Authorities" or the "City") and **Champaign Asphalt, LLC** (hereinafter referred to as the "Owner"). The effective date of this Agreement shall be as provided in Article III, Section 6.

## WITNESSETH:

WHEREAS, this Agreement is made pursuant to and in accordance with the provisions of Section 11-15.1-1 et seq., of the Illinois Municipal Code (65 ILCS 5/11-15.1-1); and

WHEREAS, Champaign Asphalt, LLC is the Owner of record of a certain parcel of real estate located at the north end of Saline Court, the legal description of which real estate is set forth in Exhibit A attached hereto and referenced herein as Tract "A", or "the tract", which was subdivided as Lot 101 from the Squires Tract; and

WHEREAS, the attached map, labeled Exhibit B, is a true and accurate representation of the tract to be annexed to the City of Urbana under the provisions of this agreement; and

WHEREAS, the tract is contiguous to the City of Urbana and may be immediately annexed; and

WHEREAS, the tract is currently zoned Champaign County AG-2, Agriculture in Champaign County and the City and the Owners find it necessary and desirable that the tract be annexed to the City with a zoning classification of IN, Industrial, under the terms and provisions of the Urbana Zoning Ordinance in effect upon the date of annexation, as amended, and subject to the terms and conditions set forth in this Agreement; and

WHEREAS, the Corporate Authorities find annexation of the tract as described herein as IN, Industrial generally reflects the goals, objectives and policies set forth in the City's 2005 Urbana Comprehensive Plan, as amended from time to time; and

WHEREAS, the Owner desires to have the aforementioned real estate annexed to the City of Urbana upon certain terms and conditions hereinafter set forth in this Agreement.

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS SET FORTH HEREIN, THE PARTIES AGREE AS FOLLOWS:**

## ARTICLE I. REPRESENTATIONS AND OBLIGATIONS OF THE OWNER

The Owner agrees to the following provisions:

**Section 1. Ownership and Annexation.** The Owner represents that the Owner is the sole record Owner of the property described in Exhibit A and that the Owner shall, within thirty (30) days of the approval of this agreement cause the tracts to be annexed to the City of Urbana by filing a legally sufficient annexation petition with all required signatures thereon, all in accordance with Illinois Statutes.

The Owner further agrees that the substance of this Section of the Annexation Agreement shall be included in any sales contract for the sale of any portion of the subject property. If the subject tract is to be platted for subdivision, the Owner agrees that the substance of this provision regarding annexation shall be included in the subdivision covenant and such will constitute a covenant running with the land. The Owner agrees for itself, successor and assigns, and all other persons intended herein to be obligated to consent to annexation, to cooperate in signing or joining in any petition for annexation for the subject tract and that mandamus would be an appropriate remedy in the event of refusal so to do, and, if the City has to resort to Court proceedings to enforce this obligation, the City shall be entitled to recover reasonable attorney's fees. The Parties agree that nothing in this section shall preclude the voluntary annexation of the subject tract or any portion thereof earlier than would otherwise be required.

**Section 2. Authority to Annex.** The Owner agrees and hereby stipulates that the City, by its approval, execution or delivery of this Agreement does not in any way relinquish or waive any authority it may have to annex the tract in the absence of this Agreement.

**Section 3. Zoning.** The Owner acknowledges that upon annexation, the tract will be rezoned from Champaign County AG-2, Agriculture to City IN, Industrial Zoning District. The Owner agrees that, unless changed upon the initiative of the Owner, the said City zoning classifications for said tract shall remain in effect for the term of this Agreement, subject to the right of the Corporate Authorities to amend the Zoning Ordinance text even if such amendment affects the tract. The Owner agrees to use the tract only in compliance with the Urbana Zoning Ordinance and this agreement as such may be amended from time to time.

**Section 4. Special Use Permit:** The Owner agrees to the following conditions of a Special Use Permit granted by Article II Section 3 of this Agreement, which will allow an asphalt blending, storage and distribution plant in the IN, Industrial zoning district as an "All Other Industrial Use" which is permitted by Urbana Zoning Ordinance Table IV-1.

