

IN THE MATTER OF THE APPLICATION OF
BENJAMIN & MICHAELA SASS, OWNERS OF RECORD,
FOR AN AMENDMENT OF THE UNIFIED DEVELOPMENT
ORDINANCE OF McHENRY COUNTY, ILLINOIS FOR A
RECLASSIFICATION

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)

2022-046

WHEREAS, your Petitioner **Benjamin & Michaela Sass, owner of record**, has filed an application with the McHenry County Zoning Board of Appeals requesting reclassification of the subject property from the **“A-1” Agriculture District to “A-2” Agriculture District** as it relates to the McHenry County Unified Development Ordinance, as it relates to the real property more fully described as:

Port of the North Half of Government Lot 1 of the Southwest Quarter of Section 31, Township 45 North, Range 6 East of the Third Principal Meridian, being described as follows: Commencing at the Southeast corner of said Government Lot 1; thence North 00 degrees 32 minutes 47 seconds East along the East line thereof, 1,321.98 feet to the Southeast corner of the said North Half of Government Lot 1; thence North 89 degrees 35 minutes 16 seconds West along the South line of the said North Half of Government Lot 1, a distance of 707.05 feet to the Place of Beginning; thence continuing North 89 degrees 35 minutes 16 seconds West along said South line, 386.07 feet to a point lying 175.00 feet East of the Southwest corner of the said North Half of Government Lot 1 as established by proportionate measure and the Southeast corner of the lands described in Document No. 1988R0013475; thence North 25 degrees 02 minutes 10 seconds West along the East line thereof, 68.70 feet (deed=69.51 feet); thence North 00 degrees 16 minutes 31 seconds East along said East line, 492.29 feet; thence South 89 degrees 43 minutes 29 seconds East, 415.44 feet; thence South 00 degrees 16 minutes 31 seconds West, 555.31 feet to the Place of Beginning in McHenry County, Illinois.

(PART OF) PIN # 07-31-300-030

More commonly known as **19802 Bauman Rd, Marengo, Illinois, in Hartland Township.**

WHEREAS, the Application requests **reclassification of the subject property from its present classification which is “A-1” Agriculture District to “A-2” Agriculture District.**

WHEREAS, the subject property consists of approximately **5.27 acres** in which reclassification is contemplated.

WHEREAS, a hearing on said application was held before the Zoning Board of Appeals of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of the exhibits advanced thereat, the Zoning Board of Appeals of McHenry County did **recommend by a vote of 7 ayes and 0 nay the granting of the reclassification of the subject property from its present classification which is “A-1” Agriculture District to “A-2” Agriculture District.**

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Zoning Board of McHenry County.

WHEREAS, the McHenry County Board has determined that the requirements for reclassification of the subject property have been met.

NOW, THEREFORE BE IT ORDAINED, that the Unified Development Ordinance and the Zoning Maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the ***reclassification of the subject property from its present classification which is "A-1" Agriculture District to "A-2" Agriculture District.***

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 20____.

Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____

Staff Report for the McHenry County Zoning Board of Appeals

Petition: # 2022-046

PIN: Part of PIN 07-31-300-030

Address: 19802 Bauman Road, Marengo, Illinois.

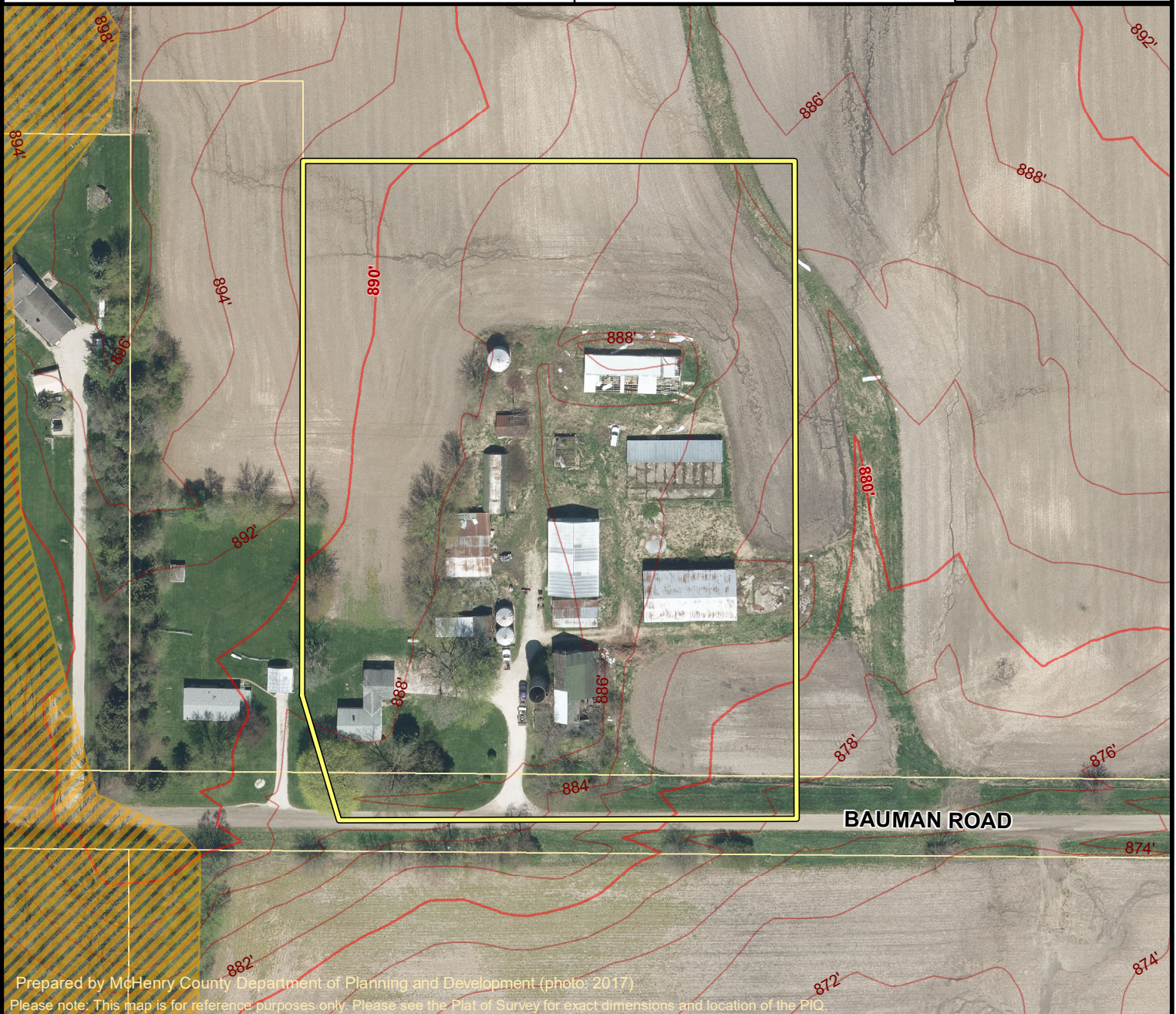
Location: The property consists of approximately 5.27 acres and is located on the north side of Bauman Road, approximately 1,300 feet East of Marengo Road in Hartland Twp.

Hearing: 12th of January, 2023

Applicant: Benjamin and Micheala Sass, owners of record.

Request: Reclassification from the A-1 Agriculture District to the A-2 Agriculture District.

Aerial Map



Elevation

(feet above sea level)

- 10-foot contours
- 2-foot contours

ADID Wetland Map 2005

- High Functional Value Wetland (hfw)
- High Quality Wetland (hqw)
- Wetland (w)
- Farmed Wetland (fw)

FEMA Flood Hazard Areas

- 0.2 % Annual Chance of Flood
- 1% Annual Chance of Flood
- Floodway

Feet 60 30 0 60 120
1 inch equals 125 feet



Staff Report for the McHenry County Zoning Board of Appeals

STAFF COMMENTS

The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

BACKGROUND & REQUEST SUMMARY

The applicant is requesting a map amendment from the A-1 Agriculture District to the A-2 Agriculture District on a 5.27-acre tract of land. The subject property is currently part of a larger parcel containing 76.69 acres. According to the plat of survey, the subject property contains: a frame single-family residence, and several farm related accessory buildings (barns, sheds, silos, etc.). The survey also shows four (4) concrete pads adjacent to some of the accessory structures as well as a gravel driveway to the house and the accessory buildings.

MCHENRY COUNTY UNIFIED DEVELOPMENT ORDINANCE

- The Applicant must meet the Approval Standards for Map Amendment, listed in §16.20.010.E.1 of the *McHenry County Unified Development Ordinance*.
- The Applicant must meet the A-2 District Rezoning Standards, listed in §16.36.020 of the *McHenry County Unified Development Ordinance*.

