

MINUTES OF REGULAR MEETING

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CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street  
Urbana, IL 61801

DATE: October 25, 2018

PLACE: John Dimit Meeting Room  
1776 East Washington Street  
Urbana, IL 61802

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TIME: 6:00 p.m.

MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Ryan Elwell, Jim Randol, Marilyn Lee

MEMBERS ABSENT: Debra Griest, Brad Passalacqua

STAFF PRESENT: Lori Busboom, Susan Burgstrom, John Hall

OTHERS PRESENT: Charles White, Barbara Swinford, Becky Smith, Paul Swinford, David Jones, Brian Hartwig, Bob Glasa, Chris Wall, Daniel Solorzano, William McKee, Jaymie Huffman, Doug Nesbitt, Lisa Nesbitt, Joyce Hurd, Bill Glithero, Duane Foster, Teresa Foster, David Swinford, Randy Huffman

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1. Call to Order

The meeting was called to order at 6:09 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present, with two members absent.

Ms. Capel 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

None

5. Continued Public Hearing

Ms. Lee stated that she needed to clarify a statement that she made to someone in the audience prior to the

1 meeting regarding the Rails to Trails project and Champaign County not owning it. She said that the railroad  
 2 only had an easement, and when they sold their easement to the County for the Rails to Trails project, it was  
 3 not an entire interest in the land that was involved. She said that the landowners still retained their interest  
 4 except for the easement. She said that Champaign County does not own the land, but only has an easement,  
 5 and that was confirmed by the County Forest Preserve during the Rails to Trails public hearings.

6  
 7 Ms. Capel called Cases 906-S-18 and 907-S-18 concurrently.

8  
 9 **Case 906-S-18 FFP IL Community Solar LLC, via agent David Dickson Request: Authorize a**  
 10 **Community PV Solar Farm with a total nameplate capacity of 2 megawatts (MW), including access**  
 11 **road and wiring, in the AG-1 Agriculture Zoning District, and including the following waivers of**  
 12 **standard conditions: Part A: A waiver for a distance of 135 feet from the CR Conservation**  
 13 **Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section**  
 14 **6.1.5B. (2) b. Part B: A waiver for not providing a Decommissioning and Site Reclamation Plan that**  
 15 **include cost estimates prepared by an Illinois Licensed Professional Engineer Prior to consideration of**  
 16 **the Special Use Permit by the Board, per Section 6.1.1 A.3. Other waivers may be necessary.**  
 17 **Location: A 40-acre tract in the Northeast Quarter of the Southeast Quarter of Section 3 of Township**  
 18 **19 North, Range 10 East of the Third Principal Meridian in St. Joseph Township, and commonly**  
 19 **known as the farmland approximately 600 feet north of Schuren Nursery on the west side of CR**  
 20 **2200E, St. Joseph.**

21  
 22 **Case 907-S-18 FFP IL Community Solar LLC, via agent David Dickson Request: Authorize two**  
 23 **Community PV Solar Farms with a total nameplate capacity of 4 megawatts (MW), including access**  
 24 **road and wiring, in the AG-1 Agriculture Zoning District, and including the following waivers of**  
 25 **standard conditions: Part A: A waiver for a distance of 338 feet from the CR Conservation**  
 26 **Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section**  
 27 **6.1.5B. (2) b. Part B: A waiver for locating a PV SOLAR FARM within the Contiguous Urban**  
 28 **Growth Area (CUGA) in lieu of outside the CUGA, per Section 6.1.5 B.(2) of the Zoning Ordinance;**  
 29 **and Part C: A waiver for not providing a Decommissioning and Site Reclamation Plan that include**  
 30 **cost estimates prepared by an Illinois Licensed Professional Engineer Prior to consideration of the**  
 31 **Special Use Permit by the Board, per Section 6.1.1 A.3. Part D: A waiver for not entering into A**  
 32 **Roadway Upgrade and Maintenance Agreement or waiver therefrom the relevant local highway**  
 33 **authority prior to consideration of the Special Use Permit by the Board, per Section 6.1.5 G. Other**  
 34 **waivers may be necessary. Location: Part of a 153.23-acre tract in Northwest Quarter of Section 12 of**  
 35 **Township 19 North, Range 10 East of Third Principal Meridian in St. Joseph Township, and**  
 36 **commonly known as the farmland at the southwest corner of CR 2350E and CR 1700N, St. Joseph.**

37  
 38 Ms. Capel asked Mr. Hall to review the Supplemental Memorandum #3 dated October 25, 2018, with  
 39 the Board.

40  
 41 Mr. John Hall, Zoning Administrator, stated that Supplemental Memorandum #3 reviews cross-  
 42 examination from the October 18, 2018 ZBA meeting from Bob Glasa, Wally Worley, David Jones, and  
 43 Becky Smith. He said that the new memorandum also includes summaries of the following: letter  
 44 received from David and Sandra Barcus; testimony from Mr. Glasa; testimony from Tami Fruhling-  
 45 Voges, Mayor of the Village of St. Joseph; testimony from Paul Swinford; testimony from David Jones;  
 46 and testimony from Wally Worley. He said that on October 19, 2018, staff received an email from Mr.  
 47 Glasa with an attached letter sent to Mr. Grissom, Development Project Manager with ForeFront Power,

1 and staff included Mr. Grissom’s response. Mr. Hall noted that Mr. Grissom indicated in his response  
2 that they can work with all of the issues that Mr. Glasa presented regarding the barbed wire and is  
3 agreeable to working with neighbors.

4 Mr. Hall stated that staff received a phone call from Tami Fruhling-Voges; she had planned to attend the  
5 meeting, but was just released from the hospital after being admitted all week and her husband refused to  
6 allow attendance tonight. She wanted the Board to understand that she is not in attendance because she  
7 had changed her mind about the solar farms, but was just unable to attend.

8  
9 Mr. Hall stated that Supplemental Memorandum #3 includes revisions to the special conditions and  
10 those changes differ upon the case. He said that pages 4-7 of the memorandum include the special  
11 conditions and recommended revisions for special condition A and new special condition F. for Case  
12 906-S-18. He said that revised special conditions A. and F. for Case 906-S-18 reads as follows:

- 13  
14 **A. The Site Plan received October 11, 2018, is the approved site plan for Case 906-S-18,**  
15 **except that vegetative screening shall be added to the west and south sides of the**  
16 **solar farm in addition to the screening shown on the October 11, 2018, Site Plan.**

17  
18 The above special condition is required to ensure that:

19 **The constructed PV SOLAR FARM is consistent with the special use permit**  
20 **Approval and considers the needs of adjacent residents.**

- 21  
22 **F. Vegetative screening on all sides of the solar farm, that has been approved by the**  
23 **Environment and Land Use Committee, is required at the time of application for a**  
24 **Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the**  
25 **Zoning Ordinance.**

26  
27 The special condition stated above is required to ensure the following:

28 **The Special Use Permit complies with Ordinance requirements and considers**  
29 **the needs of adjacent residents.**

30  
31 Mr. Hall stated that this will give the neighbors a chance to provide comments regarding the vegetative  
32 screen to the Environment and Land Use Committee during their review of the solar farm. He said that  
33 revised special condition A. for Case 907-S-18 is as follows:

- 34  
35 **A. The Site Plan received October 11, 2018, is the approved site plan for Case 907-S-18,**  
36 **except that vegetative screening shall be added to the west side of the solar farm in**  
37 **addition to the screening shown on the October 11, 2018, Site Plan.**

38  
39 The special condition is required to ensure that:

40 **The constructed PV SOLAR FARM is consistent with the special use permit**  
41 **approval and considers potential future development adjacent to the solar**  
42 **farm.**

43  
44 He said that revised special condition A. is a recommendation from staff and goes back to the testimony  
45 from Tami Fruhling-Voges, indicating that she would like to see vegetative screening on all sides of any  
46 solar farm that is within one and one-half miles of the village. He said that because the Village of St.  
47 Joseph is expected to eventually be west of the solar farm in this case, staff feels that requiring screening

1 now is a reasonable requirement, but staff is not suggesting that it be required on the north side or any  
2 other area that is not indicated on the site plan. He said that this is the first time that the Board has seen  
3 these changes, and it is the first time that the petitioner has been made aware of them.

4  
5 Ms. Capel stated that the Board finished taking testimony at the October 18<sup>th</sup> meeting, although the  
6 Board did not close the witness register or complete the findings of fact. She said that the Board has not  
7 had the opportunity to discuss these cases and asked the Board if there was any necessary discussion  
8 prior to receiving additional testimony.

9  
10 Mr. DiNovo asked if vegetative screening is required for all sides of the solar farm for Case 906-S-18.

11  
12 Mr. Hall stated yes.

13  
14 Mr. DiNovo stated that he cannot support such a requirement because it seems to be excessive and he  
15 does not see any justification for screening on the west side.

16  
17 Mr. Hall stated that during Mr. Worley's testimony, he requested that the Board require screening on the  
18 west side of the solar farm.

19  
20 Mr. DiNovo stated that he does not believe that the testimony from Mr. Worley justifies the expense. He  
21 said that he would not support a requirement for screening from a residence that is more than 1,000 feet  
22 from the solar farm.

23  
24 Mr. Randol stated that if a resident has requested screening then the Board should require it, because  
25 they are the one that will be living in the area of the solar farm. He said that it is just as easy to require  
26 the additional screening now than trying to require it later.

27  
28 Ms. Lee asked staff to indicate the required distance between a solar farm and a residence.

29  
30 Mr. Hall stated that the Ordinance requires 1,000 feet, and Mr. Worley's home is more than 1,000 feet  
31 from the proposed solar farm.

32  
33 Mr. DiNovo stated that Mr. Worley's residence is one-half mile from the solar farm and this Board  
34 cannot require screening due to Mr. Worley's request unless the Board is willing to require screening for  
35 any residence that is more than one-half mile from a solar farm. He said that the Board discussed  
36 screening at some length and determined that screening was required if a solar farm was 1,000 feet from  
37 a residence. He asked if the Board uses one-half mile for this case, on what principled basis would the  
38 Board use for not requiring screening for one-half mile anywhere else, and why did the Board decide that  
39 the requirement needs to be two and one-half times what was originally determined.

40  
41 Ms. Lee stated that the Board makes variances of all sorts, some screening at a greater distance and some  
42 at a lesser distance.

43  
44 Mr. DiNovo asked what the principled justification was for requiring it for this one landowner if the  
45 Board is not going to require it for every landowner.

46  
47 Mr. Randol asked what the justification was for approving any variances for a solar farm after the

1 ordinance has been adopted.

2  
3 Mr. DiNovo agreed, and those variances have to be justified, and he would say that every special  
4 condition has to be justified as well. He asked the Board to indicate the justification for increasing the  
5 perimeter for required screening by two and one-half times.

6  
7 Mr. Hall stated the distance from Mr. Worley's residence to the solar farm site has been overestimated,  
8 and it is only one-quarter of a mile.

9  
10 Ms. Capel asked the Board if there was further discussion prior to testimony.

11  
12 Ms. Capel informed the audience that Cases 906-S-18 and 907-S-18 are Administrative Cases and as  
13 such, the County allows anyone the opportunity to cross-examine any witness. She said that at the  
14 proper time, she will ask for a show of hands for those who would like to cross-examine, and each  
15 person will be called upon. She requested that anyone called to cross-examine go to the cross-  
16 examination microphone to ask any questions. She said that those who desire to cross-examine are not  
17 required to sign the witness register but are requested to clearly state their name before asking any  
18 questions. She noted that no new testimony is to be given during the cross-examination. She said that  
19 attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

20  
21 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign  
22 the witness register for that public hearing. She reminded the audience that when they sign the witness  
23 register they are signing an oath. She asked the audience if anyone desired to sign the witness register  
24 and there was no one.

25  
26 Ms. Capel informed the audience that she expects everyone to be respectful of the Board and its process,  
27 the petitioners, and each other. She said that she will do the best she can in providing as much leeway as  
28 possible, but at times the information being asked would be better provided as testimony because new  
29 issues are being brought up and are not allowed during cross-examination. She asked the audience to be  
30 patient because she and the other Board members are doing their best to operate in accordance to laws  
31 and the By-laws of this Board.

32  
33 Ms. Burgstrom noted that Tami Fruhling-Voges, Mayor for the Village of St. Joseph, left a voice  
34 message with staff indicating that she would not be attending the meeting tonight, but she believes that  
35 two proposed solar farms are too close to the Village of St. Joseph and to each other, referring to the  
36 solar farm in Case 894-S-18, which is close to the Sportsman Club, and the proposed solar farm in Case  
37 907-S-18. Ms. Fruhling-Voges said that the Village of St. Joseph would appreciate having their one and  
38 one-half mile extra-territorial jurisdiction and their planning area for that. She said that both of the  
39 proposed solar farm locations for Cases 906-S-18 and 907-S-18 have absentee owners and the owners of  
40 the proposed solar farms are not locally based. She asked that the local residents' concerns be  
41 considered during the Board's deliberation of these two cases.

42  
43 Ms. Capel called Chris Wall to testify.

44  
45 Mr. Chris Wall, Project Manager with ForeFront, stated that they feel that they have done everything  
46 they can to work with the adjacent landowners, and he appreciates the comments of the Board, but if it  
47 would help the Board's comments to be more impactful, they would agree to install screening on all

1 sides of the solar farm in Case 906-S-18.

2

3 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Wall, and there was no one.

4

5 Ms. Capel asked the Board if there were any questions for Mr. Wall, and there were none.

6

7 Ms. Capel called Brian Hartwig to testify.

8

9 Mr. Hartwig declined to testify at this time.

10

11 Ms. Capel called Paul Swinford to testify.

12

13 Mr. Paul Swinford, who resides at 1750 CR 2200E, St. Joseph, stated that item G.2. on page 5 of the  
14 new memorandum dated October 25<sup>th</sup> discusses a bond for the project. He asked the Board to indicate  
15 the acceptable long term value for solar farm, because on Saturday the winds were very strong, and he is  
16 concerned about the amount of contamination that could be caused if the panels should blow off onto  
17 adjacent ground, and the cost of the tear out in the future. He said that during his business career he  
18 dealt with a foreign investor and a foreign manufacturer with one of our major corn processing people in  
19 the state and country, and they did things incorrectly, and to get them back into the country the federal  
20 judge in Indianapolis told him that he would give him any settlement that he wanted, \$1 million dollars  
21 was not a problem, but the judge indicated that he gave out a lot of those types of settlements but to get  
22 those people here to pay is impossible. Mr. Swinford suggested that a cash bond be required during the  
23 time that the solar project is in operation, and the cash bond should be no less than 10 times the cost of  
24 the project and held in a local bank until the project ceases its fruition.

25

26 Ms. Capel asked the Board and staff if there were any questions for Mr. Swinford, and there were none.

27

28 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Swinford, and there was no one.

29

30 Ms. Lee stated that prior to the adoption of the ordinance, there was a person who testified that the solar  
31 panels were only good up to 50 mile per hour wind, but this area recently had winds that were at or over  
32 50 miles per hour.

33

34 Ms. Capel asked the audience if anyone else desired to sign the witness register and present testimony  
35 regarding Case 906-S-19.

36

37 Mr. Brian Hartwig, Project Manager with TRC Solutions, whose office is located at 230 West Monroe  
38 Street, Suite 630, Chicago, Illinois, stated that TRC Solutions is providing Forefront and multiple other  
39 developers with engineering consulting services in the state of Illinois and the entire country. He said  
40 that the panels are rated to withstand a 120 mile per hour wind as standard.

41

42 Ms. Capel asked the Board and staff if there were any questions for Mr. Hartwig, and there were none.

43

44 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Hartwig, and there was no one.

45 Ms. Capel asked the audience if anyone else desired to sign the witness register and present testimony  
46 regarding Case 906-S-19, and there was no one.

