

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: June 14, 2018

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

TIME: 7:00 p.m.

Urbana, IL 61802

MEMBERS PRESENT: Frank DiNovo, Ryan Elwell, Debra Griest, Marilyn Lee, Jim Randol, Brad Passalacqua

MEMBERS ABSENT: Cathe Capel

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Tannie Justus, Aaron Esry, Jackie Compton, Tiffany McElroy-Smetzer, Peter Folk, Marcus Ricci, Daniel Herriott, Phillip Geil, Tammar Geil, Matthew Herriott, Theodore P. Hartke, Marjorie Tingley

1. Call to Order

The meeting was called to order at 7:00 p.m.

Mr. Hall informed the Board that due to the absence of the Chair, the Board needs to appoint an interim Chair for tonight's meeting.

Mr. Passalacqua moved, seconded by Mr. Elwell, to appoint Debra Griest as interim Chair for tonight's meeting. The motion carried by voice vote.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present, with one member absent.

Ms. Griest informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath.

3. Correspondence

None

4. Approval of Minutes (April 12, 2018; April 26, 2018; May 3, 2018; and May 17, 2018)

Ms. Burgstrom stated that Mr. DiNovo submitted minor edits to the April 12, 2018, April 26, 2018; and

1 May 3, 2018, minutes. She said that the recommended edits, which affected Ms. Griest's and Mr. Elwell's
2 testimony, were emailed to them and they approved those edits.

3 Ms. Lee stated that she provided two minor edits to the April 26th minutes to staff as well, and staff will
4 incorporate those edits into the final version.

5
6 Ms. Griest entertained a motion to approve the April 12, 2018, minutes as amended.

7
8 **Mr. Passalacqua moved, seconded by Mr. DiNovo, to approve the April 12, 2018, minutes as**
9 **amended. The motion carried by voice vote.**

10
11 Ms. Griest entertained a motion to approve the April 26, 2018, minutes as amended.

12
13 **Mr. Passalacqua moved, seconded by Mr. Randol, to approve the April 26, 2018, minutes as amended.**
14 **The motion carried by voice vote.**

15
16 Ms. Griest entertained motion to approve the May 3, 2018, minutes as amended.

17
18 **Mr. DiNovo moved, seconded by Mr. Elwell, to approve the May 3, 2018, minutes as amended. The**
19 **motion carried by voice vote.**

20
21 Ms. Griest entertained a motion to approve the May 17, 2018, minutes.

22
23 **Mr. DiNovo moved, seconded by Mr. Passalacqua, to approve the May 17, 2018, minutes. The motion**
24 **carried by voice vote.**

25
26 **5. Continued Public Hearing**

27
28 **895-AT-18 Petitioner: Champaign County Zoning Administrator Request to amend the**
29 **Champaign County Zoning Ordinance as follows: Part A: Amend Section 3 by adding definitions**
30 **including but not limited to "NOXIOUS WEEDS: and "SOLAR FARM"; Part B: Add paragraph**
31 **4.2.1 C.5 to indicate that SOLAR FARM may be authorized by County Board SPECIAL USE permit**
32 **as a second PRINCIPAL USE on a LOT in the AG-1 DISTRICT or the AG-2 DISTRICT; Part C:**
33 **Amend Section 4.3.1 to exempt SOLAR FARM from the height regulations except as height**
34 **regulations are required as a standard condition in new Section 6.1.5; Part D: Amend subsection 4.3.4**
35 **A. to exempt WIND FARM LOT and SOLAR FARM LOT from the minimum LOT requirements of**
36 **Section 5.3 and paragraph 4.3.4 B. except as minimum LOT requirements are required as a standard**
37 **condition in Section 6.1.4 and new Section 6.1.5; Part E: Amend subsection 4.3.4 H. 4. to exempt**
38 **SOLAR FARM from the Pipeline Impact Radius regulations except as Pipeline Impact regulations**
39 **are required as a standard condition in new Section 6.1.5; Part F: Amend Section 5.2 by adding**
40 **"SOLAR FARM" as a new PRINCIPAL USE under the category "Industrial Uses: Electric Power**
41 **Generating Facilities" and indicate that SOLAR FARM may be authorized by a County Board**
42 **SPECIAL USE Permit in the AG-1 Zoning DISTRICT and the AG-2 Zoning DISTRICT and add new**
43 **footnote 15. to exempt a SOLAR FARM LOT from the minimum LOT requirements of Section 5.3**
44 **and paragraph 4.3.4. B. except as minimum LOT requirements are required as a standard condition**
45 **in new Section 6.1.5.; Part G: Add new paragraph 5.4.3 F. that prohibits the Rural Residential**
46 **OVERLAY DISTRICT from being established inside a SOLAR FARM County Board SPECIAL**
47 **USE permit; Part H: Amend subsection 6.1.1 A. as follows: 1. Add SOLAR FARM as a NON-**

1 **ADAPTABLE STRUCTURE and references to the new Section 6.1.5 where there are existing**
2 **references to existing Section 6.1.4; and 2. Revise subparagraph 6.1.1 A. 11c. by deleting reference to**
3 **Section 6.1.1A. and add reference to Section 6.1.1A.2; Part I: Add new subsection 6.1.5 SOLAR**
4 **FARM County Board SPECIAL USE Permit with new standard conditions for SOLAR FARM; Part**
5 **J: Add new subsection 9.3.1 J. to add application fees for a SOLAR FARM zoning use permit; and**
6 **Park K: Add new subparagraph 9.3.3 B.8. to add application fees for a SOLAR FARM County Board**
7 **SPECIAL USE permit.**

8
9 Ms. Griest asked those present to silence their cell phones. She said that public testimony would be taken,
10 and that if someone would like to provide testimony, they can sign the Witness Register at the middle table.
11 She asked that people step outside if they want to have a conversation so that you won't disturb the Board.
12 She said that if someone would like to offer comments without testifying in person, they are welcome to
13 email the comments or give them to Ms. Berry or Ms. Burgstrom, and those comments would be included in
14 the Board's meeting packet for review.

15
16 Ms. Griest informed the audience that anyone wishing to testify for any public hearing tonight must sign
17 the witness register for that public hearing. She reminded the audience that when they sign the witness
18 register they are signing an oath. She asked the audience if anyone desired to sign the witness register
19 and there was no one.

20
21 Ms. Griest asked Mr. Hall to review the new information with the Board.

22
23 Mr. John Hall, Zoning Administrator, distributed Supplemental Memorandum #15, dated June 14, 2018,
24 to the Board for review. He said that the new memorandum includes a letter from Marjorie Tingley,
25 who owns land that is outside of the Village of Sidney. He said that Ms. Tingley has been following the
26 case, but in lieu of testifying before the Board, she chose to submit her comments in writing. He said
27 that Ms. Tingley is in attendance tonight, but she does not desire to speak tonight unless the Board has
28 questions for her regarding her letter. He said that Ms. Tingley's letter is not the first written comments
29 received from a rural landowner who desires to participate in a solar farm, but it does include some of
30 the most extensive comments that have been submitted, so he wanted to draw the Board's attention to
31 her letter.

32
33 Mr. Hall stated that another attachment to Supplemental Memorandum #15 is a Revised Summary
34 Finding of Fact. He said that we started doing Summary Findings of Fact after the County Board
35 adopted the Land Resource Management Plan. He said that staff received complaints from the County
36 Board indicating that perhaps some Board members might want to sort through the entire Finding of Fact
37 for a text amendment, but most County Board members do not want to go through that labor and would
38 like to see a Summary from the ZBA. He said that for this particular case, he knows that there are some
39 County Board members who are very interested in certain parts of it, so he felt that it would be
40 worthwhile to provide an expanded summary and calling out what staff thought were the most critical
41 elements of the case. He said that not one individual's testimony is included in the Summary Findings
42 of Fact, but where necessary, staff makes references to whether there were a lot of public comments
43 during testimony. He said, for example, under Governmental Coordination, staff indicated the
44 following: Numerous public comments about governmental coordination were received during the
45 public hearing. All emails are listed as Documents of Record and all testimony is summarized in the
46 Finding of Fact (particularly item 7.A.(2)a.) and is in greater detail in the approved minutes. He said that
47 this statement is stated as such, because if a County Board member had additional questions for

1 concerns, they would know exactly where to go in the Summary Finding of Fact or they know to look in
2 the minutes. Mr. Hall stated that this is not indicated on every item, but almost every item. He said that
3 for this Summary Finding of Fact, staff reviewed those goals that are achieved; Goal 9 is necessary to
4 ACHIEVE, Goal 2 helps ACHIEVE, and Goal 4, which is the goal that the Board has spent a lot of time
5 on, helps ACHIEVE, and this summarizes the key parts of why this Board is recommending that it helps
6 ACHIEVE. He said that in addition to the review of the LRMP, the Summary Finding of Fact also
7 reviews the Zoning Ordinance's purpose and there are two particular purpose statements in the Zoning
8 Ordinance which staff and the Board spent a lot of time on in the Finding of Fact, and that is
9 summarized in the revised summary. He said that he would be happy to read through the Revised
10 Summary Finding of Fact, and it is intended to be a help to the County Board, but it can only be a help to
11 the County Board if it communicates everything that this Board wants it to communicate. He said that
12 there are only five pages to the Revised Summary Finding of Fact, and this Board has spent time with
13 the rest of the finding, so if the Board went through the Summary Finding of Fact, then things should be
14 in good shape. He said that the Summary Finding of Fact incorporates some of the decision points upon
15 which the Board needs to agree.
16

17 Mr. Hall stated that the Supplemental Memorandum #15 discusses revisions to the amendment dated
18 June 7, 2018, and Finding of Fact dated June 14, 2018. He said that during the process of preparing the
19 Summary Finding of Fact, staff discovered that some things had been left out, such as the Right to Farm
20 Policy in the Land Resource Management Plan, but this is the first text amendment since the adoption of
21 the Land Resource Management Plan. He said that staff decided to include the Right to Farm Resolution
22 and policy as part of this ordinance, and are included in Item 6.1.5 B.(4) as follows: "a. The owners of
23 the subject property and the Applicant, its successors in interest, and all parties to the decommissioning
24 plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to
25 continue on adjacent land consistent with the Right to Farm Resolution 3425." He said that this
26 statement will also be reflected in new Finding of Fact in reference to Policy 4.2.3, making it clear that
27 this helps ACHIEVE that policy, and then a similar thing is added in the Summary Finding of Fact under
28 Item 1.B.(2)b.(a). He said that likewise for Policy 4.2.4, which talks about whether there needs to be a
29 barrier to reduce conflicts between agricultural land use and non-agricultural land use. He said that the
30 Board recommended a buffer as part of this amendment, a 10 feet buffer between the fence and the
31 property line, so staff is recommending that this helps ACHIEVE Policy 4.2.4. for that very reason, and
32 it is to be added to the Finding of Fact as Item 9.B.(4).
33