STAFF ANALYSIS

Current Land Use & Zoning

The property is currently zoned A-1 Agriculture and has been used as a Single-Family Residence with Agriculture uses. The proposed reclassification is consistent with the A-1 zoning of the properties to the north, east and south, and the A-2 zoning to the west. The proposed reclassification is consistent with surrounding Agriculture and Single-Family Residential uses.

2030 Comprehensive Plan Future Land Use map

The proposed reclassification is consistent with the future land use designation of **Agriculture**.

2030 Comprehensive Plan & 2030 and Beyond Analysis

The 2030 Comprehensive Plan and 2030 and Beyond Plan support the reclassification to the A-2 Agriculture District. There is minimal impact to the agricultural, natural, and water resources on the site (*See comments below*).

McHenry County 2030 and Beyond, Adopted October 18, 2016—

Big Idea #1 Let's make our communities healthy, active, and green

"We can make it happen by promoting development that is compact, contiguous to, or located within municipalities in order to preserve rural landscapes while providing greater mobility choices for all residents." (p.12)

- The proposed reclassification will preserve the rural landscape and does not promote development in an area designated for agriculture.

Big Idea #2 Let's build on our strengths

"We can make it happen by preserving our open space and agricultural landscapes, which provide recreational opportunities, including ecotourism, and sustain our rural lifestyle and agricultural industry." (p. 14)

- The proposed reclassification is a mechanism to preserve agricultural lands in the county.

Big Idea #3 Let's grow smarter

"We can make it happen by focusing development that is compact, contiguous to, or located within municipalities, and away from areas designated for agriculture and lacking infrastructure and services." (p. 16)

- The proposed reclassification is consistent with the agriculture use of the surrounding properties. The reclassification would allow agriculture uses to continue.

Big Idea #4 Let's expand our economy

No applicable text.

McHenry County 2030 Comprehensive Plan, Adopted April 20, 2010

Community Character & Housing

"Living with the land is the core belief of the rural lifestyle and it's because of these farmers, conservationists, and caretakers that the County is able to still hold on to its history and traditions...." "It is this way of life that still gives McHenry County its rural character. It fosters the protection of nature, the recharging of aquifers, and the preservation of the County's rich resources for future generations." (p. 23)

- Reclassification to the A-2 Agriculture District preserves the essential aspects of rural character by allowing agriculture uses to continue.

Agricultural Resources

"Maintain and protect the most productive agricultural lands, where appropriate, by discouraging nonagricultural growth in these areas." (p. 29)

- The proposed reclassification to the A-2 Agriculture District would have a minimal impact to agricultural resources and allow agriculture land use to continue.

Greenways, Open Space & Natural Resources

Objective: *"Promote land uses that minimize the impact on land, water, energy, and other natural resources" ... (p. 43)*

- The McHenry-Lake County Soil and Water Conservation District *Natural Resources Inventory* was received and covers a larger area than the area associated with this application. The report indicates that a full report isn't necessary but does point out several wetlands and hydric soil locations. Based upon the information provided by the Soil and Water Conservation District Planning and Development staff has evaluated where the wetlands and hydric soils are in relationship to this proposed reclassification. This evaluation has determined that there are no wetlands on the subject property. It is possible that some hydric soils are located in the southeastern corner of the subject property. Please refer to attached NRI Letter #L22-036-4454 for details.

Water Resources

Objective: *"Preserve, improve, and replenish the quality and quantity of existing groundwater resources." (p. 63)*

- The proposed reclassification does not include any new improvements that would increase impervious surface area.

Economic Development

No applicable text.

Infrastructure

No applicable text.

STAFF ASSESSMENT

The applicant is requesting a map amendment from the A-1 Agriculture District to the A-2 Agriculture District on a 5.27-acre tract of land. The request is consistent with the existing Single-Family Residential and Agriculture land uses of the area. The request is also consistent with the recommendations provided in the 2030 and Beyond Plan and the 2030 Comprehensive Plan text. The reclassification is consistent with the future land use map designation of **Agriculture**. The subject property is not located in a sensitive aquifer recharge area (SARA). Staff has no objection to the applicant's request.

Section 16.20.010.E.1 of the McHenry County Unified Development Ordinance

Approval Standards for Zoning Amendments. The Zoning Board of Appeals recommendation and the County Board decision shall consider the following standards. However, the Zoning Board of Appeals' recommendation and the County Board's decision on any zoning text or map amendment is not controlled by any one factor under the following standards, but rather the approval of amendments is based on a balancing of the factors under each standard.

1. Approval Standards for Map Amendments.

- a. The compatibility of the proposed zoning with the existing use and zoning of nearby property.
- b. The extent to which property values of the subject property are diminished by the existing zoning.
- c. The extent to which the public health, safety, and welfare of the public are promoted by the existing zoning.
- d. The relative gain to the public, as compared to the hardship imposed upon the applicant, if the proposed zoning is denied.
- e. The suitability of the property for the purposes for which it is presently zoned.
- f. The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.
- g. The community need for the proposed use.
- h. The consistency of the proposed amendment with the adopted comprehensive plan and the appropriateness of the comprehensive plan to the subject property.

