

## **CASES 079-S-22, 080-S-22 & 081-V-22**

**SUPPLEMENTAL MEMORANDUM #1**  
**FEBRUARY 22, 2023**

**Petitioner:** Anthony Donato, d.b.a. IAG Investments LLC

**Request:**

CASE 079-S-22

Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.

CASE 080-S-22

Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW), including access roads and wiring, as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):

Part A: A waiver from providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.

Part B: A waiver from locating the PV Solar Array less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality per Section 6.1.5 B.(2)a.

Part C: A waiver for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line, per Section 6.1.5 D.(3)a.

Part D: A waiver from submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).

~~Part E: A waiver from providing a Noise Analysis prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 I.(3).~~

Case 081-V-22

Authorize the following variance for the data center proposed as a Special Use Permit in related case 079-S-22:

Part A: Authorize a variance for 2 parking spaces in lieu of the minimum required 10 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

**Location:** A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.

**Site Area:** 21 acres

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

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

**Time Schedule for Development:** As soon as possible

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

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**STATUS**

These cases were continued from the January 26, 2023 ZBA meeting.

The following public comments will be added under Item 8.J. in the Summary of Evidence dated March 2, 2023:

- J. Regarding public comments:
- (1) The following is a summary of comments received at the January 26, 2023 ZBA meeting:
    - a. Dr. Lindsay Vahling, veterinarian and owner of A&E Animal Hospital that is adjacent to the subject property, stated that her largest concern was the noise and what it would sound like and do. She said she is concerned for her patients, clients, employees, and tenants.
    - b. Mike McCormick, Attorney for the Vahlings, reiterated the concern about noise and its possible impacts.

The petitioner submitted a noise study received February 17, 2023 (Attachment B). The following evidence will be added under Item 9.B.(13)b.(b) of the Summary of Evidence dated March 2, 2023:

- (b) A Noise Study by Shiner Acoustics was received February 17, 2023.
  - i. The study was done under the assumption that a 7-foot-tall earthen berm would be constructed south of the veterinary clinic and adjacent dwellings.
  - ii. The study indicates that the calculated dB(A) at the adjacent residential property line would be 42 dB(A).
  - iii. The acoustician determined that “the proposed solar farm would be expected to meet IPCB noise regulations at the nearby residential property.”

**PROPOSED SPECIAL CONDITIONS**

The following special conditions are proposed for Special Use Permit Case 079-S-22:

- A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

**That the proposed Special Use meets applicable State requirements for accessibility.**

- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

**That the proposed use is in compliance with the Zoning Ordinance.**

- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new buildings comply with the following codes: (A) the current edition or most recent preceding edition of the International Building Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.**

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

**New commercial buildings shall be in conformance with Public Act 96-704.**

The following special conditions are proposed for Special Use Permit Case 080-S-22:

- A. **The approved site plan consists of the following documents:**
- **Site Plan sheets received January 18, 2023.**

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

**The constructed PV SOLAR ARRAY is consistent with the special use permit approval.**

- B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR ARRAY until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

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

**That the proposed Special Use meets applicable state requirements for accessibility.**

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**

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

**That the land affected by PV SOLAR ARRAY is restored to its pre-construction capabilities.**

- E. **A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**

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

**The Special Use Permit complies with Ordinance requirements and as authorized by waiver.**

- F. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR ARRAY:**
1. **Documentation of the solar module's unlimited 10-year warranty and the 25-year limited power warranty.**
  2. **Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
  3. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of "A" by S&P or a rating of "A3" by Moody's or a rating of "A-" by Kroll Bond Rating Agency within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
  4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
  5. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
  6. **The telephone number for the complaint hotline required by 6.1.5 S.**
  7. **Any updates to the approved Site Plan per the requirements provided in Section 6.1.5 U.1.c.**
  8. ~~**A noise study that meets the requirements of 6.1.5 I.3. that has been approved by the Environment and Land Use Committee.**~~

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

**The PV SOLAR ARRAY is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.**

- G. A Zoning Compliance Certificate shall be required for the PV SOLAR ARRAY prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
- 1. An as-built site plan of the PV SOLAR ARRAY including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR ARRAY to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
  - 2. As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR ARRAY including any access road prepared by an Illinois Licensed Professional Engineer.**
  - 3. An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**

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

**The PV SOLAR ARRAY is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.**

- H. The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with the following specific requirements that apply even after the PV SOLAR ARRAY goes into commercial operation:**
- 1. Maintain the pollinator plantings and required visual screening in perpetuity.**
  - 2. Cooperate with local Fire Protection District to develop the District's emergency response plan as required by 6.1.5 H.(2).**
  - 3. Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**
  - 4. Maintain a current general liability policy as required by 6.1.5 O.**
  - 5. Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
  - 6. Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.**
  - 7. Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.**

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

**Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR ARRAY.**

- I. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

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

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

- J. **Within one year of residential development (i.e. construction of a dwelling) within 1,000 feet of the south and east sides of the PV SOLAR ARRAY, the owner of the PV SOLAR ARRAY will establish vegetative screening per Section 6.1.5 M.(2) of the Zoning Ordinance.**

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

**To ensure that a screen is planted in the event that anticipated future residential development does occur on adjacent land.**

There are no proposed special conditions for Variance Case 081-V-22.

#### **ATTACHMENTS**

- A Legal Advertisement
- B Noise Study by Shiner Acoustics received February 17, 2023
- C Summary of Evidence, Finding of Fact, and Final Determination for Cases 079-S-22 and 081-V-22 dated March 2, 2023
- D Summary of Evidence, Finding of Fact, and Final Determination for Case 080-S-22 dated March 2, 2023

**LEGAL PUBLICATION: WEDNESDAY, JANUARY 11, 2023**  
**CASES: 079-S-22, 080-S-22 & 081-V-22**

**NOTICE OF A PUBLIC HEARING IN REGARD TO TWO SPECIAL USE PERMITS WITH  
WAIVERS AND A VARIANCE ON PROPERTY IN UNINCORPORATED CHAMPAIGN COUNTY  
UNDER THE PROVISIONS OF THE CHAMPAIGN COUNTY ZONING ORDINANCE**

Anthony Donato, d.b.a. IAG Investments LLC, PO Box 1546, Deerfield, IL 60015, has filed petitions for two Special Use Permits with waivers and a Variance under the provisions of the Champaign County Zoning Ordinance on property in unincorporated Champaign County. The petitions are on file in the office of the Champaign County Department of Planning and Zoning, 1776 E. Washington Street, Urbana, IL.

A public hearing will be held **Thursday, January 26, 2023, at 6:30 p.m.** prevailing time in the Shields-Carter Meeting Room, Brookens Administrative Center, 1776 East Washington Street, Urbana, at which time and place the Champaign County Zoning Board of Appeals will consider petitions for the following:

CASE 079-S-22

Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.

CASE 080-S-22

Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW), including access roads and wiring, as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):

Part A: A waiver from providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.

Part B: A waiver from locating the PV Solar Array less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality per Section 6.1.5 B.(2)a.

Part C: A waiver for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line, per Section 6.1.5 D.(3)a.

Part D: A waiver from submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).

Part E: A waiver from providing a Noise Analysis prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 I.(3).

Case 081-V-22

Authorize the following variance for the data center proposed as a Special Use Permit in related case 079-S-22:

Part A: Authorize a variance for 2 parking spaces in lieu of the minimum required 10 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

**SUBJECT PROPERTY:**

A 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.

All persons interested are invited to attend said hearing and be heard. If you would like to submit comments or questions before the meeting, please call the P&Z Department at 217-384-3708 or email [zoningdept@co.champaign.il.us](mailto:zoningdept@co.champaign.il.us) no later than 4:30 pm the day of the meeting. The hearing may be continued and reconvened at a later time.

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

**TO BE PUBLISHED: WEDNESDAY, JANUARY 11, 2023 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

Our News Gazette account number is 99225860.



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BTB Energies  
26413 W. South St.  
Ingleside, IL 60041

February 16, 2023

Attn: Mr. Tony Grilo

Re: E. Windsor Solar Farm Noise Study  
Urbana, IL

Dear Mr. Grilo:

The purpose of this report is to evaluate the noise impact of a proposed solar farm located at approximately 3001 E Windsor Road in Urbana, IL based on sound level measurements conducted on site and analysis of the data.

The solar farm will occupy roughly 813,000 sqft on the site which is located adjacent to a veterinary clinic. The veterinary building is approximately 360 feet north/northeast of the nearest noise generating equipment. There will be a data center located in the middle of the lot as well as a dry cooler to the north of the data center and three banks of inverters, one to the east of the data center and two on the west side of the building. The expected noise from the site will be from the dry cooler and the inverter banks.

To evaluate the noise impact of the solar farm, we conducted a sound survey on the site to establish existing sound levels. We then created an acoustic model to predict the solar farm's sound levels at the nearby residential properties based on sound emanating from the equipment.

### **Criteria**

The city of Urbana does not have a noise ordinance with numeric limits, but defers to state regulations. Our analysis and recommendations will be based on meeting the Illinois Pollution Control Board (IPCB) Noise Regulations for sound emitting from Class C land to Class A land during evening hours (10pm to 7am), which are the most stringent.

As part of our evaluation, we used data from the sound study to compare against the IPCB noise regulations to set a design goal for octave band sound levels. The design goal is set as the IPCB noise regulations or ambient sound levels, whichever is higher. The octave band levels of the noise regulations, ambient sound levels, and design goal are shown in Table 2 below.

### **Sound Survey**

Long term acoustical measurements were conducted at the northeast corner of the property along Windsor Road. The measurements ran from the afternoon of Tuesday 1/24/23 to the afternoon of Friday 1/27/23. An aerial photograph showing the approximate location of the sound level meter is shown in Figure 1.

**RECEIVED**

**FEB 17 2023**

CHAMPAIGN CO. P & Z DEPARTMENT

BTB Energy

February 16, 2023

The following instrumentation was used:

- Norsonic 140 sound analyzer
- Norsonic Nor 1209 preamplifier
- Norsonic Nor 1225 ½” condenser microphone
- Norsonic 1251 sound calibrator
- Microphone extension cable
- Microphone windscreen
- Tripod

The exterior microphone and preamplifier were connected to the analyzer. The microphone was protected with a windscreen and attached to the tripod, which was secured to a utility pole. The analyzer and battery were contained in a weathertight case. The sound level meter was calibrated before and after the measurements.

**Figure 1**  
Aerial Photo Showing Microphone Location, W Oaks Road,  
The Solar Farm Site, and nearby Residential Property



The analyzer measured A-weighted and one-third octave band sound pressure levels. Data were sampled continuously. The  $L_{eq}$  (time-average) spectrum and other statistics were stored for each hour and one-minute intervals. We used the data to calculate the average sound level ( $L_{eq}$ ) for the entire measurement as well as for daytime (7:00 a.m. to 10:00 p.m.) and nighttime (10:00 p.m. to 7:00 a.m.) hours. The average sound level for the whole measurement period was 66 dBA. The day/night sound level results are summarized in Table 1 below.

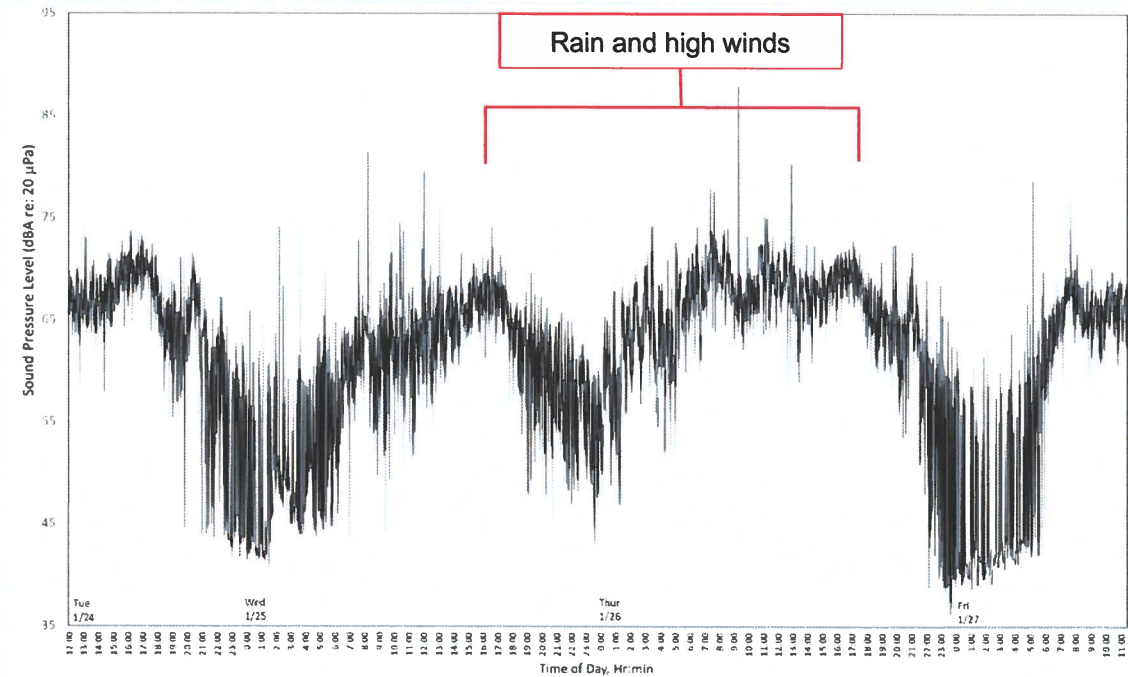
The primary source contributing to the measured sound levels at the site was traffic from E Windsor Road. A graph of the sound pressure levels over the duration of the study is shown in Figure 2.

**Table 1**  
 Results of January 24-27, 2023 Acoustical Study  
 Day/Night Average Sound Levels, dB re 20µPa, A-weighted

Date	Day	Daytime Leq, dBA	Nighttime Leq, dBA
1/24/23*	Tue	68	
1/24/23 – 1/25/23	Tue – Wed		58
1/25/23	Wed	65	
1/25/23 – 1/26/23	Wed – Thur		65**
1/26/23	Thur	69	
1/26/23 – 1/27/23	Thur – Fri		59
1/27/23*	Fri	67	

\*Measurements did not include the full extent of “daytime” hours.  
 \*\* Elevated sound levels due to snow and high winds

**Figure 2**  
 Measured Sound Levels (Leq) during  
 Measurement Period of 1/24/23 – 1/27/23



BTB Energy

February 16, 2023

**Table 2**  
 IPCB Noise Regulations, Measured Ambient Sound Pressure Levels, and  
 Sound Level Design Goal, dB re 20µPa

	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1000 Hz	2000 Hz	4000 Hz	8000 Hz	dBA
IPCB Nighttime Class C to Class A Land	69	67	62	54	47	41	36	32	32	51
Site Ambient	63	60	59	55	54	55	48	43	42	58
Design Goal	69	67	62	55	54	55	46	43	42	58

The nighttime measurement period of 1/24/23 – 1/25/23 was used for the site ambient levels in Table 2 because they were the lowest measured nighttime sound levels.