34 Mr. Hall stated that another revision to the Finding of Fact will add information to Item 7.A.(2). He said
35 that Item 7 is that part of the Finding of Fact that talks about the governmental coordination goal, and
36 staff is recommending that the following be added to Item 7.A.(2): "The proposed amendment attempts
37 to ensure that solar farm locations within one-and-one half miles of zoned municipalities are coordinated
38 with the respective municipality(ies) as follows: (a) No part of a PV SOLAR FARM may be within a
39 Contiguous Urban Growth Area as indicated in the most recent update of the Champaign County Land
40 Resource Management Plan; and (b) No part of a PV SOLAR FARM may be less than one-half mile
41 from a municipality boundary at the time of application, except for PV SOLAR FARM power lines of
42 34.kVA or less and except for any PV SOLAR FARM substation and related connection to an existing
43 electrical substation; and (c) The PV SOLAR FARM application shall include documentation that the
44 applicant has provided a complete copy of the application to any municipality within one-and-one half
45 miles of the proposed PV SOLAR FARM; and (d) By the time the County Board considers a PV
46 SOLAR FARM the Zoning Administrator must receive a municipal resolution from any municipality
47 within one-and-one half miles of the proposed PV SOLAR FARM or document that any municipality

1 within one-and-one half miles of the PV SOLAR FARM was provided notice of the meeting dates for
2 the PV SOLAR FARM for both ELUC and the County Board.” He said that evidence is being added to
3 the Finding of Fact Item 7.A(2)a.(a)-(d) so that the County Board is aware of it.
4

5 Mr. Hall stated that the final addition to the Finding of Fact is for Item 16.E.(10), which is indicated on
6 Page 38 of 49 of Attachment J, Supplemental Memorandum #14 dated June 7, 2018. He said that Item
7 16.E. discusses the purpose of the Zoning Ordinance, and Item 16.E. is the purpose dealing with the fact
8 that the zoning regulations and standards have been adopted and established to promote public safety,
9 comfort, morals and general welfare. He said that the Board received a lot of testimony and even
10 handouts at the last meeting regarding end of life handling of solar panels, and given that we are not
11 going to face end of life issues for solar panels before 25 or 30 years it is not a pressing thing, yet it is
12 clearly an important thing. He said that if we do not know about the costs involved with end of life
13 handling, there is no way that there can be a good decommissioning cost estimate, so staff proposes to
14 add Item 16.E.(10) as follows: “Regarding the safe disposal and/or recycling of photovoltaic panels: a.
15 Section 6.1.5P. of the amendment requires that all solid wastes and hazardous materials related to the
16 construction, operation, and maintenance of a PV SOLAR FARM shall be disposed of in accordance
17 with all federal, state, and local laws; and b. Any estimate of the costs for the decommissioning or
18 disposal of photovoltaic panels from a PV SOLAR FARM, as well as the actual decommissioning or
19 disposal, will have to consider whether or not the specific photovoltaic panels are considered hazardous
20 waste; and c. The current standard for determining if solar photovoltaic panels are hazardous waste is the
21 U.S. Environmental Protection Agency (USEPA) Toxicity Characteristic Leaching Procedure standards.
22 Any photovoltaic panels proposed to be disposed of in a landfill should be tested using the USEPA
23 Toxicity Characteristic Leaching Procedure standards. Panels that pass the USEPA Toxicity
24 Characteristic Leaching Procedure standards can be landfilled in a typical landfill. Panels that do not
25 pass the USEPA Toxicity Characteristic Leaching Procedure standards are considered toxic waste and
26 can only be landfilled at a duly permitted hazardous waste landfill; and d. Recycling of solar
27 photovoltaic panels is possible but expensive at this time (2018). Industry experts predict that recycling
28 may become less expensive sometime after 2030 when panels installed beginning in 2010 (when the use
29 of PV solar panels greatly expanded in the US) need to be replaced.” He said that there was a lot more
30 that he wanted to include, but sorting through the literature, some people say that the solar panels are
31 completely landfillable and others point out that are not. He said that some solar panels do not pass the
32 USEPA Toxicity Characteristic Leaching Procedure standards test, and some will tell you that they are
33 completely recycling if you want to pay the cost for that recycling, and hopefully that cost will go down
34 in the future. He said that staff believed that this is the minimum that could be put into the Finding of
35 Fact so that it is clear that the Board considered this information, and perhaps the Board does not feel
36 that the information is necessary, but staff felt like they needed to provide it.
37

38 Mr. Hall stated that Supplemental Memorandum #14 included seven decision points for the Board’s
39 recommendation.
40

41 Ms. Griest asked the Board if there were any questions for Mr. Hall.
42

43 Ms. Griest stated that under the proposed addition to Finding of Fact Item 16.E.(10), it is indicated that
44 this could be found on Page 38 of 49 of Attachment J, Supplemental Memorandum #14 dated June 7,
45 2018, although in reviewing her copy of Attachment J. it does not line up. She asked staff if it is
46 possible that the incorrect attachment was indicated.
47

1 Mr. Hall stated that Attachment J. is the document that was mailed with Supplemental Memorandum
2 #14, and the Summary Finding of Fact is indicated on Page 41 of 49.

3 Ms. Griest stated that her confusion is that under Finding of Fact Item 16.E.(10), it is indicated that it can
4 be found on Page 38 of 49 of Attachment J, Supplemental Memorandum #14 dated June 7, 2018.

5
6 Ms. Burgstrom stated that we are actually looking at Attachment J. and the end of Item 16.E. is indicated
7 at the top of page 38 of 39. She said that (10) is very long and it ends at the top of page 38 of 39.

8
9 Ms. Griest thanked Ms. Burgstrom for the clarification. She stated that the addition to Item 16.E. is a
10 good addition that clarifies a lot of the discussion by the Board.

11
12 Ms. Griest asked the Board if there were any questions for Mr. Hall regarding Supplemental
13 Memorandum #14 or #15, and there were none.

14
15 Ms. Griest stated that the Board agreed to have Board discussion prior to public testimony. She said that
16 in her analysis of the memorandums, she found it very helpful to use the chart on pages 2 and 3 of
17 Supplemental Memorandum #14, and she used the mark-up version of the Finding of Fact because it
18 provided more clarification on what the Board was changing and why those changes were made. She
19 asked the Board if they desired to review the Finding of Fact and discuss the decision points only, or go
20 through the entire Finding and Fact prior to taking testimony. She said that she is not proposing that the
21 Board make any decisions, but if the Board wants to have that discussion, then now is that time, and
22 perhaps then take testimony, and come back to those decision points for final recommendations.

23
24 Mr. DiNovo asked if the Board will start out with the Finding of Fact and then move to the Ordinance,
25 or does the Board want to discuss the decision points during the discussion of the Ordinance itself.

26
27 Ms. Griest stated that the Board can do it either way, but for her review, she matched up and marked the
28 Finding of Fact and annotated Attachment H. She asked the Board how they would like to proceed, but
29 she would like the Board to do it so that the public can follow the discussion.

30
31 Mr. Passalacqua stated that if the Board would use the chart indicating the decision points, then more
32 would get done.

33
34 Mr. Elwell and Ms. Griest agreed.

35
36 Mr. Elwell stated that the Board should move to the decision points and go from there.

37
38 Ms. Griest asked Mr. Elwell if he is discussing the decision points for the Ordinance or the Finding of
39 Fact.

40
41 Mr. DiNovo stated that it would be conceptually easier to make decisions about the provisions that are
42 still in question in the Ordinance, and then move to the Finding of Fact as needed.

43
44 Ms. Griest stated that the Board should begin with Page 9, of Attachment H., Revised Proposed
45 Amendment - Annotated dated June 7, 2018, of Supplemental Memorandum #14. She said that the
46 Board will begin with Item 6.1.5 D. (3)a.(a). She read Item 6.1.5 D. (3)a.(a) as follows: "a. For any
47 adjacent Lot that is five acres or less in area (not including the STREET RIGHT OF WAY): (a) For any

1 adjacent lot that is bordered (directly abutting and/or across the STREET) on no more than two sides by
2 the PV SOLAR FARM the separation shall be no less than {200/240/260/300/330 feet} from the
3 property line. This separation distance applies to properties that are adjacent to or across the STREET
4 from a PV SOLAR FARM.”

5
6 Mr. Passalacqua stated that he had lobbied for the most distance in every instance, so he was in love with
7 330 feet, but it appears that 200 feet is suggested.

8
9 Ms. Griest stated that she saw that as well, but due to the evidence that was presented regarding the
10 ability to farm the ground with the various size of implements and allowing them passage for a 60 feet
11 planter and a 120 feet sprayer, her preference is now 240 feet. She said that like Mr. Passalacqua, she
12 preferred the greater separation, but the Board has added other things, such as screening, that has
13 allowed her to not be as rigid.

14
15 Mr. Passalacqua stated that Ms. Griest knows more about implement size than he does, so if that is a
16 farmer friendly number then 240 feet makes sense.

17
18 Ms. Griest stated that Page 2 of Supplemental Memorandum #14 indicates Re-print of Options for
19 Minimum Required Separation to Dwellings. She said that the area indicating 515 feet discusses
20 implement sizes.

21
22 Mr. Elwell stated that he supports 240 feet, because it accommodates the size of current implements.

23
24 Mr. DiNovo stated that from a noise perspective, Supplemental Memorandum #13 dated May 3, 2018,
25 indicates the setback for inverters, and there is only a 1.4 dBA difference between the most stringent
26 requirements, and that was done by an online model and not an acoustician. He said that the Board
27 requires that the IPCB standards be met at the property line and verified by professional modeling, and
28 the Board has the ability to impose greater setbacks on a case by case basis if the Board deems it is
29 necessary. He said that he does not believe that anything more than 240 feet gains anything, at least
30 from a noise perspective.

31
32 Ms. Griest stated that there is text indicating that if the noise modeling produced one result, and there
33 continues to be a problem, the special use could require a housing that would shield the noise, which was
34 her number one concern, so that got her to the 240 feet.

35
36 **Mr. DiNovo moved, seconded by Mr. Elwell, to establish a required 240 feet separation for Item**
37 **6.1.5 D.(3)a.(a). in the proposed amendment. The motion carried by voice vote, with one opposing**
38 **vote.**

39
40 Ms. Griest clarified for the audience that the Board is currently making motions for the draft ordinance,
41 but the audience would still have the ability to provide testimony regarding the proposed ordinance. She
42 said that after the public testimony, and if the Board feels that it is necessary, the Board could revise
43 their recommendations. She said that the audience should not feel that they should not provide public
44 testimony just because the Board is trying to gain a perspective on where they stand regarding the
45 revised proposed amendment. She said that, during this process, the audience would have a better idea
46 of what the Board is thinking.

1 Ms. Griest read Item 6.1.5 D.(3)b. as follows: “For any adjacent lot that is five acres or more in area (not
2 including the STREET RIGHT OF WAY), the separation shall be no less than {250/290/310/350/380}
3 feet and the perimeter fencing shall be a minimum of 10 feet from the SIDE or REAR LOT LINE but
4 not less than 250 feet from any existing DWELLING or existing PRINCIPAL BUILDING provided that
5 the noise level callused by the PV SOLAR FARM complies with the applicable Illinois Pollution
6 Control Board regulations. This separation distance applies to properties that are adjacent to or across a
7 STREET from a PV SOLAR FARM.”

8
9 Mr. DiNovo stated that he is confused by the language in Item 6.1.5 D.(3)b.