1. This Special Use Permit shall be applicable only to the confines of Tract "A" as depicted in the attached Exhibit "B" Map, and legally described in Exhibit "A"

2. The Special Use Permit is applicable only to the asphalt blending, storage, and distribution plant proposed in the application and depicted in the attached Exhibit “C” Site Diagram.
3. The layout of the site shall be in substantial conformity with Exhibit “C” Site Diagram. Any significant deviation from this Site Diagram shall require an amendment to the Special Use Permit granted herein and shall include review by the Urbana Plan Commission and approval by the Urbana City Council.
4. The Owner shall install an additional entrance on the eastern edge of the property when the adjacent tract is developed and access becomes available.
5. The Owner agrees that all operations, development, construction, or additions to its asphalt blending, storage and distribution plant on Tract “A” as depicted in the attached Exhibit “B” Map, and legally described in Exhibit “A” shall be in conformity with all applicable State and Federal regulations including Illinois Environmental Protection Agency regulations pertaining to chemical emissions, particulate emissions, dust, noise, odor, and ground water protection.

**Section 5. Land Uses.** The Owner agrees that the uses of the tract shall be limited to those allowed within the IN, Industrial Zoning District and as allowed by the Special Use Permit.

**Section 6. Building Code Compliance.** The Owner agrees to cause all new development, construction, remodeling or building additions on said tracts to be in conformance with all applicable City of Urbana codes and regulations including building, zoning and subdivision codes.

**Section 6. School District Petition:** The Owner agrees to petition for the disconnection of said Tract “A” from Champaign School District Unit #4 and request annexation to Urbana School District #116 per the Illinois State Statute, within 60 days of the approval of this agreement.

**Section 7. Amendments Required.** The Owner shall take no action or omit to take action during the term of this Agreement which action or omission, as applied to the tract, would be a breach of this Agreement, without first procuring a written amendment to this Agreement duly executed by the Owner and the City. Said action includes petitioning for a county rezoning of said tracts without written amendment to this Agreement.

## **ARTICLE II. REPRESENTATIONS AND OBLIGATIONS OF THE CORPORATE AUTHORITIES**

The Corporate Authorities agree to the following provisions:

**Section 1. Annexation.** The Corporate Authorities agree to annex said tract subject to the terms and conditions outlined in this Agreement, when properly and effectively requested

to do so, by submission of a legally sufficient petition from the Owner, by enacting such ordinances as may be necessary and sufficient to legally and validly annex said tract to the City.

**Section 2. Zoning.** The Corporate Authorities agree to annex the tract with a zoning classification of IN, Industrial.

**Section 3. Special Use Permit:** The Corporate Authorities agree with this annexation agreement to grant a Special Use Permit to allow the Owners to construct an asphalt production facility use on the subject property under the “All Other Industrial Uses” land use category in the IN, Industrial Zoning District. The Corporate Authorities further agree that the granting of the Special Use Permit is consistent with the established criteria identified in Section VII-6 of the Urbana Zoning Ordinance in that the asphalt production facility use:

- a. will be conducive to the public convenience at this location;
- b. will be designed, located, and proposed to be operated so that it will not be unreasonably injurious or detrimental to the district in which it will be located, or otherwise injurious or detrimental to the public welfare; and
- c. will conform to the applicable regulations and standards of, and preserves the essential character of, the district in which is shall be located.

**Section 4. Enterprise Zone.** The City will submit application to the State of Illinois to request the subject tract to be added to the Urbana Enterprise Zone pursuant to the Illinois Enterprise Zone Act (20 ILCS 655/1 et seq.) no later than 90 days after the effective date of this agreement, or the date all property is located within the City of Urbana, whichever is later.

**Section 5. Amendments.** The City shall take no action nor omit to take action during the term of this Agreement which act or omission, as applied to the tract, would be a breach hereof, without first procuring a written amendment to this Agreement duly executed by the Owner, or the Owner’s successors or assigns, of the portion of the tract which is directly the subject of the amendment.

### **ARTICLE III: GENERAL PROVISIONS**

**Section 1. Term of this Agreement.** This Agreement shall be binding upon the parties hereto, and their respective successors and assigns, for a full term of twenty (20) years commencing as of the effective date of this Agreement as provided by the Illinois State Statutes, unless other provisions of this Agreement specifically apply a different term. To the extent permitted thereby, it is agreed that, in the event the annexation of subject



tract under the terms and conditions of this Agreement is challenged in any court proceeding, the period of time during which such litigation is pending shall not be included in calculating said twenty-year term. By mutual agreement, the term of this Agreement may be extended.

If this Agreement imposes any obligation, restraint, or burden (hereinafter called collectively "obligation") on the Owner or the Owner's successors or assigns, which obligation extends beyond the termination date of this Agreement, such obligation may be released by the Urbana City Council enacting an Ordinance releasing such obligation by a majority vote of all Alderpersons then holding office and the recording of such Ordinance in the Champaign County Recorder's Office, Champaign County, Illinois.

