



CASES 945-AT-19 & 946-AT-19

SUPPLEMENTAL MEMORANDUM #1

October 24, 2019

Petitioner: Zoning Administrator

Request:

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

(217) 384-3708
zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

Case 945-AT-19	Case 946-AT-19
Amend the requirements for a photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the following requirements for any proposed PV solar farm that is located within one-and-one-half miles of a municipality:	
<i>Part A of Case 946-AT-19 is not part of Case 945-AT-19</i>	Part A: Increase the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to 1.5 miles.
Part A: Increase the minimum required time for municipal review as described in the legal advertisement.	<i>Part A from Case 945 is Part B in 946-AT-19</i>
Part B: Require municipal subdivision approval for any PV solar farmland lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.	<i>Part B from Case 945 is Part C in 946-AT-19</i>
Part C: Amend Section 8.2.3 to allow any PV solar farm authorized prior to the effective date of this amendment and that is in the process of being repaired to not lose its zoning right to operate.	<i>Part C from Case 945 is Part D in 946-AT-19</i>
Part D: Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit for the solar farm has not expired.	<i>Part D from Case 945 is Part E in 946-AT-19</i>

Location: Unincorporated Champaign County

Time Schedule for Development: As soon as possible

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

STATUS

These cases were continued to October 31, 2019 at the September 26, 2019 ZBA meeting.

A Revised Summary of Evidence dated October 31, 2019 for both Cases 945-AT-19 and 946-AT-19 are attached to this memo. Comments from area municipal representatives and the public have been

added. Evidence was also added regarding how much jurisdictional overlap there is between County Zoning, municipal subdivision jurisdiction, and municipal protest areas.

Based on comments received, the Villages of Mahomet, St. Joseph, and Rantoul all favor approval of Case 946-AT-19, which increases the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to one-and-one-half miles, in addition to the amendments proposed in Case 945-AT-19.

OVERLAPPING JURISDICTIONAL AREAS

Within the one-and-one-half mile extraterritorial jurisdiction of municipalities with an adopted Comprehensive Plan, the County maintains zoning jurisdiction up to the municipal corporate limits, and the municipality has planning jurisdiction up to one-and-one-half miles outside the corporate limits. In the County solar farm ordinance amendment approved August 23, 2018, a minimum one-half mile separation was established between a PV solar farm and corporate limits of municipalities with comprehensive plans.

Proposed amendment Part A in Case 946-AT-19 (which is not a part of Case 945-AT-19) was requested by the municipalities in their letter dated November 5, 2018, because they want to maintain more than the one-half mile separation from their corporate limits. The proposed amendment does not change the fact that a PV Solar Farm developer could request a waiver from the one-and-one-half mile separation just as they can for the 0.5-mile separation in the current Zoning Ordinance.

The villages that might be impacted by PV solar farm Special Use Permit applications within their one-and-one-half mile ETJ seek to have more of a say in whether a solar farm can build so close to their limits, because it can impact future development plans; might hamper efforts to annex such a development that would bring tax revenues to the village; would limit where villages can grow, especially for those that have severe geographic limits to growth already; and would increase infrastructure costs if the municipality has to skirt around a PV solar farm. Section 7.A. of the revised Summary of Evidence dated October 31, 2019, summarizes input from the Villages of Rantoul, St. Joseph, and Mahomet.

In October 2018, County Planner Susan Monte updated estimates of municipal areas, municipal one-and-one-half mile ETJ areas, and Zoning protest areas. She created an updated Land Use Management Areas (LUMA) Map that was a product of the Land Resource Management Plan (LRMP), which is attached to this memorandum.

The total area that includes corporate areas, ETJ, and zoning protest areas is estimated to be 426.74 square miles out of the County's approximate 998 square miles. The table below is a summary of estimated total areas within Champaign County. There is some overlap in the areas, but Ms. Monte counted each overlap area toward only one of the areas listed.

	Area in Square Miles	% of Champaign County
Municipalities	70.54	7.1%
ETJ area	237.48	23.8%
Zoning protest area	118.72	11.9%
Total	426.74	42.8%

OPTIONS FOR THE ZBA

The ZBA recommendation basically comes down to whether the Board wants only an extended time period for municipal consideration of a solar farm (in support of Case 945-AT-19), or if the Board wants both an extended time period for municipal consideration along with an increase in separation between a proposed solar farm and a municipality (in support of Case 946-AT-19). A third option of making no changes is always available by recommending denial of both cases.

ATTACHMENTS

- A Legal notice
- B Land Use Management Areas (LUMA) Map, updated October 2018
- C Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 945-AT-19 dated October 31, 2019
- D Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 946-AT-19 dated October 31, 2019

LEGAL PUBLICATION: WEDNESDAY, SEPTEMBER 11, 2019

CASES: 945-AT-19, 946-AT-19, 947-AT-19 & 948-AT-19

**NOTICE OF PUBLIC HEARING IN REGARD TO PROPOSED AMENDMENTS TO THE
CHAMPAIGN COUNTY ZONING ORDINANCE.**

CASES: 945-AT-19, 946-AT-19, 947-AT-19 & 948-AT-19

The Champaign County Zoning Administrator, 1776 East Washington Street, Urbana, has filed a petition to change the text of the Champaign County Zoning Ordinance. The petition is on file in the office of the Champaign County Department of Planning and Zoning, 1776 East Washington Street, Urbana, IL.

A public hearing will be held **Thursday, September 26, 2019, at 6:30 p.m.** prevailing time in the John Dimit Meeting Room, Brookens Administrative Center, 1776 East Washington Street, Urbana, IL, at which time and place the Champaign County Zoning Board of Appeals will consider a petition to amend the Champaign County Zoning Ordinance as follows:

Case 945-AT-19

Amend the requirements for a photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the following requirements for any proposed PV solar farm that is located within 1.5 miles of a municipality:

- A. Increase the minimum required time for municipal review by adding the following:
 1. Require the Zoning Administrator to send notice to any municipality located within 1.5 miles of a proposed PV solar farm prior to the start of a public hearing, in addition to any notice otherwise required.
 2. Require the public hearing at the Zoning Board of Appeals (ZBA) for the PV solar farm to occur at a minimum of two ZBA meetings that are not less than 28 days apart unless the 28-day period is waived in writing by any relevant municipality.
 3. Require the Zoning Administrator to notify said municipality of the ZBA recommendation after the close of the public hearing.
 4. If the Environment and Land Use Committee (ELUC) makes a preliminary determination to accept the ZBA recommendation, the PV solar farm shall remain at ELUC for a maximum 30-day municipal comment period until the next ELUC meeting, unless the municipal comment period is waived in writing by any relevant municipality.
- B. Require municipal subdivision approval for any PV solar farm land lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.
- C. Amend Section 8.2.3 to allow any PV solar farm authorized prior to the effective date of this amendment and that is in the process of being repaired to not lose its zoning right to operate.
- D. Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit for the solar farm has not expired.

Case 946-AT-19

Amend the requirements for a photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the following requirements for any proposed PV solar farm that is located within 1.5 miles of a municipality:

- A. Increase the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to 1.5 miles.
- B. Increase the minimum required time for municipal review by adding the following:

1. Require the Zoning Administrator to send notice to any municipality located within 1.5 miles of a proposed PV solar farm prior to the start of a public hearing, in addition to any notice otherwise required.
 2. Require the public hearing at the Zoning Board of Appeals (ZBA) for the PV solar farm to occur at a minimum of two ZBA meetings that are not less than 28 days apart unless the 28-day period is waived in writing by any relevant municipality.
 3. Require the Zoning Administrator to notify said municipality of the ZBA recommendation after the close of the public hearing.
 4. If the Environment and Land Use Committee (ELUC) makes a preliminary determination to accept the ZBA recommendation, the PV solar farm shall remain at ELUC for a maximum 30-day municipal comment period until the next ELUC meeting, unless the municipal comment period is waived in writing by any relevant municipality.
- C. Require municipal subdivision approval for any PV solar farm land lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.
- D. Amend Section 8.2.3 to allow any PV solar farm authorized prior to the effective date of this amendment and that is in the process of being repaired to not lose its zoning right to operate.
- E. Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit for the solar farm has not expired.

Case 947-AT-19

Amend the Champaign County Zoning Ordinance by amending the requirements for PV solar farms by deleting Section 6.1.5 B.(2)b. that requires a 0.5 mile separation between a proposed PV solar farm and the CR Conservation Recreation Zoning District, and amend the requirements in Section 6.1.5 Q.(4)e. to add requirements for financial assurance provided by financial institutions headquartered in Champaign County.

Case 948-AT-19

Amend the Champaign County Zoning Ordinance by amending Section 8.3.2 to authorize a variance to rebuild a nonconforming structure before the structure is damaged.

All persons interested are invited to attend said hearing and be heard. The hearing may be continued and reconvened at a later time.