47

1 Ms. Capel closed the witness register for Case 906-S-18.

2  
3 Ms. Capel stated that Mr. Wall and Mr. Hartwig are the only names on the witness register for Case 907-S-18. She asked the audience if anyone else desired to sign witness register and present testimony  
4 regarding Case 907-S-18, and there was no one.  
5  
6

7 Ms. Capel closed the witness register for Case 907-S-18.  
8

9 Ms. Capel stated that the petitioners for Case 916-V-18 have arrived and were unaware that the meeting  
10 began at 6:00 p.m. She said that due to Mr. and Mrs. Foster's absence, the Board heard Cases 906-S-18  
11 and 907-S-18 prior to Case 916-V-18.  
12

13 **Mr. DiNovo moved, seconded by Ms. Lee, to defer the Board's discussion regarding the**  
14 **consideration of Cases 906-S-18 and 907-S-18, until the Board completes its determination for**  
15 **Case 916-V-18. The motion carried by voice vote.**  
16

17 Ms. Burgstrom clarified that previously the petitioner's engineer indicated a 120 mph wind rating,  
18 although it is actually a 105 mph wind rating, which well covers wind speeds in our area.  
19

20 Ms. Capel stated that Cases 906-S-18 and 907-S-18 are going to be deferred further and called Case 903-S-18.  
21  
22

23 **Review of Special Conditions for Case 906-S-18:**  
24

25 Mr. Randol asked if the special conditions were the same for Cases 906-S-18 and 907-S-18 and couldn't  
26 the Board review and approve them for both cases.  
27

28 Mr. DiNovo stated that the special conditions are the same, but the Findings of Fact for each case should  
29 be determined at different times.  
30

31 Ms. Burgstrom stated that the cases are not exactly the same.  
32

33 Mr. DiNovo stated that the Board could ask the petitioners if they were familiar with the special  
34 conditions indicated in Supplemental Memorandum #3 dated October 25, 2018, and if they agreed to  
35 them.  
36

37 Ms. Capel stated that rather than her reading each individual special condition, the petitioners have  
38 indicated that they read the special conditions indicated in Supplemental Memorandum #3 dated October  
39 25, 2018 and agreed to the special conditions for Cases 906-S-18 and 907-S-18 *en masse*.  
40

41 Ms. Lee asked if testimony has been received tonight regarding these two cases.  
42

43 Ms. Capel stated yes.

44 Mr. DiNovo noted that there are changes in conditions A. and F. that are not indicated in the Finding of  
45 Fact, but are in the new memorandum.  
46

47 Ms. Capel stated that Supplemental #3 is the document that the Board and the petitioner are referring to

1 for approval of the special conditions. She asked the petitioners if they have reviewed the special  
2 conditions in the memorandum, and do they agree with those special conditions.

3  
4 Mr. Hartwig stated that they have reviewed and agreed with the special conditions of approval for Cases  
5 906-S-18 and 907-S-18, indicated in Supplemental Memorandum #3 dated October 25, 2018.

6  
7 Ms. Capel asked Mr. Hall if there were any new Documents of Record.

8  
9 Mr. Hall stated that a new item # 8 should read as follows for both cases: Supplemental Memorandum  
10 #3 dated October 25, 2018, with attachments.

11  
12 Ms. Capel entertained a motion to approve the special conditions of approval for Case 906-S-18.

13  
14 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve the special conditions of approval for**  
15 **Case 906-S-18, as indicated in Supplemental Memorandum #3 dated October 25, 2018. The**  
16 **motion carried by voice vote, with one opposing vote.**

17  
18 **FINDINGS OF FACT FOR CASE 906-S-18:**

19  
20 **From the documents of record and the testimony and exhibits received at the public hearing for**  
21 **zoning case 906-S-18 held on October 18, 2018, and October 25, 2018, the Zoning Board of Appeals**  
22 **of Champaign County finds that:**

23  
24 **1. The requested Special Use Permit IS necessary for the public convenience at this location.**

25  
26 Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this  
27 location because 1) it helps to achieve the purposes of the State of Illinois Renewable Portfolio Standard,  
28 the purposes of the Champaign County Zoning Ordinance, and the relevant goals of the Champaign  
29 County Land Resource Management Plan, and 2) the site is located on one of only a relatively small  
30 number of tracts in the area that is within a reasonable distance of both the Ameren transmission lines  
31 and the substation, and 3) it will make a significant contribution toward the township and the County's  
32 tax base without destroying any significant amount of prime farmland.

33  
34 Ms. Capel entertained a motion to approve Finding of Fact #1, as amended.

35  
36 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact #1, as amended. The**  
37 **motion carried by voice vote, with one opposing vote.**

38  
39 Ms. Lee indicated that staff should include the date October 25, 2018, to the first paragraph of the  
40 Finding of Fact.

41  
42 **2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
43 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL**  
44 **NOT be injurious to the district in which it shall be located or otherwise detrimental to the**  
45 **public health, safety, and welfare because:**

46 **a. The street has ADEQUATE traffic capacity and the entrance location has**  
47 **ADEQUATE visibility.**



1  
2 Mr. DiNovo stated that the street has ADEQUATE traffic capacity and the entrance location has  
3 ADEQUATE visibility because the roadway use agreement has been waived; there will be limited traffic  
4 during the course of construction, perhaps with a peak of 30 to 40 trucks, along with employees' personal  
5 vehicles there might be 100 trips per day, which is equivalent to about 10 houses, so there will be a  
6 moderate amount of impact for a short period of time during construction; thereafter, there will be  
7 no significant traffic generated on the site at all.

8  
9 **b. Emergency services availability is ADEQUATE.**

10  
11 Mr. Elwell stated that emergency services availability is ADEQUATE because the use does not create  
12 any special hazards, and it will not be occupied, so there will be little need to provide emergency  
13 services to any persons on the site.

14  
15 **c. The Special Use WILL be compatible with adjacent uses.**

16  
17 Mr. DiNovo stated that the Special Use WILL be compatible with adjacent uses because: it meets all of  
18 the ordinance requirements except for the two required waivers, and it will produce noise that is well  
19 below the Illinois Pollution Control Board noise standards or the standards in the Zoning Ordinance, and  
20 it will be screened from all current residences and from all future development to the west.

21  
22 **d. Surface and subsurface drainage will be ADEQUATE.**

23  
24 Mr. Elwell stated that the surface and subsurface drainage will be ADEQUATE because there was  
25 testimony that the site owner is going to take care of mapping and the drainage tile itself, and we also  
26 heard testimony about the native grasses that are going to be planted and how they are going to limit the  
27 runoff from the solar farm field itself.

28  
29 **e. Public safety will be ADEQUATE.**

30  
31 Mr. DiNovo stated that public safety will be ADEQUATE because it poses no special hazards; it will  
32 generate no significant traffic; it will be unoccupied; the petitioner testified that there will be training for  
33 emergency services; and they will maintain the necessary complaint hotline.

34  
35 **f. The provisions for parking will be ADEQUATE.**

36  
37 Mr. Elwell stated that the provisions for parking will be ADEQUATE because there is no parking  
38 required for the use, and the number of vehicles that will be there after construction is one or two at a  
39 time.

40  
41 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**

42  
43 Mr. DiNovo stated that the property IS WELL SUITED OVERALL for the proposed improvements  
44 because it is located on a site that has the requisite access to transmission facilities; the site is also  
45 crossed by high tension line that would limit development of that portion of the site for any other  
46 purpose; and a large part of the site is located in the floodplain, which will prevent incompatible  
47 development from being built close to the solar farm.

1  
2 **h. Existing public services ARE available to support the proposed SPECIAL USE**  
3 **without undue public expense.**  
4

5 Mr. Elwell stated that existing public services ARE available to support the proposed SPECIAL USE  
6 without undue public expense because the use will be unoccupied and poses no special hazards.

7 **i. Existing public infrastructure together with the proposed development IS adequate**  
8 **to support the proposed development effectively and safely without undue public**  
9 **expense.**  
10

11 Mr. DiNovo stated that existing public infrastructure together with the proposed development IS  
12 adequate to support the proposed development effectively and safely without undue public expense  
13 because the use generates no traffic, requires no water or sewer service, and requires no specific drainage  
14 improvements.

15  
16 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
17 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
18 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
19 and welfare.

20  
21 Ms. Capel entertained a motion to approve Finding of Fact #2, as amended.  
22

23 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact #2, as amended. The**  
24 **motion carried by voice vote, with one opposing vote.**  
25

26 Ms. Capel stated that the Board would review Finding of Fact #6 regarding the necessary waivers of  
27 standard conditions, prior to Finding of Fact #3a.  
28

29 **6. Regarding necessary waivers of standard conditions:**  
30

31 **A. Regarding Part A of the proposed waivers, for a distance of 135 feet from the CR**  
32 **Conservation Recreation Zoning District in lieu of the minimum required one-half**  
33 **mile (2,640 feet):**

- 34 **(1) The waiver IS in accordance with the general purpose and intent of the**  
35 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**  
36 **the public health, safety, and welfare.**  
37

38 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning  
39 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare  
40 because the preponderance of the CR Conservation Recreation district that falls within one-half mile of  
41 the site is currently in cultivation and does not provide wildlife habitat; it is also in the floodplain,  
42 which limits any future development for residential use; and the impacts of the development on  
43 the CR Conservation Recreation district will be necessarily less than many uses that are  
44 potentially permitted inside the CR Conservation Recreation district.  
45

- 46 **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
47 **or structure involved, which are not applicable to other similarly situated land**

1 **and structures elsewhere in the same district.**

2  
3 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or  
4 structure involved, which are not applicable to other similarly situated land and structures elsewhere in the  
5 same district because alternate sites that have comparable access to the transmission facilities would be  
6 closer to existing residences and require other waivers.

7 **(3) Practical difficulties or hardships created by carrying out the strict letter of the**  
8 **regulations sought to be varied WILL prevent reasonable or otherwise**  
9 **permitted use of the land or structure or construction.**

10  
11 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the  
12 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
13 structure or construction because the site is otherwise suited for the use; the potential financial benefits to  
14 the landowner and to the general public would be foregone without the waiver; and because a large  
15 part of the tract is in the floodplain with flood depths of four feet or more and is within an electric  
16 utility right-of-way, alternate development potentials on this site are limited, so the opportunity for  
17 the land owner to realize comparable gains without the waiver is limited.

18  
19 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
20 **NOT result from actions of the applicant.**

21  
22 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO  
23 NOT result from actions of the applicant because: the site was selected, and the lease options acquired  
24 before the solar farm ordinance amendments were finalized.

25  
26 **(5) The requested waiver IS the minimum variation that will make possible the**  
27 **reasonable use of the land/structure.**

28  
29 Mr. DiNovo stated that the requested waiver IS the minimum variation that will make possible the  
30 reasonable use of the land/structure because the location of the site could not be moved any farther from  
31 the CR Conservation Recreation district without moving into the floodplain.

32  
33 Ms. Capel entertained a motion to approve Finding of Fact 6.A., as amended.

34  
35 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact # 6.A., as amended. The**  
36 **motion carried by voice vote, with two opposing votes.**

37  
38 **B. Regarding Part B of the proposed waivers, for not providing a Decommissioning**  
39 **and Site Reclamation Plan that includes cost estimates prepared by an Illinois**  
40 **Licensed Professional Engineer prior to consideration of the Special Use Permit by**  
41 **the Board:**

42  
43 **Mr. DiNovo moved, seconded by Mr. Elwell, that the justifications for items 6.B. (1)- 5)**  
44 **be the same as the justifications in Case 903-S-18, because the relevant facts, issues and**  
45 **rationales are the same.**

46  
47 **(1) The waiver IS in accordance with the general purpose and intent of the**

1                           **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**  
2                           **the public health, safety, and welfare.**

3  
4 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning  
5 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare  
6 Because it allows for the Decommissioning Plan to account for any minor adjustments in the final Site  
7 Plan or engineering of the facility.

8  
9                           **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
10                           **or structure involved, which are not applicable to other similarly situated**  
11                           **land and structures elsewhere in the same district.**

12  
13 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or  
14 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
15 the same district because the lease option was acquired prior to the finalization of the solar farm  
16 ordinance amendment, and the hearing dates and approval schedule for the County and the State  
17 of Illinois were not under the petitioner’s control.

18  
19                           **(3) Practical difficulties or hardships created by carrying out the strict letter of**  
20                           **the regulations sought to be varied WILL prevent reasonable or otherwise**  
21                           **permitted use of the land or structure or construction.**

22  
23 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the  
24 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
25 structure or construction because the project is subject to Illinois Power Authority acceptance, and the  
26 cost of preparing detailed plans would be wasted if the Illinois Power Authority did not accept the  
27 proposal.

28                           **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
29                           **NOT result from actions of the applicant.**

30  
31 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO  
32 NOT result from actions of the applicant because the timing of the approval process was not under the  
33 control of the applicant.

34  
35                           **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**  
36                           **CONDITION, IS the minimum variation that will make possible the**  
37                           **reasonable use of the land/structure.**

38  
39 Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION,  
40 IS the minimum variation that will make possible the reasonable use of the land/structure because the  
41 condition assures compliance with the intent of the ordinance, and the timing allows for a more  
42 accurate estimate of decommissioning costs and a more well-developed site reclamation plan.

43  
44 **The motion carried by voice vote, with one opposing vote.**

45  
46 Ms. Capel stated that the Board would review Finding of Fact #6 regarding the necessary waivers of  
47 standard conditions, prior to Finding of Fact #3a.

1  
2 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
3 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**  
4 **DISTRICT in which it is located because: given the approved waivers, the special use**  
5 **permit meets the requirements of the Zoning Ordinance in all respects.**  
6

7 Mr. DiNovo stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
8 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in  
9 which it is located because given the approved waivers, the special use permit meets the requirements of  
10 the Zoning Ordinance in all respects.  
11

12 Ms. Capel entertained a motion to approve Finding of Fact #3.a., as amended.  
13

14 **Mr. Elwell moved, seconded by Mr. Randol, to approve Finding of Fact #3.a., as amended. The**  
15 **motion carried by voice vote, with one opposing vote.**  
16

17 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
18 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**  
19 **is located because:**

20 **a. The Special Use will be designed to CONFORM to all relevant County ordinances and**  
21 **codes.**  
22

23 Mr. Elwell stated that the Special Use will be designed to CONFORM to all relevant County ordinances and  
24 codes.  
25

26 **b. The Special Use WILL be compatible with adjacent uses.**  
27

28 Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses.  
29

30 **c. Public safety will be ADEQUATE.**  
31

32 Mr. Elwell stated that public safety will be ADEQUATE.  
33

34 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
35 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.  
36

37 Ms. Capel entertained a motion to approve Finding of Fact #3.b., as amended.  
38

39 **Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact #3.b., as amended. The**  
40 **motion carried by voice vote, with one opposing vote.**  
41

42 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
43 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance**  
44 **because:**

45 **a. The Special Use is authorized in the District.**  
46

47 **b. The requested Special Use Permit IS necessary for the public convenience at this**

1 **location.**

2  
3 Mr. Elwell stated that he requested Special Use Permit IS necessary for the public convenience at this  
4 location.

- 5  
6 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
7 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**  
8 **WILL NOT be injurious to the district in which it shall be located or otherwise**  
9 **detrimental to the public health, safety, and welfare.**

10  
11 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
12 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
13 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
14 and welfare because the planned development will not have anyone inhabiting it, and there are no  
15 other types of health or safety concerns relating to the development itself.

- 16  
17 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
18 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**  
19 **which it is located.**

20  
21 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
22 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

23  
24 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
25 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

26  
27 Ms. Capel entertained a motion to approve Finding of Fact #4., as amended.

28  
29 **Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact # 4., as amended. The**  
30 **motion carried by voice vote, with two opposing votes.**

31  
32 **5. The requested Special Use IS NOT an existing nonconforming use.**

33  
34 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**  
35 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**  
36 **PARTICULAR PURPOSES DESCRIBED BELOW:**

- 37  
38 **A. The Site Plan received October 11, 2018, is the approved site plan for Case 906-S-18,**  
39 **except that vegetative screening shall be added to the west and south sides of the**  
40 **solar farm in addition to the screening shown on the October 11, 2018 Site Plan.**

41  
42 The above special condition is required to ensure that:

43 **The constructed PV SOLAR FARM is consistent with the special use permit**  
44 **approval and considers the needs of adjacent residents.**

- 45  
46 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**  
47 **issue a Zoning Compliance Certificate on the subject property until the lighting**

specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.