**Section 2. Covenant running with the land.** The terms of this Agreement constitute a covenant running with the land for the life of this Agreement unless specific terms are expressly made binding beyond the life of this Agreement. Furthermore, the terms herein are hereby expressly made binding upon all heirs, grantees, lessees, executors, assigns and successors in interest of the Owner as to all or any part of the tracts, and are further expressly made binding upon said City and the duly elected or appointed successors in office of its Corporate Authorities.

**Section 3. Binding Agreement upon parties.** The Corporate Authorities and Owner agree that no party will take action or omit to take action during the term of this Agreement which act or omission as applied to the tracts would be a breach of this Agreement without first procuring a written amendment to this Agreement duly executed by the Owner and the City.

**Section 4. Enforcement.** The Owner and Corporate Authorities agree and hereby stipulate that any party to this Agreement may, by civil action, mandamus, action for writ of injunction or other proceeding, enforce and compel performance of this Agreement or the party not in default may declare this Agreement null and void in addition to other remedies available. Upon breach by the Owner, the City may refuse the issuance of any permits or other approvals or authorizations relating to development of the tract.

**Section 5. Severability.** If any provision of this Agreement is rendered invalid for any reason, such invalidation shall not render invalid other provisions of this Agreement which can be given effect even without the invalid provision.

**Section 6. Effective Date.** The Corporate Authorities and Owner intend that this Agreement shall be recorded in the Office of the Champaign County Recorder with any expenses for said recording to be paid by the Corporate Authorities. The effective date of this Agreement shall be the date it is recorded; or if not recorded for any reason, the effective date shall be the date the Mayor signs the agreement on behalf of the City.

**IN WITNESS WHEREOF**, the Corporate Authorities and Owner have hereunto set their hands and seals, and have caused this instrument to be signed by their duly authorized officials and the corporate seal affixed hereto, all on the day and year written below.

**Corporate Authorities**  
**City of Urbana:**

**Owner:**

\_\_\_\_\_  
Laurel Lunt Prussing  
Mayor

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Phyllis D. Clark  
City Clerk