10
11 Mr. Hall stated that Mr. DiNovo has a right to be confused by the language in Item 6.1.5 D.(3)b., and
12 recommended the following revision: “For any adjacent lot that is five acres or more in area (not
13 including the STREET RIGHT OF WAY), the separation shall be no less than {250/290/310/350/380}
14 feet from any existing DWELLING or existing PRINCIPAL BUILDING and the perimeter fencing shall
15 be a minimum of 10 feet from a SIDE or REAR LOT LINE provided that the noise level caused by the
16 PV SOLAR FARM complies with the applicable Illinois Pollution Control Board regulations. This
17 separation distance applies to properties that are adjacent to or across the STREET from a PV SOLAR
18 FARM.” He said that the revision to Item 6.1.5 D.(3)b. makes for a more coherent sentence.

19
20 Ms. Griest asked Mr. Hall why the statement “provided that the noise level caused by the PV SOLAR
21 FARM complies with the applicable Illinois Pollution Control Board regulations,” was included in Item
22 6.1.5 D.(3)b., but was taken out of most of the other paragraphs, and a new paragraph was created
23 applying that standard. She said that the statement was taken out of Item 6.1.5 D.(3)a.(a) and (b). She
24 asked Mr. Hall if the statement could be eliminated from Item 6.1.5 D.(3)b. as well.

25
26 Mr. Hall stated that he did not see why not.

27
28 Ms. Griest stated that an entire section was added for that compliance.

29
30 Mr. DiNovo suggested that the statement be incorporated into Item 6.1.5 D.(3)c.

31
32 Mr. Hall stated that Item 6.1.5 D.(3)c. says that already, so the statement is not necessary.

33
34 Mr. DiNovo agreed.

35
36 Mr. Passalacqua stated that there has been a lot of testimony about the different rules for different lot
37 sizes. He asked if the train of thought was that a resident on a five acre or greater lot has more
38 opportunity for placement of a home, if one is not already there, and therefore we are not worried about
39 the property line as opposed to dwelling distance. He asked if that is why Item 6.1.5 D.(3) b is different
40 from the Item 6.1.5 D.(3)a.(a).

41
42 Mr. Hall stated that it is different because at some point the land is going to be considered under the
43 IPCB rules not to be residential anymore and will be considered as just land, and will be considered
44 under the same kind of use as the solar farm, which is Class C land. He said that the County could
45 decide that they want to protect farmland from the noise of the solar farm, but that does not make sense.

46
47 Mr. Passalacqua stated that he was just mixing it with the testimony regarding the garden, and that type

1 of stuff, but that is what he needed to hear.

2
3 Ms. Lee stated that the Board discussed 10 feet and then 26 feet, but she previously voiced her concern
4 about shade.

5
6 Mr. Hall asked Ms. Lee to indicate her concern regarding shade.

7
8 Ms. Lee stated that she did not believe that 10 feet was enough separation.

9
10 Mr. Hall stated that after that discussion, the Board added subparagraph (8), which is located on page 10
11 of Attachment H. He read subparagraph (8) as follows: "PV SOLAR FARM solar equipment shall be
12 no less than 26 feet from the property line of any lot greater than 5 acres in area." He said that it is 10
13 feet to the fence, but the equipment itself must be 26 feet from the property line.

14
15 Ms. Lee asked Mr. Hall if it would not be 36 feet, but within 26 feet.

16
17 Mr. Hall stated that if you are at the property line, it would be 10 feet to the fence, and 26 feet to the
18 solar equipment, which leaves a 16 feet path for maintenance inside the solar farm.

19
20 Ms. Lee stated okay.

21
22 Mr. DiNovo stated that he would like to return to page 9 and finish those decision points. He said that
23 the Board set a 240 feet separation distance for lots that are bordered on no more than two sides by the
24 PV SOLAR FARM, but for lots that are bordered on more than two sides by the PV SOLAR FARM the
25 separation shall exceed 200 feet, but we indicate that it could be more if deemed necessary. He asked
26 why the minimum should be different and should be 240 feet as well.

27
28 Mr. Hall stated that Mr. DiNovo is correct, and logically it should be 240 feet.

29
30 Ms. Griest noted for the audience and the Board that Mr. DiNovo and Mr. Hall are discussing changing
31 the required separation in Item 6.1.5 D.(3)a.(b) to 240 feet.

32
33 Ms. Griest stated that in looking at lots greater than five acres and the separation, she went back to the
34 Board's discussion that not all the lot was being used for residential use, and in order to preserve
35 farmland utilization, it was wasteful to have it from the residence rather than the property line on those
36 larger lots.

37
38 Mr. Passalacqua stated that he lives on a large lot, and if this were in his back yard, he would want the
39 distance to be the same all the way around it. He said that the distance should be the same on a 10-acre
40 lot as it is on a 5-acre lot.

41
42 Mr. Hall noted that Mr. Passalacqua's lot is only two acres.

43
44 Mr. Passalacqua stated that Mr. Hall is correct, but if it were 10 acres, he would want the same buffer all
45 the way around those 10 acres.

46
47 Mr. Randol stated that the Board should make it a consistent 240 feet regardless of the lot size. He said

1 that if there was a residence on a lot, and within five or ten years that residence might be deemed as not
2 rentable property, or the house may be in such a condition that it requires demolition. He said that the
3 landowner may want to place solar panels on that land, but would have to come back before the Board
4 for a variance for setbacks.

5
6 Mr. Hall stated that he is having trouble following Mr. Randol's discussion.

7
8 Mr. Randol asked that if there is a piece of property that is larger than five acres with a residence, and
9 the Board is wanting to keep the 240 feet setback, why would we not have the 240 feet setback around
10 the entire lot.

11
12 Mr. Hall asked Mr. Randol what if the lot was 40 acres. He said that at some point the lot is so big that
13 the distance from the lot line is not as important as the distance from the residence.

14
15 Mr. Passalacqua stated that 40 acres is different than a five-acre lot, but he does see Mr. Hall's point at
16 40 acres more than he does at five acres.

17
18 Mr. Hall asked Mr. Passalacqua to think about 10 acres.

19
20 Mr. Passalacqua stated that is a fine line in the sand.

21
22 Mr. DiNovo stated that if you have a 1,320 feet property line abutting 40 acres next door, a 240 feet
23 setback includes a lot of acreage and will impact the economics of the project.

24
25 Mr. Passalacqua stated that paying four times the normal cash rent has an impact on the economics too.

26
27 Mr. Hall stated that when you look at lots throughout the rural area, there are a lot of 10-acre lots, but
28 overall 10 acres doesn't happen that often; but if the consensus of the Board is that the threshold is 10
29 acres, then that is better than having it apply to 40 acres. He said that the thinking with 10 acres is that it
30 would still be somewhat wasteful, but it wouldn't happen that often.

31
32 Mr. Passalacqua stated that most residential lots do not exceed five acres, but it would depend on where
33 the house was sited. He said that he felt better with a threshold of 10 acres, but 5 acres is probably way
34 above the average size.

35
36 Mr. Elwell asked if rather than looking at size, the Board concentrates on the primary residence.

37
38 Ms. Griest stated that there was a lot of testimony on that, which is why the Board revised the
39 amendment from 3 acres to 5 acres. She said that in the 3 to 5 acre range, people tend to utilize that
40 space in a less agricultural manner than you find with the lots that are greater than 5 acres.

41
42 Mr. Passalacqua stated that the witness indicated that there might be livestock grazing, or a garden next
43 to the solar farm; therefore, she wanted protection for her entire lot and not just her residence.

44
45 Mr. Hall stated that in that instance, that lot is entirely protected because it falls under the definition in
46 subparagraph a.

47

1 Ms. Griest stated that she was comfortable with the 5 acres, because she has shopped for 5 acres of land
2 in the rural area, and finding more than 5 acres is almost impossible. She said that even finding a rural
3 lot that is buildable is almost impossible, so she was good with the 5 acres.

4
5 Mr. Passalacqua stated that when you put it in that perspective and what you are going to do on your
6 property, as he would not want to mow 10 acres of grass and in that instance, there would be vegetation
7 or buildings that would serve as your own property buffer.

8
9 Mr. DiNovo stated that we have the generic authority to impose special conditions, so in an oddball
10 circumstance where there is 5.5-acres with livestock, the Board has the authority to impose a greater
11 setback if they need to. He said that it could be called out in the amendment, but he is not sure that the
12 Board needs to.

13
14 Ms. Lee asked Mr. Hall how the witness' property is protected under subparagraph a., because it deals
15 with lots that are 5 acres or less, and her property was more than 5 acres.

16
17 Mr. Hall stated that the statement, not including the STREET RIGHT OF WAY, is in subparagraph a.,
18 and the witness's lot has a lot of street right of way in it, since there are streets on two sides of the parcel.

19
20 Ms. Griest stated that technically, even though the parcel is indicated as 5.5 acres, the area outside of the
21 right of way is less than 5 acres, and that provision was included so that the right of way not be included
22 in the count to determine the 5 acres.

23
24 Ms. Lee asked if the portion to determine the right of way was one-half acre.

25
26 Mr. Hall stated that he does not remember the exact math, but he knows that it works.

27
28 Ms. Griest stated that each solar case will be before this Board as a special use permit, and the Board can
29 add a special condition, if it is deemed necessary, on a unique lot that would present in an application.

30
31 Mr. Elwell agreed with Ms. Griest. He said that more than likely, a five-acre parcel will be used for
32 residential, and he supports having the same 240 feet separation around the entire property, although if it
33 were a 10-acre parcel, there will still be 2 to 5 acres that will be used for residential purposes. He said
34 that hopefully the remaining acreage around the 2 to 5 acres used for residential would have some sort of
35 vegetation or crops. He said that he supports a separation of 240 feet all the way around for a lot that is
36 five acres or less, and for lots that are more than five acres, have the first five acres with the 240 feet
37 separation and anything else would have the 10 feet.

38
39 Mr. Hall stated that the compliment to the 240 feet separation on a lot that is five-acres or less, on a
40 larger lot, the separation is from the dwelling, although we do not exactly know where the dwelling is
41 going to be, and 50 feet has been added to make it 290 feet, because you are measuring from the
42 dwelling and not the lot line. He said that for the 50 feet of difference, the side yard in the AG-1 zoning
43 district is 15 feet, so this is more than the required side yard and will provide more benefit, because we
44 don't know how this will work out.

45
46 Mr. DiNovo stated that under 6.1.5 D.(3)a., if there is a home that was constructed at the minimum
47 setback, they are actually getting less protection than 6.1.5 D.(3)(b) would provide for a larger tract. He

1 said that if the dwelling was constructed at the minimum setback, under 6.1.5 D.(3)a.(a) and (b) they
2 would get 240 feet plus the side yard, and he does not understand why under 6.1.5 D.(3)b. they should
3 get more than 240 feet plus the side yard. He said that the standard should be 255 feet, because that
4 provides the same level of protection in both cases.

5
6 Mr. Hall stated that he would not be opposed to that.

7
8 Mr. DiNovo stated that he does not see why, if you own a larger tract of land, you receive more
9 protection than a smaller lot receives.

10
11 Mr. Hall stated that Mr. DiNovo has indicated good logic and perhaps it should have been proposed that
12 way in the beginning.

13
14 Mr. DiNovo proposed that, in lieu of the numbers in the separation decision point, that Item 6.1.5 C.(3)b.
15 be 255 feet.

16
17 Mr. Passalacqua stated that Mr. DiNovo's proposal is basically the 240 feet separation and the 15 feet
18 side yard.

19
20 Mr. Hall stated that Mr. Passalacqua was correct.