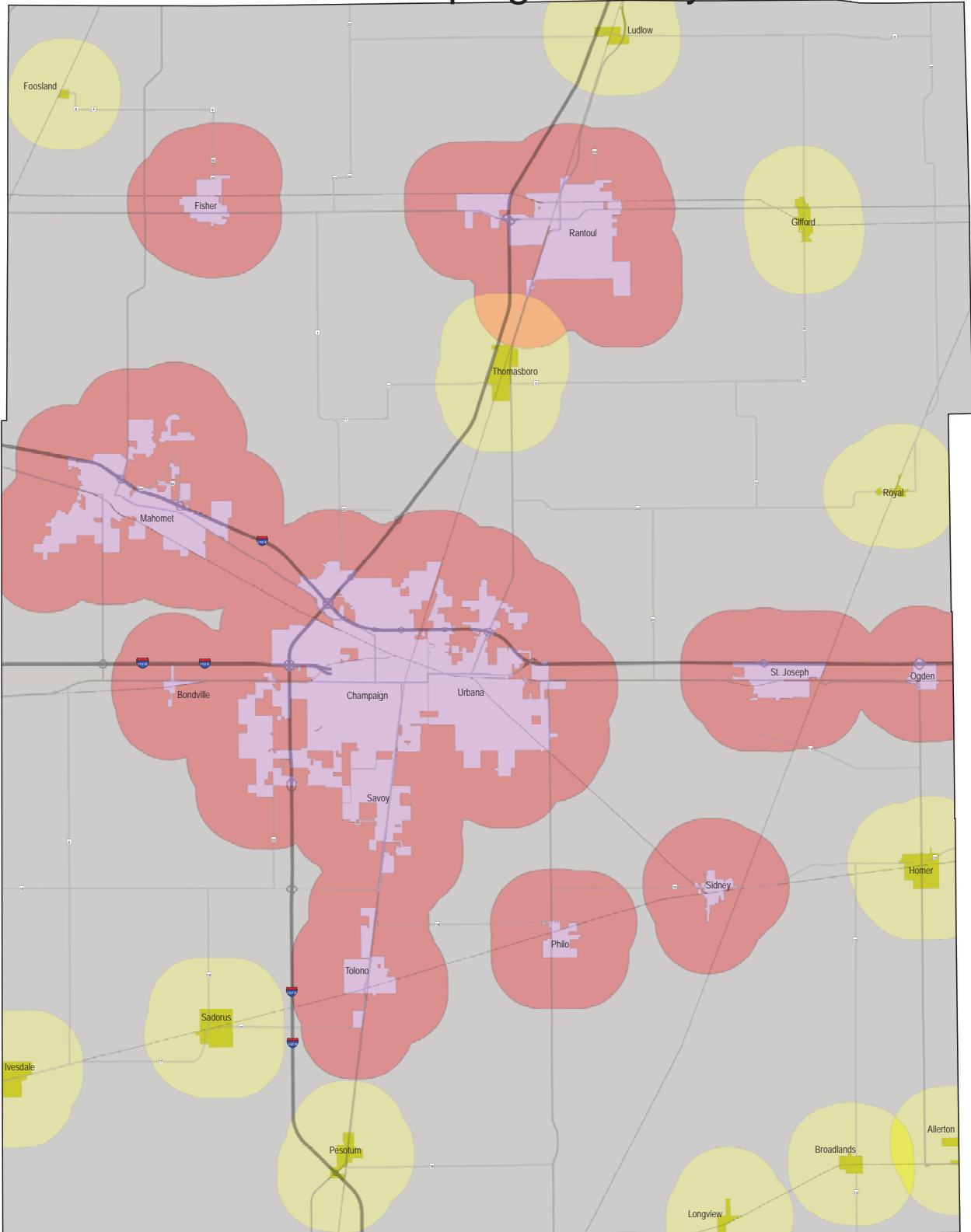
Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

TO BE PUBLISHED: WEDNESDAY, SEPTEMBER 11, 2019 ONLY

Send bill and one copy to: Champaign County Planning and Zoning Dept.
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802
Phone: 384-3708

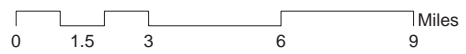
ETJ and Zoning Protest Areas within Champaign County

Cases 945-AT-19 & 946-AT-19, ZBA 10/31/19, Attachment B Page 1 of 1



Legend

- Zoning Protest
- Overlap Zoning Protest
- ETJ & Zoning Protest Overlap
- ETJ Area



Map Preparation Date: 10/22/2018



REVISED DRAFT 10/31/19
945-AT-19
FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals

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

Date: ***{October 31, 2019}***

Petitioner: **Zoning Administrator**

Request: **Amend the requirements for a photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the following requirements for any proposed PV solar farm that is located within one-and-one-half miles of a municipality:**

- A. Increase the minimum required time for municipal review by adding the following:
 - 1. Require the Zoning Administrator to send notice to any municipality located within one-and-one-half miles of a proposed PV solar farm prior to the start of a public hearing, in addition to any notice otherwise required.**
 - 2. Require the public hearing at the Zoning Board of Appeals (ZBA) for the PV solar farm to occur at a minimum of two ZBA meetings that are not less than 28 days apart unless the 28-day period is waived in writing by any relevant municipality.**
 - 3. Require the Zoning Administrator to notify said municipality of the ZBA recommendation after the close of the public hearing.**
 - 4. If the Environment and Land Use Committee (ELUC) makes a preliminary determination to accept the ZBA recommendation, the PV solar farm shall remain at ELUC for a maximum 30-day municipal comment period until the next ELUC meeting, unless the municipal comment period is waived in writing by any relevant municipality.****
 - B. Require municipal subdivision approval for any PV solar farm land lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.**
 - C. Amend Section 8.2.3 to allow any PV solar farm authorized prior to the effective date of this amendment and that is in the process of being repaired to not lose its zoning right to operate.**
 - D. Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit for the solar farm has not expired.**
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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 26, 2019 and October 31, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to update the requirements for Photovoltaic (PV) SOLAR FARMS and NONCONFORMING USES in the Zoning Ordinance.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases.

SUMMARY OF THE PROPOSED AMENDMENT

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.
 - A. The description of Parts A, B, C, and D of Case 945-AT-19 is renumbered in Case 946-AT-19 to Parts B, C, D, and E.
 - B. Case 946-AT-19 Part A, which increases the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to one-and-one-half miles, is not part of Case 945-AT-19.
 - C. The Environment and Land Use Committee requested that the ZBA consider both cases and make a recommendation of one amendment or the other, or recommend denial of both.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
 - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

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

REGARDING LRMP GOALS

6. LRMP Goal 1 is entitled “Planning and Public Involvement” and states that as follows:
Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.

Goal 1 has 4 objectives and 4 policies. Although the proposed amendment does not directly relate to the Objectives in Goal 1, the proposed amendment will **HELP ACHIEVE** the intent of Goal 1 because of the following:

- A. The proposed amendment will increase the number of opportunities that municipalities and interested residents have to voice their concerns about County decisions regarding PV SOLAR FARMS.
- B. The proposed amendment will better integrate land resource management planning within the one-and-one-half mile extraterritorial jurisdiction of municipalities with comprehensive plans.

7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

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

Goal 2 has two objectives and three policies. Objective 2.2 does not appear to be relevant to the proposed amendment. The proposed amendment will **HELP ACHIEVE** Goal 2 for the following reasons:

- A. Objective 2.1 states, “Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.”

Objective 2.1 has three subsidiary policies. Policy 2.1.1 and 2.1.3 do not appear to be relevant to the proposed amendment. The proposed amendment will **HELP ACHIEVE** Objective 2.1 because of the following:

- (1) Policy 2.1.2 states, “**The County will continue to work to seek a county-wide arrangement that respects and coordinates the interests of all jurisdictions and that provides for the logical extension of municipal land use jurisdiction by annexation agreements.**”

The proposed amendment will **HELP ACHIEVE** Policy 2.1.2 for the following reasons:

- a. Within the one-and-one-half mile extraterritorial jurisdiction of municipalities with an adopted Comprehensive Plan, the County maintains zoning jurisdiction up to the municipal corporate limits, and the municipality has planning jurisdiction up to one-and-one-half miles outside the corporate limits. In the County solar farm ordinance amendment approved August 23, 2018, a minimum one-half mile separation was established between a PV solar farm and corporate limits of municipalities with comprehensive plans.
- b. In October 2018, County Planner Susan Monte updated estimates of municipal areas, municipal 1-1/2 mile ETJ areas, and Zoning protest areas. She created an updated Land Use Management Areas (LUMA) Map that was a product of the Land Resource Management Plan (LRMP), which is an attachment to Supplemental Memorandum #1 dated October 24, 2019.

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(a) The total area that includes corporate areas, ETJ, and zoning protest areas is estimated to be 426.74 square miles out of the County’s approximate 998 square miles. The data below is a summary of estimated total areas within Champaign County. There is some overlap in the areas, but Ms. Monte counted each overlap area toward only one of the areas listed.