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

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

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

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

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

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

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

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

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

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

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

- F. **Vegetative screening on all sides of the solar farm, that has been approved by the Environment and Land Use Committee, is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance.**

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

**The Special Use Permit complies with Ordinance requirements and considers the needs of adjacent residents.**

- G. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:**
  - 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**

- 1 2. An irrevocable letter of credit to be drawn upon a federally insured financial
- 2 institution with a minimum acceptable long term corporate debt (credit)
- 3 rating of the proposed financial institution shall be a rating of “A” by S&P
- 4 or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable
- 5 anticipated travel costs shall be added to the amount of the letter of credit.
- 6
- 7 3. A permanent soil erosion and sedimentation plan for the PV SOLAR FARM
- 8 including any access road that conforms to the relevant Natural Resources
- 9 Conservation Service guidelines and that is prepared by an Illinois Licensed
- 10 Professional Engineer.
- 11
- 12 4. Documentation regarding the seed to be used for the pollinator planting, per
- 13 6.1.5 F.(9).
- 14
- 15 5. The telephone number for the complaint hotline required by 6.1.5 S.
- 16
- 17 6. Any updates to the approved Site Plan from Case 906-S-18 per the Site Plan
- 18 requirements provided in Section 6.1.5 U.1.c.
- 19
- 20 7. A copy of a certification from the Illinois State Historic Preservation Office
- 21 indicating that the Phase 1 archaeological reconnaissance survey required in
- 22 the letter from ISHPO to David Dickson dated May 30, 2018, for the
- 23 development area is complete and requires no further action by the
- 24 applicant.
- 25
- 26 8. A Floodplain Development Permit Application and any required information
- 27 for it in addition to the Zoning Use Permit Application.
- 28

The special conditions stated above are required to ensure the following:

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

**H. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**

- 1. An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.
- 2. As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.
- 3. An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.



The special conditions stated above are required to ensure the following:

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

**I. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:**

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

The special conditions stated above are required to ensure the following:

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

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings of Fact for Case 906-S-18, as amended.

**Mr. Elwell moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact for Case 906-S-18, as amended. The motion carried by voice vote, with one opposing vote.**

Ms. Capel entertained a motion to move to the Final Determination for Case 906-S-18.

**Mr. Elwell moved, seconded by Mr. DiNovo, to move to the Final Determination for Case 906-S-18. The motion carried by voice vote, with two opposing votes.**

1  
2 Ms. Capel informed the petitioners that currently the Board has two members absent; therefore, it is at the  
3 petitioners' discretion to either continue Cases 906-S-18 until a full Board is present or request that the  
4 present Board move to the Final Determination. She informed the petitioners that four affirmative votes are  
5 required for approval.

6  
7 Mr. Hartwig stated that, with due respect to the current Board, they would prefer to have a full Board  
8 present for the final determination.

9  
10 **Mr. DiNovo moved, seconded by Mr. Elwell, to continue Case 906-S-18 to the November 1, 2018,**  
11 **public hearing. The motion carried by voice vote.**

12  
13 Ms. Capel entertained a motion to bring Case 907-S-18 off the table.

14  
15 **Mr. DiNovo moved, seconded by Mr. Elwell, to bring Case 907-S-18 off the table. The motion carried**  
16 **by voice vote.**

17  
18 Ms. Capel entertained a motion to extend the meeting to 10:15 p.m.

19  
20 **Mr. DiNovo moved, seconded by Mr. Elwell, to extend the meeting to 10:15 p.m. The motion carried,**  
21 **with two opposing votes.**

22  
23 **REVIEW OF SPECIAL CONDITIONS FOR CASE 907-S-18:**

24  
25 Mr. DiNovo stated that the Board could again ask the petitioners if they were familiar with the special  
26 conditions indicated in Supplemental Memorandum #3 dated October 25, 2018, and if they agreed to  
27 them.

28  
29 Mr. Hartwig stated that they have reviewed the special conditions indicated in Supplemental  
30 Memorandum #3 dated October 25, 2018, and agreed to the special conditions for Case 907-S-18 *en*  
31 *masse*.

32  
33 Ms. Capel stated that rather than her reading each individual special condition, the petitioners have  
34 indicated that they read the special conditions indicated in Supplemental Memorandum #3 dated October  
35 25, 2018, and agreed to the special conditions for Case 907-S-18 *en masse*.

36  
37 Ms. Capel entertained a motion to approve the special conditions for Case 907-S-18, as indicated in  
38 Supplemental Memorandum #3 dated October 25, 2018.

39  
40 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve the special conditions of approval for**  
41 **Case 906-S-18, as indicated in Supplemental Memorandum #3 dated October 25, 2018. The**  
42 **motion carried by voice vote, with one opposing vote.**

43  
44 Ms. Capel asked Mr. Hall if there were any new Documents of Record.

45  
46 Mr. Hall stated that a new item # 8 should read as follows for both cases: Supplemental Memorandum  
47 #3 dated October 25, 2018, with attachments.

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**FINDINGS OF FACT FOR CASE 907-S-18:**

**From the documents of record and the testimony and exhibits received at the public hearing for zoning case 907-S-18 held on September 13, 2018, October 18, 2018, and October 25, 2018, the Zoning Board of Appeals of Champaign County finds that:**

**1. The requested Special Use Permit IS necessary for the public convenience at this location.**

Mr. DiNovo stated that situations and issues are similar enough to use the same language as indicated in Case 903-S-18, as follows: The Special Use Permit IS necessary for the public convenience at this location because 1) it helps to achieve the purposes of the State of Illinois Renewable Portfolio Standard, the purposes of the Champaign County Zoning Ordinance, and the relevant goals of the Champaign County Land Resource Management Plan, and 2) the site is located on one of only a relatively small number of tracts in the area that is within a reasonable distance of both the Ameren transmission lines and the substation, and 3) it will make a significant contribution toward the township and the County’s tax base without destroying any significant amount of prime farmland.

Mr. Hall asked Mr. DiNovo if he wanted to include the language from Case 903-S-18 which refers to the presence of the substation or is that not relevant to this case.

Mr. DiNovo stated that in this situation, regarding whether the special use permit is necessary for the public convenience at this location, goes to how many alternative sites there are and what public purposes are served by the project.

Ms. Capel entertained a motion to approved Finding of Fact #1.

**Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact #1, as amended. The motion carried by voice vote, with one opposing vote.**

**2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:**

**a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.**

Mr. Elwell stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.

Mr. DiNovo stated that because the roadway use agreement has been waived; there will be limited traffic during the course of construction, perhaps with a peak of 30 to 40 trucks along with employees’ personal vehicles there might be 100 trips per day, which is equivalent to about 10 houses, so there will be a moderate amount of impact for a short period of time during construction; thereafter, there will be no significant traffic generated on the site at all.

**b. Emergency services availability is ADEQUATE.**

1 Mr. DiNovo stated that emergency services availability is ADEQUATE because the use does not create  
2 any special hazards, and it will not be occupied, so there will be little need to provide emergency services  
3 to any persons on the site.  
4

5 **c. The Special Use WILL be compatible with adjacent uses.**  
6

7 Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses because it meets all of the  
8 ordinance requirements except for the two required waivers; it will produce noise that is well below the  
9 Illinois Pollution Control Board noise standards or the standards in the Zoning Ordinance; it will be  
10 screened from all current residences and from all future development to the west.  
11

12 Mr. DiNovo stated that the site is designated for agricultural use in the St. Joseph Comprehensive  
13 Plan; it is located across interstate 74 from the nearest residence; and it is bordered on the east by an  
14 approved solar farm and by the Sportsman Club, which is a noise generator along with the interstate  
15 highway.  
16

17 **d. Surface and subsurface drainage will be ADEQUATE.**  
18

19 Mr. DiNovo stated that surface and subsurface drainage will be ADEQUATE because there was  
20 testimony that the site owner is going to take care of mapping and the drainage tile itself, and we also  
21 heard testimony about the native grasses that are going to be planted and how they are going to limit the  
22 runoff from the solar farm field itself.  
23

24 **e. Public safety will be ADEQUATE.**  
25

26 Mr. Elwell stated that public safety will be ADEQUATE because it poses no special hazards; it will  
27 generate no significant traffic; it will be unoccupied; the petitioner testified that there will be training for  
28 emergency services; and they will maintain the necessary complaint hotline.  
29

30 **f. The provisions for parking will be ADEQUATE.**  
31

32 Mr. Elwell stated that provisions for parking will be ADEQUATE because there is no parking required  
33 for the use, and the number of vehicles that will be there after construction is one or two at a time.  
34

35 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**  
36

37 Mr. DiNovo stated that the property IS WELL SUITED OVERALL for the proposed improvements  
38 because it is one of a relatively few sites that have appropriate access to the transmission facilities; while  
39 it is close to the Village of St. Joseph to the south, development from the Village will most likely  
40 approach from the west and will require upgrades to both the Village of St. Joseph's sanitary sewer  
41 treatment plant and an extension to the sanitary sewer under the interstate highway, which is most likely  
42 to occur in the vicinity of CR 2200E, and the site is 1.25 miles from that site; and it is bordered on  
43 the east by an approved solar farm and by the Sportsman Club.  
44

45 **h. Existing public services ARE available to support the proposed SPECIAL USE**  
46 **without undue public expense.**  
47

1 Mr. Elwell stated that existing public services ARE available to support the proposed SPECIAL USE  
2 without undue public expense because the use will be unoccupied and poses no special hazards.

3  
4 **i. Existing public infrastructure together with the proposed development IS adequate**  
5 **to support the proposed development effectively and safely without undue public**  
6 **expense.**

7 Mr. DiNovo stated existing public infrastructure together with the proposed development IS adequate to  
8 support the proposed development effectively and safely without undue public expense because the use  
9 generates no traffic, requires no water or sewer service, and requires no specific drainage improvements.

10  
11 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
12 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
13 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
14 and welfare.

15  
16 **Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact #2., as amended. The**  
17 **motion carried by voice vote, with two opposing votes.**

18  
19 **6. Regarding necessary waivers of standard conditions:**

20  
21 **A. Regarding Part A of the proposed waivers, for a distance of 338 feet in lieu of one-**  
22 **half mile (2,640 feet) between a municipal boundary and a PV SOLAR FARM:**

23 **(1) The waiver IS in accordance with the general purpose and intent of the Zoning**  
24 **Ordinance and WILL NOT be injurious to the neighborhood or to the public**  
25 **health, safety, and welfare.**

26  
27 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning  
28 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare  
29 because the site is located on the other side of Interstate 74, so the nearest developed part of the Village of  
30 St. Joseph is actually 725 feet away, and the use will not hamper growth of the Village because  
31 developing north of Interstate 74 will require upgrading the sewage treatment plant and extending  
32 the sanitary sewer, most likely in the vicinity of CR 2200E, which is 1.25 miles from the site.

33  
34 **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
35 **or structure involved, which are not applicable to other similarly situated**  
36 **land and structures elsewhere in the same district.**

37  
38 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or  
39 Structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
40 the same district because other tracts of land with comparable access to the transmission infrastructure is  
41 closer to areas that we can reasonably anticipate will be part of St. Joseph’s future growth.

42  
43 **(3) Practical difficulties or hardships created by carrying out the strict letter of**  
44 **the regulations sought to be varied WILL prevent reasonable or otherwise**  
45 **permitted use of the land or structure or construction.**

46  
47 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the

1 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
2 structure or construction because failure to grant the waiver would make the project impractical and  
3 would forego the financial benefits to the landowner and to the public.  
4

5 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
6 **NOT result from actions of the applicant.**

7 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO  
8 NOT result from actions of the applicant because the sites that have access to the transmission facilities  
9 are limited, and because the lease options for the site were entered into before the solar farm amendment  
10 was finalized.  
11

12 **(5) The requested waiver IS the minimum variation that will make possible the**  
13 **reasonable use of the land/structure.**

14 Mr. Elwell stated that the requested waiver IS the minimum variation that will make possible the  
15 reasonable use of the land/structure because any other parcel of land would be closer to residential  
16 property, requiring more waivers.  
17

18 Ms. Capel entertained a motion to approve Finding of Fact #6.A., as amended.  
19

20 **Mr. Elwell moved, seconded by Mr. DiNovo, to approved Finding of Fact 6.A, as amended. The**  
21 **motion carried by voice vote, with 2 opposing votes.**  
22  
23

24 **B. Regarding Part B of the proposed waivers, for locating a PV SOLAR FARM within**  
25 **the Contiguous Urban Growth Area (CUGA) in lieu of outside the CUGA:**

26 **(1) The waiver IS in accordance with the general purpose and intent of the**  
27 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**  
28 **the public health, safety, and welfare.**  
29

30 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning  
31 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare  
32 Because the St. Joseph CUGA was defined before St. Joseph adopted its most recent comprehensive  
33 plan, which designates the site for agricultural use; further, the CUGA was defined in absence of any  
34 specific plan for extending sanitary sewers to the north of the interstate.  
35

36 **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
37 **or structure involved, which are not applicable to other similarly situated**  
38 **land and structures elsewhere in the same district because: other tracts of**  
39 **land with comparable access to the transmission infrastructure are closer to**  
40 **areas that we can reasonably anticipate will be part of St. Joseph’s future**  
41 **growth.**  
42

43 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or  
44 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
45 the same district because other tracts of land with comparable access to the transmission  
46 infrastructure is closer to areas that we can reasonably anticipate will be part of St. Joseph’s  
47 future growth.

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**(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because failure to grant the waiver would make the project impractical and would forego the financial benefits to the landowner and to the public.

**(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant**

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the sites that have access to the transmission facilities are limited, and because the lease options for the site were entered into before the solar farm amendment was finalized.

**(5) The requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure.**

Mr. DiNovo stated that the requested waiver IS the minimum variation that will make possible the reasonable use of the land/structure because any site that had the requisite access to the transmission facilities that was not within the limits of the CUGA would likely be closer to existing residences and lacking the beneficial features that this site has.

Ms. Capel entertained a motion to approve Finding of Fact #6.B., as amended.

**Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact 6.B., as amended. The motion carried by voice vote, with one opposing vote.**

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

**(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare because it allows for the Decommissioning Plan to account for any minor adjustments in the final Site Plan or engineering of the facility.

**(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.**

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Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the lease option was acquired prior to the finalization of the solar farm ordinance amendment, and the hearing dates and approval schedule for the County and the State of Illinois were not under the petitioner’s control.

**(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the project is subject to Illinois Power Authority acceptance, and the cost of preparing detailed plans would be wasted if the Illinois Power Authority did not accept the proposal.

**(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.**

Mr. DiNovo stated the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the timing of the approval process was not under the control of the applicant.

**(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure because the condition assures compliance with the intent of the ordinance, and the timing allows for a more accurate estimate of decommissioning costs and a more well-developed site reclamation plan.

Ms. Capel entertained a motion to approve Finding of Fact #6.C., as amended.

**Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact #6, as amended. The motion carried by vote, with two opposing votes.**

**D. Regarding Part D of the proposed waivers, for not entering into a Roadway Upgrade and Maintenance Agreement or waiver therefrom with the relevant local highway authority prior to consideration of the Special Use Permit by the Board:**

**(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Mr. DiNovo asked if the road district had taken a position of not entering into a roadway agreement. He asked if the waiver is not to waive the agreement but is to waive submission of the agreement before approval.



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Mr. Hartwig stated that the waiver is not to waive the agreement but is to waive submission of the agreement before approval.

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare because an agreement is required by special condition to be submitted prior to approval of the Zoning Use Permit application.