21
22 Ms. Griest asked Mr. Hall if Mr. DiNovo's proposal of 255 feet is to the panels, because under the 240
23 feet it is 266 feet to the panels, based upon the Board's discussion with Ms. Lee, 10 feet to the fence, and
24 16 feet inside the fence.

25
26 Mr. Hall stated that all he can say is that the proposal by Mr. DiNovo adds 15 feet to the separation that
27 is provided in Item 6.1.5 D.(3)a. and it only makes it 15 feet more, which is more equitable and both
28 measurements are to the fence.

29
30 Mr. DiNovo stated that it is actually to the panels themselves, and in Item 6.1.5 D.(3)a. it is 256 feet, the
31 distance to the fence plus 16 feet, and in Item 6.1.5 D.(3)b. it would be 271 feet. He said that we used
32 255 feet, but we know that there is an additional 16 feet.

33
34 **Mr. DiNovo moved, that Item 6.1.5 D. (3) b. shall indicate that the separation shall be no less than**
35 **240 feet on a provisional basis.**

36
37 **The motion failed due to the lack of a second.**

38
39 Ms. Griest stated that Mr. DiNovo's motion did not make sense. She said that the Board is working on
40 Item 6.1.5 C.(3)b., and his discussion indicated that the separation distance shall be 255 feet.

41
42 Mr. DiNovo stated that Ms. Griest is correct, and he is not sure what he said in his motion, but 255 feet
43 is what he meant.

44
45 Ms. Griest entertained a motion that for Item 6.1.5 D.(3)b., rather than the choices provided in
46 Attachment H. Revised Proposed Amendment – Annotated dated June 7, 2018, the Board proposes that
47 the separation shall be no less than 255 feet.

1
2 **Mr. DiNovo moved, seconded by Mr. Passalacqua, that for Item 6.1.5 D.(3)b., that the separation**
3 **from any existing DWELLING or existing PRINCIPAL BUILDING shall be no less than 255 feet.**
4 **The motion carried, with one opposing vote.**

5
6 Ms. Griest entertained a motion for Item 6.1.5 D.(3)a.(b), that for any adjacent LOT that is bordered
7 (directly abutting and/or across the STREET) on more than two sides by the PV SOLAR FARM, the
8 separation shall exceed 240 feet as deemed necessary by the Board.

9
10 **Mr. DiNovo moved, seconded by Mr. Elwell, for Item 6.1.5 D.(3)a.(b), that for any adjacent LOT**
11 **that is bordered (directly abutting and/or across the STREET) on more than two sides by the PV**
12 **SOLAR FARM, the separation shall exceed 240 feet as deemed necessary by the Board. The**
13 **motion carried, with one opposing vote.**

14
15 Ms. Griest stated that the Board will now review Item 6.1.5 M.(2)a.(a), which is indicated on page 23 of
16 Attachment H. Revised Proposed Amendment – Annotated, dated June 7, 2018. She read Item 6.1.5
17 M.(2)a.(a) as follows: “The visual screen shall be provided for any part of the PV SOLAR FARM that is
18 visible to and located within {500/1,000} feet of a DWELLING or residential DISTRICT. However, the
19 visual screen shall not be required if the PV SOLAR FARM is not visible to a DWELLING or
20 residential DISTRICT by virtue of the existing topography.”

21
22 Mr. DiNovo stated that he is concerned about the 1,000 feet, because there could be an instance where
23 the residential lot with solar farm development on the other side of the road. He said that the ordinance
24 would require that the width of the lot and 1,000 feet in either direction shall be screening, which is one-
25 half mile of screening for one lot. He said that if the lot was on a corner, this would mean that the depth
26 and width of the lot, plus 1,000 feet down one road and 1,000 feet down the other road, of screening, and
27 if there is a solar farm at the other corner, we could be looking at approximately 4,000 feet of screening
28 with difficult amounts of screen plantings that will be difficult to maintain and will harbor weeds. He
29 said that in these circumstances, the homeowner would be looking 1,000 feet straight down the road and
30 will not be getting much out of that screening beyond 500 feet. He said that this is difficult, and he has
31 been struggling for the last two days attempting to write something that would substantiate these kinds
32 of circumstances, and clearly if you abut a solar farm it makes sense, otherwise we could end up with
33 requiring screening running along the roadway and not accomplishing much.

34
35 Mr. Hall offered that part of that screening is also to protect the solar farm being even more obvious to
36 road users.

37
38 Mr. Elwell asked Mr. Hall if the screening would be removed when the solar farm goes away. He said
39 that if the 1,000 feet of vegetative screening is required, how would it impact the property when it is
40 converted back to farmland in production. He asked how a tree that has been growing at that location as
41 screening for 30 years would impact the ground when it is put back into production.

42
43 Mr. Hall stated that he does not know, but ELUC was concerned about the amount of vegetative
44 screening that might have to be dealt with if ever a solar farm had to be decommissioned, and saw that as
45 a huge consideration. He said that tearing out trees that are 30 years old is not an easy thing to do. He
46 said that it is fair to say that there is a gray area, and if someone asked him to indicate what the ordinance
47 requires for vegetative screening during decommissioning, he would have to say that it isn't clear what

1 the ordinance requires, and this may be something good to add to provide clarity. He said that
2 something like “vegetative screening must be removed” could be added.

3 Mr. DiNovo asked what happens if the landowner wants to keep the vegetative screening.
4

5 Mr. Hall stated that is true.
6

7 Mr. Randol stated that whether or not the vegetative screening stays or goes should be up to the
8 landowner. He said that in this day and age with conservation, the landowner may want to leave the
9 vegetation in place, regardless of whether the solar farm is being decommissioned.
10

11 Mr. Passalacqua stated that the solar farm at the University of Illinois exemplifies that 1,000 feet is the
12 choice, if not the entire perimeter, because it is offensive, regardless of how green minded you are. He
13 said that we all know that green/solar energy is great, but it is foul, and this Board’s job is to mitigate
14 that impact on the people that have to live next to a solar farm, so 1,000 feet is awesome, but continuous
15 is better.
16

17 Mr. DiNovo stated that organizing the screening around houses is arbitrary if the underlying concern is
18 aesthetic; it is almost impossible to write an aesthetic standard. He said that his wife is a landscape
19 architect and she would look at this problem, she would be looking at the points where the facility is
20 most visible, and the planting would be strategic and not just plopped down by some formula. He said
21 that from an aesthetic perspective, the County would get more bang for their buck if we were not
22 applying a rigid numerical standard.
23

24 Mr. Hall stated that he could imagine language indicating that the Board is willing to consider waivers,
25 in light of the overall impact on the neighborhood.
26

27 Mr. Passalacqua stated that earlier, the Board suggested that a special condition could be a tool to
28 mitigate the requirements on the developer, so a special condition could also be used to mitigate the
29 requirement for the screening, as the special use permit application deems necessary.
30

31 Mr. DiNovo stated that the Board could impose alternative standards, if it was provided with a landscape
32 plan prepared by an Illinois Registered Landscape Architect. He said that they could make a pitch for
33 why their idea is better than the minimum standards.
34

35 Mr. Passalacqua asked Mr. DiNovo if he expects the applicant to hire an Illinois Registered Landscape
36 Architect to screen a fence line.
37

38 Mr. DiNovo stated to screen a very large solar farm strategically, the Board should leave the 1,000 feet
39 in Item 6.1.5 M.(2)a.(a), but give the Board discretion to approve an alternative, provided that it was
40 prepared by an Illinois Registered Landscape Architect, so that it was designed to screen places that are
41 visible from any point.
42

43 Mr. Passalacqua stated that this is way out of the scope from this and the Board needs to provide
44 protection that can be altered by a special condition, and this Board does not need to start picking
45 designs and heights of trees. He said that he does not care about putting any undue expense on the
46 developer, but hiring an Illinois Registered Landscape Architect to prepare a plan for screening is
47 ridiculous.

1
2 Mr. DiNovo stated that he is not indicating that hiring an Illinois Registered Landscape Architect should
3 be a requirement, but require 1,000 feet and make it clear that the Board could consider alternatives, if
4 the developer wants to hire an Illinois Registered Landscape Architect to design a screening plan. He
5 said that this could be an option for the developer and if the Board preferred the plan, then they could go
6 for it. He said that this would give the Board the capacity to consider an alternative, provided it is an
7 alternative prepared by a professional.

8
9 Ms. Griest stated that locking it down to an Illinois Registered Landscape Architect is making it too
10 specific, because she does believe that it could be a professional in that field. She said that many
11 professional landscape people are not Illinois Registered Landscape Architects.

12
13 Mr. DiNovo stated that a professional in that field is an Illinois Registered Landscape Architect.

14
15 Mr. Hall stated that the Board does not have to accept the plan from the Illinois Registered Landscape
16 Architect, if they believe that the screening is better.

17
18 Mr. DiNovo stated that if the developer wants to propose an alternative, they must back it up with a
19 design by an Illinois Registered Landscape Architect.

20
21 Ms. Lee stated she is concerned about protecting the rights of the people who believe that they have the
22 1,000 feet of protection, because if the developer gets a plan from their Illinois Registered Landscape
23 Architect, there could be people who are opposed and desire to maintain their 1,000 feet. She said that
24 we do not want language that provides the developer to get what he wants due to the architect's plan, but
25 to the detriment of the adjacent landowners.

26
27 Ms. Griest stated that is why the special use permit process is of great value, in that the adjacent
28 landowners could come to this Board to voice their concerns, disagreement or disapproval and the Board
29 would make their final recommendation.

30
31 Mr. DiNovo stated that he does not know how the Board could make a Finding of Fact supporting the
32 waivers unless the Board is comfortable that the alternative is better than the underlying standard would
33 require.

34
35 Mr. Hall stated that this Board always has the power to accept something else that they think is better,
36 but if there is nothing in the ordinance suggesting that is a possibility, then there is always that initial
37 hump that the petitioner must get over, because they have to convince the Board that their alternative is
38 better. He said that the petitioner has to convince this Board anyway, but a future ZBA will know that
39 this ZBA thought that this might work out in some instances, but it always up to the ZBA and
40 presumably the ZBA will always listen to the comments of the neighbors, and it is an attempt to get to a
41 better end rather than just simply saying 1,000 feet and leaving it at that.

42
43 Ms. Griest stated that it also puts it in writing so that the impacted adjacent landowners know that there
44 is a provision out there that allows the developer an alternative if they would choose to propose it;
45 therefore, the impacted landowners have the responsibility to come forward and express any concern that
46 might be relevant.