Section 16.36.020 of the McHenry County Unified Development Ordinance

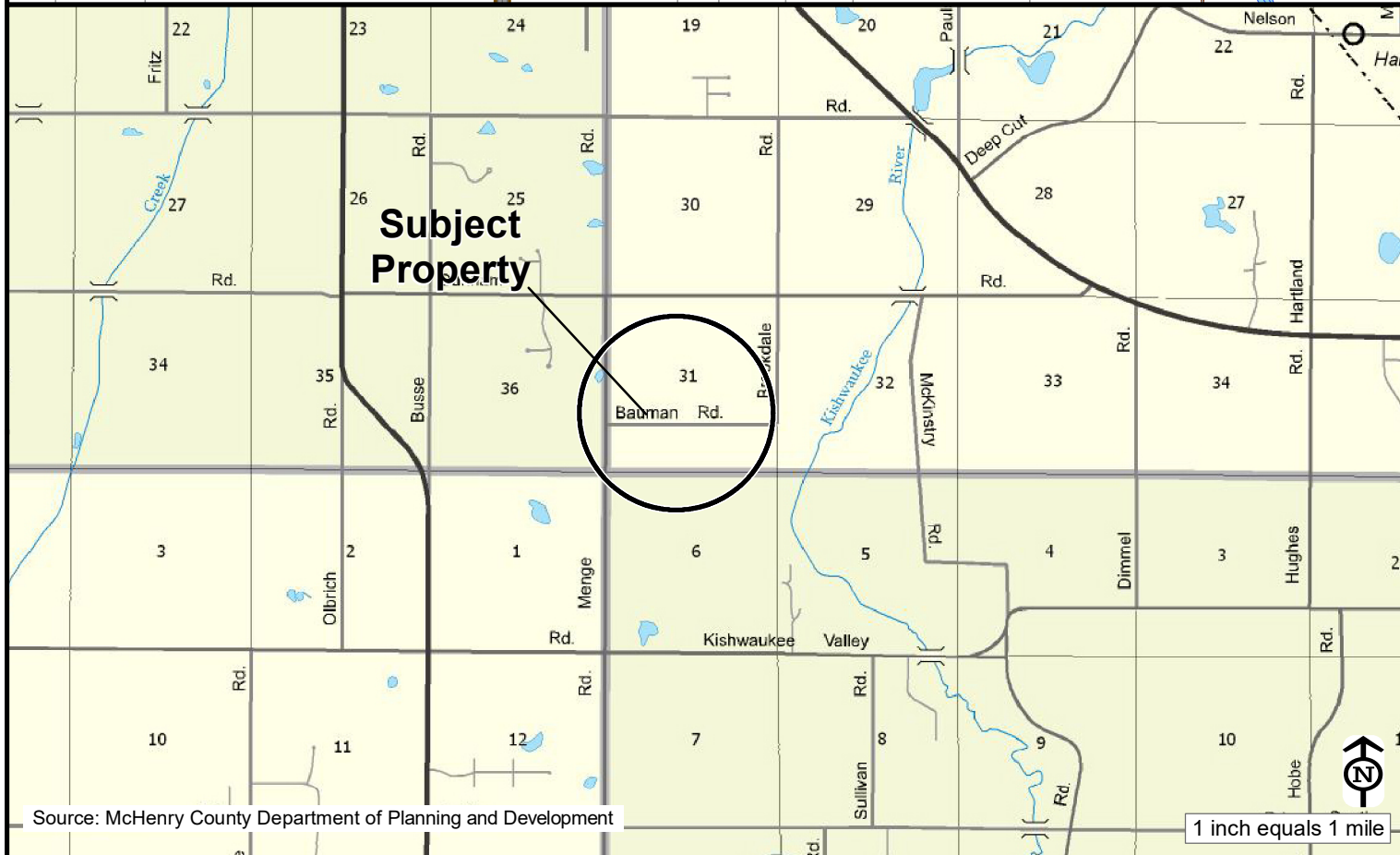
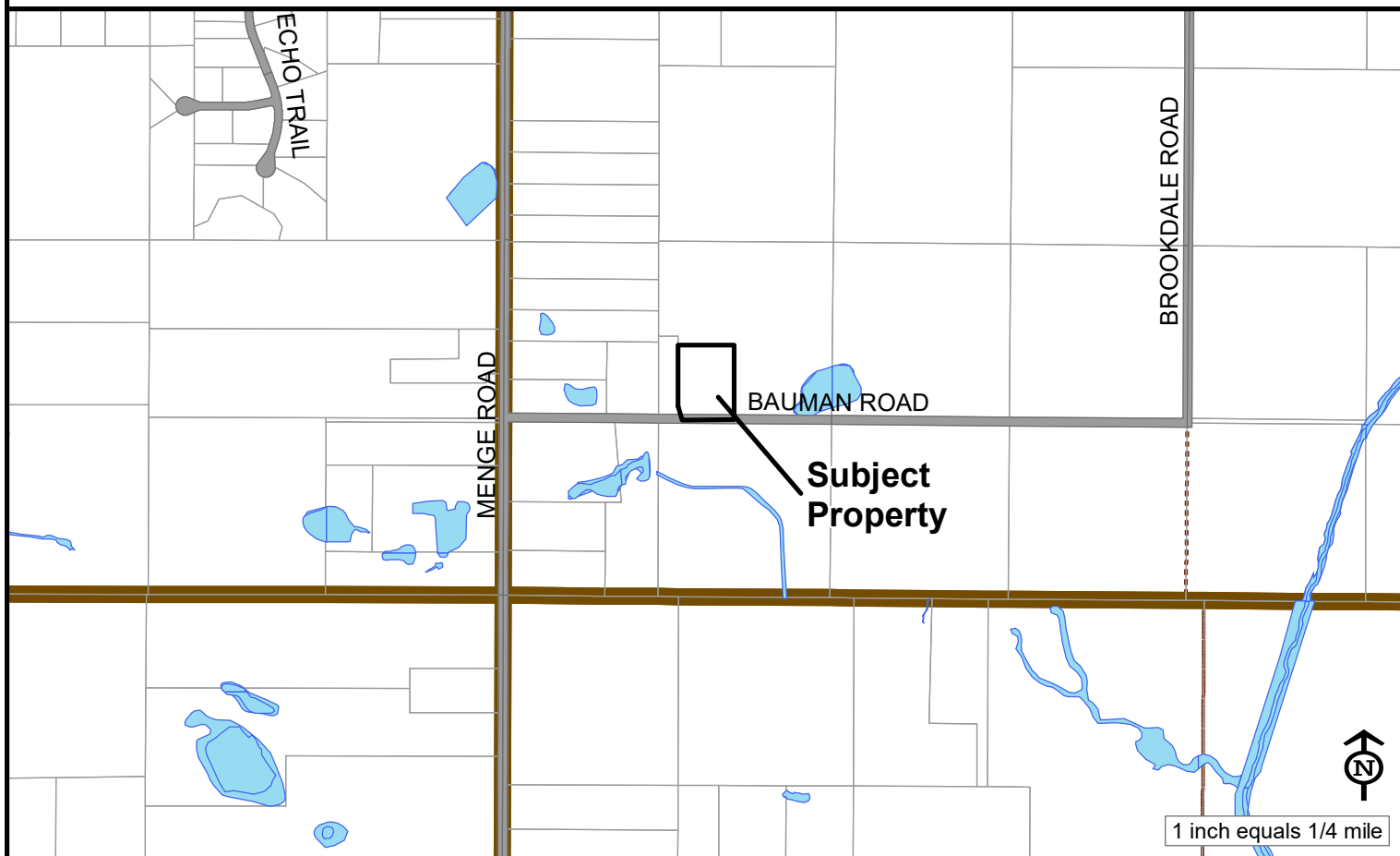
In addition to meeting the standards for a map amendment in § [16.20.010](#) (Zoning Map and Text Amendment), all rezonings to the A-2 District must meet the following additional requirements:

- A. Only property in the A-1 District is eligible for rezoning to the A-2 District.
- B. The subject property shall have an existing lawfully constructed residential dwelling on the property. Mobile homes, agricultural trailers, and agriculture employee housing do not qualify under this standard.
- C. The zoning petition shall be restricted to a single existing or proposed parcel.
- D. The subject property shall meet one (1) of the following three (3) relevant exemptions from the Plat Act (765 ILCS 205/ *et seq.*) as amended. In the event that the Plat Act is amended, the provisions of the Illinois Compiled Statutes shall control.
 - 1. The division or subdivision of land into parcels or tracts of five (5) acres or more in size which does not involve any new streets or easements of access.
 - 2. The sale or exchange of parcels or tracts of land following the division into no more than two (2) parts of a particular parcel or tract of land existing on July 17, 1959 and not involving any new streets or easements of access.
 - 3. The sale of a single lot of less than five (5) acres from a larger tract when a survey is made by an Illinois Registered Land Surveyor, provided that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract on October 1, 1973, and provided also that this exemption does not invalidate any local requirements applicable to the subdivision of land.