**(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: the petitioner made a good faith effort to enter into the agreement, and due to conditions outside their control, it was impossible to complete it by this date.**

Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the petitioner made a good faith effort to enter into the agreement, and due to conditions outside their control, it was impossible to complete it by this date.

**(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because failure to grant the waiver would likely result in making it impossible to proceed with the project because the time schedule for approval could not be met.

**(4) The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.**

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the timing of reaching an agreement was not fully in the control of the applicant, and because the lease option was established before the adoption of the solar farm ordinance amendments.

**(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION, IS the minimum variation that will make possible the reasonable use of the land/structure because given the County's meeting schedule, it is the only practical approach.

Ms. Capel entertained a motion to approve Finding of Fact #6.D., as amended.

1 Mr. Elwell moved, seconded by Mr. DiNovo to approve Finding of Fact #6.D., as amended. The  
2 motion carried by voice vote.

3  
4 Mr. DiNovo moved, seconded by Mr. Elwell, to extend the meeting to 10:20 p.m. The motion  
5 carried by voice vote.

6  
7 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
8 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**  
9 **DISTRICT in which it is located.**

10  
11 Mr. DiNovo stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
12 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in  
13 which it is located because given the approved waivers, the special use permit meets the requirements of  
14 the Zoning Ordinance in all respects.

15  
16 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
17 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**  
18 **is located because:**

19 **a. The Special Use will be designed to CONFORM to all relevant County ordinances and**  
20 **codes.**

21  
22 Mr. Elwell stated that the Special Use will be designed to CONFORM to all relevant County ordinances  
23 and codes.

24  
25 **b. The Special Use WILL be compatible with adjacent uses.**

26  
27 Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses.

28  
29 **c. Public safety will be ADEQUATE.**

30  
31 Mr. Elwell stated that public safety will be ADEQUATE.

32  
33 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
34 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

35  
36 Ms. Capel entertained a motion to approve Finding of Facts 3.a and 3.b., as amended.

37  
38 **Mr. DiNovo moved, seconded by Mr. Elwell, to approve Findings of Fact 3.a and 3.b., as**  
39 **amended. The motion carried by voice vote, with one opposing vote.**

40  
41 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
42 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance**  
43 **because:**

44 **a. The Special Use is authorized in the District.**

45 **b. The requested Special Use Permit IS necessary for the public convenience at this**  
46 **location.**

47

1 Mr. Elwell stated that the requested Special Use Permit IS necessary for the public convenience at this  
2 location.

3  
4 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
5 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**  
6 **WILL NOT be injurious to the district in which it shall be located or otherwise**  
7 **detrimental to the public health, safety, and welfare.**  
8

9 Mr. DiNovo stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
10 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
11 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
12 and welfare.

13  
14 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
15 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**  
16 **which it is located.**  
17

18 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
19 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

20  
21 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
22 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

23  
24 Ms. Capel entertained a motion to approve Finding of Fact 4., as amended.

25  
26 **Mr. DiNovo moved, second by Mr. Elwell, to approve Finding of Fact 4., as amended. The motion**  
27 **carried by voice vote, with one opposing vote.**  
28

29 **5. The requested Special Use IS NOT an existing nonconforming use.**  
30

31 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**  
32 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**  
33 **PARTICULAR PURPOSES DESCRIBED BELOW:**  
34

35 **A. The Site Plan received October 11, 2018, is the approved site plan for Case 907-S-18,**  
36 **except that vegetative screening shall be added to the west side of the solar farm in**  
37 **addition to the screening shown on the October 11, 2018 Site Plan.**  
38

39 The above special condition is required to ensure that:  
40 **The constructed PV SOLAR FARM is consistent with the special use permit**  
41 **approval and considers potential future development adjacent to the solar farm.**  
42

43 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**  
44 **issue a Zoning Compliance Certificate on the subject property until the lighting**  
45 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**  
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47 The special condition stated above is required to ensure the following:

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

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

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

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

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

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

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

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

The above special conditions are required to ensure that:

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

- F. A Roadway Upgrade and Maintenance Agreement signed by the Highway Commissioner and approved by the Environment and Land Use Committee shall be submitted at the time of application for a Zoning Use Permit.**

The above special condition is necessary to ensure the following:

**To ensure full compliance with the intent of the Zoning Ordinance in a timely manner that meets the needs of the applicant.**

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

- 1. Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**
- 2. An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**

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- 3. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
- 4. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
- 5. **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**
- 6. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 7. **Any updates to the approved Site Plan from Case 907-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1.c.**

The above special condition is required to ensure that:  
**The PV SOLAR FARM is constructed consistent with the Special Use Permit approval and in compliance with the Ordinance requirements.**

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

The above special condition is required to ensure that:  
**The PV SOLAR FARM is constructed consistent with the special use permit approval and in compliance with the Ordinance requirements.**

- I. **The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:**
  - 1. **Maintain the pollinator plantings and required visual screening in perpetuity.**

2. Cooperate with local Fire Protection District to develop the District's emergency response plan as required by 6.1.5 H.(2).
3. Cooperate fully with Champaign County and in resolving any noise complaints including reimbursing Champaign County any costs for the services of a qualified noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations as required by 6.1.5 I.(4).
4. Maintain a current general liability policy as required by 6.1.5 O.
5. Submit annual summary of operation and maintenance reports to the Environment and Land Use Committee as required by 6.1.5 P.(1)a.
6. Maintain compliance with the approved Decommissioning and Site Reclamation Plan including financial assurances.
7. Submit to the Zoning Administrator copies of all complaints to the telephone hotline on a monthly basis and take all necessary actions to resolve all legitimate complaints as required by 6.1.5 S.

The above special condition is required to ensure that:

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

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

**Mr. Elwell moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of Record, and Findings of Fact, as amended. The motion carried by voice vote, with one opposing vote.**

Ms. Capel entertained a motion to move to the Final Determination for Case 907-S-18.

**Mr. Elwell moved, seconded by Mr. DiNovo, to move to the Final Determination for Case 907-S-18. The motion carried by voice vote.**

Ms. Capel informed the petitioners that currently the Board has two members absent; therefore, it is at the petitioners' discretion to either continue Cases 907-S-18 until a full Board is present or request that the present Board move to the Final Determination. She informed the petitioners that four affirmative votes are required for approval.

Mr. Hartwig stated that, with due respect to the current Board, they would prefer to have a full Board present for the final determination.

**Mr. DiNovo moved, seconded by Mr. Elwell, to continue Case 907-S-18 to the November 1, 2018, public hearing. The motion carried by voice vote, with one opposing vote.**

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2 **Case 903-S-18** Petitioner: **FFP IL Community Solar LLC, via agent David Dickson** Request: **Authorize**  
3 **two Community PV Solar Farms with a total nameplate capacity of 4 megawatts (MW), including**  
4 **access road and wiring, in the AG-1 Agriculture Zoning District, and including the following waivers**  
5 **of standard conditions: Part A: A waiver for a distance of 425 feet from the CR Conservation**  
6 **Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet), per Section**  
7 **6.1.5B. (2) b. Part B: A waiver for not providing a Decommissioning and Site Reclamation Plan that**  
8 **include cost estimates prepared by an Illinois Licensed Professional Engineer Prior to consideration of**  
9 **the Special Use Permit by the Board, per Section 6.1.1 A.3. Other waivers may be necessary.**  
10 Location: **Part of a 121.79-acre tract comprised of part of Lot D of the Proprietor's Survey of Lands**  
11 **Subdivision in Section 11 of Township 18 North, Range 10 East of the Third Principal Meridian in**  
12 **Sidney Township, and commonly known as the field east of the house located at 2232A CR 1000N,**  
13 **Sidney.**

14  
15 Ms. Capel informed the audience that Case is an Administrative Case and as such, the County allows  
16 anyone the opportunity to cross-examine any witness. She said that at the proper time, she will ask for a  
17 show of hands for those who would like to cross-examine, and each person will be called upon. She  
18 requested that anyone called to cross-examine go to the cross-examination microphone to ask any  
19 questions. She said that those who desire to cross-examine are not required to sign the witness register  
20 but are requested to clearly state their name before asking any questions. She noted that no new  
21 testimony is to be given during the cross-examination. She said that attorneys who have complied with  
22 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

23  
24 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign  
25 the witness register for that public hearing. She reminded the audience that when they sign the witness  
26 register they are signing an oath. She asked the audience if anyone desired to sign the witness register  
27 and there was no one.

28  
29 Ms. Capel asked Mr. Hall to review the memorandum with the Board.

30  
31 Mr. John Hall, Zoning Administrator, distributed Supplemental Memorandum #3 dated October 25,  
32 2018, to the Board for review. He said that the new memorandum summarizes cross-examination and  
33 testimony that occurred at the September 13, 2018, public hearing. He said that testimony was provided  
34 by Joyce Hurd, Bill Glithero, Chuck White, William McKee, Phil Fiscella, Tim Osterbur, Lisa and Doug  
35 Nesbitt, and Ted Hartke. He said that the memorandum also summarizes a letter dated September 17,  
36 2018, from Art Rapp, who resides at 401 Aspen Court, St. Joseph. He said that the special conditions, as  
37 indicated in the October 18, 2018, Supplemental Memorandum #2 are included in the new  
38 memorandum, but no revisions are proposed.

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40 Ms. Capel called Brian Hartwig to testify.

41  
42 Mr. Hartwig declined to testify at this time.

43  
44 Ms. Capel called Chris Wall to testify.

45  
46 Mr. Wall declined to testify, but he would be happy to answer any questions from staff and the Board.  
47

1 Ms. Capel asked the Board and staff if there were any questions for Mr. Wall, and there were none.

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3 Ms. Capel called Bill Glithero to testify.

4

5 Bill Glithero, 2232B CR 1000N, Sidney, stated that he has testified over the last several weeks, and one of  
6 the things that he has sat through has been the findings of fact. He said that the Ordinance states that  
7 findings of fact for allowing a variance has to be a positive, definable reason that is unique to the property  
8 you are talking about. He said that he listened to the one from St. Joseph a couple of weeks ago and  
9 tonight when they were going through the findings of fact, and a lot of it sounded like justification  
10 because we want the variance to go through. He said during the St. Joseph findings of fact, the Board  
11 gave an answer to one of the findings, and then they said, "wait a minute, that would work better for a  
12 different question," so they would go back and find a different reason for that variance finding of fact  
13 should be made. He said he is not one to be critical, but he would think that someone who was looking at  
14 that would perhaps find reasons to contest the finding of fact that was made.

15

16 Ms. Capel asked the Board and staff if there were any questions for Mr. Glithero, and there were none.

17

18 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Glithero, and there was no one.

19

20 Ms. Capel called Joyce Hurd to testify.

21

22 Ms. Capel asked Ms. Hurd to only present new testimony regarding this case.

23

24 Joyce Hurd, 2232B CR 1000N, Sidney, stated that there are several things she would like to address.  
25 She said that they received a mailing through FedEx, and she does not know exactly what page, but in  
26 the mailing, it said that the company would follow all community rules, which to her would indicate that  
27 the company would not be requesting variances, so she wanted to question that. She said that in the new  
28 packet they received today, she believes she read something that said there was nothing harmful in the  
29 solar panels, but everything that she has found indicates that there are chemicals in the solar panels,  
30 which is why they have to be recycled. She said there might be things like cadmium and lead that are  
31 harmful to both the environment and to people in the solar panels. She said she does not know the exact  
32 distance, but we have had tornadoes strike us; she understands that we do not get 105 mile per hour  
33 winds, but when we do have high winds, we often have objects hurtling through the air, and she is  
34 concerned about safety. She said she is also concerned about cleanup if panels are damaged before the  
35 end of the term; she understands that there are provisions for ensuring that the money is there to clean up  
36 when the solar panel farm ends, but how quickly would things be cleaned up and dealt with, and exactly  
37 what chemicals would have to be cleaned up, and if our water were contaminated, who would be  
38 responsible for providing us with water.

39

40 Ms. Capel asked the Board and staff if there were any questions for Ms. Hurd, and there were none.

41

42 Ms. Capel asked the audience if anyone desired to cross-examine Ms. Hurd, and there was no one.

43

44 Brian Hartwig, engineer for the petitioner, offered to respond to some of Ms. Hurd's questions.

45

46 Ms. Capel agreed that he could respond to concerns regarding the chemicals in the solar panels.

47



1 Mr. Hartwig stated that in response to Ms. Hurd's concern about harmful chemicals, there are various  
2 types of solar panels on the market right now, and the one that is thought of as potentially having harmful  
3 chemicals in it is called thin film technology, which has a cadmium telluride metal inside it. He said that  
4 those are not the type of panels being included as part of this project. He said that these are silicon based  
5 monocrystalline type panels, and they do not have cadmium as part of that; they are in fact inert materials.  
6 He said that with regards to lead and other potential problems, all electronics have heavy metals in them;  
7 depending on how you review them, by EPA for example, copper is considered a potentially leachable  
8 and therefore a potentially dangerous metal, but all of our water supply comes in copper pipes. He said  
9 that the wiring and circuitry that is associated with all electronics does have lead in them, and this is no  
10 different. He said that the solar panels have copper wiring in them, as in all electronics. He said that  
11 under normal operating conditions, and per National Electric Code (NEC), these components are not  
12 going to be exposed to weather, and there is nothing in them that could be leachable into the environment  
13 in any realistic way. He said that regarding damage to the panels, throughout the life of the project,  
14 Forefront is an electric company, and they get paid based upon the electricity that they produce, and there  
15 is no one more motivated to fixing damaged panels than they are. He said that with their telemetry and  
16 computer management systems, they recognize when solar panels are not producing very, very quickly.  
17 He said they are financially motivated to get those changed out immediately. He said that regarding  
18 damage in storms, the solar panels are constructed much like car windshields, where they have a film over  
19 them and if anything were to hit it or break it, they would not shatter all over the place; they are all stuck  
20 together. He said that maybe a large piece could rip off in very extreme conditions, but you would not  
21 have instances of small pieces of glass being shattered and carried long distances.

22

23 Ms. Hurd thanked Mr. Hartwig for his response.

24

25 Ms. Capel asked the Board and staff if there were any questions for Ms. Hurd, and there were none.

26

27 Ms. Capel asked the audience if anyone desired to cross-examine Ms. Hurd, and there was no one.

28

29 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Hartwig.

30

31 Mr. Chuck White, 309 S Bryan, Sidney, asked Mr. Hartwig what would happen if winds exceeded the 105  
32 mile per hour rating that the solar farm panels have.

33

34 Mr. Hartwig responded that they would be damaged similar to other structures.

35

36 Mr. David Jones, 1752 CR 2200 E, St. Joseph, asked Mr. Hartwig if the panels would withstand 175 mile  
37 per hour winds.

38

39 Mr. Hartwig responded no, and that the 105 mile per hour rating is an across the board industry standard.

40

41 Ms. Capel asked the audience if anyone else desired to cross-examine Mr. Hartwig, and there was no one.

42

43 Ms. Capel called Lisa Nesbitt to testify.

44

45 Ms. Lisa Nesbitt, 2232A CR 1000N, Sidney, asked if the revised site plan in Supplemental Memorandum  
46 #3 is the same as the one they received via FedEx.

47

1 Ms. Capel clarified that the Board and Planning & Zoning staff had not received the FedEx package from  
2 the petitioners, and do not know what it contained.

3  
4 Mr. DiNovo stated that Ms. Nesbitt's question is relevant because it is important to know whether the  
5 information that was sent to the neighbors is the same information that has been submitted for the public  
6 hearing.

7  
8 Ms. Capel stated that it would be good to submit the information included in the FedEx package as  
9 evidence so that everyone is on the same page.

10 Mr. Chris Wall of Forefront Power, which sent the site plan and brochure via FedEx, confirmed they were  
11 the same. He said that ordinance required mailers to go out, but since there was a revision since the  
12 September 18<sup>th</sup> meeting, they felt that it was important to send the mailers to the neighbors. He said that  
13 due to the testimony received at the September 18<sup>th</sup> meeting, they have addressed all of the variances,  
14 except for Part B. regarding the separation from the Conservation-Recreation District. He said that they  
15 believed as a company that it was important to send all of the affected landowners the new site plan that  
16 addressed all of the requested variances, other than Part B. He said that he will provide the packet as a  
17 Document of Record.