47

1 Mr. Passalacqua asked if the Board is really elaborating on Item 6.1.5 M.(2)a.(c) and just dancing around
2 the fact that it already indicates the following: “and/or any existing wooded area and/or plantings of tall
3 native grasses and other native flowering plants and or an area of agricultural crop production that will
4 conceal the PV SOLAR FARM from view from adjacent abutting property may be authorized as an
5 alternative visual screen subject to specific conditions.” He said that the Board could add, “and/or an
6 alternative design prepared by an Illinois Registered Landscape Architect.”
7

8 Mr. Hall stated that 6.1.5 M.(2)a.(a) gets directly to what the requirement is; is it 1,000 feet.
9

10 Mr. Passalacqua stated yes, it is 1,000 feet.
11

12 **Mr. Randol moved that Item 6.1.5 M.(2)a.(a) should indicate that the visual screen shall be**
13 **provided for any part of the PV SOLAR FARM that is visible to and located within 1,000 feet of a**
14 **DWELLING or residential DISTRICT.**
15

16 Mr. Passalacqua asked Mr. Randol if he is proposing the 1,000 feet with the opportunity for change
17 based on a submitted plan by an Illinois Registered Landscape Architect, or is he just proposing 1,000
18 feet.
19

20 Mr. Randol stated that when the petitioner submits their plan for their initial request, they should have an
21 architect involved, because required vegetation and screening is part of the plan.
22

23 Ms. Griest stated that there is nowhere presently in the ordinance indicating that they must have an
24 architect seal their plan when they present their 1,000 feet visual screen. She asked Mr. Randol if, as an
25 alternative to the 1,000 feet, if they wish to propose that alternative, does his motion include the caveat
26 that they must present the plan from an Illinois Registered Landscape Architect.
27

28 Mr. Randol stated that whenever the developer presents their plans for the proposed solar farm, the
29 ordinance indicates that screening is required; therefore, they will have whatever type of screening that
30 they will present and the Board will decide yes or no. He said that this Board does not need to get
31 involved in who the developer decides to hire to do the landscape plan.
32

33 Ms. Griest asked Mr. Randol if his motion is only for the 1,000 feet.
34

35 Mr. Randol stated yes.
36

37 Ms. Griest requested a second to Mr. Randol’s motion.
38

39 **Ms. Lee seconded Mr. Randol’s motion. The motion carried, with one opposing vote.**
40

41 Ms. Griest asked the Board if there was a motion that, subject to a special condition, a petitioner may
42 request a waiver of the 1,000 feet, which must include a plan that is submitted by an Illinois Registered
43 Landscape Architect. She said that she does not want the motion worded so that it appears that the
44 petitioner has a guarantee of the waiver just because they submitted the required plan.
45

46 Mr. Randol stated that the Board does not want to give them the idea that just because they submit a plan
47 prepared by an Illinois Registered Landscape Architect that they can do away with the 1,000 feet of

1 screening and try to do 500 feet.

2
3 Mr. Passalacqua stated that it would have to be a special condition that would require approval from this
4 Board.

5
6 **Mr. Passalacqua moved, that subject to a special condition, a petitioner may request a waiver of**
7 **the 1,000 feet, which must include a plan that is submitted by an Illinois Registered Landscape**
8 **Architect.**

9
10 Ms. Griest noted that the petitioner would have the ability to request a waiver or variance of the 1,000
11 feet requirement.

12
13 Mr. Randol stated that it true, but he does not want to give them the impression that if they do not want
14 to do the 1,000 feet, then they can talk to the Board about it and it will just be waived, and he does not
15 want it to be part of this.

16
17 Ms. Griest stated that it is her opinion that it should be more obvious to the impacted adjacent
18 landowners that this variance/waiver capability is already there, rather than having them review the
19 ordinance and believe that it is set in stone that the petitioner must abide by the 1,000 feet requirement
20 regardless.

21
22 Mr. Passalacqua stated that a special use permit may come before this Board, and based on testimony
23 and evidence, a special condition could be required indicating that the screening has to be constructed
24 for one mile. He said that putting this in is just as fair as putting that in.

25
26 Mr. Elwell stated that he remembers testimony from the public indicating that they liked the visual
27 aspects of the photovoltaic panels.

28
29 Ms. Griest stated that there was testimony indicating such, and there is a provision in the ordinance
30 which allows the impacted adjacent landowner the opportunity to waive the screening requirement.

31
32 Mr. Elwell stated that the Board could set the requirement at 1,000 feet, but if there is a better plan
33 submitted which includes vegetation and foliage, then perhaps it could be 750 feet of taller trees as
34 opposed to 1,000 feet of border trees.

35
36 Ms. Griest requested a second to Mr. Passalacqua's motion.

37
38 **Mr. DiNovo seconded the motion.**

39
40 Mr. DiNovo stated that this is likely to only come up during one case, so what is at stake here is that the
41 petitioner is probably fully aware of the fact that they could request waivers. He said that currently the
42 developer could come in with a plan that is prepared by their brother-in-law, and if the Board inserts this
43 language, the developer could request the waiver, but they would need a plan prepared by an Illinois
44 Registered Landscape Architect. He said that if they are going to request a waiver, they must meet a
45 higher standard, which may make it less likely for them to do it. He said that this also insures that the
46 Board does not receive frivolous waiver requests.

47

1 Ms. Lee stated that notice should be sent to all adjacent landowners so that they are not left out of the
2 process.

3 Mr. Hall noted that adjacent landowners are already notified of the cases and waivers are included in the
4 original notice. He said that in the packet that went out in the mailing, there was a provision attached
5 indicating that the Commerce Commission adopted a provision that two community solar farms could be
6 co-located, so if you were expecting to receive 10 community solar farms at only 2 megawatts each, you
7 could expect to get 10 community solar farms at 4 megawatts each, which will take up twice as much
8 land. He said that Mr. DiNovo mentioned how many applications the ordinance will affect, and it may
9 be more than just one.

10
11 Ms. Griest stated that the Board indicated that they would limit this case so that the Board could hear
12 public testimony. She said that the Board is currently 1 hour and 28 minutes into the meeting and public
13 testimony has not been heard. She asked the Board how they would like to proceed. She asked the
14 Board if they would like to vote on the motion that is on the floor, or move to public testimony and the
15 come back to the motion.

16
17 Mr. Passalacqua stated that the Board needs to complete the motion and then move to public testimony.

18
19 Ms. Griest asked the Board if there was any further discussion required for the motion.

20
21 Ms. Lee requested that staff repeat the motion that is currently on the floor.

22
23 Ms. Burgstrom read the motion as follows:

24
25 **Mr. Passalacqua moved, seconded by Mr. DiNovo, that subject to a special condition, a petitioner**
26 **may request a waiver of the 1,000 feet, which must include a plan that is submitted by an Illinois**
27 **Registered Landscape Architect. The motion carried by voice vote.**

28
29 Ms. Griest asked the Board if they desired to continue with the discussion regarding the remaining
30 decision points, or would the Board like to move to witness testimony.

31
32 Mr. Passalacqua asked Ms. Griest to indicate the number of signatures on the witness register.

33
34 Mr. DiNovo stated that the Board should be able to complete Item 6.1.5. Q.(4)b.(g) fairly quickly.

35
36 Ms. Griest stated that there are four names on the witness register.

37
38 Mr. Passalacqua stated that Item 6.1.5 N.(2)b. should also be a brief discussion, and he would like to
39 complete Items 6.1.5 N.(2)b. and 6.1.5. Q.(4)b.(g) and begin public testimony at 8:45 p.m.

40
41 Ms. Griest read Item 6.1.5 N.(2)b. as follows: "If the Environment and Land Use Committee (ELUC)
42 determines that the glare is excessive, the Environment and Land Use Committee shall {require/consult
43 with} the Owner or Operator to take reasonable steps to mitigate the excessive glare such as the
44 installation of additional screening."

45
46 Mr. Passalacqua recommended REQUIRE, because he believes that all of this will go at a snail's pace,
47 and it might be one or two years before something got done, as opposed to an eternity.

1

2 Mr. DiNovo stated that it makes very little difference, but it might mislead members of the public in
3 thinking that ELUC has the ability to go in and do something when they may not. He said that he is
4 prepared to agree with either option.

5

6 Mr. Hall asked Mr. DiNovo if he agreed that this would absolutely give ELUC the right to require
7 additional screening to prevent glare.

8

9 Mr. DiNovo stated no.

10

11 Mr. Hall stated that Item 6.1.5 N.(2)b. states that ELUC would have the right to require additional
12 screening.

13

14 Mr. DiNovo stated that there must be some determinable standard for ELUC to decide that the glare is
15 excessive, and Champaign County does not have a standard that ELUC can use. He said that he does not
16 believe that a court would find the requirement enforceable.

17

18 Mr. Passalacqua stated that he is willing to risk any pending litigation on this because glare is glare, and
19 there is no such thing as one-half glare, three-quarter glare, or one-eighth glare, and a bright light in your
20 face is more measurable.

21

22 Mr. DiNovo stated that it is more plausible to him, and may be more productive in this case, to look at
23 the Nuisance Ordinance and see if we need to do anything with it. He said that we can only do what the
24 court will allow us to do, so he is prepared to move to leave the word require.

25

26 **Mr. DiNovo moved, seconded by Mr. Passalacqua, that Item 6.1.4 N.(2)b. should indicate the**
27 **following: “If the Environment and Land Use Committee determines that the glare is excessive,**
28 **the Environment and Land Use Committee shall REQUIRE the Owner or Operator to take**
29 **reasonable steps to mitigate the excessive glare such as the installation of screening.” The motion**
30 **carried by voice vote.**

31

32 Ms. Griest read Item 6.1.5 Q.(4)b.(g) as follows: The total financial assurance after deduction of the net
33 estimated salvage value shall not {be less than \$1,000 per acre/ exceed 150% of the decommissioning
34 costs}.

35

36 Mr. DiNovo stated that in reading the previous meeting’s minutes, Ms. Griest and Mr. Passalacqua
37 discussed the uncertainty related to salvage value estimates. He said that he wondered what would
38 happen if the 150% cap were required, but the salvage value was less than the estimate, so he ran a
39 spreadsheet model and determined that it was a bad idea. He recommended that the Board use “be less
40 than \$1,000 per acre,” and scrap the rest of it, and leave it the way that Mr. Hall original wrote it.

41

42 **Mr. DiNovo moved, seconded by Mr. Passalacqua, that Item 6.1.5 Q.(4)b.(g) should indicate the**
43 **following: “The total financial assurance after deduction of the net estimated salvage value shall**
44 **not be less than \$1,000 per acre.”**

45

46 Ms. Lee stated that it is possible that the solar panels will have to go to a hazardous waste facility, and
47 excessive decommissioning costs could be incurred.

1
2 Ms. Griest stated that she thought of that as well, but there is a requirement for review of that on a
3 scheduled basis. She said that when the review is done, the language in the ordinance indicated that they
4 have to determine what that salvage value or disposal cost is at that time. She said that if salvage value
5 cost increases, then they gain ground, but if they go down, they are still subject to a \$1,000 minimum.
6 She said that if the salvage value goes down and disposal cost increases, their costs that they will have to
7 put on deposit in escrow for the recovery plan are going to increase.

8
9 Mr. Hall stated that a beautiful case in point is the wind farm that is located in Champaign County. He
10 said that the owner had to post twice as much financial assurance on the first review, which consisted of
11 another \$2 million dollars. He said that this process works, but he cannot stress enough how important it
12 is to do the reviews when they are supposed to be done, and that it has taken us two years to actually get
13 the Letter of Credit, but we do have it now. He said that you live by these reviews and you die by these
14 reviews, if they are not done.

15
16 Mr. DiNovo stated that for other reasons, he reviewed several decommissioning plans and cost
17 estimates, and he believes that it is important that the County has, as a protocol, a close examination of
18 the assumptions that the engineers used and that we don't take the numbers at face value. He said that if
19 they are going to get so much for salvage value, we need to know how much is steel, how much of it is
20 panels, where are the panels going for recycling, etc. He said that we need them to justify the numbers
21 that are provided and the title of Professional Engineer (P.E.) is not enough.

22
23 **The motion carried, with one opposing vote.**

24
25 Ms. Griest asked the Board if they desired to move to public testimony or finalize the last two decision
26 point items.