Location Map

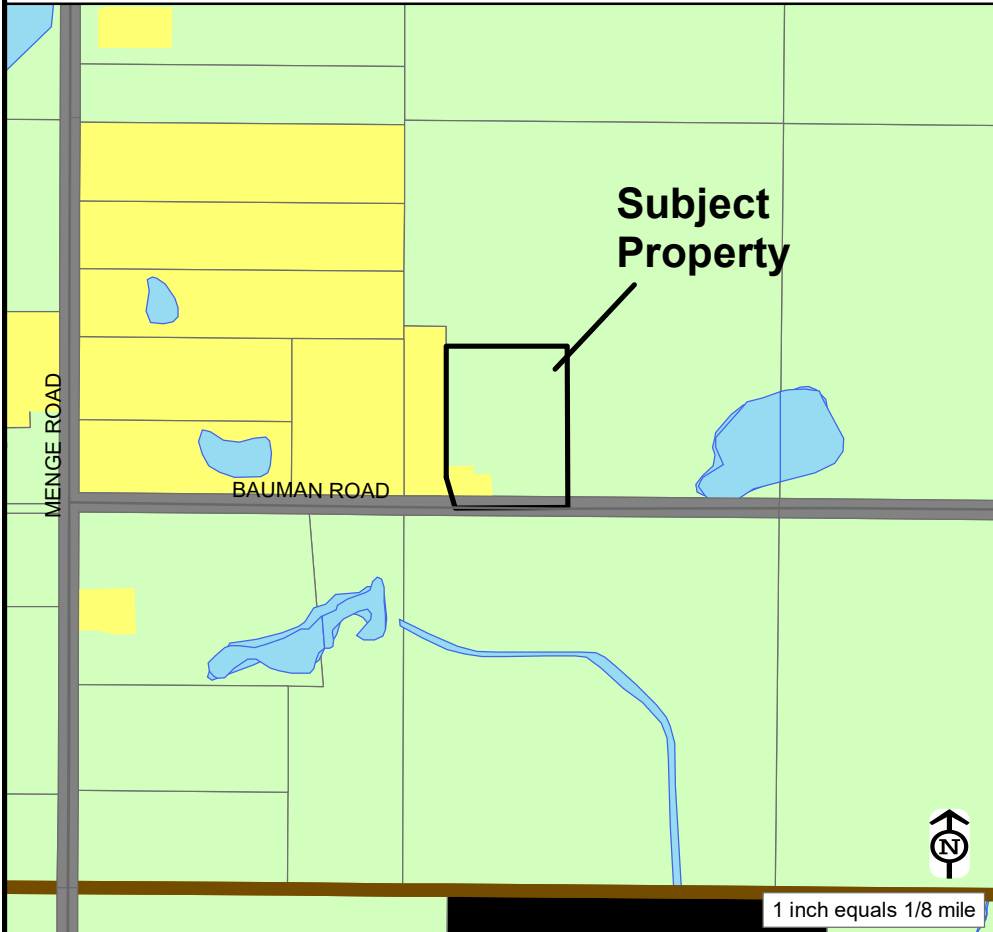
19802 Bauman Road, Marengo, Illinois

Hartland Township



Source: McHenry County Department of Planning and Development

Current Land Use Map



Current Land Use

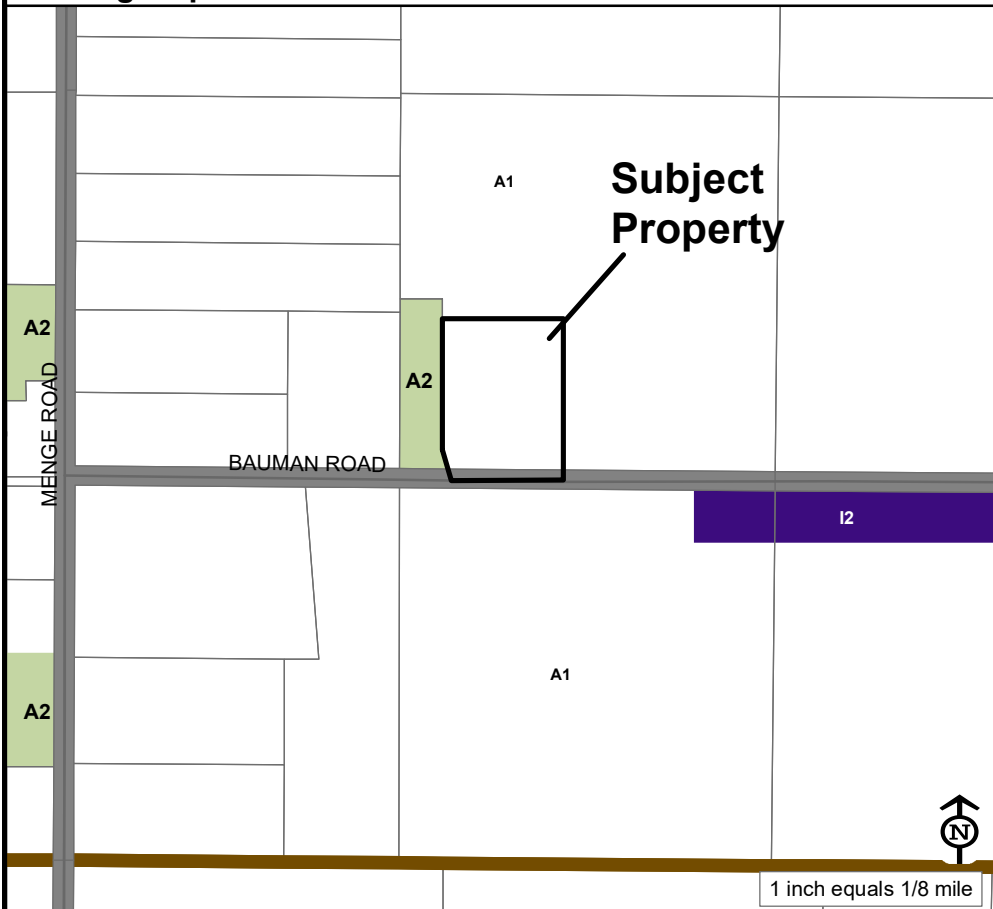
Agriculture & Single-Family Residential

Adjacent Land Use(s)

North: *Agriculture*
 South: *Agriculture*
 East: *Agriculture*
 West: *Single-Family Residential*

- Agriculture
- MCCC Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities
- Under Review

Zoning Map



Current Zoning

A-1 Agriculture

Adjacent Zoning

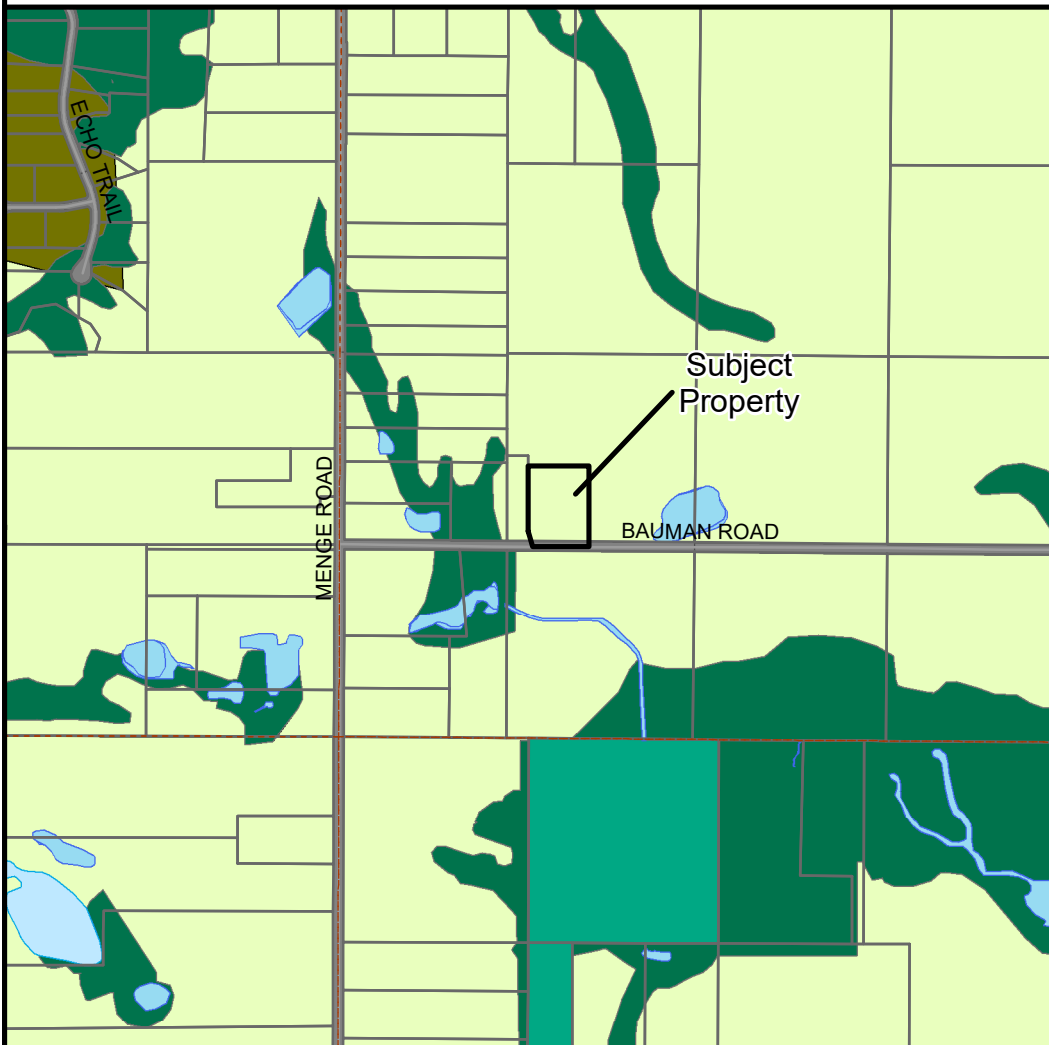
North: **A-1 Agriculture**
 South: **A-1 Agriculture**
 East: **A-1 Agriculture**
 West: **A-2 Agriculture**

- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Liquour Business
- B-3 General Business
- O Office / Research
- I-1 Light Industrial
- I-2 Heavy Industrial
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated

McHenry County 2030 Comprehensive Plan Future Land Use Map

Future Land Use Map Designation

Agricultural



- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - TOD Existing Rail Station
 - TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/4 mile



Municipal / Township Plan Designations

Hartland Township: Agriculture and Single-Family Residential

McHenry County 2030 Comprehensive Plan — Text Analysis

Land Use

AGRICULTURAL – represents existing agricultural acres, including cropland, pastureland, farm yards, and farmsteads, that should remain in agricultural use through the 2030 planning horizon. Development in the Agricultural District should be strictly limited to agriculture, agricultural residences, and agricultural support uses. (p. 134)

Sensitive Aquifer Recharge Areas

The site is not located in a zone with elevated contamination potential.

Sensitive Aquifer Recharge Areas (SARA)



- Sensitive Recharge Area

McHENRY-LAKE COUNTY SOIL & WATER CONSERVATION DISTRICT



1648 S. Eastwood Dr. Woodstock, Illinois 60098 (815) 338-0444 ext. 3 www.mchenryswcd.org

November 17, 2022

Elizabeth A. Pfiffner
3901 N. IL Route 23
Marengo, IL 60152

<u>Re:</u>	Parcel numbers 07-31-300-029 & 07-31-100-004
<u>Common Location:</u>	Vacant Land - Bauman Road, Marengo, IL 60152
<u>NRI#</u>	L22-063-4454
<u>Zoning Change:</u>	A1 to A2

Dear Ms. Pfiffner:

The McHenry-Lake County Soil and Water Conservation District has carefully reviewed your application for Natural Resource Information Report on the Benjamin Sass & Michaela Sass property as applied for in Report #L22-063-4454. Due to size of parcel being rezoned, the SWCD finds that impact to natural resources from the proposed use is minimal for the purposes of the NRI report. A full Natural Resource Information Report will not be necessary, but we would like to highlight a few resources on the property.