18  
19 Ms. Nesbitt stated that her questions are basically related to what life would be like for them should the  
20 petitioners be successful with project approval.

21  
22 Ms. Nesbitt asked if the landowner or farmer will still be able to farm the area between the vegetative  
23 screen and the property line.

24  
25 Mr. Chris Wall responded absolutely, and they will work with adjacent landowners.

26  
27 Ms. Nesbitt asked for clarification about employment for the solar farm, how often they will be in the  
28 area, time of day, etc.

29  
30 Mr. Wall responded that Forefront has a telemetry system that oversees production, so they do not visit  
31 the site every day, but they are always monitoring the site, and they can tell, for instance, if one inverter  
32 goes down immediately. He said that Forefront tries to create local jobs by partnering with a local  
33 electrician, who would by contract be required to respond within 24 hours. He said that they would not be  
34 onsite other than that except maybe once every three weeks for maintenance.

35  
36 Ms. Nesbitt asked if any of those employees would be trained specifically in fire safety.

37  
38 Mr. Wall responded that they sent a letter to the Sidney Fire Department today that was submitted as a "let  
39 it burn" agreement that Forefront has with the local jurisdiction fire department. He said that part of the  
40 agreement includes a safety training for the local jurisdiction as well as their operations and maintenance  
41 provider and anyone else who is interested.

42  
43 Ms. Nesbitt asked if they would actually fund training for local people.

44  
45 Mr. Wall said absolutely, they would be willing to train local people.

46  
47 Ms. Nesbitt pointed out that in their area, they have a volunteer fire department, which calls several

1 departments to respond, especially in an incident such as a field fire. She said that it is good that the  
2 petitioner has a buffer around the solar farm, because the fastest way to stop a fire like that is to pull a  
3 piece of equipment in there and start plowing to make a break so it cannot spread.  
4

5 Mr. Wall said that they knew it was an issue after the last meeting, so his colleague went to meet with the  
6 local fire chief.  
7

8 Ms. Nesbitt asked if the project's solar panels would track with the sun. She asked if the vegetation the  
9 petitioners would put up would cover any glare.

10 Mr. Hartwig responded yes, they are single axis panels that tilt and follow the sun east to west. Mr.  
11 Hartwig responded that these are non-glare panels.  
12

13 Ms. Nesbitt asked if the petitioner had any examples of noise levels.  
14

15 Mr. Hartwig stated that noise is a very common concern, and you will effectively not be able to hear them.  
16 He said the loudest part of the solar farm is the transformer and inverter; they have roughly the same  
17 amount of noise as a vacuum when you are standing next to them. He said that by the time you get to the  
18 fence, you should not be able to hear them. He said that you should be able to stand right next to one and  
19 be able to have a normal conversation without having to elevate your voice. He said something worth  
20 noting is that the panels make no noise; at the end of the day, the panels will revert back and position  
21 themselves preparing for the sun to rise the next morning.  
22

23 Ms. Nesbitt stated that at the September 13, 2018 hearing, she brought a picture of flooding around her  
24 house. She said that someone else gave inaccurate testimony at that meeting regarding flooding around  
25 her house. She said that there is flooding in the front of her house that has nothing to do with the subject  
26 property. She said that there is flooding on the side and the back, which comes from the subject property.  
27 She asked if the petitioners have given any additional consideration to installing field tile or asking the  
28 landowner to do that prior to construction, because once you start construction, it will be very hard to  
29 accurately tile.  
30

31 Mr. Hartwig responded that they are required by law in Illinois to address field tile. He said they are  
32 required to identify field tile, map anything that is there, and maintain anything that is there. He said that  
33 they are well aware of the rules in Illinois where other people are allowed to drain their land through  
34 yours if there is a line that does that, and they are also afforded the right to increase the size of any  
35 through pipes to accommodate any addition. He said the reason he is saying this is that they are very  
36 familiar with all the drain tile requirements and will most certainly be looking at them because it is  
37 extremely important to them to make sure they are well-managed. He said that Forefront does not want  
38 to have some work done underneath their solar panels, which would be extremely difficult, and they  
39 know that they are required to maintain them throughout the life of their system being there. He said  
40 that if maintaining them means adjusting how they are currently laid out to make sure they are not going  
41 to run underneath their panels or some other circumstance, they will certainly want to address that before  
42 the panels are installed.  
43

44 Ms. Nesbitt asked about the waiver for the decommissioning plan, which is one of her major concerns.  
45 She asked if at some point the petitioners would have to do the decommissioning plan.  
46

47 Ms. Capel stated that the reason for the waiver is because what we require is really expensive, and for

1 them to do that work before they even know if they have a permit from us or the State, would not be  
2 feasible.

3  
4 Ms. Capel said that it must be done before they can get a permit for construction.

5  
6 Mr. DiNovo explained that this is a multi-step process. He said that after approval of the Special Use  
7 Permit, the petitioner would have to go back to get a Zoning Use Permit before they can actually build  
8 anything, and it is at the time they seek the Zoning Use Permit that they have to submit the  
9 decommissioning plan.

10 Ms. Capel called William McKee to testify.

11  
12 Mr. William McKee, 2254 CR 1000N, Sidney, stated that he again did not get notified of this meeting  
13 until last night, and again he had to have papers faxed to him. He said he is not an attorney and he  
14 cannot read all of this and be up to date on it. He said it seems like everyone wants to forget that this  
15 thing is right on his doorstep. He said he got another letter over the weekend that they are going to put  
16 another solar farm 120 feet from his driveway to the south. He said he wants to know what is going on.  
17 He said he bought his house for a retirement place; he lives on a fixed income. He said he has seen  
18 water run across his property like a stream coming off of the subject property that is right in his back  
19 yard. He said that now there is a gully behind his barn that is 6 to 8 inches deep and about a foot wide  
20 coming from the subject property running down to his pasture, which then floods. He said that if you go  
21 back farther on the subject property, about even with the last house there, you will also find another spot  
22 where water runs across back there and stands in puddles. He said that he thinks someone is trying to  
23 pull something on somebody here, and he does not like being a scapegoat. He said he is worried about  
24 radiation from the panels, and all the traffic that is going to be coming in and out of the road they are  
25 going to make. He said they should do a survey of the road and the traffic on it. He said the proposed  
26 driveway is still on the curve of CR 1000N. He said that when people travel east to west, they will not  
27 be able to see that driveway until they get almost on top of it. He said that it is so bad that the U.S. mail  
28 will not deliver to his house. He said there is supposed to be a 50 mile per hour speed limit, but people  
29 come through at 80 miles per hour, and trucks even pass in the no passing zone. He said that the wind  
30 last Saturday was awful bad and asked how the wind would sound whistling through the solar panels; he  
31 said he was going to have a hard time with the noise. He asked why the petitioner couldn't put in a  
32 blacktop instead of gravel access road to keep dust from kicking up. He said that if you go back and  
33 look at the materials, they are talking about 50 to 100 trips per day on that driveway.

34  
35 Ms. Capel asked the Board and staff if there were any questions for Mr. McKee, and there were none.

36  
37 Ms. Capel asked the audience if anyone desired to cross-examine Mr. McKee, and there was no one.

38  
39 Ms. Capel called Brian Hartwig to testify.

40  
41 Mr. Hartwig stated that Forefront will plant native seed grasses that will help with some of the runoff  
42 from the subject property, although that may not solve the problem entirely. He said that after a couple  
43 of years, the grasses that will be planted are deep rooting which increases the capacity of the soil to hold  
44 water, and it will take more rain before the water will run laterally. He said that once the vegetation has  
45 been planted and established, there should be immediate results regarding runoff onto adjacent  
46 properties, but that will improve even more over time. He said that he is not an expert on radiation, but  
47 all electronic devices are studied to be used in the U.S., and he knows of no known health concern with

1 the solar panels. He said he has not heard or heard of complaints about wind whistling through the  
2 panels. He said that during the time of construction there will be many trucks in and out of the property,  
3 but once construction is completed, there will be very few trucks in and out of the property for  
4 maintenance.

5  
6 Ms. Capel asked the Board and staff if there were any questions for Mr. Hartwig.

7  
8 Mr. DiNovo asked the petitioner about the number of truck trips per day.

9  
10 Mr. Wall responded that their special use application has those figures, but there would be an average of  
11 trucks on average during the delivery stage, which is generally one week, and after that it would be less.  
12 He said that during construction there would be employee vehicles in and out.

13  
14 Mr. Randol asked the petitioner to indicate the number of employees during the construction period.

15  
16 Mr. Wall stated that they partner with local IBECs and labor unions, so they hire locally, but a lot of the  
17 construction would be subcontracted out, so there would be waves of 20 to 30 employees during  
18 different phases of the construction period. He said 100 people will contribute to the project, but they  
19 will never be on the site at one time.

20  
21 Mr. Randol stated that he is concerned about the amount of traffic that will be on the road.

22  
23 Mr. Hartwig stated that at the peak of construction during electrical installation, is the time when there  
24 could be 20 to 30 employees on the site.

25  
26 Ms. Capel asked the petitioner to indicate the amount of time between the start of construction and  
27 completion.

28  
29 Mr. Wall stated that it would be an estimated three month process.

30  
31 Ms. Capel asked the Board and staff if there were any questions for Mr. Hartwig or Mr. Wall, and there  
32 were none.

33  
34 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Hartwig or Mr. Wall, and there  
35 was no one.

36  
37 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony  
38 regarding this case, and there was no one.

39  
40 Ms. Capel closed the witness register.

41  
42 Mr. DiNovo stated that he would like to respond to a concern voiced by Ms. Hurd regarding how the  
43 decommissioning agreement protects the County if there is damage that requires repair. He said that one  
44 provision of the ordinance states that the Zoning Administrator may also draw on the decommissioning  
45 financial guarantee in the event that any PV Solar Farm or any component thereof ceases to be functional  
46 after six consecutive months after it starts to produce electricity, and the owner is not diligently  
47 completing the repair. He said that the County does have the ability to use the decommissioning

1 financial guarantee to ensure that things get repaired.

2  
3 Mr. DiNovo stated that he had prepared an estimated increase in property tax assessments, but he  
4 noticed an error, and corrected copies have been distributed to the Board and staff and there are copies  
5 on the table for the public. He said that the correction makes a 10 to 15% difference in the bottom  
6 numbers.

7  
8 Ms. Capel stated that the Board will now review the special conditions with the petitioners.

9  
10 Ms. Capel read special condition A. as follows:

11  
12 A. **The revised Site Plan received October 17, 2018 is the approved site plan for Case**  
13 **903-S-18.**

14  
15 The above special condition is required to ensure that:

16 **The constructed PV SOLAR FARM is consistent with the special use permit**  
17 **approval.**

18  
19 Ms. Capel asked the petitioners if they agreed to special condition A.

20  
21 Mr. Hartwig and Mr. Wall agreed to special condition A.

22  
23 Ms. Capel read special condition B. as follows:

24  
25 B. **The Zoning Administrator shall not authorize a Zoning Use Permit Application or**  
26 **issue a Zoning Compliance Certificate on the subject property until the lighting**  
27 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

28  
29 The special condition stated above is required to ensure the following:

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

32  
33 Ms. Capel asked the petitioners if they agreed to special condition B.

34  
35 Mr. Hartwig and Mr. Wall agreed to special condition B.

36  
37 Ms. Capel read special condition C. as follows:

38  
39 C. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**  
40 **proposed PV SOLAR FARM until the petitioner has demonstrated that the**  
41 **proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

42  
43 The special condition stated above is necessary to ensure the following:

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

46  
47 Ms. Capel asked the petitioners if they agreed to special condition C.

1  
2 Mr. Hartwig and Mr. Wall agreed to special condition C.

3  
4 Ms. Capel read special condition D. as follows:

- 5  
6 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the**  
7 **petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement**  
8 **with the Illinois Department of Agriculture per the requirements established in**  
9 **Paragraph 6.1.5 R. of the Zoning Ordinance.**

10  
11 The special condition stated above is required to ensure the following:

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

14  
15 Ms. Capel asked the petitioners if they agreed to special condition D.

16  
17 Mr. Hartwig and Mr. Wall agreed to special condition D.

18  
19 Ms. Capel read special condition E. as follows:

- 20  
21 **E. A signed Decommissioning and Site Reclamation Plan that has been approved by**  
22 **ELUC is required at the time of application for a Zoning Use Permit that complies**  
23 **with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a**  
24 **decommissioning cost estimate prepared by an Illinois Professional Engineer.**

25  
26 The above special conditions are required to ensure that:

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

29  
30 Ms. Capel asked the petitioners if they agreed to special condition E.

31  
32 Mr. Hartwig and Mr. Wall agreed to special condition E.

33  
34 Ms. Capel read special condition F. as follows:

- 35  
36 **F. The following submittals are required prior to the approval of any Zoning Use**  
37 **Permit for a PV SOLAR FARM:**
- 38 1. **Documentation of the solar module's unlimited 10-year warranty and the 25-**  
39 **year limited power warranty.**
  - 40  
41 2. **An irrevocable letter of credit to be drawn upon a federally insured financial**  
42 **institution with a minimum acceptable long term corporate debt (credit**  
43 **rating of the proposed financial institution shall be a rating of "A" by S&P**  
44 **or a rating of "A2" by Moody's within 200 miles of Urbana or reasonable**  
45 **anticipated travel costs shall be added to the amount of the letter of credit.**  
46

- 1 3. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**
- 2 **including any access road that conforms to the relevant Natural Resources**
- 3 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
- 4 **Professional Engineer.**
- 5
- 6 4. **Documentation regarding the seed to be used for the pollinator planting, per**
- 7 **6.1.5 F.(9).**
- 8
- 9 5. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 10
- 11 6. **Any updates to the approved Site Plan from Case 903-S-18 per the Site Plan**
- 12 **requirements provided in Section 6.1.5 U.1.c.**
- 13

The above special condition is required to ensure that:

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

18 Ms. Capel asked the petitioners if they agreed to special condition F.

20 Mr. Hartwig and Mr. Wall agreed to special condition F.

22 Ms. Capel read special condition G. as follows:

- 24 G. **A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior**
- 25 **to going into commercial production of energy. Approval of a Zoning Compliance**
- 26 **Certificate shall require the following:**
- 27 1. **An as-built site plan of the PV SOLAR FARM including structures, property**
- 28 **lines (including identification of adjoining properties), as-built separations,**
- 29 **public access road and turnout locations, substation(s), electrical cabling**
- 30 **from the PV SOLAR FARM to the substations(s), and layout of all structures**
- 31 **within the geographical boundaries of any applicable setback.**
- 32
- 33 2. **As-built documentation of all permanent soil erosion and sedimentation**
- 34 **improvements for all PV SOLAR FARM including any access road prepared**
- 35 **by an Illinois Licensed Professional Engineer.**
- 36
- 37 3. **An executed interconnection agreement with the appropriate electric utility**
- 38 **as required by Section 6.1.5 B.(3)b.**
- 39

The above special condition is required to ensure that:

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

44 Ms. Capel asked the petitioners if they agreed to special condition G.

46 Mr. Hartwig and Mr. Wall agreed to special condition G.



1 Ms. Capel read special condition H. as follows:

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H. **The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:**

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

The above special condition is required to ensure that:  
**Future requirements are clearly identified for all successors of title, lessees, any operator and/or owner of the PV SOLAR FARM.**

Ms. Capel asked the petitioners if they agreed to special condition H.

Mr. Hartwig and Mr. Wall agreed to special condition H.

Ms. Capel asked if there were new Documents of Record.

Mr. Hall stated that the following items should be added to the Documents of Record: #9 Supplemental Memorandum #3 dated October 25, 2018, with attachments; and #10 Revised Tax Evaluation submitted by Frank DiNovo on October 25, 2018. He noted that the FedEx packet does not need to be entered as a Document of Record because it included the same site plan.