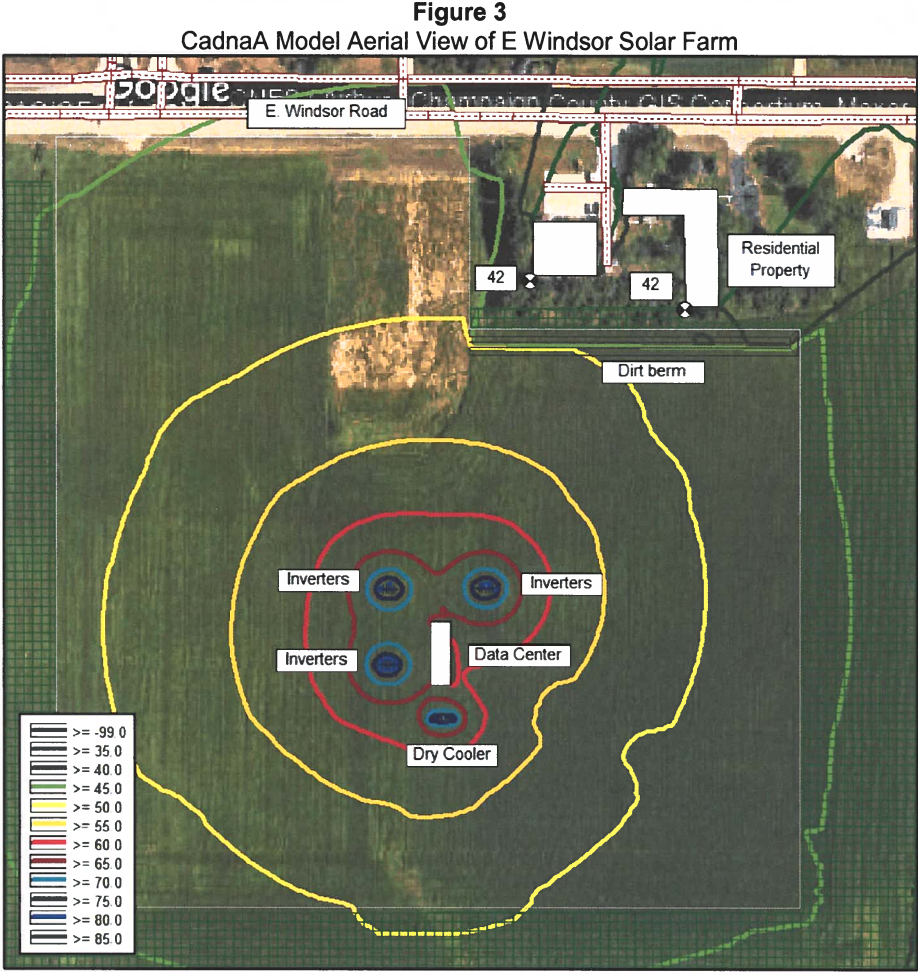
**Modeling**

We used CadnaA from DataKustik GmbH for our acoustic model. CadnaA is industry-accepted software used to calculate sound levels of multiple sources and propagation paths at multiple receiver points. The software considers the factors that influence sound propagation, such as distance, shielding by buildings, ground effect and atmospheric absorption, and source directivity.

The manufacturers of the proposed equipment were not able to provide octave band sound level data for the dry cooler or inverters. They were only able to provide an overall sound pressure level of 74 dBA for the dry cooler and 69 dBA for the inverters when measured at 1 meter from the equipment at nominal operating conditions. To evaluate octave band sound levels in our model for the equipment, we extrapolated the sound spectra from data that we had for a comparable pieces of equipment.

Per BTB’s recommendation, the site was modeling with a dirt berm along the northeast border of the property line. The berm in our model was approximately 7 ft tall, eliminating primary sight lines between the noise generating equipment and the residential property.

Figure 3 presents sound level contours superimposed on an aerial photograph of the site. The graphics show the predicted sound levels of the equipment of the solar farm. Sound levels at the residential property line, at 5 feet above ground level are shown. The predicted sound levels at the residential properties are also summarized in Table 3 below.



**Table 3**  
 Design Goal and Calculated Sound Levels at Adjacent Residential Property  
 From Solar Farm Noise Sources, dB re 20µPa

	31.5 Hz	63 Hz	125 Hz	250 Hz	500 Hz	1000 Hz	2000 Hz	4000 Hz	8000 Hz	dBA
IPCB Nighttime Class C to Class A Land	69	67	62	54	47	41	36	32	32	51
Design Goal	69	67	62	55	54	55	46	43	42	58
Calculated Adjacent Residential Property Line	21	33	39	28	29	38	36	32	18	42

**Comments and Recommendations**

Based on our model and calculations, the proposed solar farm would be expected to meet IPCB noise regulations at the nearby residential property.

Note that if the noise generating equipment locations are changed and the equipment is located closer to the residential property, the solar farm may no longer meet the noise ordinance.

Also, if the dirt berm is not installed or too short then the noise level at the residential property will increase and may exceed the IPCB noise regulations.

BTB Energy

February 16, 2023

If you have questions concerning this report, please do not hesitate to contact us.

Respectfully submitted,

Shiner Acoustics, LLC

A handwritten signature in black ink that reads "Ryan Garner". The signature is written in a cursive style with a large, stylized "R" and "G".

Ryan M Garner  
RMG:

**DRAFT REVISED 03/02/23**

**079-S-22 and 081-V-22**

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

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Final Determination: **{GRANTED/ GRANTED WITH SPECIAL CONDITIONS/ DENIED}**

Date: **{~~January 26, 2023~~ March 2, 2023}**

Petitioner: **Anthony Donato, d.b.a. IAG Investments LLC**

Request: **Case 079-S-22  
Authorize a data center as a Special Use Permit in the AG-2 Agriculture  
Zoning District.**

**Case 081-V-22  
Authorize the following variance for the data center proposed as a  
Special Use Permit in related case 079-S-22:**

**Part A: Authorize a variance for 2 parking spaces in lieu of the  
minimum required 10 parking spaces, per Section 7.4.1 C.3. of the  
Zoning Ordinance.**

**Part B: Authorize a variance for no loading berth in lieu of the  
minimum required 1 loading berth, per Section 7.4.1 C.5. of the  
Zoning Ordinance.**

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## **SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 26, 2023 and March 2, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Anthony Donato, via IAG Investments LLC, owns the subject property. He is the sole owner and shareholder in IAG Investments LLC.
2. The subject property is a 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases, but are notified of such cases. Notice of the public hearing was sent to the City.
  - B. The subject property is located within Urbana Township, which does not have a Planning Commission.

### **GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY**

4. Regarding land use and zoning on the subject property and in the vicinity of the subject property:
  - A. The 21-acre subject property is zoned AG-2 Agriculture and is in agricultural production.
  - B. Land to the north of the subject property is in the City of Urbana and is in use as residential and the University of Illinois Golf Course.
  - C. Land to the east of the subject property is in the City of Urbana to the northeast and zoned AG-2 Agriculture to the southeast. The part inside the City is a veterinary clinic and adjacent residence, and the part to the southeast is in agricultural production.
  - D. Land to the south of the subject property is zoned AG-2 Agriculture and is in agricultural production.
  - E. Land to the west of the subject property is zoned AG-2 Agriculture and is in agricultural production.

### **GENERALLY REGARDING THE PROPOSED SPECIAL USE**

5. Regarding the Site Plan received December 14, 2022:
  - A. Proposed features include:
    - (1) Solar arrays cover the majority of the 21-acre tract.
    - (2) One 2,000 square foot data center would be located in the central part of the subject property.



- (3) Inverters would be located adjacent to the data center building.
- (4) An access road would lead from East Windsor Road to the data center.
- B. A Revised Site Plan received January 4, 2023 indicates the following changes:
  - (1) The south inverter has been moved north so that it is at least 275 feet from the PV SOLAR ARRAY fence line.
  - (2) Evergreen screening has been added south of the veterinary clinic and adjacent dwelling and screening that was along Windsor Road has been moved south to the PV SOLAR ARRAY fence line.
- C. A Revised Site Plan received January 18, 2023 indicates the following changes:
  - (1) Evergreen screening has been added along the west side of the PV SOLAR ARRAY fence line.
- D. There are no previous zoning permits for the subject property.
- E. There are no previous zoning cases for the subject property.
- F. The required variance is as follows:
  - (1) Part A: Authorize a variance for 2 parking spaces in lieu of the minimum required 10 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.
  - (2) Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

**GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS**

6. Regarding authorization for a “DATA CENTER” in the AG-2 Agriculture Zoning DISTRICT in the *Zoning Ordinance*:
  - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
    - (1) “ACCESS” is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
    - (2) “BERTH, LOADING” is a stall of dimensions herein specified, adjacent to a LOADING DOCK for the maneuvering and parking of a vehicle for loading and unloading purposes.
    - (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
      - a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;

- b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;
  - c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
- (4) “DATA CENTER” is a centralized location where computing and networking equipment is concentrated for the purpose of collecting, storing, processing, distributing or allowing access to large amounts of data.
  - (5) “DISCRETIONARY DEVELOPMENT” is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations.
  - (6) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
  - (7) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
  - (8) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
  - (9) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
  - (10) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
  - (11) WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
    - a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
    - b. The site is reasonably well-suited in all respects and has no major defects.
- B. Section 5.2 authorizes a DATA CENTER as a Special Use only in the AG-2, B-4, and I-1 Zoning Districts.

- C. Section 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:
- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
    - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
    - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
    - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
    - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
    - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.
- D. Section 6.1.3 Schedule of Standard Conditions for Specific Types of Uses states the following regarding a DATA CENTER:
1. The location of the DATA CENTER must be approved in writing by the relevant Fire Protection District.
  2. The petitioner shall provide the P&Z Department with a written explanation of security features for the DATA CENTER.
  3. DATA CENTERS constructed with PV SOLAR ARRAYS shall be located adjacent to the solar inverter and as far as possible from property lines and adjacent DWELLINGS consistent with good engineering practice.
  4. Noise levels from any DATA CENTER shall be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 Illinois Administrative Code, Subtitle H: Noise, Parts 900, 901, 910).
    - A. Any applicant located within 1,500 feet of a DWELLING shall submit a noise analysis by a qualified professional that demonstrates compliance with the IPCB noise regulations similar to the requirements of Section 6.1.5 I.(3). The analysis shall include manufacturer's sound power level characteristics and other relevant data regarding noise characteristics of proposed DATA CENTER equipment.
    - B. Enforcement shall follow protocols established in Section 6.1.5 I.(4) of the Zoning Ordinance.

- E. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:
- (1) Section 7.4.1 A. establishes general provisions for off-street parking.
    - a. Section 7.4.1 A.1. states, “All off-street PARKING SPACES shall be located on the same LOT or tract of land as the USE served.”
    - b. Section 7.4.1 A.2. states, “All spaces for the accommodation of an AUTOMOBILE shall total at least 300 square feet including both parking and maneuvering area.”
    - c. Section 7.4.1 A.3.a. states, “No such space shall be located less than 10 feet from any FRONT LOT LINE.”
    - d. Section 7.4.1 A.3.b. states, “No such space shall be located less than five feet from any side or REAR LOT LINE.”
  - (2) Section 7.4.1 B. establishes the minimum size of off-street PARKING SPACES shall be at least nine feet wide by 20 feet long.
  - (3) For parking purposes, the Zoning Administrator has determined that a DATA CENTER requires one parking space per 200 square feet of building area.
  - (4) Section 7.4.1 C. establishes parking for off-street commercial establishments.
    - a. Section 7.4.1 C.1. states, “Such PARKING SPACE for the accommodation of a heavy motor truck, MOTOR BUS, or other VEHICLE shall be of dimensions herein specified for an off-STREET LOADING BERTH.”
    - b. Section 7.4.1 C.2. states, “The number of such PARKING SPACES shall be the sum of the individual requirements of the various individual ESTABLISHMENTS computed separately in accordance with this section. Such PARKING SPACES for one such ESTABLISHMENT shall not be considered as providing the number of such PARKING SPACES for any other ESTABLISHMENT.”
    - c. Section 7.4.1 C.3. requires establishments that are not specifically mentioned in the ordinance to provide one parking space for every 200 square feet of floor area or portion thereof.
    - d. Section 7.4.1 C.4. states, “Required parking SCREENS for commercial ESTABLISHMENTS shall be provided as follows:
      - (a) Parking areas for more than four vehicles of no more than 8,000 pounds gross vehicle weight each, excluding any vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials, located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type A SCREEN except that a TYPE B SCREEN may be erected along the rear LOT LINE of the business PROPERTY.

- (b) Parking areas for any number of vehicles exceeding 8,000 pounds in gross vehicle weight each or any number of vehicles used for hauling solid waste except those used for hauling construction debris and other inert materials located within any YARD abutting any residential DISTRICT or visible from and located within 100 feet from the BUILDING RESTRICTION LINE of a lot containing a DWELLING conforming as to USE shall be screened with a Type D SCREEN.”
- (5) Section 7.4.2 refers to off-street LOADING BERTHS for commercial uses:
  - a. Section 7.4.2 A. establishes general provisions for LOADING BERTHS.
    - (a) All LOADING BERTHS shall have vertical clearance of at least 14 feet.
    - (b) All LOADING BERTHS shall be designed with appropriate means of vehicular access to a STREET or ALLEY in a manner which will least interfere with traffic movement.
    - (c) No VEHICLE repair or service work shall be performed on any LOADING BERTH.
    - (d) No LOADING BERTH shall be located less than 10 feet from any FRONT LOT LINE and less than five feet from any side or REAR LOT LINE.
  - b. Section 7.4.2 C. states, “Off-street LOADING BERTHS for commercial ESTABLISHMENTS shall be provided as follows:
    - (a) All LOADING BERTHS shall be located on the same LOT or tract of land as the ESTABLISHMENT served except when serving adjacent ESTABLISHMENTS when the LOADING BERTH requirement is sufficient to serve both ESTABLISHMENTS.
    - (b) No such BERTH shall be located within any YARD abutting a residential DISTRICT or located less than 100 feet from the BUILDING RESTRICTION LINE of any LOT in the R DISTRICT or any LOT containing a DWELLING conforming as to USE unless such BERTH is screened from public view by a Type C SCREEN. If the berth is located adjacent to an elevated loading dock, however, a Type D SCREEN shall be used to screen both the loading berth and the loading dock.
    - (c) No LOADING BERTH shall be located within 50 feet of the nearest point of intersection of two STREETS.
    - (d) All LOADING BERTHS shall be improved with a compacted base at least six inches thick and shall be surfaced with at least two inches of some all-weather dustless material.

## (e) Schedule of off-street LOADING BERTHS:

Floor Area of ESTABLISHMENT in Square Feet (Thousands)	Minimum Required Number and Size of LOADING BERTHS
1 – 9.999	1 (12 x 40 feet)
10 – 24.999	2 (10 x 40 feet)
25 – 39.999	2 (10 x 70 feet)
40 – 99.999	3 (10 x 70 feet)
100 – 249.999	4 (10 x 70 feet)

## F. Paragraph 9.1.9 D. of the Zoning Ordinance requires the ZBA to make the following findings for a variance:

- (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9 C. of the Zoning Ordinance states that a variance from the terms of the Champaign County Zoning Ordinance shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
  - a. That special conditions and circumstances exist which are peculiar to the land or structure involved that are not applicable to other similarly situated land or structures elsewhere in the same district.
  - b. That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
  - c. That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.
  - d. That the granting of the variance is in harmony with the general purpose and intent of the Ordinance.
  - e. That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9 D.2.

## G. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:

- (1) That the Special Use is necessary for the public convenience at that location;
- (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
  - a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is

not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.

- b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
  - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
- (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- H. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:
    - a. that the waiver is in accordance with the general purpose and intent of the ordinance; and
    - b. that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
  - (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
    - a. Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
    - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
    - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
  - (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the

adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.