Earthwork in or near a wetland requires a permit from the Army Corps of Engineers or the McHenry County Department of Planning & Development. The McHenry County ADID Wetland Inventory indicates the presence of High Functional Wetlands and Farmed Wetlands in multiple locations of the parcel (see attached ADID Wetland Locations Map). The Natural Resource Conservation Service inventory indicates the presence of Non-Inventoried Hydric Soil and Farmed Wetlands in multiple locations of the parcel and Non-Inventoried Hydric Inclusions Soil and Farmed Wetland Pasture adjacent to the parcels north and south (see attached NRCS Wetland Locations Map). It is recommended that a jurisdictional wetland delineation be performed on this parcel before any additional construction occurs. Please contact the Army Corps of Engineers and McHenry County Department of Planning & Development for permit information.

Office maps also indicate the presence of hydric soils in multiple locations of the parcels (see attached Hydric Soil Locations Map). Our wetland inventory is for informational and planning purposes only. Any proposed drainage work, in wet areas, requires a certified wetland delineation. If drainage work is to occur, please contact the Army Corps of Engineers and McHenry County Department of Planning & Development for permit information.

Additionally, the FEMA Flood Insurance Rate Map indicates that part of a 100-year floodplain is located in the southern parcel (see attached FEMA Floodplain Locations Map). If additional construction is to occur it is recommended that you contact the McHenry County Department of Planning & Development for possible permitting requirements.

This letter fulfills your requirement to notify the SWCD of land use changes as per the Illinois Compiled State Statutes, Chapter 70, Par. 405/1 et seq. Illinois Revised Statutes, Ch. 5, Par 106 et seq. and the McHenry County Stormwater Ordinance. If you have any questions concerning this letter, feel free to call our office.

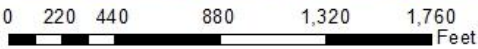
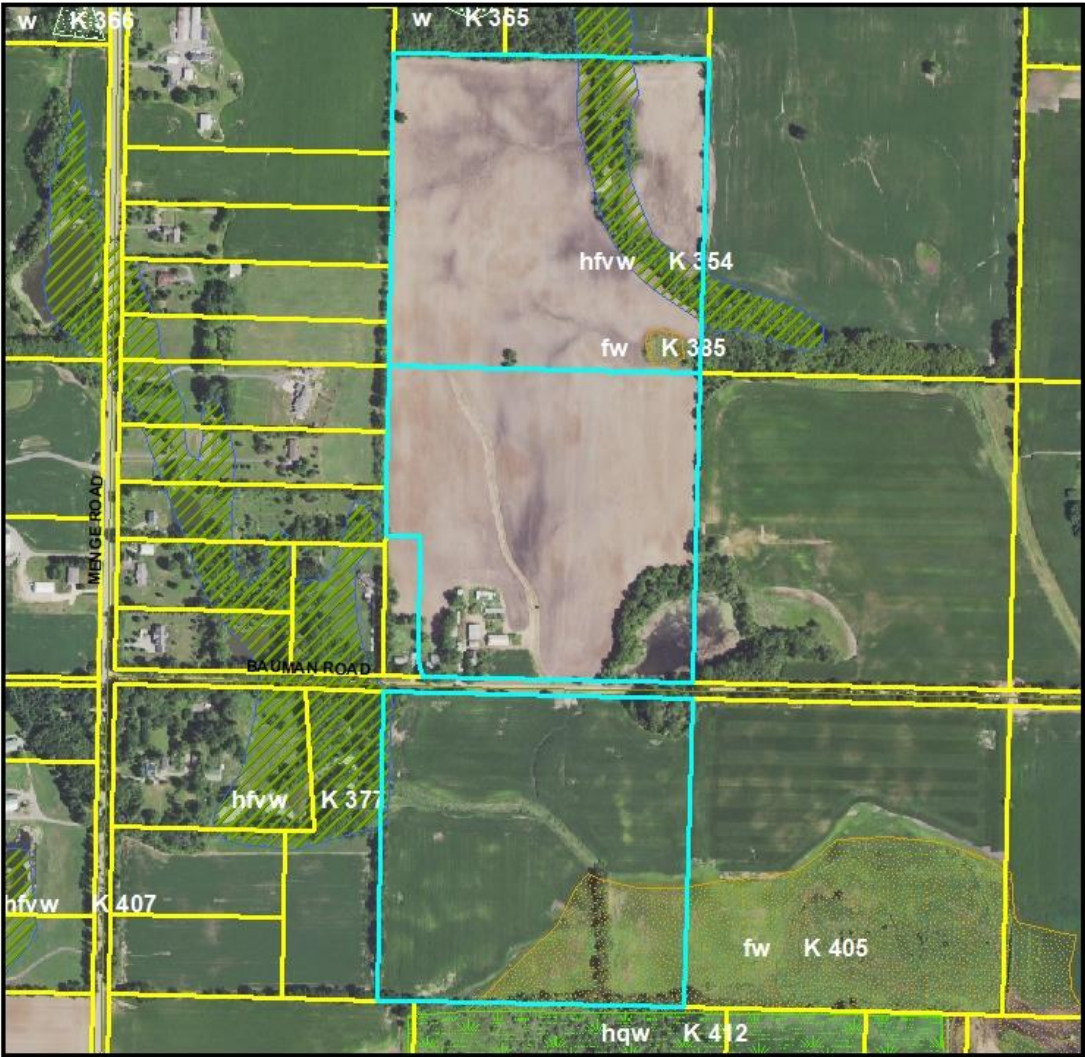
Sincerely,

A handwritten signature in black ink that reads "Ryan Bieber". The script is fluid and cursive, with the first name "Ryan" and last name "Bieber" clearly legible.

Ryan Bieber
Urban Conservation Specialist

Cc: Kim Charlow, McHenry County Department of Planning and Development,
KBScharlow@mchenrycountyil.gov

ADID Wetland Locations Map

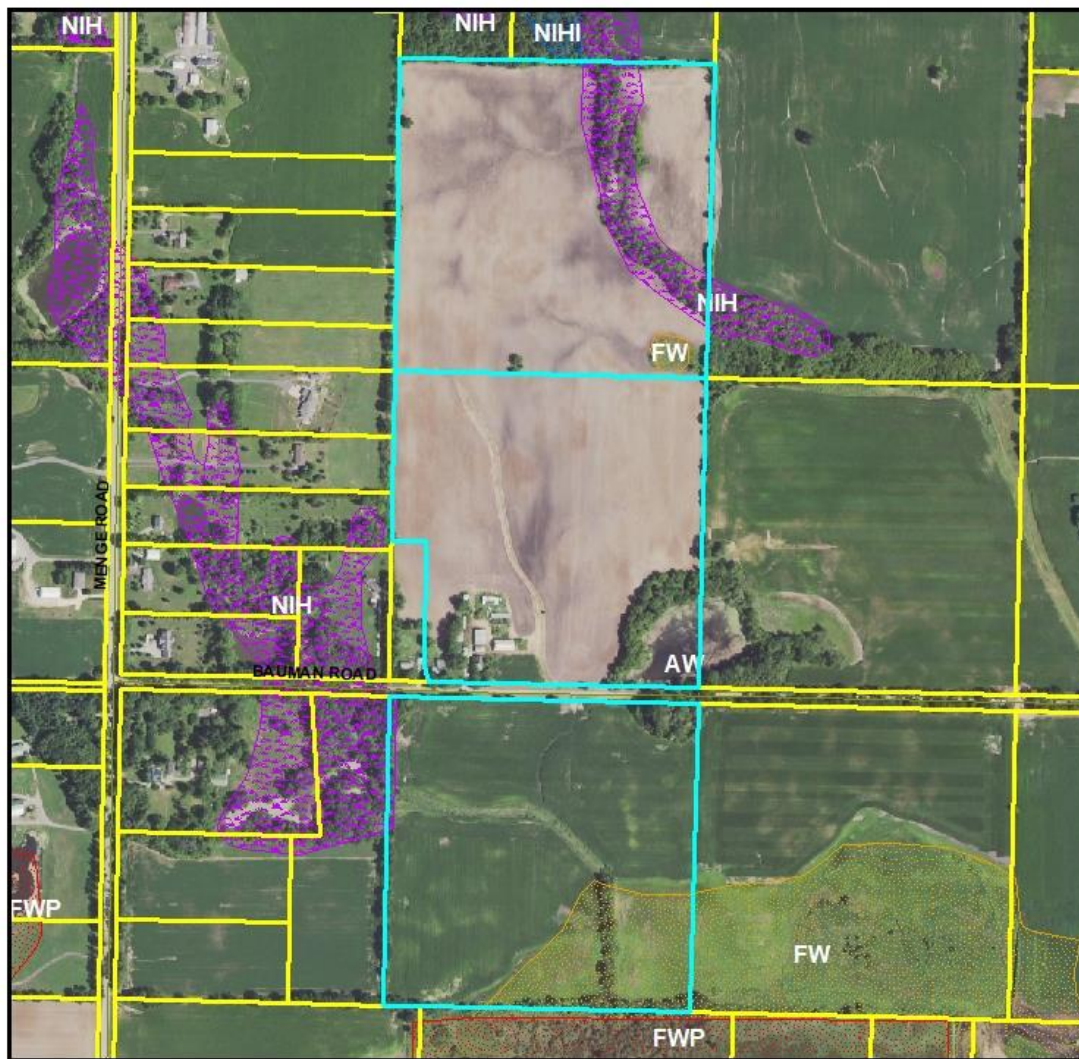


2019 Aerial Photograph
Produced By: McHenry-Lake County Soil & Water Conservation District



Key To Features	
	farmed wetland
	high functional wetland
	high quality lake
	high quality wetland
	lake
	wetland

