

CASE 133-S-24

PRELIMINARY MEMORANDUM

MARCH 20, 2024

Petitioner: Anthony Donato, d.b.a. Donato Solar – Bondville LLC

Request: Authorize a Data Center as a Special Use Permit in the AG-2 Agriculture Zoning District

Location: A 77.5-acre tract in the East Half of the Southwest Quarter of Section 12, Township 19 North, Range 7 East of the Third Principal Meridian in Scott Township.

Site Area: less than one acre of a 77.5-acre tract

Time Schedule for Development: As soon as possible

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

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

(217) 384-3708

zoningdept@co.champaign.il.us
www.co.champaign.il.us/zoning

BACKGROUND

The petitioner would like to construct two principal uses on the 77.5-acre subject property: a 1,344 square foot Data Center and a 6-megawatt (MW) PV Solar Array. Case 111-S-23 is for the PV Solar Array, and Case 133-S-24 is a new Special Use Permit application for the data center that was denied in Case 110-S-23. The Zoning Administrator determined that there is sufficient change from the previous application so that the petitioner could apply for the same project again. The difference is that the County Board approved rezoning the subject property from AG-1 Agriculture to AG-2 Agriculture on February 22, 2024, so the zoning is now appropriate for the Data Center use. The Special Use Permit application for the data center is determined by the ZBA, not by the County Board.

Note that the Village of Bondville had protest rights only on the rezoning, but does not have protest rights on a Special Use Permit. P&Z Staff emailed and mailed notice to the Village of Bondville regarding new Case 133-S-24 on March 13, 2024.

The proposed Data Center requires large amounts of energy. A PV Solar Array is a use commonly associated with Data Centers because they can provide lower cost energy. Unlike utility-scale solar farms that sell all their energy directly to the area electrical grid, the Data Center will be the primary consumer of the energy created by the PV Solar Array and any excess energy will be distributed to the Ameren electrical grid.

EXTRATERRITORIAL JURISDICTION

The subject property is within the one and one-half mile extraterritorial jurisdiction of the Village of Bondville, a municipality with zoning. Zoned municipalities have protest rights in Map Amendment cases, but not in Special Use Permit cases. Notice of the public hearing was sent to the village.

The subject property is located within Scott Township, which does not have a Plan Commission.

EXISTING LAND USE AND ZONING**Table 1. Land Use and Zoning Summary**

Direction	Land Use	Zoning
Onsite	Agriculture	AG-2 Agriculture
North	Agriculture	AG-1 Agriculture
West	Agriculture	AG-1 Agriculture
East	Agriculture	AG-1 Agriculture
South	Mix of commercial/residential	Village of Bondville zoning

PROPOSED 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.**

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. **A Zoning Compliance Certificate shall be required for the DATA CENTER prior to commercial operation. Approval of a Zoning Compliance Certificate shall require the following:**

1. **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.**
2. **A fire hydrant shall be installed along the gravel drive within 200 feet of the data center in compliance with the relevant standards of the relevant jurisdiction and written acceptance by the Bondville Fire Department shall be submitted to the Zoning Administrator and a Knox box shall be installed at the door to the Data Center.**

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

The DATA CENTER is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.

- D. The petitioner shall apply for a Floodplain Development Permit in conjunction with the Zoning Use Permit for construction of the DATA CENTER.**

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

Compliance with the Special Flood Hazard Areas Ordinance.

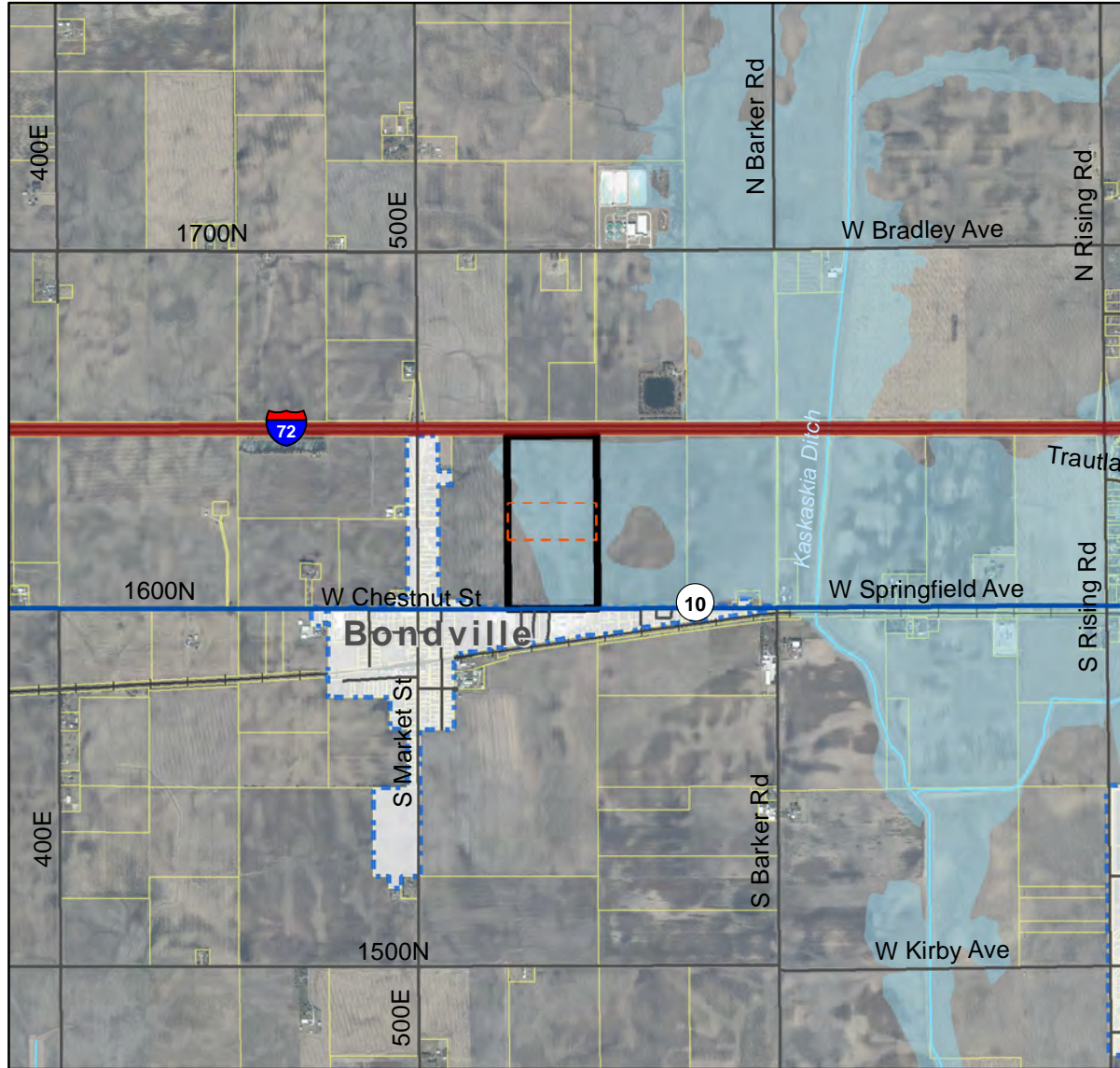
ATTACHMENTS

- A Case Maps (Location, Land Use, Zoning)
- B Site Plan received November 30, 2023 (2 sheets)
- C 2023 aerial with floodplain and 1-foot contours prepared by P&Z Staff on March 11, 2024
- D Letter from landowner Andrew Hatch received August 18, 2023
- E Email from Adam Shaw, Bondville Fire, received November 30, 2023
- F Site Visit Photos taken July 31, 2023
- G Case 110-S-23 Findings of Fact for denial as approved by the ZBA on November 30, 2023
- H Summary of Evidence, Finding of Fact, and Final Determination for Case 133-S-24 dated March 20, 2024