- I. Paragraph 9.1.11. D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.
- J. Regarding the requested variance:
  - (1) The minimum number of required parking spaces is established in Section 7.4.1 C.3. of the Zoning Ordinance.
  - (2) The minimum number of loading berths is established in Section 7.4.1 C.5. of the Zoning Ordinance.

***GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION***

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
  - A. The Petitioner testified on the application, **“This land has been purchased and an Ameren Interconnect Agreement is in place. Additionally the proximity to the power substation is a benefit to help distribute the solar generated power. Adding a data center to this location will allow it to operate off of solar generated power.”**
  - B. The petitioner has already purchased the property, which is adjacent to the necessary power infrastructure.

***GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE***

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
  - A. The Petitioner have testified on the application, **“The project is designed around being hidden from view. It is set back from the road to allow for future development as well as having a vegetative fencing to help with all noise and aesthetic issues.”**
  - B. Regarding surface drainage:
    - (1) The subject property generally drains to the northwest.
  - C. Regarding impacts on traffic:
    - (1) The subject property is located on East Windsor Road. The pavement surface of Windsor Road near the subject property is a four-lane paved and marked urban arterial.



- (2) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2021 near the subject property. East Windsor Road west of IL 130 had an ADT of 6,150.
  - (3) The Urbana Township Highway Commissioner was notified of the hearing for these cases and no comments have been received.
  - (4) The City of Urbana has maintenance jurisdiction over East Windsor Road. Urbana Public Works was notified of the hearing for these cases and no comments have been received.
- D. Regarding fire protection:
- (1) The subject property is located within the Philo Fire Protection District and is approximately 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of these cases, and no comments have been received.
- E. No part of the subject property is located within a mapped floodplain.
- F. The soil on the 21-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam, 330A Peotone silty clay loam, and 663B Clare silt loam, and has an average Land Evaluation score of 97.
- G. Regarding outdoor lighting on the subject property, the application received December 14, 2022, does not indicate outdoor lighting. A special condition has been added to ensure compliance for any future outdoor lighting installation.
- H. Regarding wastewater treatment and disposal on the subject property, there is no wastewater treatment and disposal required or planned for the proposed project.
- I. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
    - a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
    - b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.

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- c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
- d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
- e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
- f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.
- g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
- i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

J. Regarding public comments:

(1) The following is a summary of comments received at the January 26, 2023 ZBA meeting:

- a. Dr. Lindsay Vahling, veterinarian and owner of A&E Animal Hospital that is adjacent to the subject property, stated that her largest concern was the

noise and what it would sound like and do. She said she is concerned for her patients, clients, employees, and tenants.

b. Mike McCormick, Attorney for the Vahlings, reiterated the concern about noise and its possible impacts.

K. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

**GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT**

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
  - A. The Petitioner have testified on the application, **“By installing a solar array with native pollinator habitat put throughout the array it will help retain the essential character of the land for years to come. The data center will be unmanned and allow the area to be unharmed.”**
  - B. Regarding compliance with the *Zoning Ordinance*:
    - (1) Section 5.2 authorizes a DATA CENTER as a Special Use only in the AG-2, B-4 and I-1 Zoning Districts.
    - (2) Section 6.1.3. requires a noise analysis for any DATA CENTER that is proposed within 1,500 feet of a DWELLING.
      - a. A Noise Study by Shiner Acoustics was received February 17, 2023.
        - (a) The study was done under the assumption that a 7-foot-tall earthen berm would be constructed south of the veterinary clinic and adjacent dwellings.
        - (b) The study indicates that the calculated dB(A) at the adjacent residential property line would be 42 dB(A).
        - (c) The acoustician determined that “the proposed solar farm would be expected to meet IPCB noise regulations at the nearby residential property.”
    - (3) Regarding parking on the subject property for the proposed special use:
      - a. As interpreted by the Zoning Administrator, a DATA CENTER requires one parking space per 200 square feet of building area and must provide accessible parking.

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- (a) The proposed building is 2,000 square feet, which requires ten parking spaces. The petitioner has requested a waiver for providing 2 parking spaces in lieu of ten spaces.
  - (b) The Illinois Accessibility Code requires one accessible parking space. A special condition has been added to ensure compliance with the Illinois Accessibility Code.
- b. Section 7.4.1 C.4. provides parking SCREEN requirements for commercial establishments. No screening is required for the parking area because it is more than 100 feet from the building restriction line of a lot containing a dwelling.
- (4) Regarding the required LOADING BERTHS:
- a. For commercial facilities with 1,000 to 9999 square feet in floor area, one 12 feet by 40 feet LOADING BERTH must be constructed per the requirements in Section 7.4.2.
    - (a) The petitioner has requested a variance from this requirement.
- C. Regarding compliance with the *Storm Water Management and Erosion Control Ordinance*:
- (1) The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
  - (2) A special condition has been added to ensure compliance with the Ordinance.
- D. Regarding the *Special Flood Hazard Areas Ordinance*, no part of the subject property is located within the mapped floodplain.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and the subject property is in compliance.
- F. The proposed Special Use must comply with the Illinois Accessibility Code, which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
- (1) A special condition has been added to ensure compliance with the Illinois Accessibility Code.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:
- A. Regarding the proposed Special Use:

- (1) In the AG-2 Zoning District, Section 5.2 authorizes a DATA CENTER only via Special Use.

B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:

- (1) Subsection 5.1.2 of the Ordinance states the general intent of the AG-2 District as follows (capitalized words are defined in the Ordinance):

The AG-2 Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

- (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG-2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.

C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

- (1) 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.

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance, and the proposed site plan appears to be in compliance with those requirements.

- (2) 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.

It is not clear whether the proposed Special Use will have any impact on the value of nearby properties without a formal real estate appraisal, which has not been requested nor provided, and so any discussion of values is necessarily general.

- (3) 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 Special Use is unlikely to significantly increase traffic.

- (4) 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.

- a. No part of the subject property is in the Special Flood Hazard Area.
- b. The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
  - (a) A special condition has been added to ensure compliance.

(5) 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.

- a. Regarding public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- b. Regarding public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.

c. Regarding public comments:

(1) The following is a summary of comments received at the January 26, 2023 ZBA meeting:

a. Dr. Lindsay Vahling, veterinarian and owner of A&E Animal Hospital that is adjacent to the subject property, stated that her largest concern was the noise and what it would sound like and do. She said she is concerned for her patients, clients, employees, and tenants.

b. Mike McCormick, Attorney for the Vahlings, reiterated the concern about noise and its possible impacts.

(6) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits.

(7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one

purpose is dividing 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; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate any problematic conditions.

- (8) 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 DATA CENTER will be a new building.

- (9) 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 Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (10) 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.

There are no forested areas or watercourses on the subject property.

- (11) 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 Special Use does not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

- (12) 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 subject property is a relatively small tract of land in crop production that is adjacent to the City of Urbana.

- (13) 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 Special Use will not hinder the development of renewable energy sources.

***GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE***

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner stated on the application, “There are multiple commercial properties adjacent to this parcel, including a power substation.”
- B. The proposed use is not an existing non-conforming use.

***RELATED TO THE VARIANCE, GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT***

12. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved that are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioner has testified on the application, “**There won’t be a constant stream of deliveries at this location after initial construction. It will be an unmanned facility.**”
- B. The proposed data center will be monitored remotely and will have only occasional visits by employees for maintenance. There is therefore limited need for parking and no need for a loading berth.

***RELATED TO THE VARIANCE, GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE***

13. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application, “**We want to maintain as much natural habitat as possible and not put concrete on the land.**”
- B. Without the proposed variance, the petitioner would have to utilize area set aside for the proposed PV SOLAR ARRAY for parking and loading berth areas.



***RELATED TO THE VARIANCE, GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT***

14. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application, **“No, we just want to keep the land free of concrete as much as possible.”**
  - B. The petitioner does not expect any visitors to the DATA CENTER and only occasional visits by employees. They do not anticipate a need for a loading berth.

***GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE***

15. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application, **“It will allow more of the land to be used for farming or natural pollinator habitat.”**
  - B. Regarding the proposed variance for two parking spaces in lieu of ten parking spaces: the requested variance is 20% of the minimum required, for a variance of 80%.
    - (1) Regarding the requirements for the minimum number of parking spaces: the Zoning Ordinance does not clearly state the considerations that underlie the parking requirements. Presumably, the parking space requirements are intended to ensure that employees, customers, and deliverers of goods and services have ample room to park safely in consideration of pedestrians and other roadway users.
    - (2) The petitioner does not anticipate visitors or deliveries at this site. They do not expect many employee visits because the DATA CENTER will be monitored remotely.
  - C. Regarding the proposed variance for no loading berth in lieu of one loading berth: the requested variance is 0% of the minimum required, for a variance of 100%.
    - (1) Regarding the minimum requirements for the number of loading berths: off-street loading berths are presumably required to minimize congestion in the street when deliveries are made.
    - (2) The petitioner does not anticipate deliveries at this site other than during construction.
  - D. The requested variance is not prohibited by the *Zoning Ordinance*.

***GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE***

16. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:

- A. The Petitioner has testified on the application, **“There will still be parking areas and space off street for cars to prevent traffic issues.”**
- B. The Urbana Township Road Commissioner has been notified of this variance and no comments have been received.
- C. The Philo Fire Protection District has been notified of this variance and no comments have been received.
- D. No comments have been received for the proposed variance.

***GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE***

- 17. Generally regarding any other circumstances that justify the Variance:
  - A. The Petitioner did not provide a response on the application.

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

- 18. Regarding proposed special conditions of approval for the Special Use Permit in Case 068-S-22:
  - A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

**That the proposed Special Use meets applicable State requirements for accessibility.**

- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

**That the proposed use is in compliance with the Zoning Ordinance.**

- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new buildings comply with the following codes: (A) the current edition or most recent preceding edition of the International Building Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.**

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

**New commercial buildings shall be in conformance with Public Act 96-704.**

## DOCUMENTS OF RECORD

1. Applications for Special Use Permits and Variance received December 14, 2022, with attachments:
  - A Site Plan and Landscape Plan
  - B Plat of Survey
  - C Project Narrative
  - D Specifications sheets for Sunny Highpower Peak 3 inverter
  - E Specifications sheets for VSUN545-144BMH-DG solar panels
  - F Terrasart specification sheets
  - G Standard Agreement for Interconnection with Ameren
  - H Project contact information
2. Revised Site Plan received January 4, 2023
3. Revised Site Plan received January 18, 2023
4. Preliminary Memorandum dated January 18, 2023, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Revised Site Plan received January 18, 2023
  - C Landscape Plan received December 14, 2022
  - D Plat of Survey received December 14, 2022
  - E Specifications sheets for Sunny Highpower Peak 3 inverter
  - F Specifications sheets for VSUN545-144BMH-DG solar panels
  - G Terrasart specification sheets
  - H Weed control plan received December 29, 2022
  - I Natural Resources Information Report created by Champaign County Soil and Water Conservation District (to be handed out at January 26, 2023 meeting)
  - J LRMP Land Use Goals, Objectives, and Policies (available on ZBA meetings website)
  - K LRMP Appendix of Defined Terms (available on ZBA meetings website)
  - L Right to Farm Resolution 3425
  - M Site Visit Photos taken December 21, 2022
  - N Summary of Evidence, Finding of Fact, and Final Determination for Cases 079-S-22 and 081-V-22 dated January 26, 2023
  - O Summary of Evidence, Finding of Fact, and Final Determination for Case 080-S-22 dated January 26, 2023
5. Noise Study by Shiner Acoustics received February 17, 2023
6. Supplemental Memorandum #1 dated February 22, 2023, with attachments:
  - A Legal Advertisement
  - B Noise Study by Shiner Acoustics received February 17, 2023
  - C Summary of Evidence, Finding of Fact, and Final Determination for Cases 079-S-22 and 081-V-22 dated March 2, 2023
  - D Summary of Evidence, Finding of Fact, and Final Determination for Case 080-S-22 dated March 2, 2023

**SUMMARY DRAFT FINDINGS OF FACT FOR CASES 079-S-22 & 081-V-22**

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases **079-S-22 and 081-V-22** held on **January 26, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:
  - a. *The petitioner has already purchased the property, which is adjacent to necessary power infrastructure.*
  
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility because:
    - a. *Traffic volumes are not expected to increase significantly other than during construction of the project.*
    - b. *Notice was sent to the City of Urbana, and no comments have been received.*
    - c. *Notice was also sent to the Township Supervisor and the Township Road Commissioner, and no comments have been received.*
  
  - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* because:
    - a. *The subject property is located approximately 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of these cases, and no comments have been received.*
  
  - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses because:
    - a. *The subject property is surrounded by agriculture, a veterinary clinic and dwelling to the northeast that is approximately 375 feet from the DATA CENTER.*
  
  - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* because:
    - a. *No part of the subject property is located within a mapped floodplain.*
    - b. *A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts, per the Storm Water Management and Erosion Control Ordinance.*
  
  - e. Public safety will be *{ADEQUATE / INADEQUATE}* because:
    - a. *The subject property is located approximately 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of these cases, and no comments have been received.*
    - b. *Notice was also sent to the Township Supervisor and Township Road Commissioner, and no comments have been received.*
  
  - f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* because:

- a. ***There is no significant increase in traffic expected for the DATA CENTER.***
  
- g. The property *{IS/IS NOT}* WELL SUITED OVERALL for the proposed improvements *{because\*}*:
  - a. ***The site can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public.***
  
- h. Existing public services *{ARE/ARE NOT}* available to support the proposed SPECIAL USE without undue public expense *{because\*}*:
  - a. ***No additional public services are necessary for the proposed development.***
  
- i. Existing public infrastructure together with the proposed development *{IS/IS NOT}* adequate to support the proposed development effectively and safely without undue public expense *{because\*}*:
  - a. ***No new public infrastructure is required for the proposed development.***

*The Board may include other relevant considerations as necessary or desirable in each case.  
The Board may include additional justification if desired, but it is not required.*

- 3a. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** conform to the applicable regulations and standards of the DISTRICT in which it is located.
  
- 3b. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located because:
  - a. The Special Use will be designed to ***{CONFORM / NOT CONFORM}*** to all relevant County ordinances and codes.
  - b. The Special Use ***{WILL / WILL NOT}*** be compatible with adjacent uses.
  - c. Public safety will be ***{ADEQUATE / INADEQUATE}***.
  
4. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
  - a. The Special Use is authorized in the District.
  - b. The requested Special Use Permit ***{IS / IS NOT}*** necessary for the public convenience at this location.
  - c. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** is so designed, located, and proposed to be operated so that it ***{WILL / WILL NOT}*** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
  - d. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN} {DOES / DOES NOT}*** preserve the essential character of the DISTRICT in which it is located.
  