NRCS Wetland Locations Map



0 220 440 880 1,320 1,760 Feet

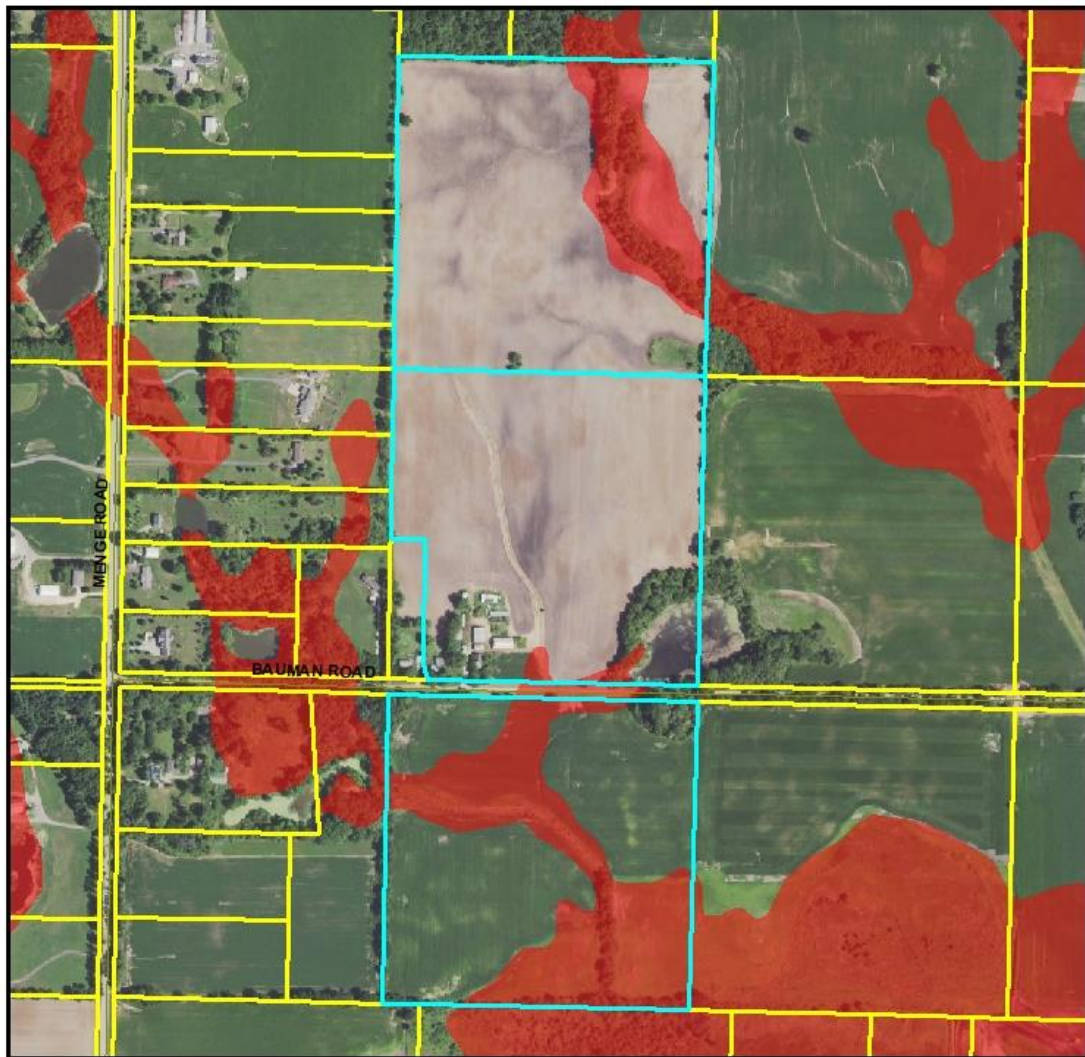
2019 Aerial Photograph
Produced By: McHenry-Lake County Soil & Water Conservation District



Key To Features	
	Farmed Wetland
	Farmed Wetland Pasture
	Non-inventoried Hydric Soil
	Non-inventoried Soil With Hydric Inclusions
	Prior Converted
	Wetland

Resources for the Future

Hydric Soil Locations Map




0 220 440 880 1,320 1,760 Feet

2019 Aerial Photograph
Produced By: McHenry-Lake County Soil & Water Conservation District



Key To Features

 Hydric Soil

Resources for the Future

FEMA Floodplain Locations Map



2019 Aerial Photograph
Produced By: McHenry-Lake County Soil & Water Conservation District

Key To Features	
FEMA Floodplain	
Flood Zone	
	0.2 PCT ANNUAL CHANCE FLOOD HAZARD
	100 yr
	100 yr with base flood elevations determined
	100 yr with 1-3 ft. flood depths
	100 yr usually sheet flow

Resources for the Future

MCHENRY COUNTY
ZONING BOARD OF APPEALS
MINUTES ● January 12, 2023

Zoning Hearing

Conference Room 104B

1:30 PM

667 Ware Rd, Woodstock, IL 60098

ZONING BOARD OF APPEALS REPORT TO THE MCHENRY COUNTY BOARD - #2022-046

- 1. APPLICANT:** Ben and Michaela Sass, owner of record
- 2. REQUEST:** Reclassification from A-1 Agriculture District to A-2 Agriculture District
- 3. LOCATION AND SIZE OF PROPERTY IN QUESTION:**
The property consists of approximately 5.27 acres and is located on the north side of Bauman Road, approximately 1,300 feet East Marengo Road, Hartland Township.
- 4. DATE AND TIME OF HEARING AND VOTING MEETING:** January 12, 2023, @ 1:30 PM
- 5. LOCATION OF HEARING AND VOTING MEETING:** Board Conference Room 104B.
- 6. PRESENT AT HEARING:**
 - A. ZBA Members: Linnea Kooistra – Vice Chair, Jessica Beverly, Charles Eldredge, Vicki Gartner, Robert Kosin, Kurt Schnable, Donald Smolinski
 - B. Witness: Ben Sass
 - C. Attorney: Elizabeth Pfiffner
 - D. Public: Kim Scharlow – County Staff
- 7. ITEMS OF EVIDENCE:**
None
- 8. SUMMARY OF TESTIMONY AT HEARING:**
Ms. Pfiffner gave an opening statement indicating this is a classic request to reclassify from A-1 Agriculture District to A-2 Agriculture District. The subject property is part of a larger 76 acre parcel, all

of which is zoned A-1 Agriculture District. The subject property has a residence on it with associated outbuildings. No new additions are proposed. The request would further preserve the rural character of the community by allowing agricultural uses to continue.

Ms. Pfiffner proceeded to question her client, Ben Sass, regarding the request and how it meets the standards for reclassification. Among this testimony Mr. Sass confirmed that the residence and outbuildings were legally constructed. Mr. Sass stated that, should the property be divided, such division would not create a new road nor would new utilities need to be provided. He affirmed that the requested reclassification is consistent with the zoning in the area and is consistent with the Future Land Use designation of Agriculture. Mr. Sass indicated that the reclassification would not decrease property values in the area nor would it be injurious to the public health, safety or welfare. He stated that he did not believe that it is suitable to keep the property zoned A-1 and that there is a community need to reclassify the property to A-2. According to Mr. Sass' testimony, properties to the north, east and south are used agriculturally and the property to the west has a residential house on it which is zoned A-2.

Upon questioning by the Board, Mr. Sass indicated that he purchased the property in August 2022 from Gary Bauman. Mr. Bauman's mother had owned the house originally and that he, Mr. Bauman, had moved into the house to the west to be near his mother during her later years. When Mrs. Bauman passed, Mr. Bauman had his house (the western house) reclassified so that he could sell it. Then Mr. Bauman moved into his mother's house until he sold it to the Sass family. To the best of Mr. Sass' knowledge, the house is in good condition and the well and septic system reports did not disclose any concerns. Mr. Sass stated that he intends to rent the house and farm the rest of the property. He does not intend to make any additions to the property nor does he plan on dividing/selling the property.

Ms. Scharlow reported that the request meets the standards of the UDO and Comprehensive Plan. As such, staff recommended approval.

Mr. Kosin asked Ms. Scharlow about the possibility of reclassifying properties further west from A-1 to A-2. Ms. Scharlow indicated that she had not examined the possibility of reclassifying those properties however, it might be possible to reclassify them if they meet the State Plat Act and the standards to reclassify to A-2.