Location Map

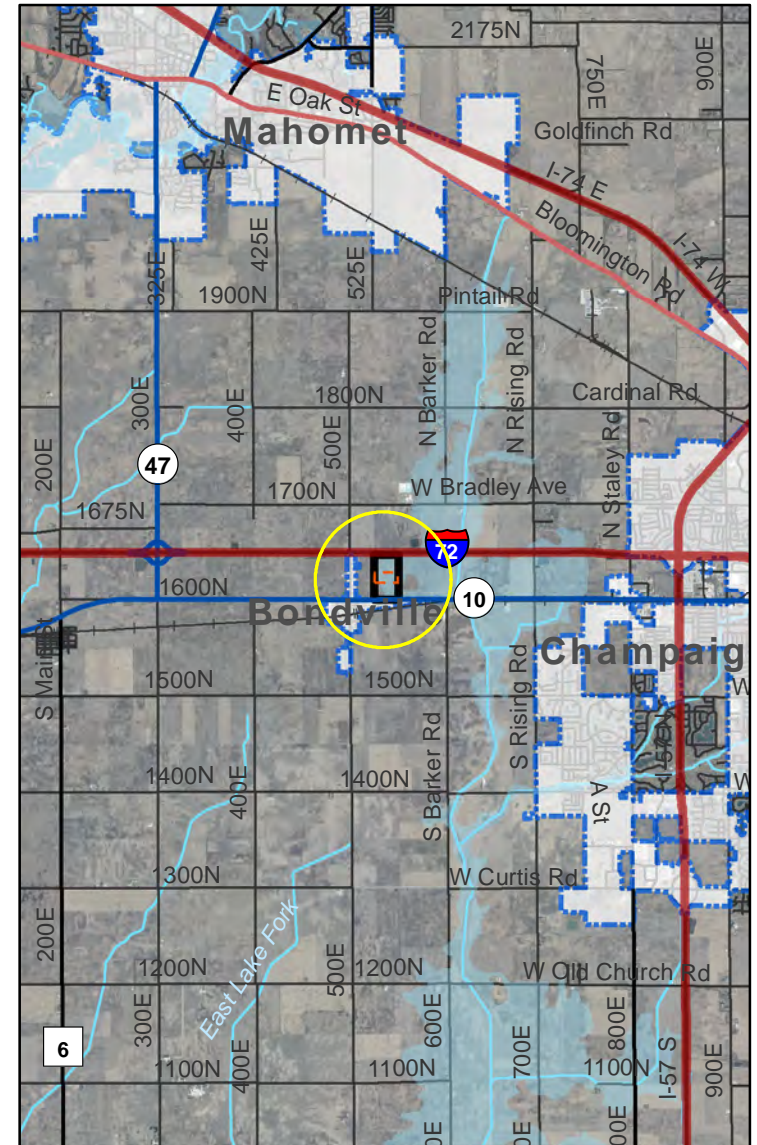
Case 133-S-24
March 28, 2024

Subject Property



- Subject Property
- Solar farm fenced area
- Municipal Boundary
- Parcels
- Flood Hazard Area
- Streams