5. The requested Special Use ***IS NOT*** an existing non-conforming use.

6. Regarding the variance:
- a. Special conditions and circumstances ***{DO / DO NOT}*** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
    - a. ***The proposed data center will be monitored remotely and will have only occasional visits by employees for maintenance. There is therefore limited need for parking and no need for a loading berth.***
  - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied ***{WILL / WILL NOT}*** prevent reasonable or otherwise permitted use of the land or structure or construction because:
    - a. ***Without the proposed variance, the petitioner would have to utilize area set aside for the proposed PV SOLAR ARRAY for parking and loading berth areas.***
  - c. The special conditions, circumstances, hardships, or practical difficulties ***{DO / DO NOT}*** result from actions of the applicant because:
    - a. ***The petitioner does not anticipate visitors or deliveries at this site.***
  - d. The requested variance ***{~~SUBJECT TO THE PROPOSED CONDITION~~ / IS / IS NOT}*** in harmony with the general purpose and intent of the Ordinance because:
    - a. ***The petitioner does not anticipate visitors or deliveries at this site. They do not expect many employee visits because the DATA CENTER will be monitored remotely.***
  - e. The requested variance ***{~~SUBJECT TO THE PROPOSED CONDITION~~ / WILL / WILL NOT}*** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: ***notice of the proposed variance was sent to relevant jurisdictions, and no comments have been received.***
  - f. The requested variance ***{~~SUBJECT TO THE PROPOSED CONDITION~~ / IS / IS NOT}*** the minimum variation that will make possible the reasonable use of the land/structure because:
    - a. ***The petitioner would have to reduce the size of the proposed PV SOLAR ARRAY if they have to provide more parking and a loading berth.***
7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**
- A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

**That the proposed Special Use meets applicable State requirements for accessibility.**

- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**

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

**That the proposed use is in compliance with the Zoning Ordinance.**

- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new buildings comply with the following codes: (A) the current edition or most recent preceding edition of the International Building Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.**

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

**New commercial buildings shall be in conformance with Public Act 96-704.**

**FINAL DETERMINATION FOR CASE 079-S-22**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, the requirements of Section 9.1.11B. for approval *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:

The Special Use requested in Case **079-S-22** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Donato Solar – Urbana LLC**, to authorize the following:

**Authorize a data center as a Special Use Permit in the AG-2 Agriculture Zoning District.**

***{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:}***

- A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**
- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**
- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new buildings comply with the following codes: (A) the current edition or most recent preceding edition of the International Building Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date



**DRAFT REVISED 03/02/23**

**Cases 079-S-22 & 081-V-22**

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**FINAL DETERMINATION FOR CASE 081-V-22**

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval in Section 9.1.9.C *{HAVE/ HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in Case **081-V-22** is hereby *{GRANTED/GRANTED WITH SPECIAL CONDITIONS/DENIED}* to the applicant, **Anthony Donato, d.b.a. IAG Investments LLC**, to authorize the following variance in the AG-2 Agriculture Zoning District:

**Authorize the following variance for the data center proposed as a Special Use Permit in related case 079-S-22:**

**Part A: Authorize a variance for two parking spaces in lieu of the minimum required 10 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.**

**Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.**

***{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }***

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

SIGNED:

ATTEST:

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

**DRAFT REVISED 03/02/23**

**080-S-22**

**SUMMARY OF EVIDENCE, FINDING OF FACT  
AND FINAL DETERMINATION  
of  
Champaign County Zoning Board of Appeals**

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

Date: ***{~~January 26~~March 2, 2023}***

Petitioner: **Anthony Donato, d.b.a. IAG Investments LLC**

Request: **Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW), including access roads and wiring, in the AG-2 Agriculture Zoning District as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):**

**Part A: A waiver for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.**

**Part B: A waiver for locating the PV Solar Array less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality per Section 6.1.5 B.(2)a.**

**Part C: A waiver for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line, per Section 6.1.5 D.(3)a.**

**Part D: A waiver for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).**

**~~Part E: A waiver from providing a Noise Analysis prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 I.(3).~~**

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## **SUMMARY OF EVIDENCE**

From the documents of record and the testimony and exhibits received at the public hearing conducted on **January 26, 2023 and March 2, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Anthony Donato, via IAG Investments LLC, owns the subject property. He is the sole owner and shareholder in IAG Investments LLC.
2. The subject property is a 21-acre tract in the North Half of the Northeast Quarter of Section 27, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township that is located west of the veterinary clinic with an address of 3003 East Windsor Road, Urbana.
3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
  - A. The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases, but are notified of such cases. Notice of the public hearing was sent to the City.
  - B. The subject property is located within Urbana Township, which does not have a Planning Commission.

### ***GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY***

4. Regarding land use and zoning on the subject property and in the vicinity of the subject property:
  - A. The 21-acre subject property is zoned AG-2 Agriculture and is in agricultural production.
  - B. Land to the north of the subject property is in the City of Urbana and is in use as residential and the University of Illinois Golf Course.
  - C. Land to the east of the subject property is in the City of Urbana to the northeast and zoned AG-2 Agriculture to the southeast. The part inside the City is a veterinary clinic and adjacent residence, and the part to the southeast is in agricultural production.
  - D. Land to the south of the subject property is zoned AG-2 Agriculture and is in agricultural production.
  - E. Land to the west of the subject property is zoned AG-2 Agriculture and is in agricultural production.

### ***GENERALLY REGARDING THE PROPOSED SPECIAL USE***

5. Regarding the Site Plan received December 14, 2022:
  - A. Proposed features include:
    - (1) Solar arrays cover the majority of the 21-acre tract.
    - (2) One 2,000 square foot data center would be located in the central part of the subject property.

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- (3) Inverters would be located adjacent to the data center building.
  - (4) An access road would lead from East Windsor Road to the data center.
- B. A Revised Site Plan received January 4, 2023 indicates the following changes:
- (1) The south inverter has been moved north so that it is at least 275 feet from the PV SOLAR ARRAY fence line.
  - (2) Evergreen screening has been added south of the veterinary clinic and adjacent dwelling and screening that was along Windsor Road has been moved south to the PV SOLAR ARRAY fence line.
- C. A Revised Site Plan received January 18, 2023 indicates the following changes:
- (1) Evergreen screening has been added along the west side of the PV SOLAR ARRAY fence line.
- D. There are no previous zoning permits for the subject property.
- E. There are no previous zoning cases for the subject property.

***GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS***

6. Regarding authorization for a “PV SOLAR FARM” in the AG-2 Agriculture Zoning District in the *Zoning Ordinance*:
- A. The County Board amended the Zoning Ordinance by adopting PV SOLAR FARM requirements when it adopted Ordinance No. 2018-4 on August 23, 2018.
  - B. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
    - (1) “ACCESS” is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
    - (2) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry, and the keeping, raising, and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting, and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning, or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes

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include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

- (3) “BEST PRIME FARMLAND” is Prime Farmland Soils identified in the Champaign County Land Evaluation and Site Assessment (LESA) System that under optimum management have 91% to 100% of the highest soil productivities in Champaign County, on average, as reported in the *Bulletin 811 Optimum Crop Productivity Ratings for Illinois Soils*. Best Prime Farmland consists of the following:
  - a. Soils identified as Agriculture Value Groups 1, 2, 3 and/or 4 in the Champaign County LESA system;
  - b. Soils that, in combination on a subject site, have an average LE of 91 or higher, as determined by the Champaign County LESA system;
  - c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
- (4) “BUFFER STRIP” is an area, PROPERTY, LOT or tract of land or portion thereof, either vacant or landscaped with SCREEN PLANTING as herein specified, which shall serve as a separating space between dissimilar USES or DISTRICTS.
- (5) “DATA CENTER” is a centralized location where computing and networking equipment is concentrated for the purpose of collecting, storing, processing, distributing or allowing access to large amounts of data.
- (6) “DISCRETIONARY DEVELOPMENT” is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations.
- (7) “DWELLING OR PRINCIPAL BUILDING, PARTICIPATING” is a DWELLING on land that is leased to a WIND FARM or a PV SOLAR FARM.
- (8) “DWELLING OR PRINCIPAL BUILDING, NON- PARTICIPATING” is a DWELLING on land that is not leased to a WIND FARM or a PV SOLAR FARM.
- (9) “FRONTAGE” is that portion of a LOT abutting a STREET or ALLEY.
- (10) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
- (11) “LOT LINE, FRONT” is a line dividing a LOT from a STREET or easement of ACCESS. On a CORNER LOT or a LOT otherwise abutting more than one STREET or easement of ACCESS only one such LOT LINE shall be deemed the FRONT LOT LINE.

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- (12) “LOT LINE, REAR” is any LOT LINE which is generally opposite and parallel to the FRONT LOT LINE or to a tangent to the midpoint of the FRONT LOT LINE. In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.
- (13) “LOT LINES” are the lines bounding a LOT.
- (14) “NON-ADAPTABLE STRUCTURE” is any STRUCTURE or physical alteration to the land which requires a SPECIAL USE permit, and which is likely to become economically unfeasible to remove or put to an alternate USE allowable in the DISTRICT (by right or by SPECIAL USE).
- (15) “NOXIOUS WEEDS” are any of several plants designated pursuant to the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.) and that are identified in 8 Illinois Administrative Code 220.
- (16) “PHOTOVOLTAIC (PV)” is a type of solar energy system that produces electricity by the use of photovoltaic cells that generate electricity when struck by light.
- (17) “PV SOLAR ARRAY” is a collection of multiple photovoltaic solar panels that convert sunlight to electricity as a system primarily to be used onsite.
- (18) “PV SOLAR FARM” is a unified development intended to convert sunlight into electricity by photovoltaic (PV) devices for the primary purpose of wholesale sales of generated electricity. A PV SOLAR FARM is under a common ownership and operating control even though parts of the PV SOLAR FARM may be located on land leased from different owners. A PV SOLAR FARM includes all necessary components including access driveways, solar devices, electrical inverter(s), electrical transformer(s), cabling, a common switching station, maintenance and management facilities, and water wells. PV SOLAR FARM should be understood to include COMMUNITY PV SOLAR FARM unless specified otherwise in the relevant section or paragraph.
- (19) “PRIVATE WAIVER” is a written statement asserting that a landowner has agreed to waive a specific WIND FARM or PV SOLAR FARM standard condition and has knowingly agreed to accept the consequences of the waiver. A PRIVATE WAIVER must be signed by the landowner.
- (20) “RIGHT-OF-WAY” is the entire dedicated tract or strip of land that is to be used by the public for circulation and service.
- (21) “SCREEN” is a STRUCTURE or landscaping element of sufficient opaqueness or density and maintained such that it completely obscures from view throughout its height the PREMISES upon which the screen is located.

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- (22) “SCREEN PLANTING” is a vegetative material of sufficient height and density to filter adequately from view, in adjoining DISTRICTS, STRUCTURES, and USES on the PREMISES upon which the SCREEN PLANTING is located.
- (23) “SETBACK LINE” is the BUILDING RESTRICTION LINE nearest the front of and across a LOT establishing the minimum distance to be provided between a line of a STRUCTURE located on said LOT and the nearest STREET RIGHT-OF-WAY line.
- (24) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
- (25) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
- (26) “STREET” is a thoroughfare dedicated to the public within a RIGHT-OF-WAY which affords the principal means of ACCESS to abutting PROPERTY. A STREET may be designated as an avenue, a boulevard, a drive, a highway, a lane, a parkway, a place, a road, a thoroughfare, or by other appropriate names. STREETS are identified on the Official Zoning Map according to type of USE, and generally as follows:
- (a) MAJOR STREET: Federal or State highways.
  - (b) COLLECTOR STREET: COUNTY highways and urban arterial STREETS.
  - (c) MINOR STREET: Township roads and other local roads.
- (27) “SUITED OVERALL” is a discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be SUITED OVERALL if the site meets these criteria:
- a. The site features or site location will not detract from the proposed use;
  - b. The site will not create a risk to health, safety or property of the occupants, the neighbors or the general public;
  - c. The site is not clearly inadequate in one respect even if it is acceptable in other respects;
  - d. Necessary infrastructure is in place or provided by the proposed development; and
  - e. Available public services are adequate to support the proposed development effectively and safely.
- (28) WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
- a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
  - b. The site is reasonably well-suited in all respects and has no major defects.



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- C. Section 4.2.1 C.6. states: It shall be unlawful to erect or establish more than one MAIN or PRINCIPAL STRUCTURE or BUILDING per LOT or more than one PRINCIPAL USE per LOT in the AG-1, Agriculture, AG-2, Agriculture, CR, Conservation-Recreation, R-1, Single Family Residence, R-2, Single Family Residence, and R-3, Two Family Residence DISTRICTS other than in PLANNED UNIT DEVELOPMENTS except as follows:
6. A PV SOLAR ARRAY may be authorized as a County Board SPECIAL USE Permit in the AG-2 Agriculture Zoning District as a second PRINCIPAL USE on a LOT with another PRINCIPAL USE.”
- D. Section 5.2 only authorizes a “PV SOLAR ARRAY” as a County Board Special Use Permit in the AG-2, Business, and Industrial Zoning Districts.
- (1) Section 5.2 Footnote 29 states: “A PV SOLAR ARRAY with one megawatt or more is permitted by a COUNTY BOARD Special Use Permit, subject to the requirements of Sections 6.1.1 and 6.1.5 of the Zoning Ordinance and shall also be a second PRINCIPAL USE requiring a Special Use Permit per Section 4.2.1 F. A PV SOLAR ARRAY with less than one megawatt is permitted under the terms of Section 7.9 ACCESSORY PV SOLAR ARRAY.”
- E. Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
- (1) All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
  - (2) No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
  - (3) Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
  - (4) The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
  - (5) The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer’s documentation of the full-cutoff feature for all exterior light fixtures.
- F. For a PV SOLAR ARRAY, Section 6.1.3 Schedule of Standard Conditions for Specific Types of Special Uses states: “1. The following requirements are in lieu of the requirements of Section 6.1.5 B.(3):
- A. The utility interconnection application must be applied for with the relevant utility and documentation provided at the time of Special Use Permit application.
  - B. Documentation must be provided that the utility has accepted the application for the PV SOLAR ARRAY prior to issuance of the Zoning Compliance Certificate.”
- G. Section 6.1.5 contains the standard conditions for any PV SOLAR FARM which are as follows (capitalized words are defined in the Ordinance):

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- (1) Requirements for what must be included in the area of the PV SOLAR FARM are in 6.1.5 B.(1).
- (2) Requirements for where a PV SOLAR FARM cannot be located are in 6.1.5 B.(2).
- (3) Paragraph 6.1.5 C. eliminates LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, and maximum LOT COVERAGE requirements from applying to a PV SOLAR FARM.
- (4) Paragraph 6.1.5 D. contains minimum separations for PV SOLAR FARMS from adjacent USES and STRUCTURES.
- (5) Paragraph 6.1.5 E. contains standard conditions for the design and installation of PV SOLAR FARMS.
- (6) Paragraph 6.1.5 F. contains standard conditions to mitigate damage to farmland.
- (7) Paragraph 6.1.5 G. contains standard conditions for use of public streets.
- (8) Paragraph 6.1.5 H. contains standard conditions for coordination with local fire protection districts.
- (9) Paragraph 6.1.5 I. contains standard conditions for the allowable noise level.
- (10) Paragraph 6.1.5 J. contains standard conditions for endangered species consultation.
- (11) Paragraph 6.1.5 K. contains standard conditions for historic and archaeological resources review.
- (12) Paragraph 6.1.5 L. contains standard conditions for acceptable wildlife impacts from PV SOLAR FARM construction and ongoing operations.
- (13) Paragraph 6.1.5 M. contains standard conditions for screening and fencing of PV SOLAR FARMS.
- (14) Paragraph 6.1.5 N. contains standard conditions to minimize glare from PV SOLAR FARMS.
- (15) Paragraph 6.1.5 O. contains standard conditions for liability insurance.
- (16) Paragraph 6.1.5 P. contains other standard conditions for operation of PV SOLAR FARMS.
- (17) Paragraph 6.1.5 Q. contains standard conditions for a decommissioning plan and site reclamation agreement for PV SOLAR FARMS and modifies the basic site reclamation requirements in paragraph 6.1.1 A.
- (18) Paragraph 6.1.5 R. contains standard conditions for securing an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.