	Area in Square Miles	% of Champaign County
Municipalities	70.54	7.1%
ETJ area	237.48	23.8%
Zoning protest area	118.72	11.9%
Total	426.74	42.8%

- c. Regarding the difference between the amendments in Cases 945-AT-19 and 946-AT-19, proposed amendment Part A in Case 946-AT-19 (which is not a part of Case 945-AT-19) was requested by the municipalities in their letter dated November 5, 2018, because they want to maintain more than the one-half mile separation from their corporate limits. The proposed amendment does not change the fact that a PV Solar Farm developer could request a waiver from the 1.5-mile separation just as they can for the 0.5-mile separation in the current Zoning Ordinance.
- d. The villages that might be impacted by PV solar farm Special Use Permit applications within their one-and-one-half mile ETJ seek to have more of a say in whether a solar farm can build so close to their limits, because:
 - (a) it can impact future development plans;
 - (b) it might hamper efforts to annex such a development that would bring tax revenues to the village; would limit where villages can grow, especially for those that have severe geographic limits to growth already; and
 - (c) it would increase infrastructure costs if the municipality has to skirt around a PV solar farm.
 - (d) A summary of comments provided by Rantoul, Mahomet, and St. Joseph representatives can be found under Item 7.A.(1)j. below.
- e. The proposed amendment will increase the number of opportunities that municipalities and interested residents have to voice their concerns about County decisions regarding PV SOLAR FARMS.
- f. The proposed amendment will better integrate land resource management planning within the one-and-one-half mile extraterritorial jurisdiction of municipalities with comprehensive plans.

- g.** The County already coordinates with municipalities when a proposed development is subject to an annexation agreement, but is expected to remain in the unincorporated area, by sending zoning case notifications and working with municipal staff on the review process, and this is no different for proposed PV SOLAR FARMS.
- h.** The proposed subparagraph 6.1.5 V.(2)e. will add one month to the minimum time required for a public hearing at the Zoning Board of Appeals (ZBA) for a PV solar farm within one-and-one-half miles of a municipality. However, most public hearings for PV solar farms that are within one-and-one-half miles of a municipality already require at least two ZBA meetings for completion of the public hearing.
- i.** The proposed subparagraph 6.1.5 V.(2)g. will add one month to the ELUC review time for a PV solar farm within one-and-one-half miles of a municipality unless the additional month is waived by the relevant municipality. This additional time is similar to the review time for Zoning Ordinance text amendments. Note that Zoning Map amendments within one-and-one-half miles of a municipality are not provided this additional review time.
- j.** The additional municipal notification proposed in Sections 6.1.5 B.(2)a.(b) is a simple way to provide an early additional notice to a municipality about the proposed PV solar farm in addition to the statutory notice that is required no less than 15 days before the start of the public hearing. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- k.** The additional requirement related to a PV solar farm with a lease exceeding five years proposed in Section 6.1.5B.(2)a.(d) replicates requirements that are already in Section 13 of the Zoning Ordinance, but this duplication is beneficial as it will make the PV solar farm applicant aware of this requirement at the start of the process. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- l.** The additional municipal notification required after the close of a public hearing for a PV solar farm located within one-and-one-half miles of a municipality proposed in Section 6.1.5 B.(2)a.(f) is a simple way to provide good coordination between the municipality and the County review process. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- m.** The proposed amendment to Section 8.2.3 is necessary because any of the PV solar farms approved prior to this text amendment will be nonconforming with respect to this text amendment, and this text amendment is not intended to nullify those earlier PV solar farm approvals in the case of required repairs or replacements. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.

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- n. The proposed amendment to Section 8.2.4 is necessary because none of the PV solar farms approved prior to this text amendment will be constructed prior to approval of this text amendment, and this text amendment is not intended to nullify those earlier PV solar farm approvals. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- o. Regarding comments received during the hearing process:
- (a) In a letter received September 25, 2019, Rantoul Mayor Charles Smith stated, "The Village of Rantoul has an adopted Comprehensive Plan and with that plan and our own zoning authority we desire as much influence and control over zoning in the one-and-one-half mile extraterritorial jurisdictional area around our Village corporate limits as we can possibly have. The Village of Rantoul supports the proposed amendment being brought forth by Case 946-AT-19, which would increase the minimum separation between a solar farm and the municipal boundary from .5 miles to one-and-one-half miles. This amendment also sets review requirements to afford the Village adequate notice and review time for such solar farm placements. The Village of Rantoul respectfully requests Champaign County to move forward with the approval of Case 946-AT-19 in order to restore our ability to review and influence potential development and land usage within the entire one-and-one-half mile ETJ area afforded to the Village."
- (b) At the September 26, 2019 ZBA meeting, Ms. Tami Fruhling-Voges stated that she is the Mayor of St. Joseph and testified as follows:
- i. She said that she would like to discuss the importance of the one-and-one-half mile extra-territorial jurisdiction for St. Joseph, Ogden, Mahomet, Sidney, and Rantoul, and whether someone agrees or disagrees with solar farms is a discussion that can occur on another day. She said that there is room for growth and the biggest concern that the Village of St. Joseph has is the one-and-one-half mile extra-territorial jurisdiction being lowered to one-half mile, because that is not very far from their boundaries, and for a small village it is tough and expensive to grow.
- ii. She said that there are substations located to the north and south of St. Joseph, and three solar farms were proposed to be located on the north side of our community and all three solar farms were requesting variances to be closer than one-half mile from the Village of St. Joseph's corporate boundary. She said that the Village felt that they should have some say over what occurs within their one-and-one-half mile jurisdictional area, as they have a comprehensive plan that has changed a couple of times during her term because there are different ideas of what is desired outside of their growth area.
- iii. She said that St. Joseph will grow at some point and the placement of a solar farm in two directions that are the most

feasible directions for the Village's growth is a concern. She said that what occurs within one-and-one-half miles of the Village of St. Joseph is important, and a solar farm is a huge obstacle for future growth. She said that there are substations on the north and south sides, a river on the west side and railroad to the east of St. Joseph, and the Village could be completely boxed in if solar farms are constructed on both of those sides and there would be no potential for growth.

- iv. She stated that the argument has been voiced that the required infrastructure would be more costly for the solar farm companies if they are forced to locate further away from the existing substations, and she understands that argument, but that issue of cost is also true for St. Joseph. She said that the cost for their municipality to extend their growth area would be increased substantially if they have to jump over a 40-acre solar farm for continued growth of the Village. She said that all of the infrastructure would be more costly for their municipality because of the infrastructure, which includes roads, sidewalks, sewer, etc., would have to be constructed and installed around a solar farm and not under it due to the solar farm's structural design.
- v. She said that what the Village of St. Joseph is requesting between the two amendments is that the villages and municipalities are included in the conversation, because they do have some say as to what goes on outside of their boundaries. She said that the one-and-one-half mile jurisdictional area is not overdoing it as far as having enough area to do some planning for future growth. She said that with the solar farms in mind, she feels that all of the communities, whether small or large, excluding Champaign and Urbana because they have no substations within their extra-territorial jurisdiction and they have more staffing to handle these situations better, should be included in this conversation. She said that her staffing level at the Village of St. Joseph is very minimal, although she has had assistance from the Village of Mahomet, and they have been very helpful regarding the proposed amendments. She said that she contacted the Village Presidents of Sidney and Ogden to see if they had received the letters regarding the proposed text amendment, and they were not aware that the letters had been sent because they do not have the staffing to open their letter and put it on their desk for immediate review. She noted that most the mayors and presidents for small villages are not full-time employees because they have full-time jobs and they do not have the staff to hold their hand and get through all of the paperwork and proposals that they receive; they have to do it themselves. She said that the notifications from the County are important, because the small villages and municipalities need to

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know what is being proposed and how it will affect their communities. She said that she understands the solar farm's concern about cost, but the small villages and municipalities have the same concern. She said that if the municipalities are included in the discussion for what the future holds, the solar farm that was proposed within the Village of St. Joseph's extra-territorial jurisdiction area would have given the Village an opportunity to figure out if an annexation agreement would be appropriate. She said that currently, if a solar farm is outside of the boundaries for a municipality or village, they do not receive any of the generated tax dollars, but if the municipalities and villages were part of the conversation, there could be discussion regarding a possible annexation agreement so that those tax dollars are put back into the community.

vi. She said that both governments should work together because the jurisdictions do overlap. She said that the one-and-one-half mile separation proposal would be their choice, but they desire additional notifications and the ability to sit at the table to discuss the entire proposal that would affect their entire community, and they need to be part of the conversation.

(c) At the September 26, 2019 ZBA meeting, Mr. Frank DiNovo, ZBA member, stated that the overlapping of jurisdictions is not only unfortunate for the solar farms but also for a number of other uses, and most of them this Board has the authority to approve within the one-and-one-half mile of a municipality, and in some way, this is a bigger issue. He said that when the County was more naïve of the law, there used to be pre-application meetings with the petitioner, county planner, county zoning administrator, township highway commissioner, fire protection district, and someone from the municipality, and during that private meeting all entities would discuss the pros and cons of the proposal, hashing out what the issues were likely to be. He said that it was determined that these private meetings could not be held because the ZBA members could not attend to hear every piece of evidence. He said that an inquiry could be sent to the State's Attorney to see if this practice could be done again with just staff present, because this is an effective way of getting everything on the table and if it helps the petitioner prepare, then it helps everyone else prepare. He said that if it was legally possible to have this pre-application meeting, the best way to give municipalities notice is to involve them in a pre-application meeting with representatives from those municipalities. He said that a pre-application meeting involving the municipalities would be an ideal entry point for municipalities to participate and he would expect it to make the public hearing work better as well. He said that exploring the possibility of a pre-application meeting with the State's Attorney would be worthwhile.