Property location in Champaign County



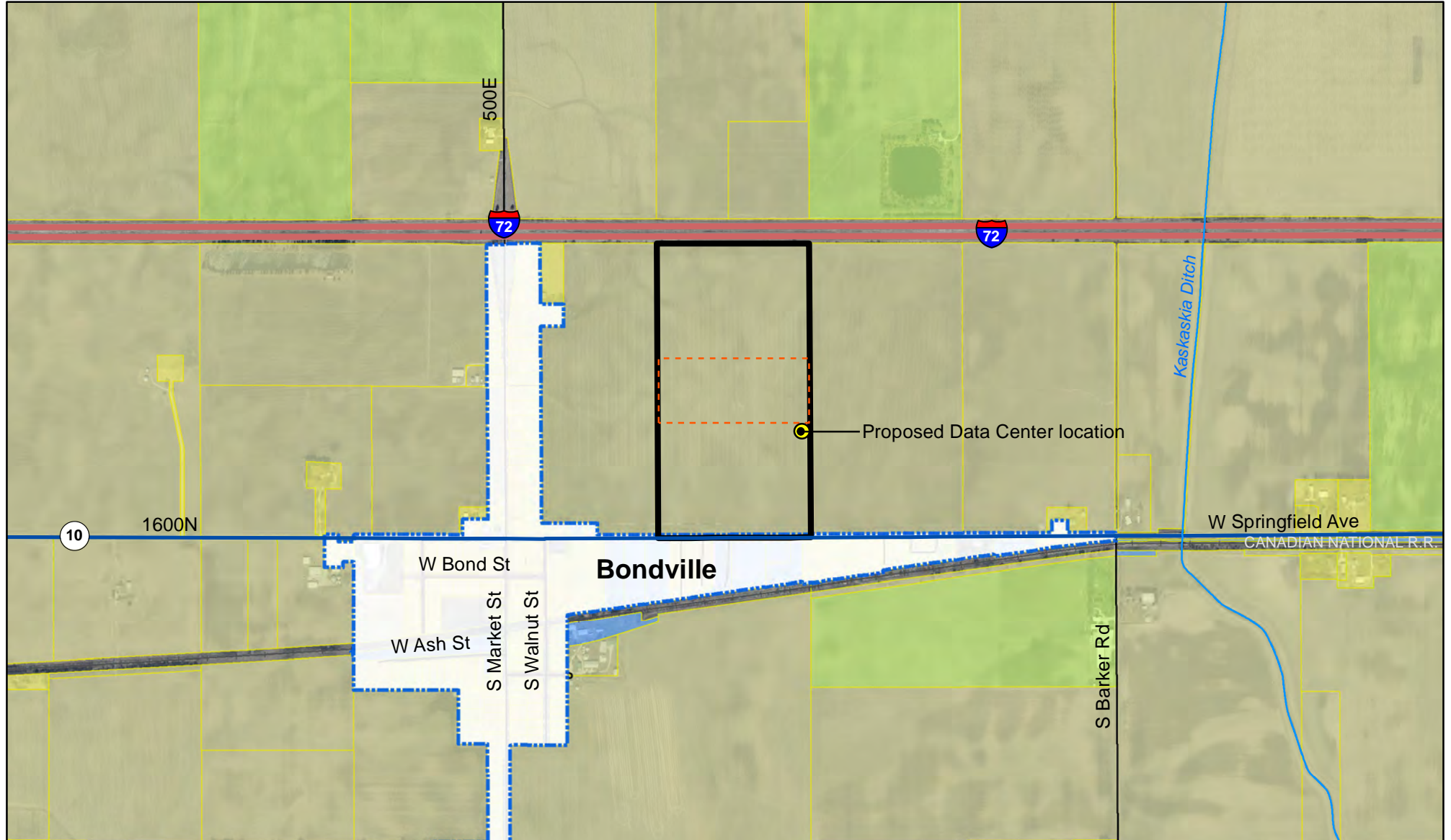
0 0.5 1 2 Miles



Champaign County
Department of
PLANNING &
ZONING

Land Use Map

Case 133-S-24
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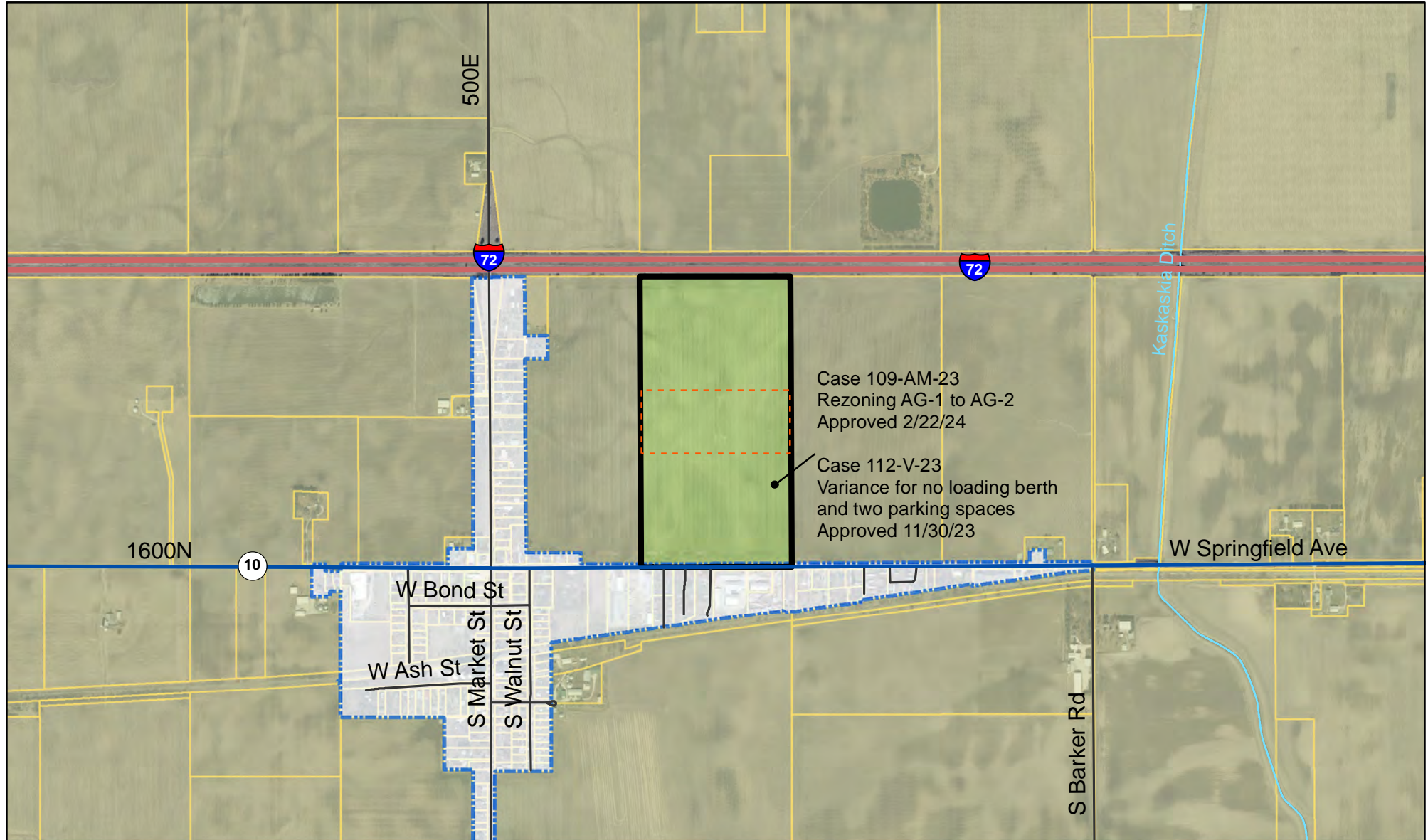
- Subject Property
- Agriculture
- Residential
- Solar farm fenced area
- Ag/Residential
- Commercial
- Parcels

0 300 600 1,200 Feet

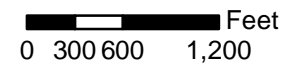


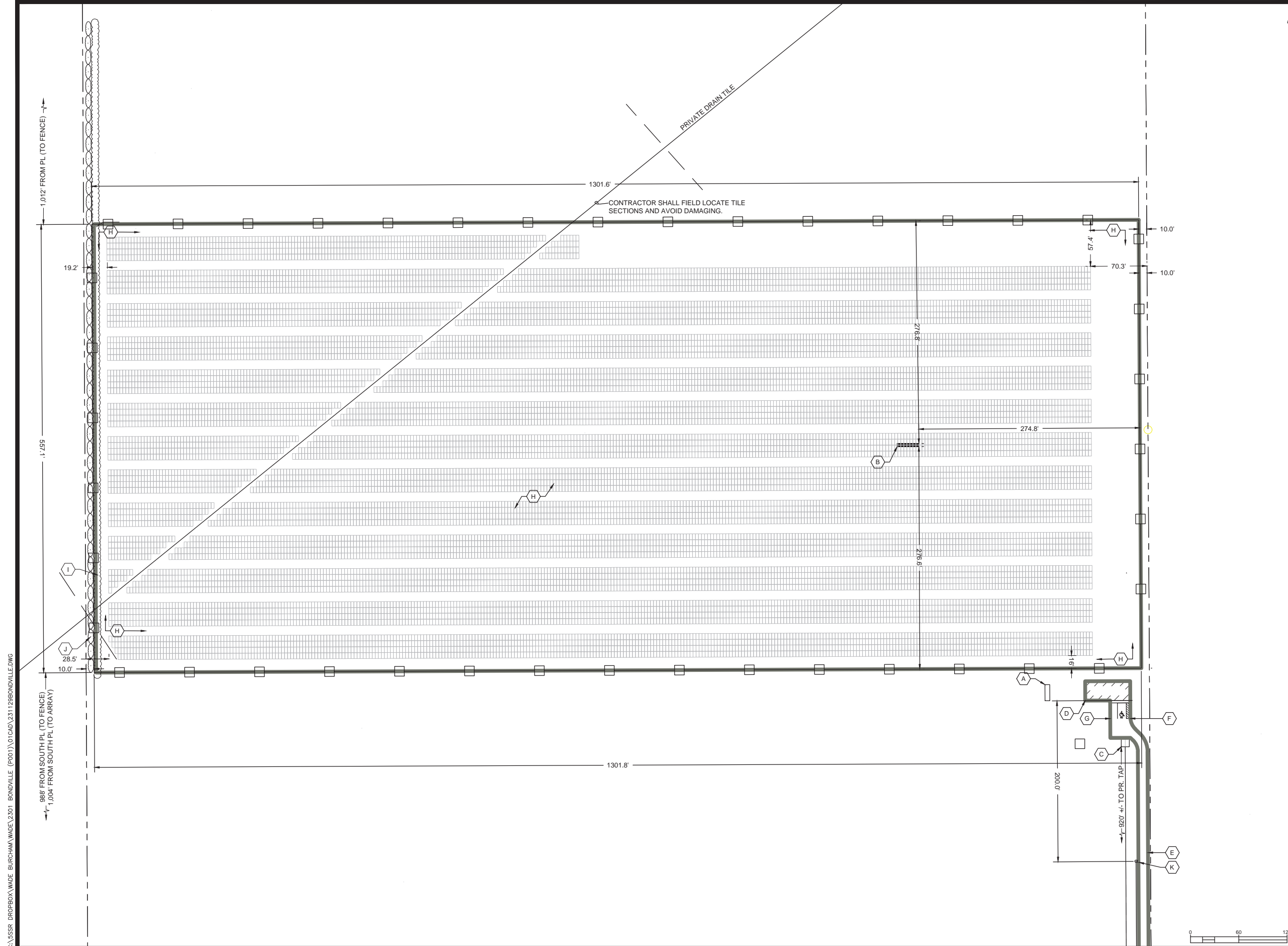
Zoning Map

Case 133-S-24
March 28, 2024



- Solar farm fenced area
- Subject Property
- Parcels
- AG-1 Agriculture
- AG-2 Agriculture