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- (19) Paragraph 6.1.5 S. contains standard conditions for a complaint hotline for complaints related to PV SOLAR FARM construction and ongoing operations.
  - (20) Paragraph 6.1.5 T. contains the standard condition for expiration of the PV SOLAR FARM County Board Special Use Permit.
  - (21) Paragraph 6.1.5 U. contains standard conditions establishing additional requirements for application for a PV SOLAR FARM County Board Special Use Permit that supplement the basic requirements for a special use permit application.
- H. Section 9.1.11 requires that a Special Use Permit shall not be granted by the Zoning Board of Appeals unless the public hearing record and written application demonstrate the following:
- (1) That the Special Use is necessary for the public convenience at that location;
  - (2) That the Special Use is so designed, located, and proposed as to be operated so that it will not be injurious to the DISTRICT in which it shall be located or otherwise detrimental to the public welfare except that in the CR, AG-1, and AG-2 DISTRICTS the following additional criteria shall apply:
    - a. The property is either BEST PRIME FARMLAND and the property with proposed improvements in WELL SUITED OVERALL or the property is not BEST PRIME FARMLAND and the property with proposed improvements is SUITED OVERALL.
    - b. The existing public services are available to support the proposed SPECIAL USE effectively and safely without undue public expense.
    - c. The existing public infrastructure together with proposed improvements is adequate to support the proposed development effectively and safely without undue public expense.
  - (3) That the Special Use conforms to the applicable regulations and standards of and preserves the essential character of the DISTRICT in which it shall be located, except where such regulations and standards are modified by Section 6.
  - (4) That the Special Use is in harmony with the general purpose and intent of this ordinance.
  - (5) That in the case of an existing NONCONFORMING USE, it will make such USE more compatible with its surroundings.
- I. Paragraph 9.1.11.D.1. states that a proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Regarding standard conditions:
- (1) The Ordinance requires that a waiver of a standard condition requires the following findings:

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- a. that the waiver is in accordance with the general purpose and intent of the ordinance; and
  - b. that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
- (2) However, a waiver of a standard condition is the same thing as a variance and Illinois law (55ILCS/ 5-12009) requires that a variance can only be granted in accordance with general or specific rules contained in the Zoning Ordinance and the VARIANCE criteria in paragraph 9.1.9 C. include the following in addition to criteria that are identical to those required for a waiver:
- a. Special conditions and circumstances exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.
  - b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied will prevent reasonable or otherwise permitted use of the land or structure or construction
  - c. The special conditions, circumstances, hardships, or practical difficulties do not result from actions of the applicant.
- (3) Including findings based on all of the criteria that are required for a VARIANCE for any waiver of a standard condition will eliminate any concern related to the adequacy of the required findings for a waiver of a standard condition and will still provide the efficiency of not requiring a public hearing for a VARIANCE, which was the original reason for adding waivers of standard conditions to the Ordinance.
- J. Paragraph 9.1.11.D.2. states that in granting any SPECIAL USE permit, the BOARD may prescribe SPECIAL CONDITIONS as to appropriate conditions and safeguards in conformity with the Ordinance. Violation of such SPECIAL CONDITIONS when made a party of the terms under which the SPECIAL USE permit is granted, shall be deemed a violation of this Ordinance and punishable under this Ordinance.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS NECESSARY FOR THE PUBLIC CONVENIENCE AT THIS LOCATION**

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“This land has been purchased and an Ameren Interconnect Agreement is in place. Additionally the proximity to the power substation is a benefit to help distribute the solar generated power.”**
  - B. The State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25% of the State’s energy coming from renewable sources by the year 2025.
  - C. The Illinois Future Energy Jobs Act requires installation of 3,000 MW of new solar capacity by the year 2030.

**GENERALLY REGARDING WHETHER THE SPECIAL USE WILL BE INJURIOUS TO THE DISTRICT OR OTHERWISE INJURIOUS TO THE PUBLIC WELFARE**

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
  - A. The Petitioner has testified on the application, **“The project is designed around being hidden from view. It is setback from the road to allow for future development as well as having a vegetative fencing to help with all noise and aesthetic issues.”**
  - B. Regarding surface drainage:
    - (1) The subject property generally drains to the northwest.
  - C. Regarding impacts on traffic:
    - (1) The subject property is located on East Windsor Road. The pavement surface of Windsor Road near the subject property is a four-lane paved and marked urban arterial.
    - (2) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2021 near the subject property. East Windsor Road west of IL 130 had an ADT of 6,150.
    - (3) The Urbana Township Highway Commissioner was notified of the hearing for these cases and no comments have been received.
    - (4) The City of Urbana has maintenance jurisdiction over East Windsor Road. Urbana Public Works was notified of the hearing for these cases and no comments have been received.
  - D. Regarding fire protection:
    - (1) The subject property is located within the Philo Fire Protection District and is approximately 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of these cases, and no comments have been received.
  - E. No part of the subject property is located within a mapped floodplain.
  - F. The soil on the 21-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam, 330A Peotone silty clay loam, and 663B Clare silt loam, and has an average Land Evaluation score of 97.
  - G. Regarding outdoor lighting on the subject property, the application received December 14, 2022, does not indicate outdoor lighting. A special condition has been added to ensure compliance for any future outdoor lighting installation.
  - H. Regarding wastewater treatment and disposal on the subject property, there is no wastewater treatment and disposal required or planned for the proposed project.

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- I. Regarding parking, there is no required parking for the proposed PV SOLAR ARRAY.
- J. Regarding public comments:  
(1) The following is a summary of comments received at the January 26, 2023 ZBA meeting:  
a. Dr. Lindsay Vahling, veterinarian and owner of A&E Animal Hospital that is adjacent to the subject property, stated that her largest concern was the noise and what it would sound like and do. She said she is concerned for her patients, clients, employees, and tenants.  
b. Mike McCormick, Attorney for the Vahlings, reiterated the concern about noise and its possible impacts.
- K. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

**GENERALLY REGARDING WHETHER THE SPECIAL USE CONFORMS TO APPLICABLE REGULATIONS AND STANDARDS AND PRESERVES THE ESSENTIAL CHARACTER OF THE DISTRICT**

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conforms to all applicable regulations and standards and preserves the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
- A. The Petitioner has testified on the application, **“By installing a solar array with native pollinator habitat put throughout the array it will help retain the essential character of the land for years to come.”**
- B. Regarding compliance with the *Zoning Ordinance*, the following evidence was provided:
- (1) Section 5.2 authorizes a PV SOLAR FARM only by a County Board Special Use Permit in the AG-1 and AG-2 Agriculture Zoning Districts. It is not permitted by right in any district.
- (2) There is no required parking.
- (3) Requirements for what must be included in the area of the PV SOLAR FARM Special Use Permit are in subparagraph 6.1.5 B.(1).  
a. The Site Plan received December 14, 2022 appears to conform to this requirement.
- (4) Requirements which identify certain areas where a PV SOLAR FARM Special Use Permit shall not be located can be found in Subparagraph 6.1.5 B.(2).  
a. Item 6.1.5 B.(2)a. requires a PV SOLAR FARM to be more than one and one half miles from an incorporated municipality with a zoning ordinance, unless the following is provided:

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- (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.
  - i. The 21-acre subject property is located within one-half mile of the City of Urbana and is within the city's contiguous urban growth area.
  - ii. The City of Urbana is aware of the proposed project and has not provided comments as of January 18, 2023.
  
- (b) 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.
  - i. The City of Urbana is aware of the proposed project.
  
- (c) 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.
  - i. No resolution from the City of Urbana has been received as of January 18, 2023.
  
  - ii. Notice of the January 26, 2023, ZBA public hearing was sent by P&Z Staff to the City of Urbana on January 11, 2023.
  
- (5) Requirements regarding interconnection to the power grid can be found in Subparagraph 6.1.5 B.(3), but for a PV SOLAR ARRAY, the following requirements are in lieu of the requirements of Section 6.1.5B.(3):
  - a. The utility interconnection application must be applied for with the relevant utility and documentation provided at the time of Special Use Permit application.
    - (a) The petitioner included a signed interconnection agreement with their application.

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- b. Documentation must be provided that the utility has accepted the application for the PV SOLAR ARRAY prior to issuance of the Zoning Compliance Certificate.
- (6) Requirements regarding Right to Farm can be found in Subparagraph 6.1.5 B.(4): “The owners of the subject property and the Applicant, its successors in interest, and all parties to the decommissioning plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.”
- a. A special condition was added to ensure compliance.
- (7) Requirements regarding minimum lot standards can be found in Subparagraph 6.1.5 C.:
- Subparagraph 6.1.5 C. eliminates LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, maximum LOT COVERAGE, or maximum LOT AREA requirements on BEST PRIME FARMLAND requirements for a PV SOLAR FARM or for LOTS for PV SOLAR FARM substations and/ or PV SOLAR FARM maintenance and management facilities.
- (8) Requirements regarding minimum separations for PV SOLAR FARMS from other STRUCTURES, BUILDINGS, and USES can be found in Subparagraph 6.1.5 D.
- a. The revised Site Plan received December 14, 2022, shows the separations between the solar farm fence and adjacent buildings and uses.
  - b. The proposed PV SOLAR FARM complies with all minimum separations in paragraph 6.1.5 D. in the following manner:
    - (a) Subparagraph 6.1.5 D.(1) requires PV SOLAR FARM fencing to be set back from the street centerline a minimum of 40 feet from a MINOR STREET and a minimum of 55 feet from a COLLECTOR STREET and a minimum of 60 feet from a MAJOR STREET unless a greater separation is required for screening pursuant to Section 6.1.5 M.(2)a., but in no case shall the perimeter fencing be less than 10 feet from the RIGHT OF WAY of any STREET.
      - i. The Site Plan received December 14, 2022 shows the 55 feet setback from East Windsor Road, which is a COLLECTOR STREET.
    - (b) Subparagraph 6.1.5 D.(2) states that for properties participating in the solar farm, there is no required separation from any existing DWELLING or existing PRINCIPAL BUILDING except as required to ensure that a minimum zoning lot is provided for the existing DWELLING or PRINCIPAL BUILDING.
      - a. The subject property meets minimum zoning lot requirements.
    - (c) Subparagraph 6.1.5 D.(3)a. states that for any adjacent LOT that is 10 acres or less in area (not including the STREET RIGHT OF WAY):



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- i. For any adjacent LOT that is bordered (directly abutting and/or across the STREET) on no more than two sides by the PV SOLAR FARM, the separation shall be no less than 240 feet from the property line.
  - (i) There is a 0.63-acre lot with a veterinary clinic to the northeast of the subject property.
  - (ii) There is a 1.18-acre lot with a dwelling east of the veterinary clinic.
  - (iii) The petitioner proposes a separation of 32 feet between the PV SOLAR ARRAY fence and the property line shared with these properties. A waiver is required for this separation.
- ii. For any adjacent LOT that is bordered (directly abutting and/or across the STREET) on more than two sides by the PV SOLAR FARM, the separation shall exceed 240 feet as deemed necessary by the BOARD.
  - (i) There are no adjacent lots that are 10 acres or less in lot area and bordered on more than two sides by the PV SOLAR ARRAY.
- (d) Subparagraph 6.1.5 D.(3)b. states that for any adjacent LOT that is more than 10 acres in area (not including the STREET RIGHT OF WAY), the separation shall be no less than 255 feet from any existing DWELLING or existing PRINCIPAL BUILDING and otherwise the perimeter fencing shall be a minimum of 10 feet from a SIDE or REAR LOT LINE. This separation distance applies to properties that are adjacent to or across a STREET from a PV SOLAR FARM.
  - i. There are no adjacent lots with dwellings that are more than 10 acres in lot area.
- (e) Subparagraph 6.1.5 D.(3)c. states that additional separation may be required to ensure that the noise level required by 35 Ill. Admin. Code Parts 900, 901 and 910 is not exceeded or for other purposes deemed necessary by the BOARD.
  - i. There are no proposed additional separations at this time.
- (f) Subparagraph 6.1.5 D.(4) states that there must be a separation of at least 500 feet from specific types of airport and restricted landing area facilities unless the SPECIAL USE permit application includes results provided from an analysis using the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, Federal Aviation Administration (FAA) Review of Solar Energy Projects on Federally Obligated Airports, or the most recent version adopted by

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the FAA, and the SGHAT results show no detrimental affect with less than a 500 feet separation.

- i. There is at least 500 feet of separation between the proposed PV SOLAR ARRAY and any airport or restricted landing area facilities. No glare analysis is required.
- (g) Subparagraph 6.1.5 D.(5) requires a separation of at least 500 feet between substations and transmission lines of greater than 34.5 kVA to adjacent dwellings and residential DISTRICTS.
  - i. There are no new substations or transmission lines of greater than 34.5 kVA within 500 feet of adjacent dwellings or residential DISTRICTS.
- (h) Subparagraph 6.1.5 D.(6) states that electrical inverters shall be located as far as possible from property lines and adjacent DWELLINGS consistent with good engineering practice. Inverter locations that are less than 275 feet from the perimeter fence shall require specific approval and may require special sound deadening construction and noise analysis.
  - i. P&Z Staff has verified that the inverters shown on the revised Site Plan received January 18, 2023, are at least 290 feet away from the PV SOLAR FARM perimeter fence.
  - ii. Regarding the distance between the inverters and nearby lots with dwellings, based on the revised Site Plan received January 18, 2023:
    - (i) The closest distance between a property with a residence and an inverter is approximately 345 feet.
- (i) Subparagraph 6.1.5 D.(7) states that separation distances for any PV SOLAR FARM with solar equipment exceeding 8 feet in height, with the exception of transmission lines which may be taller, shall be determined by the BOARD on a case-by-case basis.
  - i. The application stated that the arrays will not exceed 8 feet in height.
- (j) Subparagraph 6.1.5 D.(8) states that PV SOLAR FARM solar equipment other than inverters shall be no less than 26 feet from the property line of any lot more than 10 acres in area.
  - i. The revised Site Plan received January 18, 2023, shows that there is at least a 26-foot separation between the property line of the PV SOLAR ARRAY and the nearest array.
- (9) Paragraph 6.1.5 E. contains standard conditions for the design and installation of PV SOLAR FARMS. Compliance with paragraph 6.1.5 E. can be summarized as follows:

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- a. Subparagraph 6.1.5 E.(1) requires certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer or other qualified professional that that the constructed building conforms to Public Act 96-704 regarding building code compliance and conforms to the Illinois Accessibility Code.
  - (a) The Special Use Permit application packet received December 14, 2022, does not include any buildings. The data center building is independent of the solar arrays.
  
- b. Subparagraph 6.1.5 E.(2) establishes minimum requirements for electrical components.
  - (a) Part 6.1.5 E.(2)a. states that all electrical components of the PV SOLAR FARM shall conform to the National Electrical Code as amended and shall comply with Federal Communications Commission (FCC) requirements.
    - i. No information was required or submitted for the Special Use Permit application.
  
  - (b) Part 6.1.5 E.(2)b. states that burying power and communication wiring underground shall be minimized consistent with best management practice regarding PV solar farm construction and minimizing impacts on agricultural drainage tile.
    - i. No information was required or submitted for the Special Use Permit application.
  