- (d) At the September 26, 2019 ZBA meeting, Ms. Kelly Pfeifer, Planner and Development Director for the Village of Mahomet, testified as follows:
- i. She stated that the changes that are proposed which deal with the timing, consulting, notifications, and opportunities that are provided for municipalities are wonderful.
 - ii. She said that what traditionally happens is that the petitioners are not motivated to be forthright with information and indicate a minimal amount in their applications, and when a public hearing is held is when the rest of the information is disclosed. She said that unfortunately the facts are disclosed at the public hearing and by the time the ZBA makes its determination, the municipalities would not have had time to respond.
 - iii. She said that municipalities have different processes and requirements and that often makes things challenging. She said that the Village of Mahomet is growing very quickly, and it only takes a few feet to cause a road to not be able to go through somewhere, and we may need to be able to extend utilities past it.
 - iv. She said that the increase in the one-half mile and the one-and-one-half mile is going to give some people heartburn. She said that one-and-one-half miles from a municipality is pretty far, and sometimes a municipality will wish that they did not have that jurisdiction, because there are some areas where it is more of a burden for the municipality, as many times the subject property is not in the long-range area of their adopted comprehensive plan, but it is within their one-and-one-half mile extra-territorial jurisdiction, so they have rights and responsibilities as well. She said that even though the municipalities respect the landowner's rights, the public should also be protected, and that is when municipalities come into play and it is not a power struggle or land grab, but it is that there are some large planning issues that require so much time and strategizing and are not super flexible; therefore, the municipality needs to have input earlier.
 - v. She said that when a municipality indicates that they want the one-and-one-half miles, it is because there is a use that is developing on a piece of property in an area where a municipality has statutory authority to control development and subdivision. She said that what the one-and-one-half mile authority is saying is that, within the one-and-one-half mile jurisdiction, whether they need to subdivide or not, the municipality can deal with the same aspects and interests as they might have to deal with otherwise: roads, easements, setbacks, is this in a growth area, does it need to be shifted over, etc.
 - vi. She said that as far as annexation agreements, no one is going to take these poor little towns seriously if they are not included

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more as an important part of the process and the influence. Ms. Pfeifer said that for towns like Mahomet and St. Joseph, which have difficult geographical challenges, it is hard for a one size fits all on this particular issue. She said that having so many entities aligned with how they are willing to treat this particular use is pretty remarkable, and she hopes that we don't lose that aspect just because we have higher issues on other special uses. She said that she supports the text amendments that are before the Board tonight and supports a continuation, and they appreciate the consult time and the opportunity with the two public hearings aspect and the subdivision jurisdiction; it does a lot for many of the municipalities, but it doesn't do everything for everyone.

- (e) In an email received September 23, 2019, Phil Geil provided revisions to the proposed text amendment, recommending that all relevant municipalities within one-and-one-half miles of a proposed PV solar farm receive notification prior to the start of a public hearing.
- (f) In an email received September 24, 2019, Bruce Hannon stated, "I do hope that the county can stop any decisions to increase the zone size that prevents solar development. We and the county need all the renewables we can develop to fight climate change. We should be the "California" of Illinois."
- (g) At the September 26, 2019 ZBA meeting, Mr. Robert F. Illyes, who resides at 810 East Elm, Champaign, stated that he is present tonight because the Sierra Club Executive Committee discussed this solar farm issue and it was thought that someone should attend the meeting and voice their concerns. He said that his main concern is that access would be lost to substations and there should be some sort of process by which this access could happen. He said that he has a map of Champaign County and has indicated the areas of the County which would be included in the one-and-one-half mile offset, and it would include a lot of the County. He said that we need to make sure that substation access is allowed to keep down costs for a solar farm. He said that there is something odd about the layout on his map because many of the communities with the one-and-one-half mile setback are a lot of little towns that were established along the railroad and are not growing, and he is not sure that the County needs to be so scrupulous in establishing the one-and-one-half mile separation. Mr. Illyes stated that he is concerned about zoning that makes sense. He said that one-and-one-half mile separation may not be critical to a small town or village that is not growing, and someone may want to make use of the land. He said that there are other communities that are definitely growing and should legitimately have concern about these cases. He said that he would like to see this process being loose enough that the Board can do what makes

sense, and various other stakeholders should be consulted to determine a reasonable solution.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

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

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

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

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

Goal 4 has 9 objectives and 22 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 4.

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

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

Goal 5 has 3 objectives and 15 policies. Objectives 5.2 and 5.3 and their subsidiary policies are either not relevant or will not be impeded by the proposed amendment. The proposed amendment will **NOT IMPEDE** Goal 5 for the following reasons:

- A. Objective 5.1 is entitled “Population Growth and Economic Development” and states, “Champaign County will strive to ensure that the preponderance of population growth and economic development is accommodated by new *urban development* in or adjacent to existing population centers.”

Objective 5.1 has nine subsidiary policies. Policies 5.1.1, 5.1.2, 5.1.3, 5.1.5, 5.1.6, 5.1.7, 5.1.8 do not appear to be relevant to the proposed amendment. The proposed amendment will **NOT IMPEDE** Objective 5.1 because of the following:

- (1) Policy 5.1.4 states, “**The County may approve discretionary development outside contiguous urban growth areas, but within municipal extra-territorial jurisdiction areas only if:**
- a. **the development is consistent with the municipal comprehensive plan and relevant municipal requirements;**
 - b. **the site is determined to be well-suited overall for the development if on best prime farmland or the site is suited overall, otherwise; and**
 - c. **the development is generally consistent with all relevant LRMP objectives and policies.”**

The proposed amendment will **HELP ACHIEVE** Policy 5.1.4 for the following reasons:

- a. The County already researches and considers a municipality’s one-and-one-half mile extra-territorial jurisdiction planning area as shown in an adopted municipal Comprehensive Plan as part of the approval process for a PV SOLAR FARM.

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- b. The proposed amendment will not change the County’s consideration of a proposed PV SOLAR FARM site being well-suited overall or suited overall.
 - c. The proposed amendment will not change the County’s consideration of a proposed PV SOLAR FARM being generally consistent with all relevant LRMP objectives and policies.
 - d. The proposed amendment will improve consistency with municipal requirements by making PV SOLAR FARM developers aware that municipal subdivision approval will be required for any land lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.
- (2) Policy 5.1.9 states, **“The County will encourage any new discretionary development that is located within municipal extra-territorial jurisdiction areas and subject to an annexation agreement (but which is expected to remain in the unincorporated area) to undergo a coordinated municipal and County review process, with the municipality considering any discretionary development approval from the County that would otherwise be necessary without the annexation agreement.”**

The proposed amendment will **NOT IMPEDE** Policy 5.1.9 for the following reason:

- a. The County already coordinates with municipalities when a proposed development is subject to an annexation agreement, but is expected to remain in the unincorporated area, by sending zoning case notifications and working with municipal staff on the review process, and this is no different for proposed PV SOLAR FARMS.

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

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

Goal 6 has 4 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 6.

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

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

Goal 7 has 2 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 7.

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

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

Goal 8 has 9 objectives and 36 policies. The proposed amendment will ***NOT IMPEDE*** the achievement of Goal 8.

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

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

Goal 9 has 5 objectives and 5 policies. The proposed amendment will ***NOT IMPEDE*** the achievement of Goal 9.

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

Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

Goal 10 has 1 objective and 1 policy. Goal 10 is ***NOT RELEVANT*** to the proposed amendment in general.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

16. The proposed amendment will ***NOT IMPEDE*** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is not directly related to this purpose.

- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed amendment is consistent with this purpose because it provides additional opportunities for future land uses in municipal planning areas to be considered in the context of zoning approvals for PV SOLAR FARMS.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public STREETS.

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is consistent with this purpose because the amendment is responsive to municipal representatives' concerns about their ability to have early and continuing opportunities to have a voice in the approval process for PV SOLAR FARMS.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected.

The proposed amendment is not directly related to this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is not directly related to this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of LOT areas, and regulating and determining the area of open spaces within and surrounding BUILDINGS and STRUCTURES.

The proposed amendment is not directly related to this purpose.

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES.

The proposed amendment is consistent with this purpose.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is consistent with this purpose.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform.

The proposed amendment is consistent with this purpose.

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit USES, BUILDINGS, or STRUCTURES incompatible with the character of such DISTRICTS.

The proposed amendment is consistent with this purpose.

- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is consistent with this purpose.

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban USES.

The proposed amendment is not directly related to this purpose.

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is not directly related to this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is not directly related to this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed amendment is consistent with this purpose.

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is consistent with this purpose.

SUMMARY FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 26, 2019** and **October 31, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance text amendment **IS NECESSARY TO ACHIEVE** the Land Resource Management Plan because:
 - A. The proposed Zoning Ordinance text amendment will **HELP ACHIEVE** LRMP Goals 1 and 2.
 - B. The proposed Zoning Ordinance text amendment **WILL NOT IMPEDE** the achievement of LRMP Goals 3, 4, 5, 6, 7, 8, and 9.
 - C. The proposed Zoning Ordinance text amendment is **NOT RELEVANT** to LRMP Goal 10.
2. The proposed text amendment **WILL** improve the Zoning Ordinance because it will **NOT IMPEDE** the purpose of the Zoning Ordinance (see Item 16).