SYMBOLS LEGEND:

- EX. EXISTING
- PR. PROPOSED
- EX. PROPERTY LINE
- PROPOSED SOLAR PANEL ARRAY
- PROPOSED SHRUBS
- PROPOSED TREES
- PROPOSED FENCE



SYMB.	DESC.	B/D
67A	Harpster silty clay loam, 0 to 2 percent slopes	B/D
152A	Drummer silty clay loam, 0 to 2 percent slopes	B/D
153A	Pella silty clay loam, 0 to 2 percent slopes	B/D
198A	Elburn silt loam, 0 to 2 percent slopes	B/D

- GENERAL NOTES:**
- (A) PR. SWITCH GEAR
 - (B) PR. INVERTERS
 - (C) PR. AMEREN TRANSFORMER
 - (D) PR. DATA CENTER (56' x 24')
 - (E) PR. GRAVEL DRIVE (MAINTAIN EXISTING DRAINAGE PATTERS EXCEPT WHERE NOTED)
 - (F) PR. ADA (VAN) PARKING SPACE, RAMP, SURFACING TO DOORWAY, PARKING BLOCK, AND SIGN
 - (G) PR. STANDARD PARKING SPACE AND BLOCK
- PERMANENT SEEDING
OUTSIDE OF FENCE. DISTURBED AREAS WITH HIGH TRAFFIC USE MANICURED TURF GRASS IN ACCORDANCE WITH AND OTHER LOW TRAFFIC AREAS USE NATURAL RESOURCES CONSERVATION SERVICE ILLINOIS URBAN MANUAL PRACTICE STANDARD #925 SODDING WITHIN FENCE AND OTHER LOW TRAFFIC AREAS USE:
- (H) SOLAR POLLINATOR 3' MIX - ERNMX-622: 91.00% BOUTELOUA GRACILIS, BAD RIVER (BLUE GRAMA, BAD RIVER) 4.00% ASCLEPIAS TUBEROSA (BUTTERFLY MILKWEEED) 2.00% CHAMAECRISTA FASCICULATA, PA ECOTYPE (PARTRIDGE PEA, PA ECOTYPE) 2.00% CHAMAECRISTA NICTITANS, NC ECOTYPE (SENSITIVE PEA, NC ECOTYPE) 0.50% OENOTHERA FRUTICOSA VAR. (FRUITICOSA SUNDROPS) 0.50% PENSTEMON HIRSUTUS (HAIRY BEARDTONGUE)
- SEEDING RATE: SEED AT 8 LBS/ACRE WITH 30 LBS/ACRE OF A COVER CROP. FOR A COVER CROP USE EITHER GRAIN OATS (1 JAN TO 31 JUL), BROWN TOP MILLET (10 LBS/ACRE; 1 MAY TO 31 AUG) OR GRAIN RYE (1 AUG TO 31 DEC).
- (I) JUNIPERUS VIRGINIANA / EASTERN RED CEDAR 5 GAL POT ON 9' CENTERS, 11' FROM PL
 - (J) SHRUB PLANTINGS ALTERNATE GROUPS BETWEEN SWITCH GRASS AND LITTLE BLUE STEM, 3 FROM PL PANICUM VIRGATUM / SWITCH GRASS 2 GAL POT 3 PER GROUP SCHIZACHYRIUM SCOPARIUM / LITTLE BLUESTEM 2 GAL POT 3 PER GROUP
 - (K) PR. FIRE HYDRANT ASSEMBLY AND MAIN TO SERVICE INSTALLED IN ACCORDANCE WITH AUTHORITIES HAVING JURISDICTION

WADE BURCHAM, P.E.
130 COUNTY ROAD 164
JEMISON, AL 35085
(912) 656-6150



Date	Drawn by	Check by	Rev.	Description
11/29/23	WADE	TG		
11/27/23				
10/31/23				
8/30/23				
8/24/23				
8/22/23				
8/15/23				

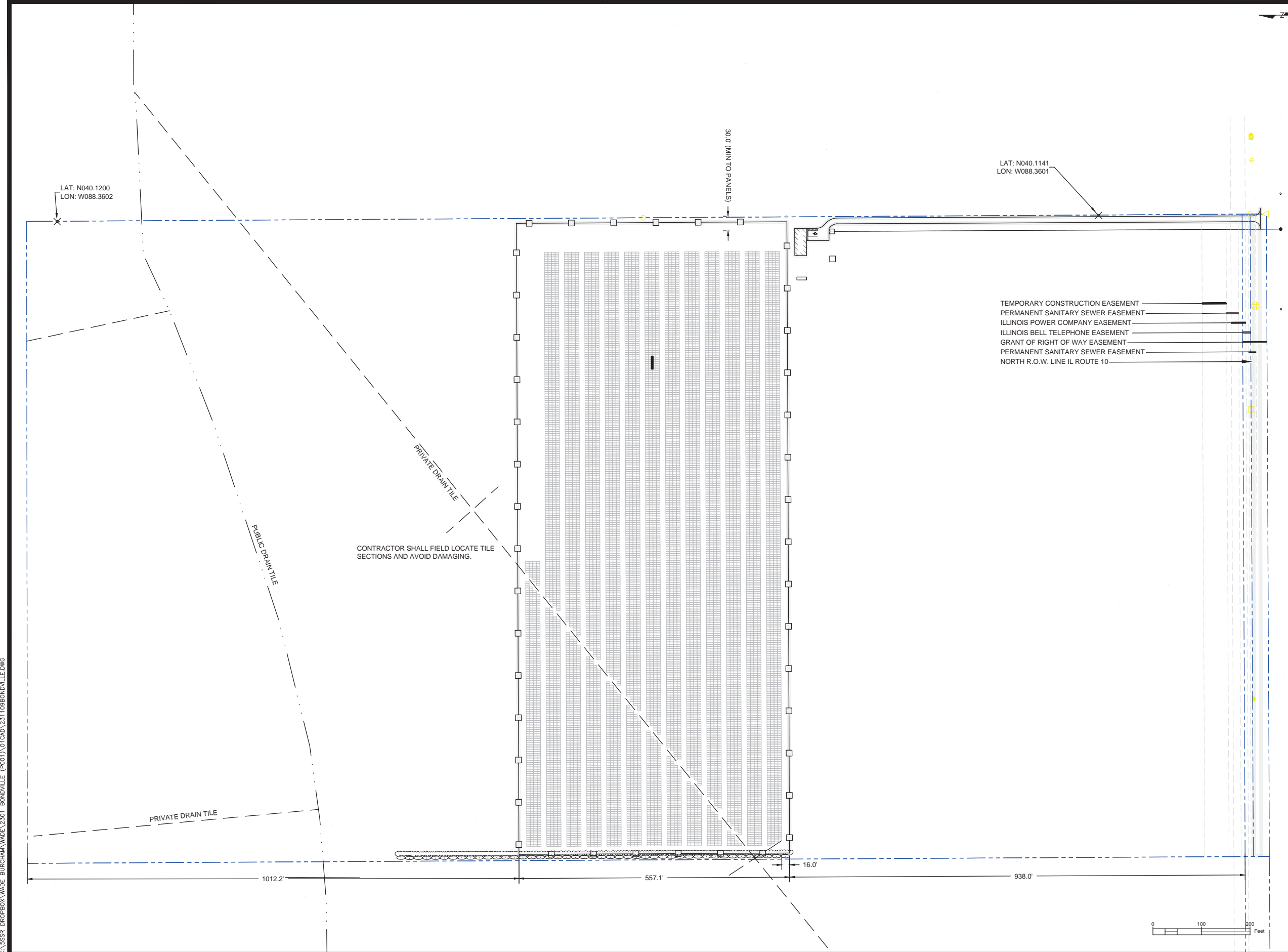
BONDVILLE SOLAR FARM

BONDVILLE, IL

RECEIVED
NOV 30, 2023
CHAMPAIGN COUNTY
PLANNING & ZONING

SITE PLAN

DRAWING NO.
1



SYMBOLS LEGEND:

- EX. EXISTING
- PR. PROPOSED
- EX. PROPERTY LINE
- [Hatched Box] PROPOSED SOLAR PANEL ARRAY
- [Square with Line] PROPOSED FENCE

GENERAL NOTES:

- TEMPORARY CONSTRUCTION EASEMENT
- PERMANENT SANITARY SEWER EASEMENT
- ILLINOIS POWER COMPANY EASEMENT
- ILLINOIS BELL TELEPHONE EASEMENT
- GRANT OF RIGHT OF WAY EASEMENT
- PERMANENT SANITARY SEWER EASEMENT
- NORTH R.O.W. LINE IL ROUTE 10

WADE BURCHAM, P.E.
130 COUNTY ROAD 164
JEMISON, AL 35085
(912)6566150



Rev.	Description	Date	Appr.
F	REVISED PANELS FOR TILES	11/09/23	WB
E	ADDED DRAIN TILES AND EASEMENT CALLS	11/09/23	WB
D	SURVEY UPDATE	10/31/23	WB
C	ADDED SEEDING	8/22/23	WB
B	ADDED DIMENSIONS	8/21/23	WB
A	ISSUED FOR COMMENT	8/15/23	WB

Project #: 2301BONDVILLE
Drawn by: WADE
Check by: TG

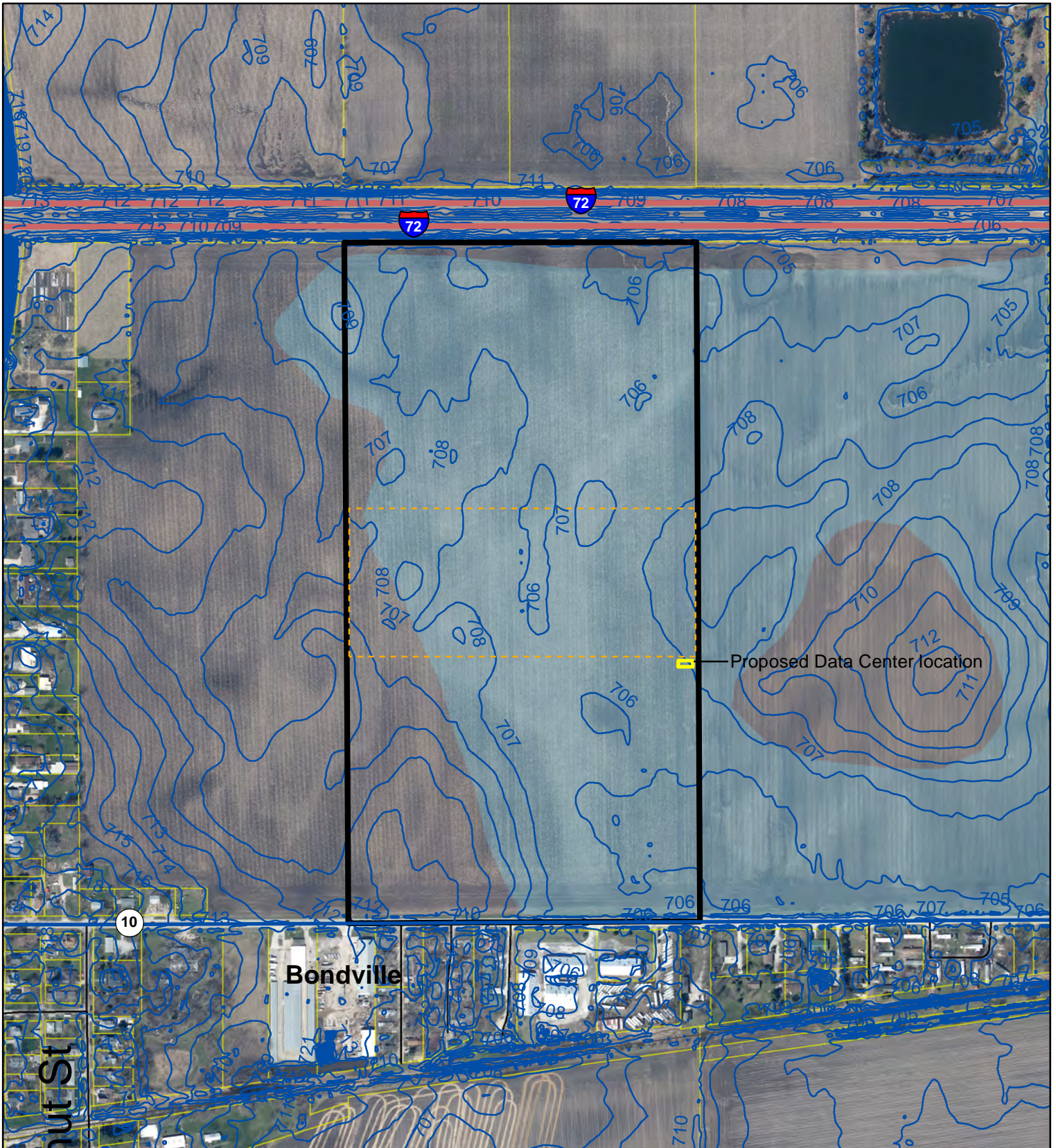
BONDVILLE SOLAR FARM
BONDVILLE, IL

RECEIVED
NOV 30, 2023
CHAMPAIGN COUNTY
PLANNING & ZONING

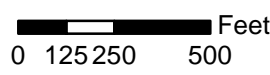
OVERALL
SITE PLAN
DRAWING NO.
2

2023 aerial with floodplain and contours

Case 133-S-24
March 28, 2024



- Subject Property
- Solar farm fenced area
- FEMA Flood Hazard Area
- 2020 1-foot contours



Champaign County
Department of
**PLANNING &
ZONING**

NOTE: HAVE REQUESTED UPDATED LETTER

WILLIAM L. HATCH
ANDREW J. HATCH

HATCH LAW FIRM

A PROFESSIONAL CORPORATION
100 NORTH CHESTNUT STREET
SUITE 200
CHAMPAIGN, ILLINOIS 61820
TELEPHONE (217) 356-2577
FAX NO. (217) 351-1771
WWW.HATCHLAWFIRM.COM

JAMES H. WHEAT
(DECEASED 1967)
JOSEPH W. CORAZZA
(DECEASED 1974)
LAWRENCE R. HATCH
(DECEASED 2011)
HAROLD L. JENSEN
(DECEASED 2019)

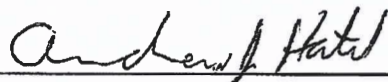
August 15, 2023

I, Andrew Hatch, approve Anthony Donato, d.b.a. Donato Solar - Bondville LLC with applying for rezoning in Case 109-AM-23, two Special Use Permit in Cases 110-S-23 and 111-S-23 and a Variance in Case 112-V-23 for parcel 23-19-12-326-004 as he is under contract to purchase the parcel from me if the permits are approved.

I understand that Case 109-AM-23 is to request a rezoning from AG-1 Agriculture to AG-2 Agriculture in order to allow the proposed development of a data center in Case 110-S-23 and a PV Solar Array in Case 111-S-23, and that Case 112-V-23 is for a variance for not having a loading berth and for providing fewer parking spaces for the data center than the Zoning Ordinance requires.