- c. Subparagraph 6.1.5 E.(3) states that the height limitation established in Section 5.3 shall not apply to a PV SOLAR FARM, and requires the maximum height of all above ground STRUCTURES to be identified in the application and as approved in the SPECIAL USE permit.
  - (a) Solar array height will be under eight feet.
  
- d. Subparagraph 6.1.5 E.(4) requires that a reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - (a) The petitioner provided example photos of a warning sign as part of the application received December 14, 2022.
  
- e. Subparagraph 6.1.5 E.(5) requires that no PV SOLAR FARM construction may intrude on any easement or right of way for a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE, an underground water main or sanitary sewer, a drainage district ditch or tile, or any other public utility facility unless specifically authorized by a crossing agreement that has been entered into with the relevant party.
  - (a) There are two drainage districts on the subject property: Silver Creek Drainage District and St. Joseph Drainage District 3. Notice was sent to the attorney for these districts on January 11, 2023, and no comments have been received.

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- (b) Champaign County Geographic Information Systems data does not show any gas or hazardous liquid lines on the subject property.
- (10) Paragraph 6.1.5 F. contains standard conditions to mitigate damage to farmland.
- a. The soil on the 21-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam, 330A Peotone silty clay loam, and 663B Clare silt loam, and has an average Land Evaluation score of 97.
  - b. The Applicant is required to sign an Agricultural Impact Mitigation Agreement, which would include requirements to mitigate damage to farmland per 505 ILCS 147/15(b). A special condition has been added to ensure compliance.
  - c. Subparagraph 6.1.5 F.(1) establishes a minimum depth of 5 feet for underground wiring or cabling below grade or deeper if required to maintain a minimum one foot of clearance between the wire or cable and any agricultural drainage tile or a lesser depth if so authorized by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.
    - (a) No information was required or submitted for the Special Use Permit application.
  - d. Subparagraph 6.1.5 F.(2) establishes requirements for protection of agricultural drainage tile.
    - (a) No information was required or submitted for the Special Use Permit application.
  - e. Subparagraph 6.1.5 F.(3) requires restoration for any damage to soil conservation practices.
    - (a) No information was required or submitted for the Special Use Permit application.
  - f. Subparagraph 6.1.5 F.(4) establishes requirements for topsoil replacement pursuant to any open trenching.
    - (a) No information was required or submitted for the Special Use Permit application.
  - g. Subparagraph 6.1.5 F.(5) establishes requirements for mitigation of soil compaction and rutting.
    - (a) No information was required or submitted for the Special Use Permit application.
  - h. Subparagraph 6.1.5 F.(6) establishes requirements for land leveling.
    - (a) No information was required or submitted for the Special Use Permit application.
  - i. Subparagraph 6.1.5 F.(7) establishes requirements for a permanent Erosion and Sedimentation Control Plan.

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- (a) No information was required or submitted for the Special Use Permit application.
  - j. Subparagraph 6.1.5 F.(8) establishes requirements for retention of all topsoil.
    - (a) No information was required or submitted for the Special Use Permit application.
  - k. Subparagraph 6.1.5 F.(9) establishes requirements for minimizing the disturbance to BEST PRIME FARMLAND by establishing a specific type of vegetative ground cover.
    - (a) The petitioner submitted a Landscape Plan with the Special Use Permit application on December 14, 2022.
- (11) Paragraph 6.1.5 G. contains standard conditions for use of public streets.
  - a. Paragraph 6.1.5 G.(1) requires the Applicant to enter into a signed Roadway Upgrade and Maintenance agreement approved by the County Engineer and State's Attorney and/or any relevant Township Highway Commissioner prior to the close of the public hearing for the use of public streets, except for any COMMUNITY PV SOLAR FARM for which the relevant highway authority has agreed in writing to waive the requirements, and the signed and executed Roadway Upgrade and Maintenance agreements must provide for certain conditions.
    - (a) The City of Urbana has maintenance jurisdiction over East Windsor Road. A waiver has been requested to provide either a Roadway Upgrade and Maintenance Agreement or waiver from this requirement at a later time.
  - b. Paragraph 6.1.5 G.(2) requires that the County Engineer and State's Attorney, or Township Highway Commissioner, or municipality where relevant, has approved a Transportation Impact Analysis provided by the Applicant and prepared by an independent engineer that is mutually acceptable to the Applicant and the County Engineer and State's Attorney, or Township Highway Commissioner, or municipality.
    - (a) The City of Urbana has maintenance jurisdiction over East Windsor Road. A waiver has been requested to provide either a Roadway Upgrade and Maintenance Agreement or waiver from this requirement at a later time.
  - c. Paragraph 6.1.5 G.(3) requires the Applicant or its successors in interest to enter into a Roadway Use and Repair Agreement with the appropriate highway authority for decommissioning the PV SOLAR FARM.
    - (a) No information was required or submitted for the Special Use Permit application.
- (12) Paragraph 6.1.5 H. contains standard conditions for coordination with local fire protection districts.

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- a. The subject property is located approximately 5.9 road miles from the Philo Fire Station. No information has been received from the Fire Chief as of January 18, 2023.
  - b. No information was provided in the application regarding the petitioner's cooperation with the Philo Fire Protection District in creating an emergency response plan for the proposed solar farm.
- (13) Paragraph 6.1.5 I. contains standard conditions for the allowable noise level.
- a. Subparagraph 6.1.5 I.(1) requires the noise level from each PV SOLAR FARM to be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 *Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
    - (a) No information was required for the Special Use Permit application.
    - b. Subparagraph 6.1.5 I.(3)a. requires that a SPECIAL USE Permit application for other than a COMMUNITY PV SOLAR FARM shall include a noise analysis.
      - (a) The project size is not considered to be a COMMUNITY PV SOLAR FARM and therefore a noise analysis is required.
      - (b) ~~The petitioner has indicated that they will provide a noise analysis. A Noise Study by Shiner Acoustics was received February 17, 2023.~~
        - i. The study was done under the assumption that a 7-foot-tall earthen berm would be constructed south of the veterinary clinic and adjacent dwellings.
        - ii. The study indicates that the calculated dB(A) at the adjacent residential property line would be 42 dB(A).
        - iii. The acoustician determined that "the proposed solar farm would be expected to meet IPCB noise regulations at the nearby residential property."
  - b. Subparagraph 6.1.5 I.(3)a. requires that a SPECIAL USE Permit application for other than a COMMUNITY PV SOLAR FARM shall include a noise analysis.
    - (a) The project size is not considered to be a COMMUNITY PV SOLAR FARM and therefore a noise analysis is required.
    - (b) ~~The petitioner has indicated that they will provide a noise analysis. A Noise Study by Shiner Acoustics was received February 17, 2023.~~
      - i. The study was done under the assumption that a 7-foot-tall earthen berm would be constructed south of the veterinary clinic and adjacent dwellings.
      - ii. The study indicates that the calculated dB(A) at the adjacent residential property line would be 42 dB(A).
      - iii. The acoustician determined that "the proposed solar farm would be expected to meet IPCB noise regulations at the nearby residential property."
- (14) Paragraph 6.1.5 J. contains standard conditions for endangered species consultation. Regarding compliance with 6.1.5 J.:
- a. No information was required or submitted for the Special Use Permit application.
- (15) Paragraph 6.1.5 K. contains standard conditions for historic and archaeological resources review. Regarding compliance with 6.1.5 K.:
- a. No information was required or submitted for the Special Use Permit application.
- (16) Paragraph 6.1.5 L. states: "The PV SOLAR FARM shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife to a sustainable level of mortality."

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- a. No information was required or submitted for the Special Use Permit application.
- (17) Paragraph 6.1.5 M. contains standard conditions for screening and fencing.
- a. Subparagraph 6.1.5 M.(1) requires the PV SOLAR FARM to have perimeter fencing that is at least 7 feet tall, with Knox boxes and keys provided at locked entrances, and a vegetation management plan included in the application to control NOXIOUS WEEDS.
    - (a) Perimeter fencing will be 7 feet tall.
    - (b) A Landscape Plan was received on December 14, 2022 and a separate weed control plan was received on December 29, 2022.
  - b. Subparagraph 6.1.5 M.(2) requires a visual screen around the perimeter of the PV SOLAR FARM.
    - (a) Subparagraph 6.1.5 M.(2)a.(a) requires that a visual screen be provided for any part of the PV SOLAR FARM that is visible to and located within 1,000 feet of an existing DWELLING or residential DISTRICT.
    - (b) There is an existing DWELLING to the northeast that is within 1,000 feet of the proposed solar farm; it appears that existing vegetation surrounding the dwelling provides a sufficient screen, but the petitioner has added evergreen screening in the revised Site Plan received January 18, 2023.
    - (c) There are existing DWELLINGS to the northwest within 1,000 feet of the proposed PV SOLAR ARRAY. The petitioners propose vegetative screening along the north and west fence lines.
- (18) Paragraph 6.1.5 N. contains standard conditions to minimize glare from the PV SOLAR FARM. Subparagraph 6.1.5 N.(1) requires that the design and construction of the PV SOLAR FARM shall minimize glare that may affect adjacent properties and the application shall include an explanation of how glare will be minimized.
- a. The petitioner stated in the application, "We intend to utilize VSUN545-144BMH-DG panels (see attached information on panels) which are constructed of anti-reflective coated tempered glass. In addition, the facility will be sited strategically to face due south (179 degrees) to avoid glint and glare reflection towards adjacent roadways and surrounding areas."
- (19) Paragraph 6.1.5 O. contains standard conditions for the minimum liability insurance for the PV SOLAR FARM.
- a. No information was required for the Special Use Permit application.
- (20) Paragraph 6.1.5 P. contains other standard conditions for operation of the PV SOLAR FARM.

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- a. Subparagraph 6.1.5 P.(1)c. states: “The Application shall explain methods and materials used to clean the PV SOLAR FARM equipment including an estimation of the daily and annual gallons of water used and the source of the water and the management of wastewater. The BOARD may request copies of well records from the Illinois State Water Survey and may require an estimate by a qualified hydrogeologist of the likely impact on adjacent waterwells.”
    - (a) The petitioner stated on the application that they expect rainfall to clean the solar panels sufficiently.
  
  - b. Subparagraph 6.1.5 P.(3) states: “The PV SOLAR FARM SPECIAL USE permit application shall include a weed control plan for the total area of the SPECIAL USE permit including areas both inside of and outside of the perimeter fencing. The weed control plan shall ensure the control and/or eradication of NOXIOUS WEEDS consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.). The weed control plan shall be explained in the application.”
    - (a) A Landscape Plan was received on December 14, 2022. A separate weed control plan was received on December 29, 2022.
  
  - c. All other requirements in Paragraph 6.1.5 P. do not have to be submitted as part of the Special Use Permit application; rather, they will be required during construction, operations, and/or decommissioning phases of the project.
- (21) Paragraph 6.1.5 Q. contains standard conditions for a Decommissioning and Site Reclamation Plan for the PV SOLAR FARM and modifies the basic site reclamation requirements in paragraph 6.1.1 A. Compliance with paragraph 6.1.5 Q. can be summarized as follows:
- a. Subparagraph 6.1.5 Q.(1) of the Ordinance requires a signed Decommissioning and Site Reclamation Plan conforming to the requirements of paragraph 6.1.1 A. of the Ordinance and the remainder of 6.1.5 Q. of the Ordinance. Compliance with the requirements of paragraph 6.1.1 A. of the Ordinance can be summarized as follows:
    - (a) Subparagraph 6.1.1 A.1. of the Ordinance requires the petitioner to submit a Decommissioning and Site Reclamation Plan for consideration by the Board.
      - i. The petitioner has requested a waiver from this requirement so that they can provide it at a later time.
  
    - (b) Subparagraph 6.1.1 A.2. of the Ordinance requires that the decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner or applicant shall also record a covenant incorporating the provisions of the decommissioning and



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- site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.
- i. The petitioner has requested a waiver from this requirement so that they can provide it at a later time.
- (c) Subparagraph 6.1.1 A.3. of the Ordinance requires that separate cost estimates for Section 6.1.1 A.4.a., 6.1.1 A.4.b., and 6.1.1 A.4.c. shall be provided by an Illinois Licensed Professional Engineer and are subject to approval of the BOARD.
- i. The petitioner has requested a waiver to provide detailed cost estimates at a later date.
  - ii. Waiver Part A and a special condition were added to ensure compliance.
- (d) Subparagraph 6.1.1 A.4.d. of the Ordinance requires the Decommissioning and Site Reclamation Plan to provide for provision and maintenance of a letter of credit, as set forth in Section 6.1.1 A.5.
- i. A waiver allowing approval at a later date and a special condition were added to ensure compliance.
- (e) Subparagraph 6.1.1 A.5. of the Ordinance requires submission of an irrevocable letter of credit in the amount of 150% of the cost estimate required by 6.1.1 A.3 prior to issuance of a Zoning Use Permit.
- i. No specifics were required or submitted regarding the Letter of Credit.
- (f) Subparagraph 6.1.1 A.6. of the Ordinance establishes a time period prior to the expiration of the irrevocable letter of credit during which the Zoning Administrator shall contact the landowner regarding the intent to renew the letter of credit and the landowner shall reply within a certain amount of time.
- i. No specifics were required or submitted for the Special Use Permit application regarding this requirement.
- (g) Subparagraph 6.1.1 A.7. of the Ordinance establishes 5 factors to be considered in determining if a NON-ADAPTABLE structure (PV SOLAR FARM in this instance) is abandoned in place and 6.1.1 A.9. of the Ordinance establishes 7 conditions when the Zoning Administrator may draw upon the letter of credit and jointly these 12 circumstances comprise when the Zoning Administrator may draw upon the letter of credit.
- i. No specifics were required or submitted for the Special Use Permit application regarding this requirement.

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- (h) All other requirements in Paragraph 6.1.5 Q.(1) do not have to be submitted as part of the Special Use Permit application; rather, they will be required during construction, operations, and/or decommissioning phases of the project.
  
- b. Subparagraph 6.1.5 Q.(2) of the Ordinance requires that in addition to the costs listed in subparagraph 6.1.1 A.4. of the Ordinance, the decommissioning and site reclamation plan shall also include provisions for anticipated repairs to any public STREET used for the purpose of reclamation of the PV SOLAR FARM and all costs related to removal of access driveways.
  - (a) The petitioner has requested a waiver from this requirement so that they can provide it at a later time.
  
- c. Subparagraph 6.1.5 Q.(3) of the Ordinance requires the Decommissioning and Site Reclamation Plan to include additional information.
  - (a) A waiver allowing approval at a later date and a special condition were added to ensure compliance.
  
- d. Subparagraph 6.1.5 Q.(4) of the Ordinance requires that the Applicant shall provide financial assurance in the form of an irrevocable letter of credit as required in paragraph 6.1.1 A.5. of the Ordinance. Regarding compliance with this subparagraph:
  - (a) A waiver allowing approval at a later date and a special condition were added to ensure compliance.
  
- e. Subparagraph 6.1.5 Q.(5) of the Ordinance states that in addition to the conditions listed in subparagraph 6.1.1 A.9. the Zoning Administrator may also draw on the funds for a myriad of reasons.
  - (a) No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received.
  
- f. Subparagraph 6.1.5 Q.(6) of the Ordinance states that the Zoning Administrator may, but is not required to, deem the PV SOLAR FARM abandoned, or the standards set forth in Section 6.1.5 Q.(5) met, with respect to some, but not all, of the PV SOLAR FARM. In that event, the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to that portion of the PV SOLAR FARM only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining PV SOLAR FARM.
  - (a) No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received.