Ms. Capel asked the petitioners if they were comfortable in moving forward with the Findings of Fact.

Mr. Hartwig and Mr. Wall indicated that they would appreciate moving forward with Case 903-S-18.

**FINDINGS FOR FACT FOR CASE 903-S-18:**

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**From the documents of record and the testimony and exhibits received at the public hearing for zoning case 903-S-18 held on September 13, 2018, and October 25, 2018, the Zoning Board of Appeals of Champaign County finds that:**

**1. The requested Special Use Permit IS necessary for the public convenience at this location because:**

Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this location because: 1) it helps to achieve the purposes of the State of Illinois Renewable Portfolio Standard, the purposes of the Champaign County Zoning Ordinance, and the relevant goals of the Champaign County Land Resource Management Plan, and 2) the site is located on one of only a relatively small number of tracts in the area that is within a reasonable distance of both the Ameren transmission lines and the substation, and 3) it will make a significant contribution toward the township and the County’s tax base without destroying any significant amount of prime farmland.

Ms. Capel entertained a motion to approve Finding of Fact #1, as amended.

**Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact #1. The motion carried by voice vote, with one opposing vote.**

**2. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:**

**a. The street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility.**

Mr. DiNovo stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility because the roadway use agreement has been waived; there will be limited traffic during the course of construction, perhaps with a peak of 30 to 40 trucks along with employees’ personal vehicles there might be 100 trips per day, which is equivalent to about 10 houses, so there will be a moderate amount of impact for a short period of time during construction; thereafter, there will be no significant traffic generated on the site at all.

**b. Emergency services availability is ADEQUATE.**

Mr. DiNovo stated that emergency services availability is ADEQUATE because the use does not create any special hazards, and it will not be occupied, so there will be little need to provide emergency services to any persons on the site.

**c. The Special Use WILL be compatible with adjacent uses.**

Mr. DiNovo stated that the Special Use WILL be compatible with adjacent uses because it meets all of the ordinance requirements except for the two required waivers; it will actually provide a higher degree of protection than what is required by the Illinois Pollution Control Board noise standards; and it will be screened from any nearby residents in addition to the setback.

1  
2 **d. Surface and subsurface drainage will be ADEQUATE.**  
3

4 Mr. Elwell stated that surface and subsurface drainage will be ADEQUATE because there was testimony  
5 that the site owner is going to take care of mapping and the drainage tile itself, and we also heard  
6 testimony about the native grasses that are going to be planted and how they are going to limit the runoff  
7 from the solar farm field itself.  
8

9 **e. Public safety will be ADEQUATE.**  
10

11 Mr. DiNovo stated that public safety will be ADEQUATE because it poses no special hazards; it will  
12 generate no significant traffic; it will be unoccupied; and they will maintain the necessary complaint  
13 hotline.  
14

15 Mr. Elwell stated that the petitioner testified that there will be training for emergency services.  
16

17 **f. The provisions for parking will be ADEQUATE.**  
18

19 Mr. DiNovo stated that the provisions for parking will be ADEQUATE because there is no parking  
20 required for the use, and the number of vehicles that will be there after construction is one or two at a  
21 time.  
22

23 **g. The property IS WELL SUITED OVERALL for the proposed improvements.**  
24

25 Mr. DiNovo stated that the property IS WELL SUITED OVERALL for the proposed improvements  
26 because it is located on one of a relatively small number of tracts that have the requisite access to  
27 transmission facilities that have the necessary physical characteristics and capacity.  
28

29 **h. Existing public services ARE available to support the proposed SPECIAL USE**  
30 **without undue public expense.**  
31

32 Mr. DiNovo stated that existing public services ARE available to support the proposed SPECIAL USE  
33 without undue public expense because the use will be unoccupied and poses no special hazards.  
34

35 **i. Existing public infrastructure together with the proposed development IS adequate**  
36 **to support the proposed development effectively and safely without undue public**  
37 **expense.**  
38

39 Mr. DiNovo stated that existing public infrastructure together with the proposed development IS  
40 adequate to support the proposed development effectively and safely without undue public expense  
41 because the use generates no traffic, requires no water or sewer service, and requires no specific drainage  
42 improvements.  
43

44 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
45 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
46 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
47 and welfare.

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Ms. Capel entertained a motion to approve Finding of Fact #2, as amended.

**Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact #2, as amended. The motion carried by voice vote, with one opposing vote.**

Mr. DiNovo asked if the Board should move to the Findings of Fact #6, for Waivers A. and B. prior to reviewing Finding of Fact 3a.

Mr. Hall agreed that the Board should move to the Findings of Fact for requested Waivers A. and B. prior to reviewing Finding of Fact 3a.

**6. Regarding necessary waivers of standard conditions:**

**A. Regarding Part A of the proposed waivers, for a distance of 425 feet from the CR Conservation Recreation Zoning District in lieu of the minimum required one-half mile (2,640 feet):**

**(1) The waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare.**

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare because: 1) Most of the adjacent CR Conservation Recreation district is in cultivation and is not habitat, and 2) we have not received any specific evidence or testimony identifying a particular adverse impact on the Conservation Recreation district; and 3) there are many non-residential permitted uses in the Conservation Recreation district with Special Use Permits that would occupy as much or more land and generate substantially more traffic, would be occupied, would require emergency services, and would impose public infrastructure and service demands, as well as create much greater disruption in the CR district than the solar farm would.

**(2) Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.**

Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because we have an unusual combination of the necessary transmission lines and substation that together with the one-half mile setback around the Village of Sidney, if you are to exclude the sites that are within one-half mile of the CR district, there are fewer than ten parcels that are large enough to accommodate the facility and are within one-half mile of the transmission line and 1.5 miles of the substation, so this is one of only a few sites that would be economically feasible, and it is not clear if sites south of the railroad are available.

**(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

1  
2 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the  
3 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
4 structure or construction because the site is otherwise suited for the use, and the potential financial  
5 benefits to the land owner and to the general public would be foregone without the waiver.

6  
7 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
8 **NOT result from actions of the applicant.**

9  
10 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO  
11 NOT result from actions of the applicant because the site was acquired prior to the finalization of the  
12 solar farm amendment to the Zoning Ordinance.

13  
14 **(5) The requested waiver IS the minimum variation that will make possible the**  
15 **reasonable use of the land/structure.**

16  
17 Mr. DiNovo stated that the requested waiver IS the minimum variation that will make possible the  
18 reasonable use of the land/structure because the only way the waiver could be reduced would be moving  
19 the solar farm closer to one or more existing residences, which would require other waivers.

20  
21 Ms. Capel entertained a motion to approve Finding of Fact 6.A., regarding Waiver A., as amended.

22  
23 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact 6.A, as amended. The**  
24 **motion carried by voice vote, with two opposing votes.**

25  
26 **B. Regarding Part B of the proposed waivers, for not providing a Decommissioning**  
27 **and Site Reclamation Plan that includes cost estimates prepared by an Illinois**  
28 **Licensed Professional Engineer prior to consideration of the Special Use Permit by**  
29 **the Board:**

30 **(1) The waiver IS in accordance with the general purpose and intent of the**  
31 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**  
32 **the public health, safety, and welfare.**

33  
34 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning  
35 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare  
36 because it allows for the Decommissioning Plan to account for any minor adjustments in the final Site  
37 Plan or engineering of the facility.

38  
39 **(2) Special conditions and circumstances DO exist which are peculiar to the land**  
40 **or structure involved, which are not applicable to other similarly situated**  
41 **land and structures elsewhere in the same district.**

42  
43 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or  
44 structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
45 the same district because the lease option was acquired prior to the finalization of the solar farm  
46 ordinance amendment, and the hearing dates and approval schedule for the County and the State of  
47 Illinois were not under the petitioner's control.

- 1  
2           **(3) Practical difficulties or hardships created by carrying out the strict letter of**  
3           **the regulations sought to be varied WILL prevent reasonable or otherwise**  
4           **permitted use of the land or structure or construction.**  
5

6 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the  
7 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or  
8 structure or construction because the project is subject to Illinois Power Authority acceptance, and the  
9 cost of preparing detailed plans would be wasted if the Illinois Power Authority did not accept the  
10 proposal.

- 11           **(4) The special conditions, circumstances, hardships, or practical difficulties DO**  
12           **NOT result from actions of the applicant.**  
13

14 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO  
15 NOT result from actions of the applicant because the timing of the approval process was not under the  
16 control of the applicant.

- 17  
18           **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**  
19           **CONDITION, IS the minimum variation that will make possible the**  
20           **reasonable use of the land/structure.**  
21

22 Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION,  
23 IS the minimum variation that will make possible the reasonable use of the land/structure because the  
24 condition assures compliance with the intent of the ordinance, and the timing allows for a more accurate  
25 estimate of decommissioning costs and a more well-developed site reclamation plan.

26  
27 Ms. Capel entertained a motion to approve Finding of Fact 6.B, regarding Waiver B., as amended.  
28

29 **Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact 6.B, regarding Waiver B.,**  
30 **as amended. The motion carried by voice vote, with 2 opposing votes.**  
31

- 32 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
33 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**  
34 **DISTRICT in which it is located.**  
35

36 Mr. DiNovo stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
37 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in  
38 which it is located because given the approved waivers, the special use permit meets the requirements of  
39 the Zoning Ordinance in all respects.  
40

41 Ms. Capel entertained a motion to approve Finding of Fact 3a., as amended.  
42

43 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact 3a., as amended. The**  
44 **motion carried by voice vote, with two opposing votes.**  
45

- 46 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
47 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**

1 is located because:

- 2 a. **The Special Use will be designed to CONFORM to all relevant County ordinances**  
3 **and codes.**

4  
5 Mr. Elwell stated that the Special Use will be designed to CONFORM to all relevant County ordinances  
6 and codes.

- 7  
8 b. **The Special Use WILL be compatible with adjacent uses.**

9  
10 Mr. Elwell stated that the Special Use WILL be compatible with adjacent uses.

- 11 c. **Public safety will be ADEQUATE.**

12  
13 Mr. Elwell stated that public safety will be ADEQUATE.

14  
15 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL  
16 CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in  
17 which it is located.

18  
19 Ms. Capel entertained a motion to approve Finding of Fact #3.b., as amended.

20  
21 **Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact #3.b., as amended. The**  
22 **motion carried by voice vote, with one opposing vote.**

23  
24 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
25 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance**  
26 **because:**

- 27 a. **The Special Use is authorized in the District.**

- 28 b. **The requested Special Use Permit IS necessary for the public convenience at this**  
29 **location.**

30  
31 Mr. Elwell stated that the requested Special Use Permit IS necessary for the public convenience at this  
32 location.

- 33  
34 c. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
35 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**  
36 **WILL NOT be injurious to the district in which it shall be located or otherwise**  
37 **detrimental to the public health, safety, and welfare.**

38  
39 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS  
40 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be  
41 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,  
42 and welfare because the planned development will not have anyone inhabiting it, and there are no  
43 other types of health or safety concerns relating to the development itself.

- 44  
45 d. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**  
46 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**  
47 **which it is located.**

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Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.

Ms. Capel entertained a motion to approve Finding of Fact #4, as amended.

**Mr. DiNovo moved, seconded by Mr. Elwell, to approve Finding of Fact #4, as amended. The motion carried by voice vote, with 2 opposing votes.**

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

Ms. Capel entertained a motion to approve Finding of Fact #5.

**Mr. Elwell moved, seconded by Mr. DiNovo, to approve Finding of Fact #5. The motion carried by voice vote.**

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

**A. The revised Site Plan received October 17, 2018 is the approved site plan for Case 903-S-18.**

The above special condition is required to ensure that:

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

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

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

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

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

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

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

**D. The Zoning Administrator shall not authorize a Zoning Use Permit until the**



1 petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement  
2 with the Illinois Department of Agriculture per the requirements established in  
3 Paragraph 6.1.5 R. of the Zoning Ordinance.  
4

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

6 **That the land affected by PV SOLAR FARM is restored to its pre-**  
7 **construction capabilities.**  
8

- 9 E. **A signed Decommissioning and Site Reclamation Plan that has been approved by**  
10 **ELUC is required at the time of application for a Zoning Use Permit that complies**  
11 **with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a**  
12 **decommissioning cost estimate prepared by an Illinois Professional Engineer.**  
13

14 The above special conditions are required to ensure that:

15 **The Special Use Permit complies with Ordinance requirements and as**  
16 **authorized by waiver.**  
17

- 18 F. **The following submittals are required prior to the approval of any Zoning Use**  
19 **Permit for a PV SOLAR FARM:**  
20 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-**  
21 **year limited power warranty.**  
22  
23 2. **An irrevocable letter of credit to be drawn upon a federally insured financial**  
24 **institution with a minimum acceptable long term corporate debt (credit**  
25 **rating of the proposed financial institution shall be a rating of “A” by S&P**  
26 **or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable**  
27 **anticipated travel costs shall be added to the amount of the letter of credit.**  
28  
29 3. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**  
30 **including any access road that conforms to the relevant Natural Resources**  
31 **Conservation Service guidelines and that is prepared by an Illinois Licensed**  
32 **Professional Engineer.**  
33  
34 4. **Documentation regarding the seed to be used for the pollinator planting, per**  
35 **6.1.5 F.(9).**  
36  
37 5. **The telephone number for the complaint hotline required by 6.1.5 S.**  
38  
39 6. **Any updates to the approved Site Plan from Case 903-S-18 per the Site Plan**  
40 **requirements provided in Section 6.1.5 U.1.c.**  
41

42 The above special condition is required to ensure that:

43 **The PV SOLAR FARM is constructed consistent with the Special Use Permit**  
44 **approval and in compliance with the Ordinance requirements.**  
45

- 46 G. **A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior**  
47 **to going into commercial production of energy. Approval of a Zoning Compliance**

Certificate shall require the following:

- 1. An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations, public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.
- 2. As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.
- 3. An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.

The above special condition is required to ensure that:

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

**H. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the following specific requirements that apply even after the PV SOLAR FARM goes into commercial operation:**

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

The above special condition is required to ensure that:

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

1  
2 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings  
3 of Fact, as amended.

4  
5 **Mr. Elwell moved, seconded by Mr. DiNovo, to adopt the Summary of Evidence, Documents of**  
6 **Record, and Findings of Fact, as amended. The motion carried by voice vote, with one opposing**  
7 **vote.**

8  
9 Ms. Capel entertained a motion to move to the Final Determination.

10  
11 **Mr. Elwell moved, seconded by Mr. DiNovo, to move to the Final Determination for Case 903-S-**  
12 **18. The motion carried by voice vote.**

13  
14 Ms. Capel informed the petitioners that currently the Board has two members absent; therefore, it is at the  
15 petitioners' discretion to either continue Cases 903-S-18 until a full Board is present or request that the  
16 present Board move to the Final Determination. She informed the petitioners that four affirmative votes are  
17 required for approval.

18  
19 Mr. Hartwig stated that, with due respect to the current Board, they would prefer to have a full Board  
20 present for the final determination.

21  
22 Mr. Hartwig stated that he would also like to have a full Board for the Final Determination for Cases  
23 906-S-18 and 907-S-18. He asked if a full Board is required to review the Findings of Fact for Cases  
24 906-S-18 and 907-S-18.

25  
26 Ms. Capel stated that a full Board is not required during the review of the Findings of Fact.

27  
28 Mr. Hartwig stated that the two absent Board members could have an impact on those Findings of Fact.

29  
30 Ms. Capel stated that if the cases are continued to a later date, she will be required to open the witness  
31 register for additional testimony.

32  
33 Mr. DiNovo asked if the State's Attorney answered the Board's question regarding public testimony.

34  
35 Mr. Hall stated yes.

36  
37 Mr. DiNovo asked Mr. Hall to share the State's Attorney's advice regarding testimony.

38  
39 Mr. Hall stated that the State's Attorney advised taking public comment either prior or after the final  
40 vote.