Very respectfully,

HATCH LAW FIRM, P.C.

By 
Andrew J. Hatch

AJH/je

RECEIVED

AUG 18 2023

CHAMPAIGN CO. P & Z DEPARTMENT

Susan Burgstrom

From: Tony Grilo <tonygrilo@gmail.com>
Sent: Thursday, November 30, 2023 7:08 AM
To: Susan Burgstrom
Subject: Fwd: Bondville Datacenter and Solar Project

----- Forwarded message -----

From: Shaw, Adam <ajshaw@urbanillinois.us>
Date: Thu, Nov 30, 2023, 6:56 AM
Subject: RE: Bondville Datacenter and Solar Project
To: Tony Grilo <tonygrilo@gmail.com>

RECEIVED

NOV 30 2023

CHAMPAIGN CO. P & Z DEPARTMENT

Tony,

The site plan appears to be acceptable to me. For the fire hydrant you will probably need to work with Illinois American Water since they own the water mains.

Thanks,
Adam Shaw

From: Tony Grilo <tonygrilo@gmail.com>
Sent: Wednesday, November 29, 2023 10:49 AM
To: Shaw, Adam <ajshaw@urbanillinois.us>
Subject: Re: Bondville Datacenter and Solar Project

Attaching here. It shows a hydrant within 200' of the datacenter. I will work through the city requirements or American Water requirements for that. Additionally, it shows the dimension between the panels and fence as 16' so you can see that part as well. If you could reply to this email to confirm that the location of the datacenter is acceptable to you and you don't see any other issues with the site plan. That would be very helpful.

Thanks Adam
Tony

On Mon, Nov 27, 2023 at 10:38 AM Tony Grilo <tonygrilo@gmail.com> wrote:

10-4, I will have an updated site plan sent over soon for your confirmation!

Thanks
Tony

On Mon, Nov 27, 2023 at 6:54 AM Shaw, Adam <ajshaw@urbanillinois.us> wrote:

Tony,

There will be 16' between the panels and the fence, if that is the case that will work for our brush truck. Yes I would like a fire hydrant placed within 200' of the Data Center building.

Thanks,
Adam Shaw

From: Tony Grilo <tonygrilo@gmail.com>
Sent: Friday, November 24, 2023 11:50 AM
To: Shaw, Adam <ajshaw@urbanainlinois.us>
Subject: Re: Bondville Datacenter and Solar Project

Just checking in on the path around the array and if you verified a need for a hydrant.

Thanks Adam!
Tony

On Thu, Nov 16, 2023, 6:02 AM Tony Grilo <tonygrilo@gmail.com> wrote:

Normally we put the fence 10' off of the property line then the panels would be 16' off of the fencing. How much room do you need for a brush truck? I think I can make that work for you without issue.

I understand about the knox box and I think once we are built and done then I will get with you and you can tell me the best spot for the knox box.

I wouldn't be opposed to a fire hydrant but with it being solar and mostly electrical we can't use water anyway. Additionally the county is requiring me to have a decommissioning plan to remove all of the panels, fencing, data center, etc from the site. That would end up leaving a hydrant in the middle of a field potentially. Lastly, since this parcel won't be in Village limits I'm not sure they will let me do that or will they? I can reach out to John Garth about it but I do remember him telling me something before about the water/sewer access and limitations that are built onto it.

If Bondville says yes and you want the hydrant then I can plan for a hydrant to be within 200' of the Data center building.

Let me know what you think and we can go from there, thank you!

Tony

On Tue, Nov 14, 2023, 4:47 AM Shaw, Adam <ajshaw@urbanainlinois.us> wrote:

Good Morning Tony,

Looking at your site plan the fence will be located North of the Data Center. If that is the case I would recommend to place the Knox box near an entrance to the Data Center with a code or key for the fence gate inside the Knox box. Since this Data Center is located so far off of Route 10, can a hydrant be placed within 200' of the proposed Data Center, near the gravel drive? How much room is between the panels and the proposed fence on the West, North and South sides? I would like to be able to drive a brush truck type vehicle around the outside of the panels all the way around the site.

Thanks,

ADAM J. SHAW
Fire Chief
Bondville Fire Department
101 West Chestnut Street
Bondville, IL 61815

Phone/Fax: (217) 863-2585

bondvillefire@yahoo.com

From: Tony Grilo <tonygrilo@gmail.com>
Sent: Monday, November 13, 2023 8:43 AM
To: Shaw, Adam <ajshaw@urbanaininois.us>
Subject: Re: Bondville Datacenter and Solar Project

Hey Adam

Checking back in on this. I do still need your approval on the data center portion and any other comments you may have on the solar array. If you could offer any opinions, thoughts, or concerns related to the fire safety that would be great.

Thanks
Tony

On Fri, Oct 27, 2023 at 2:31 PM Tony Grilo <tonygrilo@gmail.com> wrote:

Hey Adam

From what I understand you are the fire chief for Bondville. Part of my requirement with the county is to give you a copy of the site plan for the data center and solar array and get any comments or concerns from you.

I have attached the site plan. One thing not identified is the location of the knox boxes. I do expect to have the fence gate to be locked but happy to do however you want. I can lock it with a combo lock that your department has the combo for or we can put a keyed lock and have a knox box at the gate. The building will have a knox box at the entry door.

Additionally, once the project is complete then we will host a training session for your department to make sure all deactivation protocols are shown to the department. Everything will be labeled and I'm happy to have you out to offer any feedback for safety/labeling.

Thanks and if you have any thoughts feel free to call me.

Tony

Under the Illinois Freedom of Information Act (FOIA), any written communication to or from City of Urbana employees, officials or board and commission members regarding City of Urbana business is a public record and may be subject to public disclosure.

133-S-24 Site Images



From south side of IL 10 facing north to subject property



From south side of IL 10 facing NW to subject property

133-S-24 Site Images



From south side of IL 10 facing NE to subject property

CASE 110-S-23 FINDINGS OF FACT FOR DENIAL – AS APPROVED 11/30/23**Negative findings in yellow highlight**

From the documents of record and the testimony and exhibits received at the public hearing for zoning cases **110-S-23** and **112-V-23** held on **September 14, 2023** and **November 30, 2023**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit **IS** necessary for the public convenience at this location because: the subject property is adjacent to the necessary power lines.
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** 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** traffic capacity and the entrance location has **ADEQUATE** visibility because: traffic volumes are not expected to increase significantly because there won't be workers onsite, and notice was sent to IDOT and the Scott Township Road Commissioner, and no comments have been received.
 - b. Emergency services availability is **ADEQUATE** because: the subject property is located approximately 1,475 feet from the Bondville Fire Station.
 - c. The Special Use **WILL** be compatible with adjacent uses because: the subject property is surrounded by agriculture to the east, west and north, and a mix of uses to the south. The nearest dwelling to the data center is over 1,000 feet to the south.
 - d. Surface and subsurface drainage will be **ADEQUATE** because: most of the subject property is located within a mapped floodplain, with the Kaskaskia River located just a little to the east so a Floodplain Development Permit will be required in addition to a Zoning Use Permit. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, which probably will not be the case.
 - e. Public safety will be **ADEQUATE** because: the subject property is located approximately 1,475 feet from the Bondville Fire Station. 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** because: there is no significant increase in traffic expected for the DATA CENTER and there will be no employees on a regular basis.
 - g. The property **IS WELL SUITED OVERALL** for the proposed improvements because: 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** available to support the proposed SPECIAL USE without undue public expense because: no additional public services are necessary for the proposed development.