DOCUMENTS OF RECORD

1. Legal advertisement
2. ELUC Memorandum dated May 1, 2019 with attachments:
 - A Letter dated November 5, 2018, from the Village of St. Joseph to the Champaign County Board Chair
 - B Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - C Draft Changes to Section 6.1.5 B.(2) Champaign County Zoning Ordinance Requirements for Photovoltaic Solar Farms in Response to Municipal Concerns
3. ELUC Memorandum dated May 29, 2019, with attachments:
 - A Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - B Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing only)
 - C Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing plus increase in separation distance)
4. Preliminary Memorandum for Cases 945-AT-19 and 946-AT-19 dated July 18, 2019, with attachments:
 - 1 Legal advertisement
 - 2 ELUC Memorandum dated May 1, 2019 with attachments:
 - A Letter dated November 5, 2018, from the Village of St. Joseph to the Champaign County Board Chair
 - B Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - C Draft Changes to Section 6.1.5 B.(2) Champaign County Zoning Ordinance Requirements for Photovoltaic Solar Farms in Response to Municipal Concerns
 - 3 ELUC Memorandum dated May 29, 2019, with attachments:
 - A Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - B Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing only)
 - C Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing plus increase in separation distance)
 - 4 Side-by-side comparison of proposed amendments in Cases 945-AT-19 and 946-AT-19
 - 5 Land Resource Management Plan (LRMP) Goals & Objectives
 - 6 Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 945-AT-19 dated September 26, 2019
 - 7 Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 946-AT-19 dated September 26, 2019
5. Email from Phil Geil received September 23, 2019
6. Email from Bruce Hannon received September 24, 2019
7. Letter from Rantoul Mayor Charles Smith received September 25, 2019
8. Supplemental Memorandum #1 dated October 24, 2019, with attachments:
 - A Legal notice
 - B Land Use Management Areas (LUMA) Map, updated October 2018
 - C Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 945-AT-19 dated October 31, 2019
 - D Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 946-AT-19 dated October 31, 2019

Case 945-AT-19

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FINAL DETERMINATION FOR CASE 945-AT-19

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

The Zoning Ordinance Amendment requested in **Case 945-AT-19** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

PROPOSED AMENDMENT FOR CASE 945-AT-19**1. Revise Section 6.1.5B.(2) as follows:**

- (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:
- a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include unless the following is provided:
 - (a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, ~~except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.~~
 - (b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one-and one-half miles of any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.
 - ~~(bc)~~ The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.
 - (d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.
 - (e) The public hearing for any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance shall occur at a minimum of two BOARD meetings that are not less than 28 days apart to provide time for municipal comments during the public hearing, unless the 28-day comment period is waived in writing by any relevant municipality.
 - (df) For any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance, the ZONING ADMINISTRATOR shall notify said municipality of the recommendation by the BOARD after the close of the public hearing.
 - (eg) After the initial review of the BOARD recommendation for the PV SOLAR FARM SPECIAL USE permit by the Environment and Land Use Committee of the COUNTY BOARD, if the Environment and Land Use Committee makes a preliminary determination to accept the BOARD recommendation, the PV

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SOLAR FARM SPECIAL USE permit shall remain at the Environment and Land Use Committee for a maximum 30-day comment period, or until the next regularly scheduled meeting, to allow comments regarding the PV SOLAR FARM SPECIAL USE permit to be received from any relevant municipal authority prior to the Environment and Land Use Committee recommendation to the County Board, unless the municipal comment period is waived in writing by any relevant municipality. If a PV SOLAR FARM is not located within one-and-one-half miles of a municipality the Environment and Land Use recommendation can be referred to the County Board without a municipal comment period.

- (eh) If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board, the ZONING ADMINISTRATOR shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board.

2. Revise Section 8.2.3 as follows:

If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days except for seasonal vacations lasting more than 274 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by either the posting of a sign on the front LOT LINE of the property or when marketed by other affirmative means, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located. The requirements of Section 8.2.3 shall not apply to any PV SOLAR FARM authorized prior to {effective date of this amendment} or PV SOLAR FARM equipment that is in the process of being repaired or replaced.

3. Add new Section 8.2.4 as follows:

For purposes of applicability of this Section 8.2 to any PV SOLAR FARM, any PV SOLAR FARM for which a SPECIAL USE permit had been authorized prior to {effective date of this amendment}, said PV SOLAR FARM may be constructed in compliance with the SPECIAL USE permit and subject to a duly approved Zoning Use Permit so long as the construction shall be consistent with the SPECIAL USE permit expiration requirements of Section 6.1.5 T. and any special conditions of approval that may be applicable.

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946-AT-19
FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals

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

Date: ***{October 31, 2019}***

Petitioner: **Zoning Administrator**

Request: **Amend the requirements for a photovoltaic (PV) solar farm in Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance by adding the following requirements for any proposed PV solar farm that is located within one-and-one-half miles of a municipality:**

- A. Increase the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to one-and-one-half miles.**
 - B. Increase the minimum required time for municipal review by adding the following:**
 - 1. Require the Zoning Administrator to send notice to any municipality located within one-and-one-half miles of a proposed PV solar farm prior to the start of a public hearing, in addition to any notice otherwise required.**
 - 2. Require the public hearing at the Zoning Board of Appeals (ZBA) for the PV solar farm to occur at a minimum of two ZBA meetings that are not less than 28 days apart unless the 28-day period is waived in writing by any relevant municipality.**
 - 3. Require the Zoning Administrator to notify said municipality of the ZBA recommendation after the close of the public hearing.**
 - 4. If the Environment and Land Use Committee (ELUC) makes a preliminary determination to accept the ZBA recommendation, the PV solar farm shall remain at ELUC for a maximum 30-day municipal comment period until the next ELUC meeting, unless the municipal comment period is waived in writing by any relevant municipality.**
 - C. Require municipal subdivision approval for any PV solar farm land lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.**
 - D. Amend Section 8.2.3 to allow any PV solar farm authorized prior to the effective date of this amendment and that is in the process of being repaired to not lose its zoning right to operate.**
 - E. Add new Section 8.2.4 to allow any PV solar farm authorized prior to the effective date of this amendment to be constructed pursuant to the standard requirement of a Zoning Use Permit, provided that the Special Use Permit for the solar farm has not expired.**
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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 26, 2019** and **October 31, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The proposed amendment is intended to update the requirements for Photovoltaic (PV) SOLAR FARMS and NONCONFORMING USES in the Zoning Ordinance.
3. Municipalities with zoning and townships with planning commissions have protest rights on all text amendments and they are notified of such cases.

SUMMARY OF THE PROPOSED AMENDMENT

4. The proposed amendment is attached to this Finding of Fact as it will appear in the Zoning Ordinance.
 - A. The description of Parts A, B, C, and D of Case 945-AT-19 is renumbered in Case 946-AT-19 to Parts B, C, D, and E.
 - B. Case 946-AT-19 Part A, which increases the minimum required separation between a PV solar farm and a municipal boundary from 0.5 mile to one-and-one-half miles, is not part of Case 945-AT-19.
 - C. The Environment and Land Use Committee requested that the ZBA consider both cases and make a recommendation of one amendment or the other, or recommend denial of both.

GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

5. The *Champaign County Land Resource Management Plan* (LRMP) was adopted by the County Board on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
 - A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:

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

REGARDING LRMP GOALS

6. LRMP Goal 1 is entitled “Planning and Public Involvement” and states that as follows:
Champaign County will attain a system of land resource management planning built on broad public involvement that supports effective decision making by the County.

Goal 1 has 4 objectives and 4 policies. Although the proposed amendment does not directly relate to the Objectives in Goal 1, the proposed amendment will **HELP ACHIEVE** the intent of Goal 1 because of the following:

- A. The proposed amendment will increase the number of opportunities that municipalities and interested residents have to voice their concerns about County decisions regarding PV SOLAR FARMS.
- B. The proposed amendment will better integrate land resource management planning within the one-and-one-half mile extraterritorial jurisdiction of municipalities with comprehensive plans.
7. LRMP Goal 2 is entitled “Governmental Coordination” and states as follows:

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

Goal 2 has two objectives and three policies. Objective 2.2 does not appear to be relevant to the proposed amendment. The proposed amendment will **HELP ACHIEVE** Goal 2 for the following reasons:

- A. Objective 2.1 states, “Champaign County will coordinate land resource management planning with all County jurisdictions and, to the extent possible, in the larger region.”

Objective 2.1 has three subsidiary policies. Policy 2.1.1 and 2.1.3 do not appear to be relevant to the proposed amendment. The proposed amendment will **HELP ACHIEVE** Objective 2.1 because of the following:

- (1) Policy 2.1.2 states, “**The County will continue to work to seek a county-wide arrangement that respects and coordinates the interests of all jurisdictions and that provides for the logical extension of municipal land use jurisdiction by annexation agreements.**”

The proposed amendment will **HELP ACHIEVE** Policy 2.1.2 for the following reasons:

- a. Within the one-and-one-half mile extraterritorial jurisdiction of municipalities with an adopted Comprehensive Plan, the County maintains zoning jurisdiction up to the municipal corporate limits, and the municipality has planning jurisdiction up to one-and-one-half miles outside the corporate limits. In the County solar farm ordinance amendment approved August 23, 2018, a minimum one-half mile separation was established between a PV solar farm and corporate limits of municipalities with comprehensive plans.
- b. In October 2018, County Planner Susan Monte updated estimates of municipal areas, municipal 1-1/2 mile ETJ areas, and Zoning protest areas. She created an updated Land Use Management Areas (LUMA) Map that was a product of the Land Resource Management Plan (LRMP), which is an attachment to Supplemental Memorandum #1 dated October 24, 2019.