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Exhibit A**

### **Legal Description**

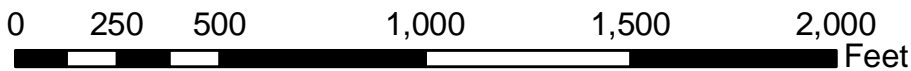
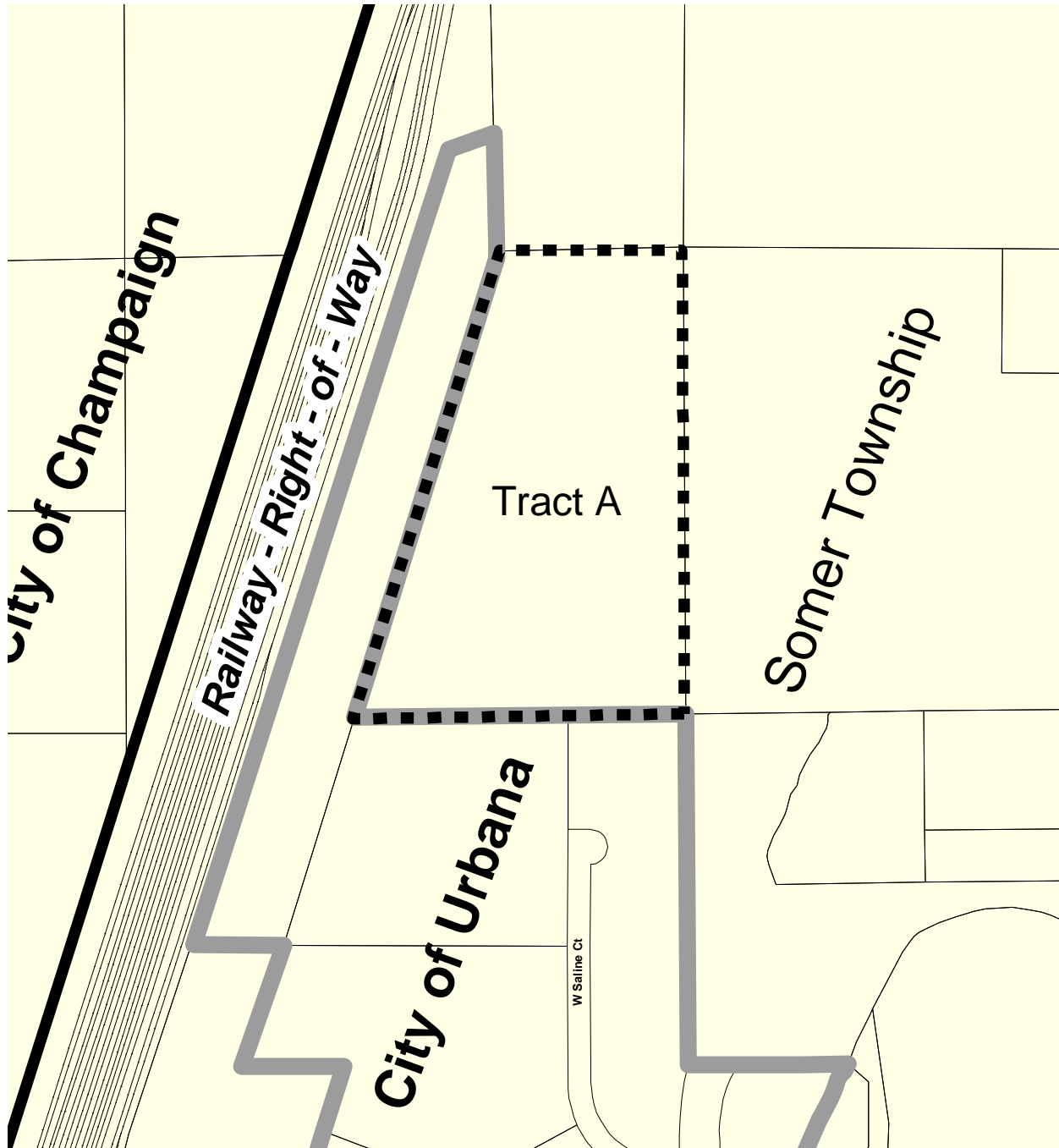
PART OF THE NORTH 1311.10 FEET OF THE NE ¼ OF THE NE ¼ OF SECTION 31, T. 20 N., R. 9 E. OF THE 3<sup>RD</sup> P.M., CHAMPAIGN COUNTY, ILLINOIS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NE 1/4 OF SECTION 31, T. 20 N., R. 9 E. OF THE 3RD P.M.; THENCE S. 00°13'21" W., (URBANA HORIZONTAL CONTROL BEARING) ALONG THE EAST LINE OF SAID NE 1/4 OF SECTION 31, 1311.24 FEET TO THE SOUTH LINE OF THE NORTH 1311.10 FEET OF THE NE 1/4 OF THE NE 1/4 OF SAID SECTION 31; THENCE S. 89°22'19" W., ALONG SAID SOUTH LINE, 366.04 FEET TO THE NORTHEAST CORNER OF LOT 204A OF EMULSICOAT-NLAIP-LOT 204A SUBDIVISION, RECORDED MAY 25, 2006 AS DOCUMENT NO. 2006R13247 IN THE OFFICE OF THE RECORDER, CHAMPAIGN COUNTY, ILLINOIS; THENCE CONTINUING S. 89°22'19" W., ALONG SAID SOUTH LINE AND NORTH LINE OF SAID LOT 204A, 609.12 FEET TO A CORNER OF SAID LOT 204A, SAID CORNER LYING 500.00 FEET NORMAL DISTANCE EASTERLY OF THE CENTERLINE SOUTHBOUND MAIN TRACK OF THE CN-IC RAILROAD; THENCE N. 17°39'30" E., ALONG THE EAST LINE OF SAID LOT 204A, SAID LINE LYING 500.00 FEET NORMAL DISTANCE EASTERLY OF AND PARALLEL TO SAID CENTERLINE, 1374.49 FEET; THENCE N. 01°13'35" W., ALONG SAID EAST LINE OF LOT 204A, 6.03 FEET TO THE NORTH LINE OF SAID NE 1/4 OF SECTION 31; THENCE N. 89°22'19" E. ALONG SAID NORTH LINE, 563.42 FEET TO THE POINT OF BEGINNING, CONTAINING 24.786 ACRES, MORE OR LESS, CHAMPAIGN COUNTY, ILLINOIS.

**Exhibit B**  
**Map of Tract**

**Exhibit C**  
**Site Diagram**

F



**Plan Case:** 2007-A-03  
**Subject:** Annexation Agreement with Rezoning to IN, Industrial  
**Location:** North of Saline Court and west of North Lincoln Avenue  
**Zoning District:** County AG-2  
**Petitioner:** Champaign Asphalt, LLC / Emulsicoat, Inc