CASE 110-S-23 FINDINGS OF FACT FOR DENIAL – AS APPROVED 11/30/23**Negative findings in yellow highlight**

- i. Existing public infrastructure together with the proposed development **IS** adequate to support the proposed development effectively and safely without undue public expense because: no new public infrastructure is required for the proposed development.

- 3a. The requested Special Use Permit, **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES NOT** conform to the applicable regulations and standards of the DISTRICT in which it is located because of the protest by the Village of Bondville.

- 3b. The requested Special Use Permit, **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES NOT** preserve the essential character of the DISTRICT in which it is located because:
 - a. The Special Use will be designed to **CONFORM** to all relevant County ordinances and codes.
 - b. The Special Use **WILL NOT** be compatible with adjacent uses.
 - c. Public safety will be **ADEQUATE**.

4. The requested Special Use Permit, **SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS NOT** in harmony with the general purpose and intent of the Ordinance because:
 - a. The Special Use is **NOT** authorized in the AG-1 District.
 - b. The requested Special Use Permit **IS** 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 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 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** 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 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** prevent reasonable or otherwise permitted use of the land or structure or construction because: 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 NOT** result from actions of the applicant because: 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.

CASE 110-S-23 FINDINGS OF FACT FOR DENIAL – AS APPROVED 11/30/23

Negative findings in yellow highlight

- d. The requested variance **IS** in harmony with the general purpose and intent of the Ordinance because: 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 **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 were received.
- f. The requested variance **IS** 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 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.

PRELIMINARY DRAFT

133-S-24

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

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

Date: ***{March 28, 2024}***

Petitioner: **Anthony Donato, d.b.a. Donato Solar – Bondville LLC**

Request: **Authorize a Data Center as a Special Use Permit in the AG-2
Agriculture Zoning District**

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PRELIMINARY DRAFT

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **March 28, 2024**, the Zoning Board of Appeals of Champaign County finds that:

1. Petitioner Anthony Donato, via IAG Investments LLC, is negotiating the purchase of the subject property. Mr. Donato is the sole owner and shareholder in IAG Investments LLC and Donato Solar – Bondville LLC.
 - A. Landowner Andrew Hatch provided a letter approving of the Special Use Permit application for the DATA CENTER in previous Case 110-S-23. The petitioner has requested a new letter from landowner Andrew Hatch supporting the application for the Special Use Permit in Case 133-S-24.
2. The subject property is a 77.5-acre tract in the East Half of the Southwest Quarter of Section 12, Township 19 North, Range 7 East of the Third Principal Meridian in Scott Township.
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 Village of Bondville, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases. Notice of the public hearing was sent to the Village.
 - (1) The Bondville Comprehensive Plan adopted in May 2000 shows the subject property in the “Residential” future land use.
 - B. The subject property is located within Scott Township, which does not have a Plan Commission. Townships with Plan Commissions do not have protest rights on a Special Use Permit case.

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 77.5-acre subject property is zoned AG-2 Agriculture and is in agricultural production.
 - B. Land to the north, west, and east of the subject property is zoned AG-1 Agriculture and is in agricultural production.
 - C. Land to the south of the subject property is inside the Village of Bondville and is a mix of commercial, industrial, and residential uses.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the Site Plan for the proposed Special Use received November 30, 2023:
 - A. Proposed features include:
 - (1) The 24 feet by 56 feet (1,344 square feet) DATA CENTER building would be located in the east-central part of the subject property.
 - (2) The PV SOLAR ARRAY fenced area that is the subject of Case 111-S-23 would cover approximately 17 acres just north of the DATA CENTER.

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- (3) The access road would follow the east property line from IL Route 10 up to the proposed DATA CENTER.
- B. There are no previous zoning permits for the subject property.
- C. There are four previous zoning cases for the subject property:
- (1) Case 109-AM-23 rezoning the subject property from AG-1 Agriculture to AG-2 Agriculture was approved by the Champaign County Board on February 22, 2024.
 - (2) Case 110-S-23 for construction of a DATA CENTER was denied by the ZBA on November 30, 2023.
 - a. The Zoning Administrator determined that the petitioner could newly apply for the DATA CENTER Special Use Permit now that a rezoning is no longer necessary to establish a DATA CENTER.
 - (3) Case 111-S-23 for construction of a PV SOLAR ARRAY was continued from the November 30, 2023 ZBA meeting and is also scheduled for the March 28, 2024 ZBA meeting.
 - (4) Case 112-V-23 was a variance approved on November 30, 2023 to allow no loading berth and only two parking spaces for the DATA CENTER.

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) “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.
 - (3) “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.

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- (4) “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.
 - (5) “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.
 - (6) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
 - (7) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (8) “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.
 - (9) 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.

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- 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 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.

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- 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.
- F. 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 testified on the application, **“This land has been purchased and an Ameren Interconnect Agreement is in place. Public convenience is the distribution of solar generated power.”**
 - (1) The petitioner is negotiating the purchase of the subject property contingent upon approval of these zoning cases.
 - (2) Landowner Andrew Hatch provided a letter approving of the Special Use Permit application for the data center in previous Case 110-S-23. The petitioner has requested a new letter from landowner Andrew Hatch supporting the application for the Special Use Permit for Case 133-S-24.
 - B. The petitioner has signed interconnection agreements with Ameren for constructing the proposed PV SOLAR ARRAY on the subject property, which would power the DATA CENTER.

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:

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- A. The Petitioner have testified on the application, **“The project will be designed to be as nonobtrusive as possible. Having a large setback from the Rt 10 corridor to have more room for potential development.”**
- B. Regarding surface drainage:
- (1) The subject property generally drains to the northeast.
- C. Regarding impacts on traffic:
- (1) The subject property is located on IL10/CR 1600N/Chestnut St. The pavement surface near the subject property is paved and marked and is about 22 feet wide with four-foot-wide shoulders.
 - (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. IL10/CR 1600N/Chestnut St had an ADT of 3,350.
 - (3) The Scott Township Highway Commissioner and IDOT were notified of this case, and no comments have been received.
- D. Regarding fire protection:
- (1) The subject property is located approximately 1,475 feet from the Bondville Fire Station.
 - (2) In an email received November 30, 2023, Adam Shaw, Bondville Fire Chief, said that the proposed site plan appears acceptable. He requested a fire hydrant within 200 feet of the DATA CENTER. A special condition regarding a fire hydrant has been added for this case.
- E. Most of the subject property is located within a mapped floodplain, per FEMA panel 17019C0425D. A Floodplain Development Permit will be required for the DATA CENTER in conjunction with a standard Zoning Use Permit for construction. A special condition has been added.
- F. The soil on the 77.5-acre subject property is Best Prime Farmland and consists of 152A Drummer silty clay loam, 67A Harpster silty clay loam, 198A Elburn silt loam, and 153A Pella silty clay, and has an average Land Evaluation score of 96.
- G. There are no known sensitive environmental areas on the subject property.
- H. Regarding outdoor lighting on the subject property, the application received July 25, 2023, does not indicate outdoor lighting. A special condition has been added to ensure compliance for any future outdoor lighting installation.
- I. 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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- J. Regarding noise emitted from the proposed DATA CENTER:
- (1) The petitioners submitted a noise impact report created by Shiner Acoustics, LLC on September 14, 2023.
 - a. The study included potential noise emitted from both the PV SOLAR ARRAY and the DATA CENTER, and stated the noise would be expected from the solar inverters and the DATA CENTER's dry cooler south of the DATA CENTER.
 - b. The study concluded that noise from the proposed PV SOLAR ARRAY and DATA CENTER would be compliant with Illinois Pollution Control Board maximum noise requirements, and that the noise levels would be lower than ambient (existing) noise in the area.
- K. 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.
 - 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

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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.
- L. 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 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*:
 - (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) Regarding parking on the subject property for the proposed SPECIAL USE:
 - a. Variance case 112-V-23 was approved on November 30, 2023 to allow two parking spaces for the DATA CENTER, which are included in the revised Site Plan received November 30, 2023.