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(a) The total area that includes corporate areas, ETJ, and zoning protest areas is estimated to be 426.74 square miles out of the County's approximate 998 square miles. The data below is a summary of estimated total areas within Champaign County. There is some overlap in the areas, but Ms. Monte counted each overlap area toward only one of the areas listed.

	Area in Square Miles	% of Champaign County
Municipalities	70.54	7.1%
ETJ area	237.48	23.8%
Zoning protest area	118.72	11.9%
Total	426.74	42.8%

- c. Regarding the difference between the amendments in Cases 945-AT-19 and 946-AT-19, proposed amendment Part A in Case 946-AT-19 (which is not a part of Case 945-AT-19) was requested by the municipalities in their letter dated November 5, 2018, because they want to maintain more than the one-half mile separation from their corporate limits. The proposed amendment does not change the fact that a PV Solar Farm developer could request a waiver from the 1.5-mile separation just as they can for the 0.5-mile separation in the current Zoning Ordinance.
- d. The villages that might be impacted by PV solar farm Special Use Permit applications within their one-and-one-half mile ETJ seek to have more of a say in whether a solar farm can build so close to their limits, because:
- (a) it can impact future development plans;
- (b) it might hamper efforts to annex such a development that would bring tax revenues to the village; would limit where villages can grow, especially for those that have severe geographic limits to growth already; and
- (c) it would increase infrastructure costs if the municipality has to skirt around a PV solar farm.
- (d) A summary of comments provided by Rantoul, Mahomet, and St. Joseph representatives can be found under Item 7.A.(1)j. below.
- e. The proposed amendment will increase the number of opportunities that municipalities and interested residents have to voice their concerns about County decisions regarding PV SOLAR FARMS.
- f. The proposed amendment will better integrate land resource management planning within the one-and-one-half mile extraterritorial jurisdiction of municipalities with comprehensive plans.

- g. The County already coordinates with municipalities when a proposed development is subject to an annexation agreement, but is expected to remain in the unincorporated area, by sending zoning case notifications and working with municipal staff on the review process, and this is no different for proposed PV SOLAR FARMS.
- h. The proposed subparagraph 6.1.5 B.(2)a.(e). will add one month to the minimum time required for a public hearing at the Zoning Board of Appeals (ZBA) for a PV solar farm within one-and-one-half miles of a municipality. However, most public hearings for PV solar farms that are within one-and-one-half miles of a municipality already require at least two ZBA meetings for completion of the public hearing.
- i. The proposed subparagraph 6.1.5 B.(2)a.(g). will add one month to the ELUC review time for a PV solar farm within one-and-one-half miles of a municipality unless the additional month is waived by the relevant municipality. This additional time is similar to the review time for Zoning Ordinance text amendments. Note that Zoning Map amendments within one-and-one-half miles of a municipality are not provided this additional review time.
- j. The additional municipal notification proposed in Sections 6.1.5 B.(2)a.(b) is a simple way to provide an early additional notice to a municipality about the proposed PV solar farm in addition to the statutory notice that is required no less than 15 days before the start of the public hearing. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- k. The additional requirement related to a PV solar farm with a lease exceeding five years proposed in Section 6.1.5B.(2)a.(d) replicates requirements that are already in Section 13 of the Zoning Ordinance, but this duplication is beneficial as it will make the PV solar farm applicant aware of this requirement at the start of the process. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- l. The additional municipal notification required after the close of a public hearing for a PV solar farm located within one-and-one-half miles of a municipality proposed in Section 6.1.5 B.(2)a.(f) is a simple way to provide good coordination between the municipality and the County review process. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- m. The proposed amendment to Section 8.2.3 is necessary because any of the PV solar farms approved prior to this text amendment will be nonconforming with respect to this text amendment, and this text amendment is not intended to nullify those earlier PV solar farm approvals in the case of required repairs or replacements. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.

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- n. The proposed amendment to Section 8.2.4 is necessary because none of the PV solar farms approved prior to this text amendment will be constructed prior to approval of this text amendment, and this text amendment is not intended to nullify those earlier PV solar farm approvals. This part of the amendment was not requested in the November 5, 2018 letter from non-home rule municipalities.
- o. Regarding comments received during the hearing process:
- (a) In a letter received September 25, 2019, Rantoul Mayor Charles Smith stated, “The Village of Rantoul has an adopted Comprehensive Plan and with that plan and our own zoning authority we desire as much influence and control over zoning in the one-and-one-half mile extraterritorial jurisdictional area around our Village corporate limits as we can possibly have. The Village of Rantoul supports the proposed amendment being brought forth by Case 946-AT-19, which would increase the minimum separation between a solar farm and the municipal boundary from .5 miles to one-and-one-half miles. This amendment also sets review requirements to afford the Village adequate notice and review time for such solar farm placements. The Village of Rantoul respectfully requests Champaign County to move forward with the approval of Case 946-AT-19 in order to restore our ability to review and influence potential development and land usage within the entire one-and-one-half mile ETJ area afforded to the Village.”
- (b) At the September 26, 2019 ZBA meeting, Ms. Tami Fruhling-Voges stated that she is the Mayor of St. Joseph and testified as follows:
- i. She said that she would like to discuss the importance of the one and one-half mile extra-territorial jurisdiction for St. Joseph, Ogden, Mahomet, Sidney, and Rantoul, and whether someone agrees or disagrees with solar farms is a discussion that can occur on another day. She said that there is room for growth and the biggest concern that the Village of St. Joseph has is the one-and-one-half mile extra-territorial jurisdiction being lowered to one-half mile, because that is not very far from their boundaries, and for a small village it is tough and expensive to grow.
- ii. She said that there are substations located to the north and south of St. Joseph, and three solar farms were proposed to be located on the north side of our community and all three solar farms were requesting variances to be closer than one-half mile from the Village of St. Joseph’s corporate boundary. She said that the Village felt that they should have some say over what occurs within their one-and-one-half mile jurisdictional area, as they have a comprehensive plan that has changed a couple of times during her term because there are different ideas of what is desired outside of their growth area.
- iii. She said that St. Joseph will grow at some point and the placement of a solar farm in two directions that are the most

feasible directions for the Village's growth is a concern. She said that what occurs within one-and-one-half miles of the Village of St. Joseph is important, and a solar farm is a huge obstacle for future growth. She said that there are substations on the north and south sides, a river on the west side and railroad to the east of St. Joseph, and the Village could be completely boxed in if solar farms are constructed on both of those sides and there would be no potential for growth.

- iv. She stated that the argument has been voiced that the required infrastructure would be more costly for the solar farm companies if they are forced to locate further away from the existing substations, and she understands that argument, but that issue of cost is also true for St. Joseph. She said that the cost for their municipality to extend their growth area would be increased substantially if they have to jump over a 40-acre solar farm for continued growth of the Village. She said that all of the infrastructure would be more costly for their municipality because of the infrastructure, which includes roads, sidewalks, sewer, etc., would have to be constructed and installed around a solar farm and not under it due to the solar farm's structural design.
- v. She said that what the Village of St. Joseph is requesting between the two amendments is that the villages and municipalities are included in the conversation, because they do have some say as to what goes on outside of their boundaries. She said that the one-and-one-half mile jurisdictional area is not overdoing it as far as having enough area to do some planning for future growth. She said that with the solar farms in mind, she feels that all of the communities, whether small or large, excluding Champaign and Urbana because they have no substations within their extra-territorial jurisdiction and they have more staffing to handle these situations better, should be included in this conversation. She said that her staffing level at the Village of St. Joseph is very minimal, although she has had assistance from the Village of Mahomet, and they have been very helpful regarding the proposed amendments. She said that she contacted the Village Presidents of Sidney and Ogden to see if they had received the letters regarding the proposed text amendment, and they were not aware that the letters had been sent because they do not have the staffing to open their letter and put it on their desk for immediate review. She noted that most the mayors and presidents for small villages are not full-time employees because they have full-time jobs and they do not have the staff to hold their hand and get through all of the paperwork and proposals that they receive; they have to do it themselves. She said that the notifications from the County are important, because the small villages and municipalities need to

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know what is being proposed and how it will affect their communities. She said that she understands the solar farm's concern about cost, but the small villages and municipalities have the same concern. She said that if the municipalities are included in the discussion for what the future holds, the solar farm that was proposed within the Village of St. Joseph's extra-territorial jurisdiction area would have given the Village an opportunity to figure out if an annexation agreement would be appropriate. She said that currently, if a solar farm is outside of the boundaries for a municipality or village, they do not receive any of the generated tax dollars, but if the municipalities and villages were part of the conversation, there could be discussion regarding a possible annexation agreement so that those tax dollars are put back into the community.

vi. She said that both governments should work together because the jurisdictions do overlap. She said that the one-and-one-half mile separation proposal would be their choice, but they desire additional notifications and the ability to sit at the table to discuss the entire proposal that would affect their entire community, and they need to be part of the conversation.