27
28 Mr. Passalacqua recommended that the Board move to witness testimony.

29
30 Ms. Griest called Marjorie Tingley to testify.

31
32 Ms. Marjorie Tingley declined to testify.

33
34 Ms. Griest called Jackie Compton to testify.

35
36 Ms. Jackie Compton declined to testify.

37
38 Ms. Griest called Tiffany McElroy-Smetzer to testify.

39
40 Ms. Tiffany McElroy-Smetzer, whose address is PO Box 1005, St. Joseph, stated that her mother is a
41 property owner in the area for a proposed solar farm. She said that her mother's property has been in her
42 family for over 100 years, and before Ms. Smetzer's grandmother passed away, she had the farmland divided
43 into eight separate parcels. Ms. Smetzer stated that her parents believed that it was very important to keep
44 the farmland together, so they purchased all eight parcels so that it stayed together. She said that this is a
45 hard decision for her mother, because she loves the farmland, the crops that are grown, etc.; it is her entire
46 life. But she is also a 72-year old woman with kidney failure and the choice of whether to sign up her land or
47 not is her choice. Ms. Smetzer stated that her father has been gone for twenty years and an agreement with

1 the solar company would provide financial stability for her mother that she would not be able to get
2 somewhere else. She said that no one is guaranteed perfect neighbors, even if you believe that you live in a
3 perfect neighborhood, there could be loud noise, trash in the yards, homes in disrepair, etc. She said that the
4 solar farm would not be taking anything away from the best prime farmland because it will not be destroying
5 the nutrients in the property, and if anything, it is preserving the land's nutrients for the future. She said that
6 at some point, a landowner should not have to satisfy everyone within a 15-mile range, and even though that
7 is an exaggeration, she can guarantee that everyone who came to the last meeting that she attended, would
8 not want her to tell them what she thought they could and could not do with their property or their job and
9 their ability to earn.

10
11 Ms. Smetzer stated that her mother's farmland has been in her family for over 100 years, and her mother is
12 not taking any of these decisions lightly, because if she says no, she will have to look at how her life would
13 be without the income. She said that her mother thinks about the life of her tenant farmers and how this
14 would affect their income, because some of her tenants are third generation tenant farmers of her land, and
15 they are important to her and they are part of the family. She said that while sitting in the audience, and she
16 is not criticizing the Board, she has not heard the Board indicate that her mother's rights are not important,
17 and she does not want to minimize any of the other property owners' rights either. She said that it isn't a
18 sure thing that her mother will lease any of her farm to the solar company, because her land, her farm tenants
19 and her family are important to her, but her mother should certainly have the right to receive additional
20 income to help her sustain if she so chooses to do so.

21
22 Ms. Griest asked the Board if there were any questions for Ms. Smetzer.

23
24 Mr. DiNovo asked Ms. Smetzer to indicate the amount of acreage that her mother owned.

25
26 Ms. Smetzer stated that her mother has approximately 77 acres left because the power company came to her
27 several years ago and suggested that they could use eminent domain for her property, so her mother sold
28 them 13 acres. She said that selling them 13 acres was not her mother's first choice, but since they were
29 threatening to use eminent domain, her mother made her own deal.

30
31 Ms. Smetzer stated that she served on the Land Resource Management Plan Committee, and farmland is
32 important to her, and if some of the land was used for the solar farm purpose, then perhaps that would
33 provide enough income to purchase another farm to keep other people going in other areas. She said that
34 this is a very important matter and it is very deep to her family's heart, but the Board should keep in mind a
35 72-year old widow with kidney failure, or an 80-year old woman who has her whole life's savings in this
36 farmland. She said that these farms are people's entire savings and they should have the right to make their
37 own decisions as to what they want to do with their land.

38
39 Ms. Griest asked Ms. Smetzer if she would submit her written statement to staff.

40
41 Ms. Smetzer stated that she would email her written statement to staff.

42
43 Ms. Griest called Mr. Ted Hartke to testify.

44
45 Mr. Ted Hartke, who resides at 1183 CR 2300 East, Sidney, asked the Board if witnesses have the
46 opportunity to pose questions to the other witnesses during the hearing process.

47

1 Ms. Griest stated that there is no such opportunity, although Mr. Hartke could present his questions to the
2 Board regarding a previous testimony from a witness and the Board can pose those questions to that witness.
3 Mr. Hartke stated that as he sat in the audience, he heard or read testimony indicating that if the solar panels
4 are lined up in rows, they can block noise and break it down so that the inverters can be placed closer to the
5 neighbor's property. He said that there could be a case where the inverter is directly down a row pointing to
6 a house; he would like the Board to be aware that the noise could reflect and tunnel or funnel to the home on
7 the property, and he encouraged the Board to keep the inverters 1,000 feet away from a house. He said that
8 at the last meeting, Mr. Elwell mentioned if 40 dBA is where health impacts start and the human perception
9 is that 3 dBA is hardly noticeable, then perhaps the Board should go with 43 dBA. Mr. Hartke stated that if
10 the human perception is that 3 dBA is not noticeable, then he would recommend that the Board should
11 recommend a noise limit of 37 dBA, because that would be the same as 40 dBA. He asked the Board if
12 anyone has ever testified that a noise level louder than 40dBA is safe for the neighbors, because the Board
13 keeps going back to the Illinois Pollution Control Board standard, which is too noisy. He asked the Board to
14 review their distance setbacks for inverters.

15
16 Mr. Hartke stated that Page 3, of the May 3, 2018, minutes indicates testimony from John Hall as follows:
17 "He said that another number that has been mentioned is 39 dBA; that would require increasing the property
18 line separation to 330 feet plus the 275 feet to the inverter, or 605 feet total, with the noise at the property
19 line to be 39 dBA." Mr. Hartke stated that he believes that the distance should be checked again, and he
20 wonders if perhaps an acoustician should be involved to tell the Board what the noise level is at 10 meters
21 and what it will be at 605 feet, or at 800 feet as Mr. Hartke had previously recommended, or even at 1,000
22 feet, which would finally provide a safe zone. He said that he would like to make a correction to his
23 testimony at the May 3, 2018, meeting regarding where the microphones were placed when the wind
24 company measured ambient noise for their wind farm in Vermilion County. He said that during his
25 testimony he indicated that one microphone was set up on Route 9, and the other microphone was set up in
26 the front yard of the new town middle school. He said that he wanted to correct his statement and indicate
27 that the microphone to measure the ambient noise was not set up in the front yard of the new town middle
28 school, but was set up at the center of town in Oakwood, the corner intersection at the entrance of the
29 Oakwood grade school where the buses come in and out. He said that his purpose is to show that the
30 countryside is not noisy, although it could be noisy at the bus depot at the grade school in the middle of
31 town, but it is not noisy in the rural countryside.

32
33 Mr. Hartke asked the Board if they have revised the proposed language of the text amendment to include the
34 following statement that he provided at the last public hearing. He said that the statement is on Page 23 of
35 the May 3, 2018, minutes, and is as follows: "will not exceed sleep disturbance levels published by the
36 World Health Organization and/or the United States EPA and the Illinois Pollution Control Board standard."
37 He said that if this statement is included in the text amendment, then he believes that the County's residents
38 will still be healthy. He apologized for the repeat testimony, but this is very important and the Board has not
39 adequately addressed this matter.

40
41 Mr. Hartke stated that on Page 29, Line 45 of the May 3, 2018, minutes, Mr. Hall states the following: He
42 thinks that we live in a loud county, particularly when you're in a rural area, and there is farming, there's a
43 railroad, and there's a village close by. Mr. Hartke stated that it is not loud in the rural area where the solar
44 farms are proposed.

45
46 Mr. Hartke stated that on Page 31, Line 24 of the May 3, 2018, minutes, Mr. Hall states the following: "He
47 said, again, the ICPB standard is the standard, which he agrees is way too high, and he also believes that you

1 will always be better than that, simply because you are making sure that the inverters are at least 275 feet
2 inside the development.” Mr. Hartke stated that Mr. Hall, Zoning Administrator, has indicated that the ICPB
3 standard is too high, yet that same standard is still in the proposed amendment, at least as far as he knows.
4 He said that Mr. Hall also said that “he hopes you never even get to that level; he hopes you are always
5 below the IPCB level. He said that is the problem with that standard; it is so high, but with the kinds of
6 separations you are talking about, you are going to be well below that.” Mr. Hartke stated that hope is not a
7 strategy, and this Board’s job is to protect the health, safety, and welfare of the residents of Champaign
8 County, and the Board should be very attentive to that responsibility.
9

10 Mr. Hartke stated that his last concern is the salvage value and the cost of decommissioning the panels. He
11 said that he believes that the decommissioning costs should require that the developer submits a plan
12 regarding the removal of the panels and where they intend to dispose of them, whether it is at a landfill - and
13 we now know that there is no landfill in Illinois which takes solar panel materials - or whether they are
14 sending it to a recycling or e-waste disposal facility, and what it will cost. He said that perhaps the developer
15 will attempt to sell the solar panels, but the Board should know if there is a market for such a thing. He said
16 that he believes that the current decommissioning plan is inadequate.
17

18 Ms. Griest asked the Board and staff if there were any questions for Mr. Hartke, and there were none.
19

20 Ms. Griest asked the audience if anyone else would like to sign the witness register and present testimony
21 regarding Case 895-AT-18, and there was no one.
22

23 Ms. Griest closed the witness register for tonight’s hearing.
24

25 Ms. Griest entertained a motion to continue Case 895-AT-18 to the June 28th meeting.
26

27 **Mr. DiNovo moved, seconded by Mr. Passalacqua, to continue Case 895-AT-18 to the June 28th**
28 **meeting. The motion carried by voice vote with one opposing vote.**
29

30 Mr. Elwell informed the Board that he will not be attending the June 28th meeting.
31

32 Ms. Griest entertained a motion to have the agenda for the June 28th meeting to indicate the following:
33 Board discussion will occur prior to witness testimony.
34

35 **Mr. Elwell moved, seconded by Mr. Passalacqua, to have the agenda for the June 28th meeting to**
36 **indicate the following: Board discussion will occur prior to witness testimony. The motion carried by**
37 **voice vote.**
38

39 Ms. Griest entertained a motion for a five-minute recess.
40

41 **Mr. DiNovo moved, seconded by Ms. Lee, for the Board to take a five-minute recess. The motion**
42 **carried by voice vote.**
43

44 Ms. Griest stated that the Board will take a five-minute recess at 9:00 p.m.
45

46 **The Board recessed at 9:00 p.m.**

47 **The Board resumed at 9:05 p.m.**

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6. New Public Hearings

Case 905-AM-18 Petitioner: Peter Folk, d.b.a. Gargoyle Technologies Request to amend the Zoning Map to change the zoning district designation from the AG-1 Agriculture and B-3 Zoning District to the B-4 General Business Zoning District in order to establish and operate a business office. Location: A tract in the Northeast Quarter of the Southwest Quarter of Section 33, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township with an address of 3310 N. Cunningham Avenue, Urbana.

Mr. Passalacqua stated that it is prudent to mention that he is a customer of Mr. Folk, but he has no interest in this request and he has nothing to gain; therefore, he does not believe that there is any conflict, although he wanted to make it known that he is a customer.