41  
42 Mr. DiNovo stated that the Board could move forward with the final determination for a case and take  
43 additional testimony after the final vote.

44  
45 Mr. Hall stated that he would not recommend taking additional testimony after the final vote, even  
46 though the State's Attorney indicated that it was acceptable. He said that he believes that taking  
47 additional testimony after the final vote is a bad idea, but it is totally up to the Board.

1

Ms. Capel stated that doing so promotes a bad faith effort.

3

Mr. DiNovo asked how the Board should proceed. He asked if there was enough space on the docket to continue the cases.

6

Mr. Hall stated that there are three meetings scheduled for November. He said that the November 1<sup>st</sup> meeting would not be a good meeting to continue the cases to because there is a case docketed which involves a huge project. He said that the petitioner does not intend to make a huge statement for their opening statement, but they need time to do it, and once the case is opened the Board would have to give ample time for public testimony. He said that he does not recommend moving the three cases tonight to the November 1<sup>st</sup> meeting. He said that the next possible meeting date is November 15<sup>th</sup> and the three cases could be the first cases heard that night.

14

Mr. DiNovo asked Mr. Hall to indicate the date of the ELUC meeting in November.

16

Mr. Hall stated that the ELUC meeting is on November 9<sup>th</sup>.

18

Mr. DiNovo asked if the County Board is inclined to hold a special ELUC meeting or could these cases go directly to the County Board.

21

Mr. Hall stated that taking the three cases directly to the County Board is up to the petitioner, but if they require a decision quickly, he is not aware of any rules that prohibit it. He said that the County Board would have to vote to suspend their rules, and the outcome will not be known until that vote is taken.

25

Mr. DiNovo asked Mr. Hall if he had any idea as to whether ELUC would be willing to hold a special meeting.

28

Mr. Hall stated that he hasn't asked. He said that the County Board meeting will be held on November 20<sup>th</sup>, and the ELUC meeting is on November 8<sup>th</sup>, not November 9<sup>th</sup>, and if these cases are continued to the November 15<sup>th</sup> meeting, there is no opportunity to have a special ELUC meeting to deal with these cases prior to the November 20<sup>th</sup> County Board meeting.

33

Mr. DiNovo stated that it appears that things have changed at the County.

35

Mr. Hall asked how the County had changed.

37

Mr. DiNovo stated that he could remember many special meetings being held one hour prior to the County Board meeting. He said that one hour is obviously not enough time, but if ELUC wanted to, they could find time to hold a special meeting prior to the November 20<sup>th</sup> County Board meeting.

41

Mr. Hall stated that he has attended many of the one hour meetings prior to the County Board meetings, but there was never anything as complicated as a solar farm considered at those meetings.

44

Mr. DiNovo stated that he agrees that a special ELUC meeting one hour prior to the County Board meeting for a solar farm is a very bad idea, but he does not see why they could not find time a day or two before the County Board meeting.

47

1

2 Mr. Hall stated that there is only a Friday and a Monday.

3

4 Mr. DiNovo stated that the petitioner needs to know that they are in a bind, because the ZBA could act  
5 tonight, but in the absence of four affirmative votes the case would be forwarded to ELUC with a  
6 recommendation to deny. He said that if the Board continues the cases to November 15<sup>th</sup>, the County  
7 Board either has to agree to alter its normal procedure and take the cases directly to the County Board  
8 without review by ELUC, or they won't get to their review until December. He asked Mr. Hall if the  
9 cases would be heard in December.

10

11 Mr. Hall stated that the County Board would have to suspend the rule that requires all items to come  
12 through the ELUC.

13

14 Mr. DiNovo stated that this is also an election year and generally, the County Board does not conduct  
15 any substantive business during their December meeting, thus these cases would be heard at the County  
16 Board in January, missing the window for the Illinois Power Authority lottery.

17

18 Ms. Capel suggested that the Board determines the Findings of Fact for Cases 906-S-18 and 907-S-18  
19 tonight, and then make the Final Determinations at the November 1<sup>st</sup> meeting, as the first cases to be  
20 heard.

21

22 Mr. DiNovo stated that ELUC will review the Findings of Fact and the votes and will understand the  
23 context for a recommendation to deny. He said that it is not an easy decision for the petitioners.

24

25 Mr. Hartwig asked if it was possible for the Board to determine the Findings of Fact for each case at this  
26 public hearing, continue the case, and make the Final Determination at the November 1<sup>st</sup> meeting when  
27 there will hopefully be a full Board present.

28

29 Mr. Hall stated it is up to the Board, but there is not enough time on November 1<sup>st</sup> to work through an  
30 entire Finding of Fact for each case.

31

32 Ms. Capel agreed that the Board could determine the Findings of Fact and then continue the cases to the  
33 November 1<sup>st</sup> public meeting to be heard first to determine the Final Determinations.

34

35 Mr. Hall stated that this process could not occur without several continuances of this meeting's time.

36

37 Mr. DiNovo stated that the Findings of Fact for Case 906-S-18 and 907-S-18 may go faster.

38

39 Ms. Lee asked if the Board is required to take public testimony prior to the Final Determination at the  
40 November 1<sup>st</sup> public hearing.

41

42 Mr. Hall stated yes, the Board would have to provide for any new testimony.

43

44 Mr. DiNovo stated that the Findings of Fact and Summary of Evidence do not have to be revised unless  
45 the Board hears new evidence that is accurate and relevant, and this Board has covered the ground on all  
46 of these cases very thoroughly, and he would be surprised that new testimony would be received  
47 requiring revision of the findings.

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**Mr. DiNovo moved, seconded by Mr. Elwell, to continue Case 903-S-18 to the November 1<sup>st</sup> meeting. The motion carried by voice vote.**

**Mr. DiNovo moved, seconded by Mr. Elwell, to take Case 906-S-18 off the table so that the Board could continue with its review. The motion carried by voice vote.**

Ms. Capel stated that the Board would now return to Case 906-S-18, so that the Board can continue its review.

**6. New Public Hearings**

**Case 916-V-18 Petitioner: Duane and Teresa Foster Request: Authorize a variance in the CR Conservation-Recreation Zoning District for a proposed lot that does not abut and have access to a public street or a private accessway meeting Champaign County street standards, per Section 4.2.1 H. of the Champaign County Zoning Ordinance. Location: A proposed lot hat is the north 5.1 acres of an existing 10.18 acre lot, described as Tract A on an unrecorded Plat of Survey dated November 17, 1988, located in the Northwest Quarter of the Northwest Quarter of Section 26, Township 21 North, Range 7 East of the Third Principal Meridian in Newcomb Township.**

Ms. Capel informed the audience that Case 916-V-18 is an Administrative Case and as such, the County allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will ask for a show of hands for those who would like to cross-examine, and each person will be called upon. She requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions. She said that those who desire to cross-examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. She noted that no new testimony is to be given during the cross-examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

Ms. Capel 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.

Ms. Capel asked the petitioners if they desired to make a statement regarding their request.

Ms. Teresa Foster, who resides at 401B CR 2600N, Mahomet, stated that they are trying to downsize their life and 10 acres is becoming too much for them to care for. She said that they constructed a shed in 2011 and they would like to construct a living area for them to reside in and sell the house, constructed in 1989, that is located on a previously surveyed parcel. She said that they were not aware that the survey needed to be recorded at the County, and noted that Tyrone Clapper, Zoning Administrator at the time of construction of the house, approved their building permit on the five acre parcel, Tract B, and made no mention of the unrecorded survey.

Mr. Duane Foster, who resides at 401B CR 2600N, Mahomet, stated that they originally purchased an 18 acre tract and sold five acres of that tract to Randy Huffman. He said that they had planned to give five acres to each of their two children or have the ability to sell two five acre parcels if they needed to for financial security. He said that they are getting older and they cannot travel the stairs as easily as they

1 did years ago, and they desire a flat level home.

2  
3 Ms. Foster stated that they do have a business, office only, but no trucks are located at the subject parcel.  
4 She said that since the business office is located in the shed and the business address is for the location  
5 of the shed, it would be practical for them to reside in an area in the shed.  
6

7 Mr. Foster noted that the trucks for the business never come to the shed unless they are changing teams,  
8 which happens occasionally, or selling the truck. He said that he and his wife used to drive the trucks  
9 themselves until Ms. Foster had a stroke, so they had to downsize their workload.  
10

11 Ms. Capel asked if staff or the Board had any questions or comments regarding this case.  
12

13 Mr. Hall stated that he was curious if Mr. DiNovo had any thoughts regarding Plat Act compliance. He  
14 said that he sent a question to the State's Attorney asking how long the Plat Act included a requirement  
15 indicating no new easements of access. He said that he asked if this requirement was in effect before  
16 1967 or did it come about later, but he has not received a response.  
17

18 Mr. DiNovo stated that the language appears in Section 5, and all of the exceptions were enacted as  
19 amendments after the initial adoption of the Plat Act. He said that Exception #9 was enacted in 1973,  
20 and Exception #1 was enacted sometime in the 1960's. He said that the other problem that comes into  
21 play is that up until the 1990's, there was an extremely problematic interpretation of what an easement of  
22 access was and at one time the State's Attorney interpreted it as a physical driveway, but in the 1990's  
23 there was a corrected interpretation that it was a new right to access property over a strip of land and not  
24 the physical driveway. He said that at the time of the original Zoning Use Permit the interpretation was  
25 in flux and it was not obviously a problem in the Plat Act in 1989. He said that cases prior to 1991 were  
26 grandfathered due to the amount of erratic interpretations of the law prior to that date, and the County  
27 Board did not feel that property owners could be held responsible for people not interpreting the law in a  
28 consistent way.  
29

30 Mr. Hall stated that clearly if the survey that the Foster's had completed for the second five acre lot had  
31 been recorded in 1988, it would be considered a legal lot today, because it would have been  
32 grandfathered by the 1991 amendment to the Plat Act. He said that the survey was not recorded, and  
33 even though Mr. Clapper mentioned the survey in the permit, the standard is that it needed to be filed  
34 with the Recorder of Deeds. He assumes that it would not be too difficult for the State's Attorney to find  
35 when this language was added to the Plat Act.  
36

37 Mr. DiNovo stated that he could dig in his boxes of stuff at home and find when those exceptions were  
38 enacted, but it would probably be an easier task for the State's Attorney.  
39

40 Ms. Lee asked Mr. Hall if he is discussing the statutes for the Illinois Plat Act.  
41

42 Mr. Hall stated that he is discussing the Plat Act 765 ILCS 205.  
43

44 Ms. Lee stated that the Law Library would have resources indicating when each part of the Plat Act was  
45 enacted, and this information would be in the annotated statutes.  
46

47 Mr. Hall stated that this is why he posed the question to the State's Attorney.

1  
2 Mr. Hall informed the Board that if staff cannot hear your voice from the speakers then they are not close  
3 enough to their microphones.

4  
5 Ms. Capel asked the Board and staff if there were questions for the petitioners, and there were none.  
6

7 Ms. Capel asked the audience if anyone desired to cross-examine Mr. and Ms. Foster, and there was no  
8 one.

9  
10 Ms. Capel called Randy Huffman to testify.

11  
12 Mr. Randy Huffman, who resides at 401C CR 2600N, Mahomet, stated that he purchased his property  
13 from Mr. and Ms. Foster and he lives behind them. He said that the only issue that he has is the long  
14 lane, and it is a labor of love in maintaining it. He said that over the years he and Mr. Foster have  
15 maintained the lane, but if the acreage is divided per the survey, he would like to know how the expense  
16 of maintaining the lane would be shared.

17  
18 Mr. Hall asked Mr. Huffman if the recorded deeds indicate language regarding the maintenance of the  
19 easement.

20  
21 Mr. Huffman stated yes, the language is in the recorded deeds and the sales contract when they  
22 purchased their property from the Fosters. He said that it would make sense that if the Foster's lot was  
23 divided, the cost of the maintenance for the lane would be divided amongst the owners of the lots using  
24 the lane for access.

25  
26 Mr. Randol asked Mr. Hall if a special condition requiring that a recorded document or language in the  
27 deed could be created indicating that maintenance of the lane would be shared by each property utilizing  
28 the lane for access. He said that if the property were sold, the new owner would be aware of the cost  
29 share for maintenance of the existing access lane.

30  
31 Mr. Hall stated yes. He said that such a special condition would, theoretically, lead to greater protection  
32 of life safety, because fire truck access would be more guaranteed if the lane were properly maintained.

33  
34 Mr. Huffman stated that with the possibility of more traffic being on the lane, it only makes sense that  
35 the cost of maintaining the lane should be shared amongst all property owners utilizing it. He said that  
36 the Fosters operate a FedEx business, and every once in a while, the trucks do use the lane, and he is  
37 okay with it, but it is unknown who may purchase the five acre lot and they should be held responsible  
38 for sharing the cost of maintenance for the access lane.

39  
40 Mr. Randol stated that Cornbelt Fire Protection District has an ordinance requiring that all access lanes  
41 such as this have a minimum hard surface maintained, and there are height and width requirements as  
42 well.

43  
44 Ms. Foster stated that when they look at the neighborhood near them, there is a parcel that was divided  
45 into separate parcels, 382A, 382B, 382C, 382D, etc., CR 2600N and most of the properties abut the road  
46 but they all use one asphalt access drive which is only 8 feet 9 inches wide and fire protection access  
47 would seem difficult. She said that their driveway/easement for the subject properties is legally 30 feet



1 wide, but there is only 15 feet of it that is graveled.

2  
3 Mr. Foster stated that there are four houses in that neighborhood that do not abut the road, so there is  
4 certainly a safety concern. He asked if it is allowed for someone to purchase land that has road access  
5 but doesn't use it because the neighbors all agree to use one driveway access.

6  
7 Mr. Huffman stated that he is not worried about the other neighborhood, but he would like to know that  
8 if the new parcel is sold, the new owners are aware that they are responsible for a share of the  
9 maintenance expense for the access lane.

10  
11 Mr. Foster stated that when Mr. Huffman purchased his property, they spent over \$3,000 dollars for  
12 drainage and upkeep of the access lane for the sale of the property.

13  
14 Mr. DiNovo stated that the best vehicle for revising the easement would be when the deed for the sale of  
15 the five acres is conveyed, and he would assume that the Zoning Use Permit for the change of use of the  
16 shed to a dwelling would come before that and that is the County's control point. He said that the  
17 County is not going to be notified when the parcel is sold, unless there was an agreement between the  
18 Fosters and Mr. Huffman that could be submitted at the time of the Change of Use Permit indicating that  
19 they agree to share the expense for maintenance of the access lane, but an attorney would need to be  
20 involved to prepare that contractual agreement. He said that the contract could also provide for  
21 easement provisions for the five acre parcel when and if it is ever sold, but staff has no way to monitor it.

22  
23 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Huffman, and there was no one.

24  
25 Ms. Lee stated that memorandum indicates that the plat of survey was never recorded. She said that the  
26 Fosters indicated that they divided the property for their two children but did not indicate if there were  
27 any deeds recorded.

28  
29 Mr. Foster stated that they thought that deeds would be prepared when it was time to do so, and they did  
30 not know that the survey needed to be recorded.

31  
32 Mr. Hall read proposed special condition B. as follows:

33  
34 **B. No Change of Use permit for the conversion of the building and no Zoning Use**  
35 **Permit for the second dwelling shall be authorized unless the owner of the proposed**  
36 **lot shall agree to share to cost of maintenance of the shared driveway equally with**  
37 **the other property owners that use the driveway, and that agreement shall be a**  
38 **recorded document.**

39  
40 Ms. Capel asked if the special condition includes the Fosters.

41  
42 Mr. Hall stated that it would include anyone that applies for a permit for either a second home or to  
43 convert the shed.

44  
45 Ms. Capel stated that the Fosters are selling the house.

46  
47 Mr. Hall stated yes, and the sale of the house is not implicated, so it becomes a burden on whomever

1 desires to build a second dwelling on that 10 acres because then they have to divide it. He said  
2 presumably it will be the Fosters, but it may not.