(c) At the September 26, 2019 ZBA meeting, Mr. Frank DiNovo, ZBA member, stated that the overlapping of jurisdictions is not only unfortunate for the solar farms but also for a number of other uses, and most of them this Board has the authority to approve within the one-and-one-half mile of a municipality, and in some way, this is a bigger issue. He said that when the County was more naïve of the law, there used to be pre-application meetings with the petitioner, county planner, county zoning administrator, township highway commissioner, fire protection district, and someone from the municipality, and during that private meeting all entities would discuss the pros and cons of the proposal, hashing out what the issues were likely to be. He said that it was determined that these private meetings could not be held because the ZBA members could not attend to hear every piece of evidence. He said that an inquiry could be sent to the State's Attorney to see if this practice could be done again with just staff present, because this is an effective way of getting everything on the table and if it helps the petitioner prepare, then it helps everyone else prepare. He said that if it was legally possible to have this pre-application meeting, the best way to give municipalities notice is to involve them in a pre-application meeting with representatives from those municipalities. He said that a pre-application meeting involving the municipalities would be an ideal entry point for municipalities to participate and he would expect it to make the public hearing work better as well. He said that exploring the possibility of a pre-application meeting with the State's Attorney would be worthwhile.

- (d) At the September 26, 2019 ZBA meeting, Ms. Kelly Pfeifer, Planner and Development Director for the Village of Mahomet, testified as follows:
- i. She stated that the changes that are proposed which deal with the timing, consulting, notifications, and opportunities that are provided for municipalities are wonderful.
 - ii. She said that what traditionally happens is that the petitioners are not motivated to be forthright with information and indicate a minimal amount in their applications, and when a public hearing is held is when the rest of the information is disclosed. She said that unfortunately the facts are disclosed at the public hearing and by the time the ZBA makes its determination, the municipalities would not have had time to respond.
 - iii. She said that municipalities have different processes and requirements and that often makes things challenging. She said that the Village of Mahomet is growing very quickly, and it only takes a few feet to cause a road to not be able to go through somewhere, and we may need to be able to extend utilities past it.
 - iv. She said that the increase in the one-half mile and the one-and-one-half mile is going to give some people heartburn. She said that one-and-one-half miles from a municipality is pretty far, and sometimes a municipality will wish that they did not have that jurisdiction, because there are some areas where it is more of a burden for the municipality, as many times the subject property is not in the long-range area of their adopted comprehensive plan, but it is within their one-and-one-half mile extra-territorial jurisdiction, so they have rights and responsibilities as well. She said that even though the municipalities respect the landowner's rights, the public should also be protected, and that is when municipalities come into play and it is not a power struggle or land grab, but it is that there are some large planning issues that require so much time and strategizing and are not super flexible; therefore, the municipality needs to have input earlier.
 - v. She said that when a municipality indicates that they want the one-and-one-half miles, it is because there is a use that is developing on a piece of property in an area where a municipality has statutory authority to control development and subdivision. She said that what the one-and-one-half mile authority is saying is that, within the one-and-one-half mile jurisdiction, whether they need to subdivide or not, the municipality can deal with the same aspects and interests as they might have to deal with otherwise: roads, easements, setbacks, is this in a growth area, does it need to be shifted over, etc.
 - vi. She said that as far as annexation agreements, no one is going to take these poor little towns seriously if they are not included

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more as an important part of the process and the influence. Ms. Pfeifer said that for towns like Mahomet and St. Joseph, which have difficult geographical challenges, it is hard for a one size fits all on this particular issue. She said that having so many entities aligned with how they are willing to treat this particular use is pretty remarkable, and she hopes that we don't lose that aspect just because we have higher issues on other special uses. She said that she supports the text amendments that are before the Board tonight and supports a continuation, and they appreciate the consult time and the opportunity with the two public hearings aspect and the subdivision jurisdiction; it does a lot for many of the municipalities, but it doesn't do everything for everyone.

- (e) In an email received September 23, 2019, Phil Geil provided revisions to the proposed text amendment, recommending that all relevant municipalities within one-and-one-half miles of a proposed PV solar farm receive notification prior to the start of a public hearing.
- (f) In an email received September 24, 2019, Bruce Hannon stated, "I do hope that the county can stop any decisions to increase the zone size that prevents solar development. We and the county need all the renewables we can develop to fight climate change. We should be the "California" of Illinois."
- (g) At the September 26, 2019 ZBA meeting, Mr. Robert F. Illyes, who resides at 810 East Elm, Champaign, stated that he is present tonight because the Sierra Club Executive Committee discussed this solar farm issue and it was thought that someone should attend the meeting and voice their concerns. He said that his main concern is that access would be lost to substations and there should be some sort of process by which this access could happen. He said that he has a map of Champaign County and has indicated the areas of the County which would be included in the one-and-one-half mile offset, and it would include a lot of the County. He said that we need to make sure that substation access is allowed to keep down costs for a solar farm. He said that there is something odd about the layout on his map because many of the communities with the one-and-one-half mile setback are a lot of little towns that were established along the railroad and are not growing, and he is not sure that the County needs to be so scrupulous in establishing the one-and-one-half mile separation. Mr. Illyes stated that he is concerned about zoning that makes sense. He said that one-and-one-half mile separation may not be critical to a small town or village that is not growing, and someone may want to make use of the land. He said that there are other communities that are definitely growing and should legitimately have concern about these cases. He said that he would like to see this process being loose enough that the Board can do what makes

sense, and various other stakeholders should be consulted to determine a reasonable solution.

8. LRMP Goal 3 is entitled “Prosperity” and states as follows:

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

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

9. LRMP Goal 4 is entitled “Agriculture” and states as follows:

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

Goal 4 has 9 objectives and 22 policies. The proposed amendment will *NOT IMPEDE* the achievement of Goal 4.

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

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

Goal 5 has 3 objectives and 15 policies. Objectives 5.2 and 5.3 and their subsidiary policies are either not relevant or will not be impeded by the proposed amendment. The proposed amendment will *NOT IMPEDE* Goal 5 for the following reasons:

- A. Objective 5.1 is entitled “Population Growth and Economic Development” and states, “Champaign County will strive to ensure that the preponderance of population growth and economic development is accommodated by new *urban development* in or adjacent to existing population centers.”

Objective 5.1 has nine subsidiary policies. Policies 5.1.1, 5.1.2, 5.1.3, 5.1.5, 5.1.6, 5.1.7, 5.1.8 do not appear to be relevant to the proposed amendment. The proposed amendment will *NOT IMPEDE* Objective 5.1 because of the following:

- (1) Policy 5.1.4 states, “**The County may approve discretionary development outside contiguous urban growth areas, but within municipal extra-territorial jurisdiction areas only if:**
- a. **the development is consistent with the municipal comprehensive plan and relevant municipal requirements;**
 - b. **the site is determined to be well-suited overall for the development if on best prime farmland or the site is suited overall, otherwise; and**
 - c. **the development is generally consistent with all relevant LRMP objectives and policies.”**

The proposed amendment will *HELP ACHIEVE* Policy 5.1.4 for the following reasons:

- a. The County already researches and considers a municipality’s one-and-one-half mile extra-territorial jurisdiction planning area as shown in an adopted municipal Comprehensive Plan as part of the approval process for a PV SOLAR FARM.

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- b. The proposed amendment will not change the County’s consideration of a proposed PV SOLAR FARM site being well-suited overall or suited overall.
 - c. The proposed amendment will not change the County’s consideration of a proposed PV SOLAR FARM being generally consistent with all relevant LRMP objectives and policies.
 - d. The proposed amendment will improve consistency with municipal requirements by making PV SOLAR FARM developers aware that municipal subdivision approval will be required for any land lease exceeding five years when required by any relevant municipal authority that has an adopted comprehensive plan.
- (2) Policy 5.1.9 states, **“The County will encourage any new discretionary development that is located within municipal extra-territorial jurisdiction areas and subject to an annexation agreement (but which is expected to remain in the unincorporated area) to undergo a coordinated municipal and County review process, with the municipality considering any discretionary development approval from the County that would otherwise be necessary without the annexation agreement.”**

The proposed amendment will **NOT IMPEDE** Policy 5.1.9 for the following reason:

- a. The County already coordinates with municipalities when a proposed development is subject to an annexation agreement, but is expected to remain in the unincorporated area, by sending zoning case notifications and working with municipal staff on the review process, and this is no different for proposed PV SOLAR FARMS.

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

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

Goal 6 has 4 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 6.

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

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

Goal 7 has 2 objectives and 7 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 7.

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

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

Goal 8 has 9 objectives and 36 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 8.

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

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

Goal 9 has 5 objectives and 5 policies. The proposed amendment will **NOT IMPEDE** the achievement of Goal 9.

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

Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

Goal 10 has 1 objective and 1 policy. Goal 10 is **NOT RELEVANT** to the proposed amendment in general.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

16. The proposed amendment will **NOT IMPEDE** the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance for the following reasons:

- A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.

The proposed amendment is not directly related to this purpose.

- B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.