Ms. Griest asked the Board if they believed that there is a conflict with Mr. Passalacqua being a customer of Mr. Folk. The consensus of the Board was that there is no conflict.

Ms. Griest informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness register they are signing an oath. She asked the audience if anyone desired to sign the witness register and there was no one.

Mr. Peter Folk, who resides at 2002 Morrow Court, Urbana, clarified that Gargoyle Technologies, Inc., is the actual petitioner, and he is the president of that company. He said that Gargoyle Technologies is not a d.b.a., but is an incorporated entity. He said that he operates a company named Volo Broadband, an internet service provider, which is a d.b.a. of Gargoyle Technologies, Inc. He said that Volo Broadband provides wireless and fiber internet service, and their wireless services rural areas, including this area, and of course Mr. Passalacqua's area, which consists of 12 square miles from the center of Champaign-Urbana. He said that their fiber infrastructure serves smaller communities and some rural areas, such as all of Thomasboro, areas of Urbana and St. Joseph, and some of the pathways to those, and they are expanding out into other communities and rural areas as well. He said that they do serve a combination of fiber and wireless in isolated subdivisions; for example, all the homes located in Arrowhead Subdivision are connected. He said that he does not know if it is a majority of the rural population, but they do serve a significant amount of the rural population and they wanted to have an office that is more accessible to their clients in rural Thomasboro, Urbana, St. Joseph, and upcoming Mahomet. He said that they were looking for a facility where they could integrate their office, but since they also do their own construction, they have machines and spools of wiring, so they needed a yard where they could store those items because their previous office did not have that. He said that they have been in business for 15 years, but during that time they were in smaller offices with very little traffic and they desired a location that would provide visibility, so that people would see that they were a real business with an actual physical presence. He said that they wanted to start gaining equity in their own property. He said that when they purchased the property, they understood that there was a possibility that the property could not be used for his intended use, and he did not realize that it was zoned AG-2, Agriculture until he saw the mailing packet. He said that hopefully the Board can see in the Finding of Fact that they will be a good use on the property and that they will provide a greatly needed benefit to both urban and rural residents.

1

2 Ms. Griest asked the Board if there were any questions for Mr. Folk, and there were none.

3 Mr. Hall asked Mr. Folk if Ms. Burgstrom has discussed the drainage district tile that was found to be
4 running under a portion of the subject property.

5

6 Mr. Folk stated that he is aware of the tile, but he hasn't heard anything new within the last several
7 weeks. He asked Mr. Hall if there was something new that he should be aware of.

8

9 Mr. Hall stated that since it is a drainage district tile, there is a heightened concern to not have anything
10 constructed above it. He said that in the solar farm amendment, which the Board just spent two hours
11 discussing, there is a special condition to establish a 30 feet wide easement on each side of any drainage
12 district tile. He said that being the Zoning Administrator, he must believe that if it works that well for a
13 solar farm, then that standard should be applied everywhere. He said that for Mr. Folk's property, there
14 could be no structures constructed within 30 feet on each side of the district tile. He said that he noticed
15 that staff did not include any information regarding the location of the tile, and the nature of a drainage
16 district tile is that we only know, in general, about where it should be because it is not marked on the
17 surface of the ground. He said that the site plan indicates a drainage easement, but it has no dimensions
18 and more detail is required. He said that Mr. Folk could still store things on the ground, provided that
19 they could be moved if the drainage district needed to access that area to work on the tile, and if the
20 drainage district is not opposed to having a perimeter fence installed on the property go through the
21 easement, then that would be okay. He said that the agreement with the drainage district may be that Mr.
22 Folk would be willing to re-establish the fence if the drainage district had to go through there, or provide
23 a gate so that the drainage district could access the area of the district drainage tile. He said that the
24 Board needs to make sure that there are rules in place so that this piece of important infrastructure is not
25 damaged and continues to have access for drainage.

26

27 Mr. Folk stated that he is aware of the district drainage tile, and there is already an easement in place.
28 He said that they met with the drainage district on site and there is a 60 feet wide easement, 30 feet on
29 either side of the tile, and even though the tile is not marked on the plan, it is apparent on the aerial
30 photograph that was included in the packet, and there is a green line on the satellite image that indicates
31 an elevation of 720 feet, and the tile is located in that area. He said that their site plan excludes all the
32 drainage district easement area.

33

34 Mr. Hall stated that it is great that Mr. Folk has talked to the drainage district, and that they have already
35 come to an agreement regarding the easement area. He recommended that the Board impose a special
36 condition regarding the easement, because it is possible that Mr. Folk will always own the property and
37 it would be important to have that easement information available for future owners.

38

39 Mr. Folk stated that there is a recorded easement which provides the drainage district with granted
40 access to the tile.

41

42 Mr. DiNovo stated that this is a map amendment and not a special use permit case. He said there must
43 be compelling reasons why special conditions should be imposed.

44

45 Mr. Hall stated that he does not know anything more compelling than a drainage district tile.

46

47 Mr. Passalacqua stated that he agrees with Mr. DiNovo. He asked if a special condition is necessary, if a

1 drainage easement already exists.

2
3 Mr. Hall stated that it would be good to get the information on the site plan, because the Board and staff
4 are keen on following those site plans.

5
6 Ms. Griest asked Mr. Folk to provide staff with a copy of the citation on his deed regarding the drainage
7 easement agreement, as it should be recorded on Mr. Folk's deed.

8
9 Mr. Folk stated that he is not sure if the deed indicates the easement, but he will provide the information
10 that he has regarding the drainage district tile easement agreement.

11
12 Ms. Griest stated that doing so would benefit Mr. Folk in the long run.

13
14 Mr. Hall asked Mr. Folk if he was aware of the drainage district tile when he purchased the property.

15
16 Mr. Folk stated that they were aware of the drainage district tile before they purchased the property.

17
18 Mr. Hall stated that a special condition is not necessary.

19
20 Mr. Folk stated that on the ground, it is clear, that there is area of the property where things will not
21 grow because it is frequently flooded and they were concerned about their machinery getting stuck in the
22 muck in that area, so they decided that it would be better off planting grasses in that area or make it a
23 wetland.

24
25 Ms. Griest recommended that no trees be planted in or near the easement, because the roots will go to
26 the tile and obstruct it, therefore having worse flooding problems.

27
28 Mr. Folk stated that he consulted with Mr. Hartke regarding this topic.

29
30 Ms. Griest asked the Board and staff if there were any additional questions for Mr. Folk, and there were
31 none.

32
33 Ms. Griest asked the audience if anyone desired to provide testimony regarding Case 905-AM-18, and
34 there was no one.

35
36 Ms. Griest informed Mr. Folk that the Board will now review the proposed special conditions of
37 approval, and he must indicate his agreement or disagreement with the special condition. She said that if
38 Mr. Folk disagrees with proposed special condition, or has concerns regarding the proposed special
39 condition, the Board will discuss them with Mr. Folk.

40
41 Ms. Griest read Special Condition A. as follows:

- 42
43 **A. The owners of the subject property hereby recognize and provide for the right of**
44 **agricultural activities to continue on adjacent land consistent with the Right to Farm**
45 **Resolution 3425 (See Attached).**

46
47 The above special condition is necessary to ensure the following:

Conformance with Land Resource Management Plan Policy 4.2.3.

Ms. Griest asked Mr. Folk if agreed with Special Condition A.

Mr. Folk stated that he agreed with Special Condition A.

Ms. Griest read Special Condition B. as follows:

B. A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.

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

That the drainage improvements conform to the requirements of the Stormwater Management and Erosion Control Ordinance.

Ms. Griest asked Mr. Folk if agreed with Special Condition B.

Mr. Folk stated that he agreed with Special Condition B.

Ms. Griest entertained a motion to approve the Special Conditions as read.

Mr. Randol moved, seconded by Ms. Lee, to approve the Special Conditions as read. The motion carried, with one opposing vote.

Ms. Griest stated that Objective 4.1 is entitled, "Agricultural Land Fragmentation and Conservation" and states: "Champaign County will strive to minimize the fragmentation of the County's agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland." The proposed rezoning {WILL/WILL NOT} HELP ACHIEVE Objective 4.1 because of the following: (1) Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, and 4.1.9 do not appear to be relevant to the proposed rezoning. (2) Policy 4.1.1 states, "Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils." The proposed rezoning {WILL/WILL NOT} HELP ACHIEVE Policy 4.1.1 because the Site Plan received April 4, 2018, will remove approximately 1.15 acres from the agricultural production.

Mr. Hall stated that it would be important to add the following to the end of the last sentence in 4.1.1 (2): but most of the land is located in the B-3 district.

Mr. DiNovo stated that over 80% of the land is located in the B-3 district.

Mr. Hall agreed to Mr. DiNovo's amendment to Mr. Hall's recommended text to the end of the last sentence in 4.1.1 (2).

Ms. Griest agreed.

Ms. Griest entertained a motion for Objective 4.1 and Policy 4.1.1.

1 **Mr. Passalacqua moved, seconded by Mr. Randol, that the proposed rezoning WILL HELP ACHIEVE**
2 **Objective Policy 4.1 and Policy 4.1.1.**

3
4 Mr. Ryan asked that if the Board is following Policy 4.1.1, it indicates that the County will not accommodate
5 other land uses except under very restricted conditions or in areas of less productive soils. He asked if this is
6 a very restrictive condition.

7
8 Mr. Hall stated that he believes that it amounts to the same thing. He said that it has already been decided that
9 this land should be in the business district, so in his view, one could argue that you are not really taking land
10 out of production, although we all know that part of the land was being farmed. He said that it is one of those
11 things; our policies do not have an automatic provision to recognize that once it is in a business district it will
12 not be treated like farmland. He said that the way that Champaign County has operated is that once a parcel is
13 in a business district, it is not treated like farmland that is not in a business district, but our policies did not
14 take that into account when they were established.

15
16 Mr. Elwell stated that regardless of zoning, the 1.15 acres is being taken out of production. He said that he is
17 in agreement with Mr. Passalacqua's motion, but he also sees that this County will not accommodate other
18 land uses except under very restricted conditions or in areas of less productive soils. He said that he does not
19 know that he sees this as a very restricted condition.

20
21 Mr. Passalacqua stated that Mr. Elwell should compare this to taking 1,300 acres and turning it into
22 something that is not corn and beans.

23
24 Mr. DiNovo stated the Board should keep in mind what the map amendment does; it changes from one
25 district where the landowner has the right to establish a use on 80% of the property to another district where
26 the landowner will have a larger set of commercial uses on 100% of the property. He said that the effect of
27 the amendment is very small regarding agriculture, and the amendment itself does not change much because it
28 is already zoned for development. He said that if someone wanted to put in a truck terminal on the property,
29 they could do so by right. He said that the Board is not authorizing a change from agriculture, because the
30 change from agriculture is already baked into the zoning map. He said that what this does do, since there are
31 restricted uses in the B-3 district, is make it more probable that someone will develop the property for
32 commercial use.

33
34 Mr. Hall stated that there is some agriculturally zoned land that is being changed as part of this amendment,
35 because it is zoned AG-2.

36
37 Mr. DiNovo stated that it is approximately 14,000 square feet.

38
39 Ms. Griest stated that the agricultural portion of the lot, although it is being somewhat farmed, is incredibly
40 difficult to farm and not productive due to the nature of the topography and the ability to farm it, because it is
41 not big enough to utilize in a farming operation of any scale. She said that taking it out of production is not
42 going to have an impact on farmland, per se.