Ms. Pfiffner gave a closing statement indicating that the request is a typical A-1 to A-2 reclassification which is consistent with the residential and agricultural uses of the area and is consistent with the text and future land use map of the 2030 Comprehensive Plan.

Ms. Kooistra closed the testimony session and immediately opened the voting meeting.

9. SOIL AND WATER CONSERVATION DISTRICT REPORT:

For further information refer to report number: L22-063-4454

10. ILLINOIS DEPARTMENT OF NATURAL RESOURCES:

The consultation was not required for this application.

11. SUMMARY OF VOTING MEETING DISCUSSION:

Vice-Chair Kooistra opened the voting meeting immediately following the hearing. Mr. Eldredge made a motion, seconded by Ms. Gartner, to recommend approval of the request.

Mr. Eldredge stated that the request is a typical A-1 to A-2 request. The only thing slightly unusual regarding this request is that the applicant does not plan on selling the property but keep it intact with the rest of the parcel for the foreseeable future. Mr. Eldredge further stated that, in his opinion, the request met the standards for reclassification to A-2 and that this is an appropriate use. He noted that the County has a policy to try to preserve farmsteads wherever possible and that the A-2 classification was designed to further this policy. Finally, he indicated that he felt that the applicant would be able to meet the State Plat act if/when the property were to be divided and sold. All other Board members concurred with his statements.

A roll call vote was taken on the motion, which passed 7-0.

12. FACTS THAT SUPPORT RECOMMENDING APPROVAL OF THE REQUEST:

The property is presently zoned A-1 and meets the standards for reclassification to A-2 Agriculture District. While the owner indicated that they do not plan on dividing the subject parcel from the parent parcel it appears that if/when division does occur it will meet the requirements of the State Plat Act.

13. FACTS THAT SUPPORT RECOMMENDING DENIAL OF THE REQUEST:

None

14. MOTION:

Made by Charles Eldredge, seconded by Vicki Gartner, to recommend approval of the request to rezone the subject parcel from A-1 Agriculture District to A-2 Agriculture District.

15. VOTE:

7 – AYES; 0 – NAYS; 0 - ABSTAIN

GOES TO COUNTY BOARD WITH ZBA RECOMMENDATION FOR APPROVAL

Full Comments for the above agenda items are included in the audio recording of this meeting, which can be found on the McHenry County Meeting Portal.

Linnea Kooistra:

... call the meeting to order. This is the meeting that's Zoning Board of Appeals. The reason for our hearing today is to hear petition number 2022-46. This is a petition. Applicant is Benjamin and... Michaela?

Ben Sass:

Michaela.

Linnea Kooistra:

Michaela. Michaela Sass, owners of record as a reclassification from the A1 agricultural district to the A2 agricultural district. The address of the property is 19802 Bauman Road, Margeno, Illinois. The Pin Number is This is part of PIN number 07-31-300-030. The property consists of approximately 5.27 acres and is located on the north side of Bauman Road, approximately 1,300 feet east of Marengo Road in Hartland Township. I would like to introduce the board. I'm going to start on my right down here. If you would just say your name and the township you're from.

Jessica Beverly:

Jessica Beverly, Dorr Township.

Kurt Schnable:

Kurt Schnable, Riley Township.

Vicki Gartner:

Vicki Gartner, Nunda Township.

Linnea Kooistra:

Linnea Kooistra, Alden Township.

Charles Eldridge:

Charlie Eldridge, Richmond Township.

Donald Smolinski:

Donald Smolinski, Grafton Township.

Robert Kosin:

Bob Kosin, Algonquin Township.

Linnea Kooistra:

That's just to show that we're a representative from the whole county. You can't have more than one person from any township, so we got that done. So I would like to state that the petition has been reviewed, and the following items have been received prior to today's hearing. The publisher's certificate of publication from a newspaper is dated December 16th, 2022, and meets ordinance requirements. The affidavit of posting was signed and date posted was December 20th, 2022. The affidavit of mailing was signed and date mailed was December 13th, 2022. The survey has been checked

against the petition, a legal notice, and publication in the newspaper, and all three match. The filing fees have been paid. The endangered species consultation was not required for this petition and the Soil and Water Conservation district report has been received.

Okay. So anyone who's going to give testimony today, the petitioner, the attorney, public, anybody who's going to want to make comments at this time, I will swear you in. So anybody who wants to speak, please raise your right hand. Do you solemnly affirm that the testimony you give shall be the truth, the whole truth, and nothing but the truth?

Elizabeth Pfiffner:

I do.

Ben Sass:

I do.

Linnea Kooistra:

Okay. All right. So, we'll turn it over to the... Well, let me just say how the hearing tends to work for anybody who's here, who's not been to a hearing before. So the petitioner will present their evidence, then members of the board will be able to ask them questions, then the staff will be able to ask you questions, and then any members of the public could ask you questions as well. After that point, then we'll take testimony from staff. And again, the board could ask questions. And then at that time then we'll take comments from staff and members of the public. So, I'll turn it over to you. If you would introduce yourself, we'll need your name and address.

Elizabeth Pfiffner:

Hi everybody. I'm Attorney Elizabeth Pfiffner, P-F-I-F-F-N-E-R, and I'm from Harvard, Illinois.

Ben Sass:

I'm Ben Sass. Address is 16607 Secor Road in Woodstock.

Linnea Kooistra:

Okay, go ahead with your-

Elizabeth Pfiffner:

Sorry-

Linnea Kooistra:

... testimony then.

Elizabeth Pfiffner:

I'll just do a brief opening statement. This is a classic A1 to A2 reclassification whereby my client owns a larger 76-acre parcel. The subject of this petition is approximately a five-acre parcel with currently existing residential dwelling unit, as well as outbuildings. My client is not proposing any new additions to this proposed reclassification and the proposed reclassification would preserve the essential aspects of

the rural character of the community by allowing agricultural uses to continue. And if I may go ahead with my questions?

Linnea Kooistra:

Mm-hmm.

Elizabeth Pfiffner:

Mr. Sass, are you familiar with the property commonly known as 19802 Bauman Road?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And is that property currently zoned A1?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And you are seeking a map amendment today to A2. Is that correct?

Ben Sass:

Correct.

Elizabeth Pfiffner:

And on that property, there has been a lawfully constructed residential dwelling, as well as outbuildings. Is that correct?

Ben Sass:

Correct.

Elizabeth Pfiffner:

And the subject property is part of a larger parcel. Is that correct?

Ben Sass:

Correct.

Elizabeth Pfiffner:

And the proposed amendment would result in a division of land into a five-acre parcel from the larger parcel. Is that correct?

Ben Sass:

Correct.

Elizabeth Pfiffner:

And as it sits right now, this property is approximately 76 acres. Correct?

Ben Sass:

Correct.

Elizabeth Pfiffner:

And the division of the property as proposed will not require any new streets or easements. Is that correct?

Ben Sass:

Yes, that's correct.

Elizabeth Pfiffner:

And you believe that the proposed zoning amendment A2 is compatible with existing uses and zoning of the nearby parcels. Is that correct?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And do you believe that reclassifying from A1 to A2 would be consistent with future land use designation, it's agricultural?

Ben Sass:

Correct.

Elizabeth Pfiffner:

And do you believe that by reclassifying from A1 to A2 that the surrounding property values would be diminished by amending it?

Ben Sass:

No.

Elizabeth Pfiffner:

Okay. And do you believe that the proposed zoning amendment promotes public health, safety, and welfare?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And do you believe that there will be a public gain by reclassifying this subject parcel from A1 to A2?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And do you believe that the property is currently suitable to remain as A1 for commercial agricultural production?

Ben Sass:

Yes.

Elizabeth Pfiffner:

So-

Ben Sass:

No.

Elizabeth Pfiffner:

Okay.

Ben Sass:

No.

Linnea Kooistra:

Trick question.

Ben Sass:

Sorry.

Elizabeth Pfiffner:

Would you guys like me to restate that question or are we good?

Linnea Kooistra:

No, you're fine. We just want to make sure you were paying attention.

Elizabeth Pfiffner:

Do you believe that there is currently a community need for this parcel to be reclassified as A2?

Ben Sass:

Yes.

Elizabeth Pfiffner:

Do you believe that the proposed use is consistent with surrounding property uses and the comprehensive plan?

Ben Sass:

Yeah.

Elizabeth Pfiffner:

And do you believe the proposed zoning is compatible with surrounding agricultural operations?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And do you believe that the proposed zoning will maintain, preserve, and enhance the agricultural activities in the community?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And reclassification from A2 will result in a minimal impact on agricultural, natural, and water resources. Is that correct?

Ben Sass:

That's correct.