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- (3) Regarding the required LOADING BERTHS:
 - a. Variance case 112-V-23 was approved on November 30, 2023 to not require a loading berth for the DATA CENTER.

- 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, most of the subject property is located within the mapped floodplain. A Floodplain Development Permit will be required for the DATA CENTER in conjunction with a standard Zoning Use Permit for construction. A special condition has been added.

- E. Regarding the Subdivision Regulations, the subject property is located in the Village of Bondville 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.

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- (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. Most of the subject property is in a Special Flood Hazard Area. A Floodplain Development Permit will be required for the DATA CENTER in conjunction with a standard Zoning Use Permit for construction. A special condition has been added.

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 special condition has been added to ensure compliance.

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- (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 received during Case 110-S-23 for the DATA CENTER:
 - (a) The following is a summary of emails received prior to the November 30, 2023 ZBA meeting:
 - i. In an email received September 13, 2023, Sean Arie said the proposed project would dramatically impact the growth of the Village. He said no developer or home buyer is going to want to develop near the project.
 - ii. In an email received September 13, 2023, Beth Chepan said this area is prime land for growth with a housing development that will generate property tax revenue for the town.
 - iii. In an email received September 13, 2023, Julie Arie expressed concern about noise and property values around the proposed project area.
 - (b) The following is a summary of comments received at the September 14, 2023 ZBA meeting:
 - i. John Garth, Mayor of the Village of Bondville spoke on his own behalf and that of the Village of Bondville. He said they're concerned with how the presence of the data center and solar field could present a threat to the health, peace, and safety of the residents of Bondville if desirable plans for landscape decommissioning and noise analysis aren't implemented. In addition, if the project is not implemented with certain parameters, it stands to interrupt their Village's Comprehensive Plan for growth that includes commercial and residential development for that entire area. He said their Comprehensive Plan calls for commercial along IL Route 10 with nothing but residential behind that all the way to Interstate 72. He said the village has spent millions of dollars to put in a new sewer system, which would allow them to expand commercially and residentially along IL Route 10. He said the residents of Bondville still have +/- 2 million dollars of this project to yet pay for. He said taking out all the ground and putting it into a solar field will take away the

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ability for them to have any residential development, which will help pay down this debt. He asked if the addition of the data center would potentially create noise that will disrupt the peace of their citizens, especially without a landscape plan to help reduce the noise impact.

- ii. Ron Hursey expressed concern about noise coming from the data center affecting residents in the area.
 - iii. Luke Saathoff expressed concern for this type of development not aligning with the Village's Comprehensive Plan and infrastructure investments along the IL 10 corridor.
- (c) No comments regarding the DATA CENTER were received at the November 30, 2023 ZBA meeting.

- (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.

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- (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 know natural features 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 proposed DATA CENTER use is an allowable use within the AG-2 Agriculture Zoning District. Agriculture will still occur around the proposed project.

- (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.

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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 testified on the application, **“The adjacent areas are properties used for agriculture-related income.”**
 - B. The proposed use is not an existing non-conforming use.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

12. Regarding proposed special conditions of approval for the Special Use Permit in Case 133-S-24:
- 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. **A Zoning Compliance Certificate shall be required for the DATA CENTER prior to commercial operation. Approval of a Zoning Compliance Certificate shall require the following:**
 1. **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.**
 2. **A fire hydrant shall be installed along the gravel drive within 200 feet of the data center in compliance with the relevant standards of the relevant jurisdiction and written acceptance by the Bondville Fire Department shall be submitted to the Zoning Administrator and a Knox box shall be installed at the door to the Data Center.**

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

The DATA CENTER is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.

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- D. **The petitioner shall apply for a Floodplain Development Permit in conjunction with the Zoning Use Permit for construction of the DATA CENTER.**

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

Compliance with the Special Flood Hazard Areas Ordinance.

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DOCUMENTS OF RECORD

1. Applications for Special Use Permit received March 11, 2024
2. Preliminary Memorandum dated March 20, 2024, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Site Plan received November 30, 2023 (2 sheets)
 - C 2023 aerial with floodplain and 1-foot contours prepared by P&Z Staff on March 11, 2024
 - D Letter from landowner Andrew Hatch received August 18, 2023
 - E Email from Adam Shaw, Bondville Fire, received November 30, 2023
 - F Site Visit Photos taken July 31, 2023
 - G Case 110-S-23 Findings of Fact for denial as approved by the ZBA on November 30, 2023
 - H Summary of Evidence, Finding of Fact, and Final Determination for Case 133-S-24 dated March 20, 2024

PRELIMINARY DRAFT**SUMMARY DRAFT FINDINGS OF FACT**

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **133-S-24** held on **March 28, 2024**, 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 signed interconnection agreements with Ameren for constructing the proposed PV SOLAR ARRAY on the subject property, which would power the DATA CENTER.*

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 IDOT and the Scott Township Road Commissioner, and no comments have been received.*

 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* because:
 - a. *The subject property is located approximately 1,475 feet from the Bondville Fire Station.*

 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses because:
 - a. *The subject property is surrounded by agriculture to the east, west and north, and a mix of uses to the south. The nearest dwelling to the data center is over 1,000 feet to the south.*

 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* because:
 - a. *Most of the subject property is located within a mapped floodplain, so a Floodplain Development Permit will be required in addition to a Zoning Use Permit.*
 - 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 1,475 feet from the Bondville Fire Station.*
 - b. *Notice was sent to the Township Supervisor and Township Road Commissioner, and no comments have been received.*

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- f. The provisions for parking will be *{ADEQUATE / INADEQUATE}* because:
- a. *There is no significant increase in traffic expected for the DATA CENTER, and variance 112-V-23 was approved to only require two parking spaces for this project.*
- 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.

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5. The requested Special Use *IS NOT* an existing non-conforming use.
6. **{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. **A Zoning Compliance Certificate shall be required for the DATA CENTER prior to commercial operation. Approval of a Zoning Compliance Certificate shall require the following:**

1. **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.**
2. **A fire hydrant shall be installed along the gravel drive within 200 feet of the data center in compliance with the relevant standards of the relevant jurisdiction and written acceptance by the Bondville Fire Department shall be submitted to the Zoning Administrator and a Knox box shall be installed at the door to the Data Center.**

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

The DATA CENTER is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.

- D. **The petitioner shall apply for a Floodplain Development Permit in conjunction with the Zoning Use Permit for construction of the DATA CENTER.**

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

Compliance with the Special Flood Hazard Areas Ordinance.

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FINAL DETERMINATION

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 **133-S-24** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Anthony Donato, d.b.a. Donato Solar – Bondville 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. **A Zoning Compliance Certificate shall be required for the DATA CENTER prior to commercial operation. Approval of a Zoning Compliance Certificate shall require the following:**
 - 1. **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.**
 - 2. **A fire hydrant shall be installed along the gravel drive within 200 feet of the data center in compliance with the relevant standards of the relevant jurisdiction and written acceptance by the Bondville Fire Department shall be submitted to the Zoning Administrator and a Knox box shall be installed at the door to the Data Center.**
- D. **The petitioner shall apply for a Floodplain Development Permit in conjunction with the Zoning Use Permit for construction of the DATA CENTER.**

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

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SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date