The proposed amendment is consistent with this purpose because it provides additional opportunities for future land uses in municipal planning areas to be considered in the context of zoning approvals for PV SOLAR FARMS.

- C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public STREETS.

The proposed amendment is not directly related to this purpose.

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

The proposed amendment is not directly related to this purpose.

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- E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.

The proposed amendment is consistent with this purpose because the amendment is responsive to municipal representatives' concerns about their ability to have early and continuing opportunities to have a voice in the approval process for PV SOLAR FARMS.

- F. Paragraph 2.0 (f) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected.

The proposed amendment is not directly related to this purpose.

- G. Paragraph 2.0 (g) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to establish, regulate, and limit the building or setback lines on or along any street, trafficway, drive or parkway.

The proposed amendment is not directly related to this purpose.

- H. Paragraph 2.0 (h) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to regulate and limit the intensity of the use of LOT areas, and regulating and determining the area of open spaces within and surrounding BUILDINGS and STRUCTURES.

The proposed amendment is not directly related to this purpose.

- I. Paragraph 2.0 (i) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to classify, regulate, and restrict the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES.

The proposed amendment is consistent with this purpose.

- J. Paragraph 2.0 (j) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to divide the entire County into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT area, area of open spaces, and other classification as may be deemed best suited to carry out the purpose of the ordinance.

The proposed amendment is consistent with this purpose.

- K. Paragraph 2.0 (k) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to fix regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform.

The proposed amendment is consistent with this purpose.

- L. Paragraph 2.0 (l) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prohibit USES, BUILDINGS, or STRUCTURES incompatible with the character of such DISTRICTS.

The proposed amendment is consistent with this purpose.

- M. Paragraph 2.0 (m) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to prevent additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

The proposed amendment is consistent with this purpose.

- N. Paragraph 2.0 (n) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect the most productive agricultural lands from haphazard and unplanned intrusions of urban USES.

The proposed amendment is not directly related to this purpose.

- O. Paragraph 2.0 (o) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to protect natural features such as forested areas and watercourses.

The proposed amendment is not directly related to this purpose.

- P. Paragraph 2.0 (p) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The proposed amendment is not directly related to this purpose.

- Q. Paragraph 2.0 (q) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to encourage the preservation of agricultural belts surrounding urban areas, to retain the agricultural nature of the County, and the individual character of existing communities.

The proposed amendment is consistent with this purpose.

- R. Paragraph 2.0 (r) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The proposed amendment is consistent with this purpose.

SUMMARY FINDING OF FACT FOR CASE 945-AT-19

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 26, 2019** and **October 31, 2019**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance text amendment ***IS NECESSARY TO ACHIEVE*** the Land Resource Management Plan because:
 - A. The proposed Zoning Ordinance text amendment will ***HELP ACHIEVE*** LRMP Goals 1 and 2.
 - B. The proposed Zoning Ordinance text amendment ***WILL NOT IMPEDE*** the achievement of LRMP Goals 3, 4, 5, 6, 7, 8, and 9.
 - C. The proposed Zoning Ordinance text amendment is ***NOT RELEVANT*** to LRMP Goal 10.
2. The proposed text amendment ***WILL*** improve the Zoning Ordinance because it will ***NOT IMPEDE*** the purpose of the Zoning Ordinance (see Item 16).

DOCUMENTS OF RECORD

1. Legal advertisement
2. ELUC Memorandum dated May 1, 2019 with attachments:
 - A Letter dated November 5, 2018, from the Village of St. Joseph to the Champaign County Board Chair
 - B Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - C Draft Changes to Section 6.1.5 B.(2) Champaign County Zoning Ordinance Requirements for Photovoltaic Solar Farms in Response to Municipal Concerns
3. ELUC Memorandum dated May 29, 2019, with attachments:
 - A Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - B Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing only)
 - C Alternative Draft Changes to Section 6.1.5 B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing plus increase in separation)
4. Preliminary Memorandum for Cases 945-AT-19 and 946-AT-19 dated September 19, 2019, with attachments:
 - 1 Legal advertisement
 - 2 ELUC Memorandum dated May 1, 2019 with attachments:
 - A Letter dated November 5, 2018, from the Village of St. Joseph to the Champaign County Board Chair
 - B Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - C Draft Changes to Section 6.1.5 B.(2) Champaign County Zoning Ordinance Requirements for Photovoltaic Solar Farms in Response to Municipal Concerns
 - 3 ELUC Memorandum dated May 29, 2019, with attachments:
 - A Existing Section 6.1.5 B.(2) of the Champaign County Zoning Ordinance
 - B Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing only)
 - C Alternative Draft Changes to Section 6.1.5B.(2) PV Solar Farm Requirements in Response to Municipal Concerns (increase in notification and timing plus increase in separation distance)
 - 4 Side-by-side comparison of proposed amendments in Cases 945-AT-19 and 946-AT-19
 - 5 Land Resource Management Plan (LRMP) Goals & Objectives
 - 6 Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 945-AT-19 dated September 26, 2019
 - 7 Preliminary Finding of Fact, Summary Finding of Fact, and Final Determination for Case 946-AT-19 dated September 26, 2019
5. Email from Phil Geil received September 23, 2019
6. Email from Bruce Hannon received September 24, 2019
7. Letter from Rantoul Mayor Charles Smith received September 25, 2019
8. Supplemental Memorandum #1 dated October 24, 2019, with attachments:
 - A Legal notice
 - B Land Use Management Areas (LUMA) Map, updated October 2018
 - C Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 945-AT-19 dated October 31, 2019
 - D Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 946-AT-19 dated October 31, 2019

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FINAL DETERMINATION FOR CASE 946-AT-19

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

The Zoning Ordinance Amendment requested in **Case 946-AT-19** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

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

SIGNED:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

PROPOSED AMENDMENT**1. Revise Section 6.1.5B.(2) as follows:**

- (2) The PV SOLAR FARM County Board SPECIAL USE permit shall not be located in the following areas:
- a. Less than one-and-one-half miles from an incorporated municipality that has a zoning ordinance except for any power lines of 34.5 kVA or less and any related proposed connection to an existing substation. Any request for a waiver of this minimum separation shall include unless the following is provided:
 - (a) ~~No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.~~
 - (b) The ZONING ADMINISTRATOR shall notify in writing any municipality that is located within one-and one-half miles of any proposed PV SOLAR FARM upon the receipt of any substantial PV SOLAR FARM SPECIAL USE permit application in addition to any notice otherwise required.
 - (bc) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.
 - (d) Municipal subdivision approval for any PV SOLAR FARM land lease exceeding five years may be required by any relevant municipal authority that has an adopted comprehensive plan and when required said subdivision approval shall be necessary for compliance with Section 13.2.1.
 - (e) The public hearing for any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance shall occur at a minimum of two BOARD meetings that are not less than 28 days apart to provide time for municipal comments during the public hearing, unless the 28-day comment period is waived in writing by any relevant municipality.
 - (df) For any proposed PV SOLAR FARM that is located within one-and-one-half miles of a municipality that has a zoning ordinance, the ZONING ADMINISTRATOR shall notify said municipality of the recommendation by the BOARD after the close of the public hearing.
 - (eg) After the initial review of the BOARD recommendation for the PV SOLAR FARM SPECIAL USE permit by the Environment and Land Use Committee of the COUNTY BOARD, if the Environment and Land Use Committee makes a preliminary determination to accept the BOARD recommendation, the PV

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SOLAR FARM SPECIAL USE permit shall remain at the Environment and Land Use Committee for a maximum 30-day comment period, or until the next regularly scheduled meeting, to allow comments regarding the PV SOLAR FARM SPECIAL USE permit to be received from any relevant municipal authority prior to the Environment and Land Use Committee recommendation to the County Board, unless the municipal comment period is waived in writing by any relevant municipality. If a PV SOLAR FARM is not located within one-and-one-half miles of a municipality the Environment and Land Use recommendation can be referred to the County Board without a municipal comment period.

- (eh) If no municipal resolution regarding the PV SOLAR FARM is received from any municipality located within one-and-one-half miles of the PV SOLAR FARM prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board, the ZONING ADMINISTRATOR shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board.

2. Revise Section 8.2.3 as follows:

If any such NONCONFORMING USE of land ceases for any reason for a period of more than 180 consecutive days except for seasonal vacations lasting more than 274 consecutive days and that occur no more often than once in any 365 consecutive days or except when actively marketed for sale or rent by either the posting of a sign on the front LOT LINE of the property or when marketed by other affirmative means, any subsequent USE of such land shall conform to the regulations and standards set by this ordinance for the DISTRICT in which such land is located. The requirements of Section 8.2.3 shall not apply to any PV SOLAR FARM authorized prior to {effective date of this amendment} or PV SOLAR FARM equipment that is in the process of being repaired or replaced.

3. Add new Section 8.2.4 as follows:

For purposes of applicability of this Section 8.2 to any PV SOLAR FARM, any PV SOLAR FARM for which a SPECIAL USE permit had been authorized prior to {effective date of this amendment}, said PV SOLAR FARM may be constructed in compliance with the SPECIAL USE permit and subject to a duly approved Zoning Use Permit so long as the construction shall be consistent with the SPECIAL USE permit expiration requirements of Section 6.1.5 T. and any special conditions of approval that may be applicable.