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- g. Subparagraph 6.1.5 Q.(7) of the Ordinance states that the Decommissioning and Site Reclamation Plan shall be included as a condition of approval by the BOARD and the signed and executed irrevocable letter of credit must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.
  - (a) A special condition has been added to ensure compliance.
  
- (22) Paragraph 6.1.5 R. contains standard conditions for securing an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
  - a. The petitioner did not provide any information on this with their application.
  
  - b. No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received. A special condition has been added to ensure compliance.
  
- (23) Paragraph 6.1.5 S. contains standard conditions for a complaint hotline for complaints related to PV SOLAR FARM construction and ongoing operations.
  - a. No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received. A special condition has been added to ensure compliance.
  
- (24) Paragraph 6.1.5 T. contains a standard condition stating that the PV SOLAR FARM County Board SPECIAL USE Permit designation shall expire in 10 years if no Zoning Use Permit is granted.
  
- (25) Paragraph 6.1.5 U. contains standard conditions establishing additional requirements for application for a PV SOLAR FARM County Board Special Use Permit that supplement the basic requirements for a special use permit application.
  - a. Subparagraph 6.1.5 U.(1)a. requires a PV SOLAR FARM Project Summary.
    - (a) A Project Description was included with the application received December 14, 2022.
  
  - b. Subparagraph 6.1.5 U.(1)b. requires the name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) for the PV SOLAR FARM County Board SPECIAL USE permit.
    - (a) The application received December 14, 2022, demonstrates compliance with this requirement.
  
  - c. Subparagraph 6.1.5 U.(1)c. requires a site plan for the SOLAR FARM which includes the following:
    - (a) The approximate planned location of all PV SOLAR FARM STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, access driveways, solar devices, electrical inverter(s), electrical transformer(s), cabling, switching station, electrical cabling

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from the PV SOLAR FARM to the Substations(s), ancillary equipment, screening and fencing, third party transmission lines, meteorological station, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.

- i. The Site Plan received December 14, 2022, appears to demonstrate compliance with this requirement.
- (b) The site plan shall clearly indicate the area of the proposed PV SOLAR FARM County Board SPECIAL USE Permit as required by subparagraph 6.1.5 B.(1).
  - i. The Site Plan received December 14, 2022, appears to demonstrate compliance with this requirement.
- (c) The location of all below-ground wiring.
  - i. The application received December 14, 2022 demonstrates compliance with this requirement.
- (d) The location, height, and appearance of all above-ground wiring and wiring structures.
  - i. The application received December 14, 2022 demonstrates compliance with this requirement.
- (e) The separation of all PV SOLAR FARM structures from adjacent DWELLINGS and/or PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit. Greater separation and somewhat different locations may be provided in the approved site plan for the Zoning Use Permit provided that that the greater separation does not increase the noise impacts and/or glare that were approved in the PV SOLAR FARM County Board SPECIAL USE Permit. PV SOLAR FARM structures includes substations, third party transmission lines, maintenance and management facilities, or other significant structures.
  - i. The Site Plan received December 14, 2022, appears to demonstrate compliance with this requirement.
- d. Subparagraph 6.1.5 U.(1)d. requires submittal of all other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
  - (a) Compliance with this subparagraph has been shown in previous sections of this Summary of Evidence.
- e. Subparagraph 6.1.5 U.(1)e. requires that 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 as required by Section 6.1.5 B.(2)a.(b).

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- (a) The City of Urbana is aware of the proposed project.
  - f. Subparagraph 6.1.5 U.(1)f. requires that a municipal resolution regarding the PV SOLAR FARM by any municipality located within one-and-one-half miles of the PV SOLAR FARM must be submitted to the ZONING ADMINISTRATOR prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board or, in the absence of such a resolution, 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 as required by Section 6.1.5 B.(2)a.(c).
    - (a) No resolution from the City of Urbana has been received as of January 18, 2023.
    - (b) Notice of the January 26, 2023, ZBA public hearing was sent by P&Z Staff to the City of Urbana on January 11, 2023.
  - g. Subparagraph 6.1.5 U.(1)g. requires that documentation of an executed interconnection agreement with the appropriate electric utility shall be provided prior to issuance of a Zoning Compliance Certificate to authorize operation of the PV SOLAR FARM as required by Section 6.1.5 B.(3)b.
    - (a) The petitioner included a signed interconnection agreement with their application.
  - h. Subparagraph 6.1.5 U.(2) requires that the Applicant shall notify the COUNTY of any changes to the information provided above that occurs while the County Board SPECIAL USE permit application is pending.
    - (a) The P&Z Department received a weed control plan on December 29, 2022, a revised Site Plan on January 4, 2023, and a revised Site Plan on January 18, 2023.
  - i. Subparagraph 6.1.5 U.(2) requires that the Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Zoning Use Permit Application to authorize construction. A special condition has been added to ensure compliance.
- C. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*:
- (1) The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.

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- (3) Regarding the SWMEC requirement to protect agricultural field tile, see the review of compliance with paragraph 6.1.5 F. that contains standard conditions to mitigate damage to farmland.
- D. Regarding the Special Flood Hazard Areas Ordinance, no part of the subject property is located within a Special Flood Hazard Area.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and appears to be in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning district:
  - (1) The proposed use is a PV SOLAR ARRAY that is consistent with the essential character of the AG-2 Agriculture district because it is only authorized in the AG-2, business, and industrial zoning districts.
- G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.

**GENERALLY REGARDING WHETHER THE SPECIAL USE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

- 10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use is in harmony with the general intent and purpose of the Ordinance:
  - A. A PV SOLAR ARRAY may be authorized by the County Board in the AG-2 Agriculture Zoning District as a Special Use provided all other zoning requirements and standard conditions are met or waived.
    - (1) A proposed Special Use that does not conform to the standard conditions requires only a waiver of that particular condition and does not require a variance. Waivers of standard conditions are subject to the following findings:
      - a. that the waiver is in accordance with the general purpose and intent of the ordinance; and
      - b. that the waiver will not be injurious to the neighborhood or to the public health, safety, and welfare.
  - B. See Section 12 for a summary of evidence regarding whether any requested waiver of standard conditions will be in harmony with the general intent and purpose of the Ordinance.
  - C. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
    - (1) Subsection 5.1.1 of the Ordinance states the general intent of the AG-2 district as follows (capitalized words are defined in the Ordinance):

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The AG-2 Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.

- (2) The types of uses authorized in the AG-2 district are in fact the types of uses that have been determined to be acceptable in the AG-2 districts. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
- (3) Paragraph 2.0(a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those requirements.

- (4) Paragraph 2.0(b) of the Ordinance states that one purpose of the Ordinance is conserving the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
  - a. Regarding the value of nearby properties, it is not clear whether the proposed Special Use will have any impact on the value of nearby properties without a formal real estate appraisal, which has not been requested nor provided, and so any discussion of values is necessarily general.
  - b. Regarding the value of the subject property, it also is not clear if the requested Special Use Permit would have any effect.
    - (a) If the petitioner is denied the special use permit, the property can still be used for agricultural production.
  - c. Section 6.1.5 Q. of the PV SOLAR FARM text amendment approved on August 23, 2018, includes a standard condition requiring a Decommissioning and Site Reclamation Plan that is intended to ensure there is adequate financial assurance for removal of a PV SOLAR FARM at the end of its useful life. Ensuring adequate site reclamation is one method of protecting surrounding property values.

- (5) Paragraph 2.0(c) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding congestion in the public STREETS.

Other than additional traffic during construction and/or decommissioning of the PV SOLAR ARRAY, no significant increase in traffic is anticipated.

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- (6) Paragraph 2.0(d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.
- a. No part of the subject property is located within a Special Flood Hazard Area.
  - b. The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
- (7) Paragraph 2.0(e) of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
- a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
  - b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
  - c. Regarding public comments:
    - (a) The following is a summary of comments received at the January 26, 2023 ZBA meeting:
      - i. Dr. Lindsay Vahling, veterinarian and owner of A&E Animal Hospital that is adjacent to the subject property, stated that her largest concern was the noise and what it would sound like and do. She said she is concerned for her patients, clients, employees, and tenants.
      - ii. Mike McCormick, Attorney for the Vahlings, reiterated the concern about noise and its possible impacts.
- (8) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.
- These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan appears to be in compliance with those limits, subject to the proposed waivers.
- (9) Paragraph 2.0(i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the



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location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0(j.) states that one purpose is dividing 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; and paragraph 2.0(k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0(l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

Harmony with these four purposes requires that the special conditions of approval sufficiently mitigate or minimize any incompatibilities between the proposed Special Use Permit and adjacent uses, and that the special conditions adequately mitigate nonconforming conditions.

- (10) Paragraph 2.0(m) of the Ordinance states that one purpose of the Ordinance is preventing 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.

This purpose is not relevant to the proposed Special Use Permit.

- (11) Paragraph 2.0(n) of the Ordinance states that one purpose of the Ordinance is protecting the most productive AGRICULTURAL lands from haphazard and unplanned intrusions of urban USES.

The subject property is located in the AG-2 Agriculture district and a PV SOLAR ARRAY can be both an urban and a rural use.

- (12) Paragraph 2.0(o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.

There are no forested areas or watercourses on the subject property.

- (13) Paragraph 2.0(p) of the Ordinance states that one purpose of the Ordinance is encouraging the compact development of urban areas to minimize the cost of development of public utilities and public transportation facilities.

The subject property is located in the AG-2 Agriculture district and a PV SOLAR ARRAY can be both an urban and a rural use.

- (14) Paragraph 2.0(q) of the Ordinance states that one purpose of the Ordinance is encouraging the preservation of AGRICULTURAL belts surrounding urban areas, to retain the AGRICULTURAL nature of the COUNTY, and the individual character of existing communities.

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The subject property is located in the AG-2 Agriculture district and a PV SOLAR ARRAY can be both an urban and a rural use.

- (15) Paragraph 2.0(r) of the Ordinance states that one purpose of the Ordinance 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 Zoning Ordinance has designated the AG-2 Agriculture Zoning District as an acceptable area to develop PV SOLAR ARRAYS.

***GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE***

11. The proposed Special Use is not an existing NONCONFORMING USE.

***RELATED TO THE WAIVERS, GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT***

12. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board:
    - (1) Some details that are required to develop the cost estimates might not be available until the Zoning Use Permit phase, when more specific calculations are made by the applicants.
    - (2) A special condition has been added requiring the applicant to submit a Decommissioning and Site Reclamation Plan approved by ELUC at the time of application for a Zoning Use Permit.
  - B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality:
    - (1) The City of Urbana is aware of the proposed project and has not provided comments as of January 18, 2023.
  - C. Regarding Part C of the proposed waivers, for a separation distance of 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line:
    - (1) There is a mature evergreen tree line surrounding the dwelling that serves as a visual barrier, and the petitioner proposes to add evergreen screening on the north side of the PV SOLAR ARRAY.
  - D. Regarding Part D of the proposed waivers, for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board:
    - (1) The petitioner is in discussion with the City of Urbana regarding this requirement and needs more time.

- E. Regarding Part E of the proposed waivers, for not providing a Noise Analysis prior to consideration of the Special Use Permit by the Board:
  - (1) The petitioner plans to provide a Noise Study, but it might not be done in time to be considered by the Board.

***RELATED TO THE WAIVERS, GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE***

- 13. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
  - A. Without Part A of the proposed waivers, the Special Use Permit process might have to be extended in order to have sufficient time to prepare cost estimates and other Decommissioning and Site Reclamation Plan requirements.
  - B. Without Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality: the project could not be constructed on the subject property.
  - C. Without Part C of the proposed waivers, for a separation distance of 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line: a significant amount of solar arrays would have to be removed from the project.
  - D. Without Part D of the proposed waivers, for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board: the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.
  - ~~E. Without Part E of the proposed waivers, for not providing a Noise Analysis prior to consideration of the Special Use Permit by the Board: the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.~~

***RELATED TO THE WAIVERS, GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT***

- 14. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
  - A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board: some details such as cost estimates are not available until closer to construction.
  - B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality: the petitioner was not aware of this requirement when they purchased the land for the project.

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- C. Regarding Part C of the proposed waivers, for a separation distance of 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line: the petitioner was not aware of this requirement when they purchased the land for the project.
- D. Regarding Part D of the proposed waivers, for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board: the petitioner is in discussion with the City of Urbana regarding this requirement and needs more time.
- ~~E. Regarding Part E of the proposed waivers, for not providing a Noise Analysis prior to consideration of the Special Use Permit by the Board: the petitioner has contracted with a company to complete the Noise Analysis and needs more time.~~

**GENERALLY PERTAINING TO WHETHER OR NOT THE WAIVERS ARE IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE**

- 15. Regarding the *Zoning Ordinance* requirement that the waivers of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:
  - A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board: the requested waiver is 0% of the minimum required, for a waiver of 100%.
  - B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality: the requested waiver is 0% of the minimum required, for a waiver of 100%.
  - C. Regarding Part C of the proposed waivers, for a separation distance of 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line: the requested waiver is 13% of the minimum required, for a waiver of 87%.
  - D. Regarding Part D of the proposed waivers, for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board: the requested waiver is 0% of the minimum required, for a waiver of 100%.
  - ~~E. Regarding Part E of the proposed waivers, for not providing a Noise Analysis prior to consideration of the Special Use Permit by the Board: the requested waiver is 0% of the minimum required, for a waiver of 100%.~~

**RELATED TO THE WAIVERS, GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED WAIVERS ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE**

- 16. Regarding the *Zoning Ordinance* requirement for a finding that the granting of the waiver (variance) will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:

- A. The City of Urbana has been notified of this case, and no comments have been received.
- B. The Urbana Township Highway Commissioner has been notified of this case, and no comments have been received.
- C. The Philo Fire Protection District has been notified of this case, and no comments have been received regarding the waivers.
- D. The Silver Creek Drainage District and the St. Joseph Drainage District 3 have been notified of this case, and no comments have been received.
- E. Considerations of public health, safety, and welfare for the proposed special use are discussed under Item 8 and are also applicable to the proposed waivers.

***GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL***

17. Regarding proposed special conditions of approval:

- A. **The approved site plan consists of the following documents:**
  - **Site Plan sheets received January 18, 2023.**

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

**The constructed PV SOLAR ARRAY is consistent with the special use permit approval.**

- B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

- C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR ARRAY until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

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

**That the proposed Special Use meets applicable state requirements for accessibility.**

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**

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

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**That the land affected by PV SOLAR ARRAY is restored to its pre-construction capabilities.**

- E. **A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**

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

**The Special Use Permit complies with Ordinance requirements and as authorized by waiver.**

- F. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR ARRAY:**

1. **Documentation of the solar module's unlimited 10-year warranty and the 25-year limited power warranty.**
2. **Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
3. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of "A" by S&P or a rating of "A3" by Moody's or a rating of "A-" by Kroll Bond Rating Agency within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
5. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
6. **The telephone number for the complaint hotline required by 6.1.5 S.**
7. **Any updates to the approved Site Plan per the requirements provided in Section 6.1.5 U.1.c.**
8. ~~**A noise study that meets the requirements of 6.1.5 I.3. that has been approved by the Environment and Land Use Committee.**~~

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

**The PV SOLAR ARRAY is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.**

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- G. **A Zoning Compliance Certificate shall be required for the PV SOLAR ARRAY prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
1. **An as-built site plan of the PV SOLAR ARRAY including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR ARRAY to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
  2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR ARRAY including any access road prepared by an Illinois Licensed Professional Engineer.**
  3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**

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

**The PV SOLAR ARRAY is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.**

- H. **The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with the following specific requirements that apply even after the PV SOLAR ARRAY goes into commercial operation:**
1. **Maintain the pollinator plantings and required visual screening in perpetuity.**
  2. **Cooperate with local Fire Protection District to develop the District's emergency response plan as required by 6.1.5 H.(2).**
  3. **Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**
  4. **Maintain a current general liability policy as required by 6.1.5 O.**
  5. **Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
  6. **Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.**
  7. **Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.**

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

**Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR ARRAY.**

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- I. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

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

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

- J. **Within one year of residential development (i.e. construction of a dwelling) within 1,000 feet of the south and east sides of the PV SOLAR ARRAY, the owner of the PV SOLAR ARRAY will establish vegetative screening per Section 6.1.5 M.(2) of the Zoning Ordinance.**

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

**To ensure that a screen is planted in the event that anticipated future residential development does occur on adjacent land.**



**DOCUMENTS OF RECORD**

1. Applications for Special Use Permits and Variance received December 14, 2022, with attachments:
  - A Site Plan and Landscape Plan
  - B Plat of Survey
  - C Project Narrative
  - D Specifications sheets for Sunny Highpower Peak 3 inverter
  - E Specifications sheets for VSUN545-144BMH-DG solar panels
  - F Terrasart specification sheets
  - G Standard Agreement for Interconnection with Ameren
  - H Project contact information
2. Revised Site Plan received January 4, 2023
3. Revised Site Plan received January 18, 2023
4. Preliminary Memorandum dated January 18, 2023, with attachments:
  - A Case Maps (Location, Land Use, Zoning)
  - B Revised Site Plan received January 18, 2023
  - C Landscape Plan received December 14, 2022
  - D Plat of Survey received December 14, 2022
  - E Specifications sheets for Sunny Highpower Peak 3 inverter
  - F Specifications sheets for VSUN545-144BMH-DG solar panels
  - G Terrasart specification sheets
  - H Weed control plan received December 29, 2022
  - I Natural Resources Information Report created by Champaign County Soil and Water Conservation District (to be handed out at January 26, 2023 meeting)
  - J LRMP Land Use Goals, Objectives, and Policies (available on ZBA meetings website)
  - K LRMP Appendix of Defined Terms (available on ZBA meetings website)
  - L Right to Farm Resolution 3425
  - M Site Visit Photos taken December 21, 2022
  - N Summary of Evidence, Finding of Fact, and Final Determination for Cases 079-S-22 and 081-V-22 dated January 26, 2023
  - O Summary of Evidence, Finding of Fact, and Final Determination for Case 080-S-22 dated January 26, 2023
5. Noise Study by Shiner Acoustics received February 17, 2023
6. Supplemental Memorandum #1 dated February 22, 2023, with attachments:
  - A Legal Advertisement
  - B Noise Study by Shiner Acoustics received February 17, 2023
  - C Summary of Evidence, Finding of Fact, and Final Determination for Cases 079-S-22 and 081-V-22 dated March 2, 2023
  - D Summary of Evidence, Finding of Fact, and Final Determination for Case 080-S-22 dated March 2, 2023

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## FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **080-S-22** held on **January 26, 2023** and **March 2, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:
  - a. *The State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25% of the State's energy coming from renewable sources by the year 2025.*
  - b. *The Illinois Future Energy Jobs Act requires installation of 3,000 MW of new solar capacity by the year 2030.*
  
2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
  - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
    - a. *Traffic volumes are not expected to increase significantly other than during construction of the project.*
    - b. *No comments have been received from the City of Urbana, which has maintenance jurisdiction over East Windsor Road.*
    - c. *Notice was also sent to the Township Supervisor and the Township Road Commissioner, and no comments have been received.*
  
  - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because\*}*:
    - a. *The subject property is located within the Philo Fire Protection District and is approximately 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of these cases, and no comments have been received.*
  
  - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because\*}*:
    - a. *The proposed PV SOLAR ARRAY will not be disruptive to surrounding agriculture.*
  
  - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because\*}*:
    - a. *No part of the subject property is located within a mapped floodplain and will therefore have to comply with the Special Flood Hazard Areas Ordinance.*
    - b. *A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts, per the Storm Water Management and Erosion Control Ordinance.*
  
  - e. Public safety will be *{ADEQUATE / INADEQUATE}* *{because\*}*:
    - a. *The subject property is located approximately 5.9 road miles from the Philo Fire Station. The Fire Chief was notified of this case, and no comments have been received.*

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- b. **Notice was also sent to the Township Supervisor and Township Road Commissioner, and no comments have been received.**
  
- f. The provisions for parking will be **{ADEQUATE / INADEQUATE}** **{because\*}**:
  - a. **A PV SOLAR ARRAY does not require parking.**
  - b. **There is no significant increase in traffic expected for the proposed development.**
  
- g. The property **{IS/IS NOT}** WELL SUITED OVERALL for the proposed improvements **{because\*}**:
  - a. **The site is reasonably well-suited in all respects and has no major defects.**
  
- h. Existing public services **{ARE/ARE NOT}** available to support the proposed SPECIAL USE without undue public expense **{because\*}**:
  - a. **No additional public services are necessary for the proposed development.**
  
- i. Existing public infrastructure together with the proposed development **{IS/IS NOT}** adequate to support the proposed development effectively and safely without undue public expense **{because\*}**:
  - a. **No new public infrastructure is required for the proposed development.**

*Note the Board may include other relevant considerations as necessary or desirable in each case.*

*\*The Board may include additional justification if desired, but it is not required.*

- 3a. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN / DOES / DOES NOT}** conform to the applicable regulations and standards of the DISTRICT in which it is located, subject to approval of the requested waivers.
  
- 3b. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN / DOES / DOES NOT}** preserve the essential character of the DISTRICT in which it is located because:
  - a. The Special Use will be designed to **{CONFORM / NOT CONFORM}** to all relevant County ordinances and codes.
  - b. The Special Use **{WILL / WILL NOT}** be compatible with adjacent uses.
  - c. Public safety will be **{ADEQUATE / INADEQUATE}**.
  
- 4. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN / IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
  - a. The Special Use is authorized in the District.
  - b. The requested Special Use Permit **{IS / IS NOT}** necessary for the public convenience at this location.
  - c. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN / WILL / WILL NOT}** is so designed, located, and proposed to be operated so that it **{WILL / WILL NOT}** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

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d. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** **{DOES / DOES NOT}** preserve the essential character of the DISTRICT in which it is located.

5. The requested Special Use **IS NOT** an existing nonconforming use.

6. Regarding necessary waivers of standard conditions:

Per Section 7.15 of the Champaign County ZBA Bylaws, “waivers may be approved individually or *en masse* by the affirmative vote of a majority of those members voting on the issue, and shall be incorporated into the Findings of Fact with the reason for granting each waiver described”.

A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board:

- (1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because: ***the petitioner will still need to provide this document prior to receiving a Zoning Use Permit.***
- (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: ***some details such as cost estimates are not available until closer to construction.***
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: ***some details such as cost estimates are not available until closer to construction.***
- (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: ***some details such as cost estimates are not available until closer to construction.***
- (5) The requested waiver **{SUBJECT TO THE PROPOSED SPECIAL CONDITION}** **{IS/ IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure.

B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality:

- (1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because:
  - a. ***Relevant jurisdictions have been notified of these cases, and no comments have been received.***

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- (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: ***the City of Urbana is aware of the proposed project and no comments have been received.***
  - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: ***without the waiver, the project could not be constructed on the subject property.***
  - (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: ***the petitioner was not aware of this requirement when they purchased the land for the project.***
  - (5) The requested waiver **{SUBJECT TO THE PROPOSED SPECIAL CONDITION} {IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because: ***without the waiver, the project could not be constructed on the subject property.***
- C. Regarding Part C of the proposed waivers, for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line:
- (1) The waiver **{IS / IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL / WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because:
    - a. ***Relevant jurisdictions have been notified of these cases, and no comments have been received.***
    - b. ***Neighboring property owners have been notified of these cases, and no comments have been received.***
  - (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
    - a. ***There is a mature evergreen tree line surrounding the dwelling that serves as a visual barrier, and the petitioner proposes to add evergreen screening on the north side of the PV SOLAR ARRAY.***
  - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because:
    - a. ***Without the waiver, a significant number of solar panels would have to be removed.***
  - (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
    - a. ***The petitioner was not aware of this requirement when they purchased the land for the project.***

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- (5) The requested waiver **{SUBJECT TO THE PROPOSED SPECIAL CONDITION} {IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because:
- D. Regarding Part D of the proposed waivers, for not submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board:
- (1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because: ***the petitioner will still need to provide this document prior to receiving a Zoning Use Permit.***
- (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: ***The petitioner is in discussion with the City of Urbana regarding this requirement and needs more time.***
- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: ***the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.***
- (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: ***the petitioner is in discussion with the City of Urbana regarding this requirement and needs more time.***
- (5) The requested waiver **{SUBJECT TO THE PROPOSED SPECIAL CONDITION} {IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure.
- ~~E. Regarding Part E of the proposed waivers, for not providing a Noise Analysis prior to consideration of the Special Use Permit by the Board:~~
- ~~(1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because: ***the petitioner will still need to provide this document prior to receiving a Zoning Use Permit.***~~
- ~~(2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: ***the petitioner will still need to provide this document prior to receiving a Zoning Use Permit.***~~
- ~~(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: ***the Special***~~

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~~*Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.*~~

~~(4) The special conditions, circumstances, hardships, or practical difficulties *{DO/DO NOT}* result from actions of the applicant because: *the petitioner has contracted with a company to complete the Noise Analysis and needs more time.*~~

~~(5) The requested waiver *{SUBJECT TO THE PROPOSED SPECIAL CONDITION}* *{IS/IS NOT}* the minimum variation that will make possible the reasonable use of the land/structure.~~

7. **THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**

A. **The approved site plan consists of the following documents:**

- **Site Plan sheets received January 18, 2023.**

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

**The constructed PV SOLAR ARRAY is consistent with the special use permit approval.**

B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

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

**That exterior lighting for the proposed Special Use meets the requirements established for Special Uses in the Zoning Ordinance.**

C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR ARRAY until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

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

**That the proposed Special Use meets applicable state requirements for accessibility.**

D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**

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

**That the land affected by PV SOLAR ARRAY is restored to its pre-construction capabilities.**

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- E. **A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**

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

**The Special Use Permit complies with Ordinance requirements and as authorized by waiver.**

- F. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR ARRAY:**

1. **Documentation of the solar module's unlimited 10-year warranty and the 25-year limited power warranty.**
2. **Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
3. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of "A" by S&P or a rating of "A3" by Moody's or a rating of "A-" by Kroll Bond Rating Agency within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
5. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
6. **The telephone number for the complaint hotline required by 6.1.5 S.**
7. **Any updates to the approved Site Plan per the requirements provided in Section 6.1.5 U.1.c.**
- ~~8. **A noise study that meets the requirements of 6.1.5 I.3. that has been approved by the Environment and Land Use Committee.**~~

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

**The PV SOLAR ARRAY is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.**



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- G. **A Zoning Compliance Certificate shall be required for the PV SOLAR ARRAY prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
1. **An as-built site plan of the PV SOLAR ARRAY including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR ARRAY to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
  2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR ARRAY including any access road prepared by an Illinois Licensed Professional Engineer.**
  3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**

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

**The PV SOLAR ARRAY is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.**

- H. **The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with the following specific requirements that apply even after the PV SOLAR ARRAY goes into commercial operation:**
1. **Maintain the pollinator plantings and required visual screening in perpetuity.**
  2. **Cooperate with local Fire Protection District to develop the District's emergency response plan as required by 6.1.5 H.(2).**
  3. **Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**
  4. **Maintain a current general liability policy as required by 6.1.5 O.**
  5. **Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
  6. **Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.**
  7. **Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.**

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

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**Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR ARRAY.**

- I. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**

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

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

- J. **Within one year of residential development (i.e. construction of a dwelling) within 1,000 feet of the south and east sides of the PV SOLAR ARRAY, the owner of the PV SOLAR ARRAY will establish vegetative screening per Section 6.1.5 M.(2) of the Zoning Ordinance.**

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

**To ensure that a screen is planted in the event that anticipated future residential development does occur on adjacent land.**

## FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements for approval of Section 9.1.11B. **{HAVE / HAVE NOT}** been met, and pursuant to the authority granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, recommends that:

The Special Use requested in Case **080-S-22** be **{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}** to the applicant, **Donato Solar – Urbana LLC**, to authorize the following as a Special Use on land in the AG-2 Agriculture Zoning district:

**Authorize a photovoltaic solar array with a total nameplate capacity of 6 megawatts (MW), including access roads and wiring, in the AG-2 Agriculture Zoning District as a second principal use as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):**

**Part A: A waiver from providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board, per Section 6.1.1 A.3.**

**Part B: A waiver for locating the PV Solar Array less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality per Section 6.1.5 B.(2)a.**

**Part C: A waiver for locating 32 feet from a non-participating existing dwelling on a lot that is 10 acres or less in area in lieu of the minimum required separation of 240 feet between the solar farm fencing and the property line, per Section 6.1.5 D.(3)a.**

**Part D: A waiver from submitting a Roadway Upgrade and Maintenance Agreement prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G.(1).**

~~**Part E: A waiver from providing a Noise Analysis prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 I.(3).**~~

### **{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }**

- A. The approved site plan consists of the following documents:
  - Site Plan sheets received January 18, 2023.
- B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or issue a Zoning Compliance Certificate on the subject property until the lighting specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.
- C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed PV SOLAR ARRAY until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code, if necessary.

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- D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**
- E. **A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**
- F. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR ARRAY:**
1. **Documentation of the solar module's unlimited 10-year warranty and the 25-year limited power warranty.**
  2. **Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
  3. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of "A" by S&P or a rating of "A3" by Moody's or a rating of "A-" by Kroll Bond Rating Agency within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
  4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
  5. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
  6. **The telephone number for the complaint hotline required by 6.1.5 S.**
  7. **Any updates to the approved Site Plan per the requirements provided in Section 6.1.5 U.1.c.**
  - ~~8. **A noise study that meets the requirements of 6.1.5 I.3. that has been approved by the Environment and Land Use Committee.**~~
- G. **A Zoning Compliance Certificate shall be required for the PV SOLAR ARRAY prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
1. **An as-built site plan of the PV SOLAR ARRAY including structures, property lines (including identification of adjoining properties), as-built separations,**

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- public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR ARRAY to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.**
- 2. As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR ARRAY including any access road prepared by an Illinois Licensed Professional Engineer.**
  - 3. An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**
- H. The Applicant or Owner or Operator of the PV SOLAR ARRAY shall comply with the following specific requirements that apply even after the PV SOLAR ARRAY goes into commercial operation:**
- 1. Maintain the pollinator plantings and required visual screening in perpetuity.**
  - 2. Cooperate with local Fire Protection District to develop the District's emergency response plan as required by 6.1.5 H.(2).**
  - 3. Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**
  - 4. Maintain a current general liability policy as required by 6.1.5 O.**
  - 5. Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
  - 6. Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.**
  - 7. Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.**
- I. The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**
- J. Within one year of residential development (i.e. construction of a dwelling) within 1,000 feet of the south and east sides of the PV SOLAR ARRAY, the owner of the PV SOLAR ARRAY will establish vegetative screening per Section 6.1.5 M.(2) of the Zoning Ordinance.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair  
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date