43
44 Mr. Elwell stated that he agrees with Ms. Griest, but he is sticking with the language in Policy 4.1.1, which
45 states, "except under very restrictive conditions."

46
47 Ms. Griest stated that the very restrictive conditions would be the ability to get the farm equipment in to the
48 parcel, and the flooding in the area where the drainage district tile is located.

1 Mr. Folk stated that Policy 4.1.1 also states, “in areas of Champaign County that are by virtue of topography,
2 soil and drainage, suited to its pursuit.” He suggested that this particular section is an area that is not suited
3 by drainage, although the soil is good, but by topography it is not an ideal farming section, thus the reason
4 why Policy 4.1.1 does not apply.

5
6 Ms. Griest asked Mr. Elwell if Mr. Folk’s testimony clarified his concern.

7
8 Mr. Elwell stated that it is as clear as mud.

9
10 Mr. Hall congratulated Mr. Folk for that suggestion, because he hit the nail on the head. He said that perhaps
11 the Board should go back to Policy 4.1.1. and add something in the Finding of Fact, because the Board just
12 added that most of the parcel is in the B-3 district and what is in the AG-2 district suffers by topography, soil
13 and drainage and it is not an ideal agricultural production.

14
15 Ms. Lee stated that because of those facts, it is less productive soil.

16
17 Mr. Passalacqua stated that it has a relatively low protection score.

18
19 Mr. Hall stated that it has the highest.

20
21 Mr. Passalacqua stated that it only had a 177.

22
23 Mr. Hall stated that he thought that Mr. Passalacqua was talking about the soil.

24
25 Mr. Passalacqua stated that he is talking about the LESA, and Mr. Hall is talking about Land Evaluation.

26
27 Mr. Hall stated correct.

28
29 Mr. Hall revised the second paragraph for Policy 4.1.1. as follows: The proposed rezoning WILL HELP
30 ACHIEVE Policy 4.1.1 because the Site Plan received April 4, 2018, will remove approximately 1.15 acres
31 from agricultural production, but over 80% of that land is located in the B-3 district and the remainder of the
32 land, by virtue of topography and drainage, is not suited to agriculture.

33
34 Mr. Elwell agreed.

35
36 Ms. Griest entertained a motion to amend the previous amendment.

37
38 **Mr. Passalacqua amended his previous motion as follows: The proposed rezoning WILL HELP**
39 **ACHIEVE Objective Policy 4.1 and Policy 4.1.1, because over 80% of that land is located in the B-3**
40 **district and the remainder of the land, by virtue of topography and drainage, is not suited to**
41 **agriculture.**

42
43 **Mr. Elwell seconded the motion. The motion carried by voice vote.**

44
45 **SUMMARY FINDING OF FACT FOR CASE 905-AM-18:**

46
47 **From the documents of record and the testimony and exhibits received at the public hearing**
48 **conducted on June 14, 2018, the Zoning Board of Appeals of Champaign County finds that:**

- 1 1. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource
2 Management Plan because:
- 3 A. Regarding Goal 4:
- 4 (1) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the
5 fragmentation of farmland, conservation of farmland, and stringent development
6 standards on best prime farmland because of the following:
- 7 a. Policy 4.1.1, which states that commercial agriculture is the highest and
8 best use of land in the areas of Champaign County that are by virtue of
9 topography, soil and drainage, suited to its pursuit. The County will not
10 accommodate other land uses except under very restricted conditions or in
11 areas of less productive soils (see Item 13.D.(2)).
- 12
- 13 b. Policy 4.1.6 requiring that the use, design, site and location are consistent
14 with policies regarding suitability, adequacy of infrastructure and public
15 services, conflict with agriculture, conversion of farmland, and disturbance
16 of natural areas (see Item 13.D.(3)).
- 17
- 18 c. Policy 4.1.8 requiring that the County consider the LESA rating for
19 farmland protection when making land use decisions regarding a
20 discretionary development (see Item 13.D.(4)).
- 21
- 22 (2) It will **HELP ACHIEVE** Objective 4.2 requiring discretionary development to
23 not interfere with agriculture because of the following:
- 24 a. Policy 4.2.1 requiring a proposed business in a rural area to support
25 agriculture or provide a service that is better provided in the rural area (see
26 Item 13.C.(1)).
- 27
- 28 b. Policy 4.2.2 requiring discretionary development in a rural area to not
29 interfere with agriculture or negatively affect rural infrastructure (see Item
30 13.C.(2)).
- 31
- 32 c. Policy 4.2.3 requiring that each proposed *discretionary development*
33 explicitly recognize and provide for the right of agricultural activities to
34 continue on adjacent land (see Item 13.C.(3)).
- 35
- 36 d. Policy 4.2.4 requiring that all discretionary review consider whether a
37 buffer between existing agricultural operations and the proposed
38 development is necessary (see Item 13.C.(4)).
- 39
- 40 (3) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development
41 to be on a suitable site because of the following:
- 42 a. Policy 4.3.2 requiring a discretionary development on best prime farmland
43 to be well-suited overall (see Item 13.B.(2)).
- 44
- 45 b. Policy 4.3.3 requiring existing public services be adequate to support the
46 proposed development effectively and safely without undue public
47 expense (see Item 13.B.(3)).

- 1 c. Policy 4.3.4 requiring existing public infrastructure be adequate to support
- 2 the proposed development effectively and safely without undue public
- 3 expense (see Item 13.B.(4)).
- 4
- 5 d. Policy 4.3.5 requiring that a business or non-residential use establish on
- 6 best prime farmland only if it serves surrounding agriculture or is
- 7 appropriate in a rural area (see Item 13.B.(5)).
- 8
- 9 (4) Based on achievement of the above Objectives and Policies, the proposed map
- 10 amendment will **HELP ACHIEVE** Goal 4 Agriculture.
- 11
- 12 B. The proposed amendment will **NOT IMPEDE** the following LRMP goal(s):
- 13 • Goal 1 Planning and Public Involvement
- 14 • Goal 2 Governmental Coordination
- 15 • Goal 3 Prosperity
- 16 • Goal 5 Urban Land Use
- 17 • Goal 6 Public Health and Public Safety
- 18 • Goal 7 Transportation
- 19 • Goal 8 Natural Resources
- 20 • Goal 9 Energy Conservation
- 21 • Goal 10 Cultural Amenities
- 22
- 23 C. Overall, the proposed map amendment will **HELP ACHIEVE** the Land Resource
- 24 Management Plan.
- 25
- 26 2. The proposed Zoning Ordinance map amendment **IS** consistent with the *LaSalle* and *Sinclair*
- 27 factors because of the following:
- 28 A. This area has a mix of commercial, industrial, and single family residential uses. The
- 29 subject property was a single-family residence that has not been occupied for some time.
- 30
- 31 B. It is impossible to establish property values without a formal real estate appraisal which
- 32 has not been requested nor provided and so any discussion of values is necessarily
- 33 general.
- 34
- 35 C. The gain to the public of the proposed rezoning is positive because it will develop a
- 36 vacant residential structure that has not been used as a residence for some time.
- 37
- 38 D. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** Policy
- 39 4.2.1 regarding whether the proposed use is a service better provided in a rural area.
- 40
- 41 E. The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** the
- 42 Champaign County Land Resource Management Plan.
- 43
- 44 3. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the purpose of the
- 45 Zoning Ordinance because:
- 46 A. Establishing the B-4 District at this location **WILL** help classify, regulate, and restrict the
- 47 location of the uses authorized in the B-4 District (Purpose 2.0 (i), see Item 21.G.).

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- B. Establishing the B-4 District at this location **WILL** help secure adequate light, pure air, and safety from fire and other dangers (Purpose 2.0 (a), see Item 21.A.).
- C. Establishing the B-4 District at this location **WILL** lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters (Purpose 2.0 (d), see Item 21.D.).
- D. The proposed rezoning **WILL NOT** hinder the development of renewable energy sources (Purpose 2.0(r), see Item 21.M).

4. The proposed Zoning Ordinance map amendment is subject to the following special conditions:

- A. **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 (see attached).**

The above special condition is necessary to ensure the following:

Conformance with Land Resource Management Plan Policy 4.2.3.

- B. **A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.**

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

That the drainage improvements conform to the requirements of the Stormwater Management and Erosion Control Ordinance.

Ms. Griest entertained a motion to adopt the Summary of Evidence, Documents of Record and Summary Finding of Fact, as amended.

Mr. Passalacqua moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of Record and Summary Finding of Fact, as amended. The motion carried by voice vote.

Ms. Griest entertained a motion to move to the Final Determination.

Mr. Elwell moved, seconded by Mr. Randol, to move to the Final Determination for Case 905-AM-18. The motion carried by voice vote.

Ms. Griest informed the petitioner that currently the Board has one member absent; therefore, it is at the petitioner’s discretion to either continue Case 905-AM-18 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioner that four affirmative votes are required for approval.

Mr. Folk requested that the current Board move to the Final Determination.

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Final Determination for Case 905-AM-18:

Mr. Passalacqua moved, seconded by Mr. Randol that, pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Zoning Ordinance Amendment requested in Case 905-AM-18 should **BE ENACTED** by the County Board, **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- A. 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 (see attached).
- B. A complete Stormwater Drainage Plan that conforms to the requirements of the Stormwater Management and Erosion Control Ordinance shall be submitted and approved as part of the Zoning Use Permit application for construction and all required certifications shall be submitted after construction prior to issuance of the Zoning Compliance Certificate.

Ms. Griest requested a roll call vote.

The roll was called as follows:

Capel – absent	DiNovo – yes	Elwell – yes
Lee – yes	Passalacqua – yes	Randol – yes
Griest – yes		

Mr. Hall informed the petitioner that he has received a recommendation of approval for his map amendment request from this Board. He said that Case 905-AM-18 will be forwarded to the Champaign County Environment and Land Use Committee for their recommendation at the July 5, 2018, and then forwarded to the County Board for review and final approval on July 19th. He noted that if Mr. Folk had any questions or concerns, he should contact Ms. Burgstrom.

Ms. Griest thanked Mr. Folk for his patience tonight.

Mr. Folk noted that he was very impressed with the informational packet that staff put together for his case. He said that it is very clear that staff put a lot of thought into it, and he assumes that they do that for everyone, but wanted to voice that he was very impressed.

Mr. Passalacqua stated that he appreciated the complete site plan that was submitted for the Board’s review.

7. Staff Report

None

8. Other Business

1 **A. Review of Docket**

2
3 Mr. Elwell noted that he will be absent from the June 28th meeting, and it is possible that he will be absent
4 from the July 12th meeting as well.

5
6 Ms. Griest asked the Board if there were any additional absences from future ZBA meetings.

7
8 Mr. Randol noted that he will be absent from the July 12th meeting.

9
10 Ms. Griest stated that she may be absent from the September 13th meeting.

11
12 **9. Audience participation with respect to matters other than cases pending before the Board**

13
14 None

15
16 **10. Adjournment**

17
18 Ms. Griest entertained a motion to adjourn the meeting.

19
20 **Mr. Elwell moved, seconded by Ms. Lee to adjourn the June 14, 2018, meeting. The motion carried by**
21 **voice vote.**

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23 The meeting adjourned at 9:43 p.m.

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26 Respectfully submitted

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31 Secretary of Zoning Board of Appeals

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