Elizabeth Pfiffner:

And do you believe this reclassification will preserve the rural landscape?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And do you believe that by reclassifying this property from A1 to A2, that it will preserve agricultural lands in the county?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And do you believe that this reclassification will allow agricultural uses to continue?

Ben Sass:

Yes.

Elizabeth Pfiffner:

And just for the record, there is no proposed new improvements as part of this petition. Is that correct?

Ben Sass:

That's correct.

Elizabeth Pfiffner:

And to the north of the property, what is to the north of the property?

Ben Sass:

Agricultural land.

Elizabeth Pfiffner:

And to the east of the property?

Ben Sass:

Agricultural land.

Elizabeth Pfiffner:

And to the south of the property?

Ben Sass:

Agricultural land.

Elizabeth Pfiffner:

What about to the west?

Ben Sass:

A2 ag.

Elizabeth Pfiffner:

So it's basically a residence that's been reclassified as A2?

Ben Sass:

Yeah.

Elizabeth Pfiffner:

Will there be any changes to the property as it's currently configured?

Ben Sass:

No.

Elizabeth Pfiffner:

I have nothing further.

Linnea Kooistra:

Okay. We'll start with questions from the board starting on my right with Ms. Beverly.

Jessica Beverly:

Thank you. So, you're in Woodstock and the property's in Marengo?

Ben Sass:

Yes.

Jessica Beverly:

Are you currently leasing or renting the house out or-

Ben Sass:

Not currently, but that's the plan.

Jessica Beverly:

Okay. And you acquired the property or you were given it or-

Ben Sass:

I purchased the property from Gary Bauman.

Jessica Beverly:

Okay. And by classifying it from A1 to A2, what are your intentions to do with the property? Are you going to rent it out or are you going to sell it or-

Ben Sass:

Just rent it out.

Jessica Beverly:

Okay. That was all I wondered. Thank you.

Kurt Schnable:

Only question that I have is in what kind of condition is the residence right now, in your opinion?

Ben Sass:

It's fairly decent.

Kurt Schnable:

Roof is good and-

Ben Sass:

Currently it's in very good condition. I've repainted and cleaned and-

Kurt Schnable:

When was the last time someone might have lived there?

Ben Sass:

August.

Kurt Schnable:

Pretty recent. That's all I was curious about. Right.

Vicki Gartner:

I'm Vicki Gardner. So, the property is not occupied now?

Ben Sass:

No.

Vicki Gartner:

Okay. So, it's empty and you've been working on it?

Ben Sass:

Yeah.

Vicki Gartner:

Okay. Now, I noticed there's some land on this five acres that looks like it's been farmed. Is that going to continue to be farmed?

Ben Sass:

Yes.

Vicki Gartner:

Okay. So you're going to just rent out the property, so you don't have to make any agreements with any buyers?

Ben Sass:

No.

Vicki Gartner:

Okay. The well and septic are in good shape?

Ben Sass:

Mm-hmm. When I bought the property I had a well and septic inspection and both passed.

Vicki Gartner:

Okay. How long have you owned it?

Ben Sass:

August 29th.

Vicki Gartner:

Oh, this last August.

Ben Sass:

Yeah.

Vicki Gartner:

Very new. Okay, thank you.

Linnea Kooistra:

Mr. Eldridge.

Charles Eldridge:

Just one small point of clarification really for the attorney. What part of the Plat Act are you relying on for the subdivision or are you not subdividing the property at this time?

Elizabeth Pfiffner:

We don't plan on subdividing the property.

Charles Eldridge:

Thank you.

Linnea Kooistra:

Don.

Donald Smolinski:

Are you currently farming the larger acreage?

Ben Sass:

I will be in 2023, in this year. Yeah.

Donald Smolinski:

You will be?

Ben Sass:

Yeah.

Donald Smolinski:

Okay. And so you will be utilizing all the outbuildings there?

Ben Sass:

Yeah.

Donald Smolinski:

And no current plans to add or improve those outbuildings?

Ben Sass:

No, just for storage.

Donald Smolinski:

Thank you. That's all I have.

Linnea Kooistra:

Bob.

Robert Kosin:

I'm sorry, I have no questions.

Linnea Kooistra:

Okay. My only question is there's an A2 just to the west of the subject property that looks like that was maybe cut out of this parcel before you purchased it. Do you know the history of that parcel at all?

Ben Sass:

As far as I know, the previous owner, Gary Bauman, he lived in that house in the A2 property next door while his mom lived in the house that I currently own so that he can live close to his mom. And then when his mom passed, I believe he sold the property next door and then kept the house and land with... I think.

Linnea Kooistra:

This all sounds very logical, just the way the A2 ordinance was meant to be. Yeah. Okay. Very good. I have no other questions. Staff, do you have any questions?

Kimberly Scharlow:

I have no questions.

Linnea Kooistra:

Any members of the public have questions for the petitioner? Okay, then we'll go to staff. We'll take public testimony from the public, starting with the staff.

Kimberly Scharlow:

Staff believes that all of the standards of the ordinance are met, the requirements for A2 zoning have been met, and the request is consistent with the surrounding land use and zoning districts. Staff is in support of the request.

Linnea Kooistra:

Does any members of the board have questions for staff?

Robert Kosin:

I do.

Linnea Kooistra:

Yes, go ahead.

Robert Kosin:

Will there be consideration, or how would it be considered for the parcels to the west to be reclassified as A2 given how they are platted and approved currently?

Kimberly Scharlow:

To the west?

Robert Kosin:

Yes. Past the existing A2.

Kimberly Scharlow:

So, I did not research those parcels. Are there existing residences on those parcels?

Robert Kosin:

Right. At least from casual examination.

Kimberly Scharlow:

If they can meet a Plat Act exemption and there's existing residences on the site, I don't see any reason why they couldn't request reclassification as well as long as they meet all of those A2, 3 zoning requirements.

Robert Kosin:

Thank you. No other questions.

Linnea Kooistra:

Any questions from the... Okay. Any statements on the part of the public? Okay. So, that was easy.

Vicki Gartner:

I like those.

Linnea Kooistra:

So, do you have a closing statement?

Elizabeth Pfiffner:

I can surely create one. As you guys are aware, this is a very typical A1 to A2 proposed reclassification that's consistent with the existing single-family residential and agricultural uses of the area. It's consistent with the recommendations provided in the 2030 plan and the reclassification is consistent with the future land use map designation as agricultural.

Linnea Kooistra:

Okay. So at this point I will close the evidence portion of our hearing and we'll move to open a voting meeting. So, again, this is calling to order a zoning board of appeals voting board meeting. And this is in regards to petition number 2022-046. The applicant is Benjamin and Mikayla Sass, owners of record. The request is for an A1 to an A2 agricultural district. The address is 19802 Bauman Road, Marengo, Illinois. And the property consists of approximately 5.27 acres located on Bauman Road in Hartland Township. At this time, I would-

Charles Eldridge:

I move approval of the petition.

Linnea Kooistra:

Okay.

Vicki Gartner:

And I'll second.

Linnea Kooistra:

Okay. The motion to approve has been made by Mr. Eldridge, seconded by Ms. Gartner. Discussion, Mr. Eldridge?

Charles Eldridge:

Yes. As petitioner's attorney has said, this is a very typical A1 to A2. The only thing that is the slightly bit atypical about it is most of these have been for sale of the land and of the buildings by a farmer who wants to farm the rest of it. But here, there is no separation. I believe that all of the standards have been met. I believe that it is an entirely appropriate use. It is public policy in McHenry County to try to preserve farmsteads wherever possible, and separating them from by zoning from the farmland that the large-scale farmers seem to want these days often makes economic sense. The Plat Act is not an issue here because at this point they plan no subdivision. But should they at a later date choose to do a subdivision, I believe the Plat Act will be available to them. And for all of the above reasons, I support the petition.

Linnea Kooistra:

Okay. Ms. Beverly?

Jessica Beverly:

I have no comment.

Kurt Schnable:

I agree with Mr. Eldridge's statement.

Vicki Gartner:

I agree as well. This was easy.

Linnea Kooistra:

Okay. Mr. Smolinski?

Donald Smolinski:

I agree with Mr. Eldridge's comments and will support the petition.

Linnea Kooistra:

Okay. And-

Robert Kosin:

I agree with all the comments made and likewise support the petition.

Linnea Kooistra:

And I agree Mr. Eldridge summarized it beautifully and I think the standards have been met. I'm in favor of the petition, so at this time I will take the vote. Mr. Eldredge?

Charles Eldridge:

Yes.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

Yes.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

Yes.

Linnea Kooistra:

Mr. Schnable?

Kurt Schnable:

Yes.

Linnea Kooistra:

Mr. Smolinski?

Donald Smolinski:

Yes.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

Yes.

Linnea Kooistra:

And I will vote yes. So this will go to the county board with a seven to zero vote approving the request.
The meeting's over.

Elizabeth Pfiffner:

Tha