3  
4 Mr. Foster stated that they would want that language to be in a recorded document to protect themselves  
5 and Mr. Huffman for the maintenance of the easement access so that emergency vehicles could safely  
6 enter.

7  
8 Mr. DiNovo asked Mr. Hall to repeat the proposed special condition again.

9  
10 Mr. Hall read the special condition as follows:

11  
12 **B. No Change of Use permit for the conversion of the building and no Zoning Use**  
13 **Permit for the second dwelling shall be authorized unless the owner of the proposed**  
14 **lot shall agree to share to cost of maintenance of the shared driveway equally with**  
15 **the other property owners that use the driveway, and that agreement shall be a**  
16 **recorded document.**

17  
18 Mr. Hall stated that it suggests that the equal portion is just simply the number of owners and does not  
19 recognize that some owners may cause more wear and tear on the driveway than others by the virtue of  
20 the type of vehicles they use.

21  
22 Mr. DiNovo stated that he does not know that as long as the landowners agree on the split of the  
23 maintenance expense the special condition does not need to specify the following:” the owner of the  
24 proposed lot shall agree to share to cost of maintenance of the shared driveway equally with the other  
25 property owners that use the driveway.”

26  
27 Mr. Hall stated that a contract between the Fosters and Mr. Huffman is a completely different thing and  
28 is more enforceable, but that is not what the proposed special condition asks for.

29  
30 Mr. Randol stated that the proposed special condition is meant to deal with the two properties, but one of  
31 those properties is going to be split and have a new owner, so they need to know that they have an equal  
32 responsibility for sharing the expense for the maintenance of the lane.

33  
34 Ms. Lee stated that the contract that Mr. Hall mentioned would need to be recorded so that the new  
35 owner was aware that an agreement is in place.

36  
37 Mr. Hall stated that it would require a recorded legal document.

38  
39 Mr. DiNovo asked if the special condition should specify “equally” because the landowners may agree to  
40 a different arrangement.

41  
42 Mr. Randol stated that if they come to a different arrangement then that is their right.

43  
44 Mr. Hall noted that the special condition would not be enforced by the County to make sure that  
45 everyone is paying their fair share of the maintenance costs, it is still up to the private landowners to  
46 enforce that.

47

1 Mr. DiNovo stated that the Board just needs to know that there is an agreement in place.

2  
3 Ms. Lee asked Mr. Hall to read the special condition again.

4  
5 Mr. Hall read proposed special condition B. as follows:

6  
7 **B. No Change of Use permit for the conversion of the existing shed to a dwelling**  
8 **and no Zoning Use Permit for construction of the second dwelling shall be**  
9 **authorized unless the owner of the proposed lot shall agree to share to cost of**  
10 **maintenance of the shared driveway equally with the other property owners that use**  
11 **the driveway, and that agreement shall be a recorded document.**

12  
13 Mr. Hall added the following statement at the end of proposed special condition B.:

14 **A copy of the recorded document shall be provided at the time of application for**  
15 **either a Change of Use or Zoning Use Permit.**

16  
17 Ms. Burgstrom stated that the statement regarding a second dwelling could be removed from the special  
18 condition because there is already one dwelling and the Foster's proposed renovation of the existing  
19 shed.

20  
21 Mr. Hall stated that he knows what is intended, but the Board cannot count on that plan coming to  
22 fruition, and he would have the same concern if they sold it and someone decided to build a house on the  
23 property.

24  
25 Ms. Burgstrom agreed.

26  
27 Mr. Huffman stated that he agrees with the special condition. He said that at the beginning of the lane,  
28 Jack and Amanda Bryant, own the land, so what they have done in the past is to split the maintenance  
29 cost for the first 200 feet of the lane three ways, and the balance of the cost of maintenance for the lane is  
30 split between the Fosters and himself. He said that a written agreement, prepared by an attorney,  
31 between the three parties should be done indicating that all three parties agree, and then the signed  
32 agreement by all three parties could be recorded. He said that the shares could be prorated so that it is  
33 fair to all parties.

34  
35 Mr. Hall stated that Mr. Huffman makes a good point and he would agree that a recorded signed  
36 agreement between the three parties prepared by an attorney would be a better approach so that there is  
37 no question, and what he has proposed in special condition B. does not actually require that.

38  
39 Mr. DiNovo stated that the problem with special condition B. is the word "equally", because if there  
40 were four homes using the lane the cost would be split four ways, but Mr. Huffman testified that is not  
41 how it is being done currently.

42  
43 Mr. Hall stated that special condition B. should indicate that the agreement needs to be signed by each of  
44 the affected landowners.

45  
46 Mr. DiNovo stated that it could indicate all users of the land.

47

1 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Huffman, and there was no one.

2  
3 Mr. Foster commended Mr. Huffman for his maintenance of the lane thus far, because it is very smooth.  
4 He said that they do have a shared interest in that he does mow and trim the easement, and Mr. Huffman  
5 uses his equipment to spread the rock. He said that Mr. Kameron has two easements, one on CR 2600N  
6 and one on CR 2500N that is longer than the subject lane and the one next to the subject lane is not  
7 maintained as well as their lane.

8  
9 Mr. Hall read special condition B. as follows:

- 10  
11 **B. No Change of Use permit for the conversion of the existing shed to a dwelling**  
12 **and/or no Zoning Use Permit for construction of the second dwelling shall be**  
13 **authorized unless the owner of the proposed lot shall agree to share to cost of**  
14 **maintenance of the shared driveway equally with the other property owners that use**  
15 **the driveway, and that agreement shall be signed by each effected landowner and**  
16 **documented in a recorded legal document, and a copy of that recorded legal**  
17 **document shall be provided at the time of application for either a Change of Use**  
18 **Permit or a Zoning Use Permit.**

19  
20 The special condition stated above is required to ensure that:

21 **The cost of maintenance of the driveway are more reliably shared by all**  
22 **effected landowners and to help ensure public safety.**

23  
24 Mr. DiNovo stated that he would agree with special condition B. if the word “equally” were removed.

25  
26 Mr. Hall agreed, and if the other owners do not believe that the agreement is fair and equal, then they do  
27 not have to sign the agreement. He read revised special condition B. as follows:

- 28  
29 **B. No Change of Use permit for the conversion of the existing shed to a dwelling**  
30 **and/or no Zoning Use Permit for construction of the second dwelling shall be**  
31 **authorized unless the owner of the proposed lot shall agree to share to cost of**  
32 **maintenance of the shared driveway with the other property owners that use**  
33 **the driveway, and that agreement shall be signed by each effected landowner and**  
34 **documented in a recorded legal document, and a copy of that recorded legal**  
35 **document shall be provided at the time of application for either a Change of Use**  
36 **Permit or a Zoning Use Permit.**

37  
38 The special condition stated above is required to ensure that:

39 **The cost of maintenance of the driveway are more reliably shared by all**  
40 **effected landowners and to help ensure public safety.**

41  
42 Ms. Capel asked Mr. Foster if they agreed with special condition B.

43  
44 Mr. Foster stated that they agreed with special condition B.

45  
46 Ms. Capel read special condition A. as follows:

47

- 1           A.    **As soon as possible, P&Z staff will verify with the State’s Attorney’s Office whether**  
2                   **the petitioner needs to pursue a Minor Subdivision or simply record the existing**  
3                   **Plat of Survey and no Zoning Use Permit shall be approved on the proposed lot**  
4                   **until the necessary plat has been duly recorded at the Recorder of Deeds.**  
5

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

7                   **That the new lot configuration conforms to the Illinois Plat Act (765 ILCS**  
8                   **205).**  
9

10       Ms. Capel asked Mr. Foster if they agreed with special condition A.

11  
12       Mr. Foster stated that they agreed with special condition A.

13  
14       Ms. Lee asked if it is Minor Subdivision, is additional language required besides just recording the plat.

15  
16       Mr. Hall stated yes, and County Board approval is required as well. He said that the County Board does  
17       not have to approve the plat, but there is no reason why they shouldn’t, and just like anything else that  
18       goes to the County Board, it is riskier than something that does not go to the County Board.

19  
20       Ms. Capel asked if anyone desired to sign the witness register to present testimony regarding Case 916-  
21       V-18, and there was no one.

22  
23       Ms. Capel closed the witness register.  
24

25       **FINDINGS OF FACT FOR CASE 916-V-18:**

26       **From the documents of record and the testimony and exhibits received at the public hearing for**  
27       **zoning case 916-V-18 held on October 25, 2018, the Zoning Board of Appeals of Champaign County**  
28       **finds that:**

- 29       **1.     Special conditions and circumstances DO exist which are peculiar to the land or structure**  
30           **involved, which are not applicable to other similarly situated land and structures elsewhere**  
31           **in the same district.**  
32

33       Mr. Randol stated that special conditions and circumstances DO exist which are peculiar to the land or  
34       structure involved, which are not applicable to other similarly situated land and structures elsewhere in  
35       the same district because the property was created prior to 1991 and was grandfathered.

36  
37       Ms. Capel stated that it wasn’t grandfathered because the plat of survey was not recorded.

38  
39       Mr. DiNovo stated that the ten acres was clearly grandfathered.  
40

41       Mr. Hall stated that if it were grandfathered this case would not be before this Board.  
42

43       Ms. Capel stated that the Plat of Survey dividing the ten acres was not recorded; therefore, the parcel  
44       was not grandfathered and the variance is required.  
45

46       Mr. DiNovo stated that the original property was acquired with the intention of dividing it, and a ZUP  
47       was approved for only 5 acres of the tract prior to the change in the ordinance.

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**2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because the petitioners have testified that they have no use for the 10 acres and have difficulty maintaining it.

The original draft minutes that were approved on March 14, 2019, were revised on August 2, 2019, after discovering an error in transcription for Finding of Fact #2, which indicated Mr. DiNovo stating, “WILL NOT” although the audio revealed that Mr. DiNovo actually indicated “WILL”. The case remains approved and no further action is necessary.

**3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.**

Mr. Randol stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the petitioners platted the two 5 acre tracts, but it was never recorded because they did not know that they needed to record the document to make the division legal for zoning purposes.

Mr. Hall asked that by literally reading Mr. Randol’s finding, how does that result from actions of the applicant.

Mr. DiNovo stated that at the time the original Zoning Use Permit was obtained, the state of the law was unclear, and given that the Zoning Use Permit was drawn for only 5 acres, it was reasonable for the petitioners to assume that they had two lawful lots.

**4. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in harmony with the general purpose and intent of the Ordinance.**

Mr. Randol stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS in harmony with the general purpose and intent of the Ordinance because it corrects an issue that came about prior to 1991.

Mr. Hall stated that the Board should include that a condition has been added to ensure maintenance of the access lane will result in improved public safety.

**5. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.**

Mr. Elwell stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because ensuring maintenance of the access lane will improve public safety.

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Mr. DiNovo stated that the resulting lot will conform to all the zoning requirements.

**6. The requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS the minimum variation that will make possible the reasonable use of the land/structure.**

Ms. Capel stated that the requested variance, SUBJECT TO THE PROPOSED CONDITIONS, IS the minimum variation that will make possible the reasonable use of the land/structure.

**7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**

**A. As soon as possible, Planning and Zoning staff will verify with the State’s Attorney’s Office whether the petitioner needs to pursue a Minor Subdivision or simply record the existing Plat of Survey and no Zoning Use Permit shall be approved on the proposed lot until the necessary plat has been duly recorded at the Recorder of Deeds.**

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

**That the new lot configuration conforms to the Illinois Plat Act (765 ILCS 205).**

**B. No Change of Use permit for the conversion of the existing shed to a dwelling and/or no Zoning Use Permit for construction of the second dwelling shall be authorized unless the owner of the proposed lot shall agree to share to cost of maintenance of the shared driveway with the other property owners that use the driveway, and that agreement shall be signed by each effected landowner and documented in a recorded legal document, and a copy of that recorded legal document shall be provided at the time of application for either a Change of Use Permit or a Zoning Use Permit.**

The special condition stated above is required to ensure that:

**The cost of maintenance of the driveway are more reliably shared by all effected landowners and to help ensure public safety.**

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

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

Ms. Capel entertained a motion to move to the Final Determination for Case 916-V-18.

**Ms. Lee moved, seconded by Mr. Elwell, to move to the Final Determination for Case 916-V-18. The motion carried by voice vote.**

Ms. Capel informed the petitioner that currently the Board has two members absent; therefore, it is at the

1 petitioners’ discretion to either continue Cases 916-V-18 until a full Board is present or request that the  
2 present Board move to the Final Determination. She informed the petitioner that four affirmative votes are  
3 required for approval.

4  
5 Mr. Foster requested that the present Board move to the Final Determination for Case 916-V-18.  
6  
7

8 **FINAL DETERMINATION FOR CASE 916-V-18:**  
9

10 **Mr. DiNovo moved, seconded by Mr. Randol, that the Champaign County Zoning Board of**  
11 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**  
12 **that the requirements for approval in Section 9.1.9.C HAVE been met, and pursuant to the**  
13 **authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning**  
14 **Board of Appeals of Champaign County determines that:**  
15

16 **The Variance requested in Case 916-V-18 is hereby GRANTED WITH CONDITIONS to the**  
17 **petitioners, Duane and Teresa Foster, to authorize the following in the CR Conservation**  
18 **Recreation Zoning District:**  
19

20 **Authorize a variance for a proposed lot that does not abut and have access to a public**  
21 **street or a private accessway meeting Champaign County street standards, per Section**  
22 **4.2.1 H. of the Champaign County Zoning Ordinance.**  
23

24 **SUBJECT TO THE FOLLOWING CONDITIONS:**  
25

- 26 **A. As soon as possible, P&Z staff will verify with the State’s Attorney’s Office whether**  
27 **the petitioner needs to pursue a Minor Subdivision or simply record the existing**  
28 **Plat of Survey and no Zoning Use Permit shall be approved on the proposed lot**  
29 **until the necessary plat has been duly recorded at the Recorder of Deeds.**  
30
- 31 **B. No Change of Use permit for the conversion of the existing shed to a dwelling**  
32 **and/or no Zoning Use Permit for construction of the second dwelling shall be**  
33 **authorized unless the owner of the proposed lot shall agree to share to cost of**  
34 **maintenance of the shared driveway with the other property owners that use**  
35 **the driveway, and that agreement shall be signed by each effected landowner and**  
36 **documented in a recorded legal document, and a copy of that recorded legal**  
37 **document shall be provided at the time of application for either a Change of Use**  
38 **Permit or a Zoning Use Permit.**  
39

40 Ms. Capel requested a roll call vote.  
41

42 The roll call vote was as follows:  
43

44 <b>DiNovo – yes</b>	<b>Griest – absent</b>	<b>Lee - yes</b>
45 <b>Passalacqua – absent</b>	<b>Randol – yes</b>	<b>Elwell - yes</b>
46 <b>Capel - yes</b>		



1 Mr. Hall informed the petitioners that they have received an approval for their request. He noted that staff  
2 will be in contact regarding final paperwork.

3  
4 **The Board recessed at 7:30 p.m.**

5 **The Board resumed at 7:36 p.m.**

6  
7 Ms. Capel stated that the Board will now return to Cases 906-S-18 and 907-S-18.

8  
9 **7. Staff Report**

10  
11 None

12  
13 **8. Other Business**

14 **A. Review of Docket**

15  
16 Mr. Hall asked the Board to contact staff with any absences regarding the November 1<sup>st</sup> meeting.

17  
18 **9. Audience participation with respect to matters other than cases pending before the Board**

19  
20 None

21  
22 **10. Adjournment**

23  
24 Ms. Capel entertained a motion to adjourn the meeting.

25  
26 **Mr. Randol moved, seconded by Ms. Lee, to adjourn the meeting. The motion carried by voice vote.**

27  
28  
29 The meeting adjourned at 10:18 p.m.

30  
31  
32 Respectfully submitted

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36  
37 Secretary of Zoning Board of Appeals

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