

CASES 067-AM-22, 068-S-22, 069-V-22 & 070-S-22

SUPPLEMENTAL MEMORANDUM #1

December 20, 2022

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

Request:

CASE 067-AM-22

Amend the Zoning Map to change the zoning district designation from the CR Conservation Recreation Zoning District to the AG-2 Agriculture Zoning District in order to allow a data center as a Special Use in related Zoning Case 068-S-22 and a PV solar array as a second principal use as a proposed County Board Special Use Permit in related Case 070-S-22.

CASE 068-S-22

Authorize a data center as a Special Use Permit, subject to the proposed rezoning in Case 067-AM-22, and subject to the following waiver:

Authorize a waiver from Section 6.1.3 of the Zoning Ordinance that requires a noise analysis to be performed for a Data Center.

Case 069-V-22

Authorize the following variance for the data center proposed as a Special Use Permit in related case 068-S-22:

Part A: Authorize a variance for 3 parking spaces in lieu of the minimum required 7 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

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

CASE 070-S-22

Subject to the rezoning in related Case 067-AM-22 and in addition to the Special Use Permit requested in related Case 068-S-22, authorize the following additional special use permits:

- A. A Special Use Permit for a second principal use; and
- B. As the second principal use, authorize a photovoltaic solar array with a total nameplate capacity of 4 megawatts (MW), including access roads and wiring, as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):

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

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

Part C: A waiver for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet, per Section 6.1.5 D.(6).

Part D: A waiver for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Zoning Board of Appeals, per Section 6.1.5 F.(9)a.(b).iv.

Location: A 13.62-acre tract in the Southwest Quarter of the Northwest Quarter of Section 32, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, commonly known as the farmland located on the northwest corner of the intersection of West Oaks Road and Squire Farm Rd, Urbana.

Site Area: 13.62 acres

Time Schedule for Development: As soon as possible

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

STATUS

These cases were continued from the October 27, 2022 ZBA meeting.

Attachment _ is a Landscape Plan received December 6, 2022. The Landscape Plan does not include a weed control plan, so Waiver Part D is still necessary.

The petitioners searched for field tile along part of the southern property line and no tile was found.

On December 12, 2022, P&Z Staff received an email from Attorney James Cottrell, who represents Beaver Lake Drainage District. The email states that the district's easement is 75 feet on both sides of the ditch, starting at the top or crest of the ditch. The petitioner is working with the Drainage District to finalize the easement area. A special condition has been added to ensure that the easement is protected.

Special condition K has been added to Case 070-S-22 based on John Zeman's email received October 27, 2022 regarding road conditions.

In an email received December 16, 2022, Marcus Ricci, Planner with the City of Urbana, stated that the City would not be commenting on the proposed Map Amendment and Special Use Permits in these cases.

PROPOSED SPECIAL CONDITIONS – NEW CONDITIONS ADDED

The following special conditions are proposed for Map Amendment Case 067-AM-22:

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

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

Conformance with Land Resource Management Plan Policy 4.2.3.

- B. **The Map Amendment is contingent upon approval of Cases 068-S-22 and 070-S-22.**

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

That the Special Use is consistent with the Zoning Ordinance and ZBA recommendations.

The following special conditions are proposed for Special Use Permit Case 068-S-22:

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

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

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

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

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

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

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

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

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

- D. **A noise study shall be completed by the petitioner that meets the requirements of 6.1.5 I.3. and that has been approved by the Environment and Land Use Committee.**

The above special condition is required to ensure that:

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

The following special conditions are proposed for Special Use Permit Case 070-S-22:

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

- **Site Plan sheets received September 27, 2022.**

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 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 Landscape Plan with Weed Control Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.5 M. and Section 6.1.5 P.(3) of the Zoning Ordinance.**

The above special conditions are required to ensure that:

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

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

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

The 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 ARRAY.

- J. **The perimeter security fence shall not encroach into the easement along the Beaver Lake Drainage Ditch and the developer shall provide documentation of that easement with the Zoning Use Permit Application and shall map the easement on the development site plan and shall document the actual location of the fence in an as-built site plan.**

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

To ensure unencumbered access for maintenance of the Beaver Lake Drainage Ditch.

K. The number of loaded trucks on Oaks Road should be minimized during the spring thaw period.

The special condition stated above is required to ensure the following:
To minimize susceptibility to road damage from heavy loads.

There are no proposed special conditions for Variance Case 069-V-22.

ATTACHMENTS

- A Legal Advertisement
- B Landscape Plan received December 14, 2022
- C Email from John Zeman received October 27, 2022
- D Email from James Cottrell received December 12, 2022
- E Email from Marcus Ricci received December 16, 2022
- F Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated December 29, 2022
- G Revised Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated December 29, 2022
- H Revised Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated December 29, 2022

LEGAL PUBLICATION: WEDNESDAY, OCTOBER 12, 2022
CASES: 067-AM-22, 068-S-22, 069-V-22 & 070-S-22

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

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

A public hearing will be held **Thursday, October 27, 2022, at 6:30 p.m.** prevailing time in the Shields-Carter Meeting Room, Brookens Administrative Center, 1776 East Washington Street, Urbana, at which time and place the Champaign County Zoning Board of Appeals will consider petitions for the following:

CASE 067-AM-22

Amend the Zoning Map to change the zoning district designation from the CR Conservation Recreation Zoning District to the AG-2 Agriculture Zoning District in order to allow a data center as a Special Use in related Zoning Case 068-S-22 and a PV solar array as a second principal use as a proposed County Board Special Use Permit in related Case 070-S-22.

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Part D: A waiver for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Zoning Board of Appeals, per Section 6.1.5 F.(9)a.(b).iv.

SUBJECT PROPERTY:

A 13.62-acre tract in the Southwest Quarter of the Northwest Quarter of Section 32, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, commonly known as the farmland located on the northwest corner of the intersection of West Oaks Road and Squire Farm Rd, Urbana.

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

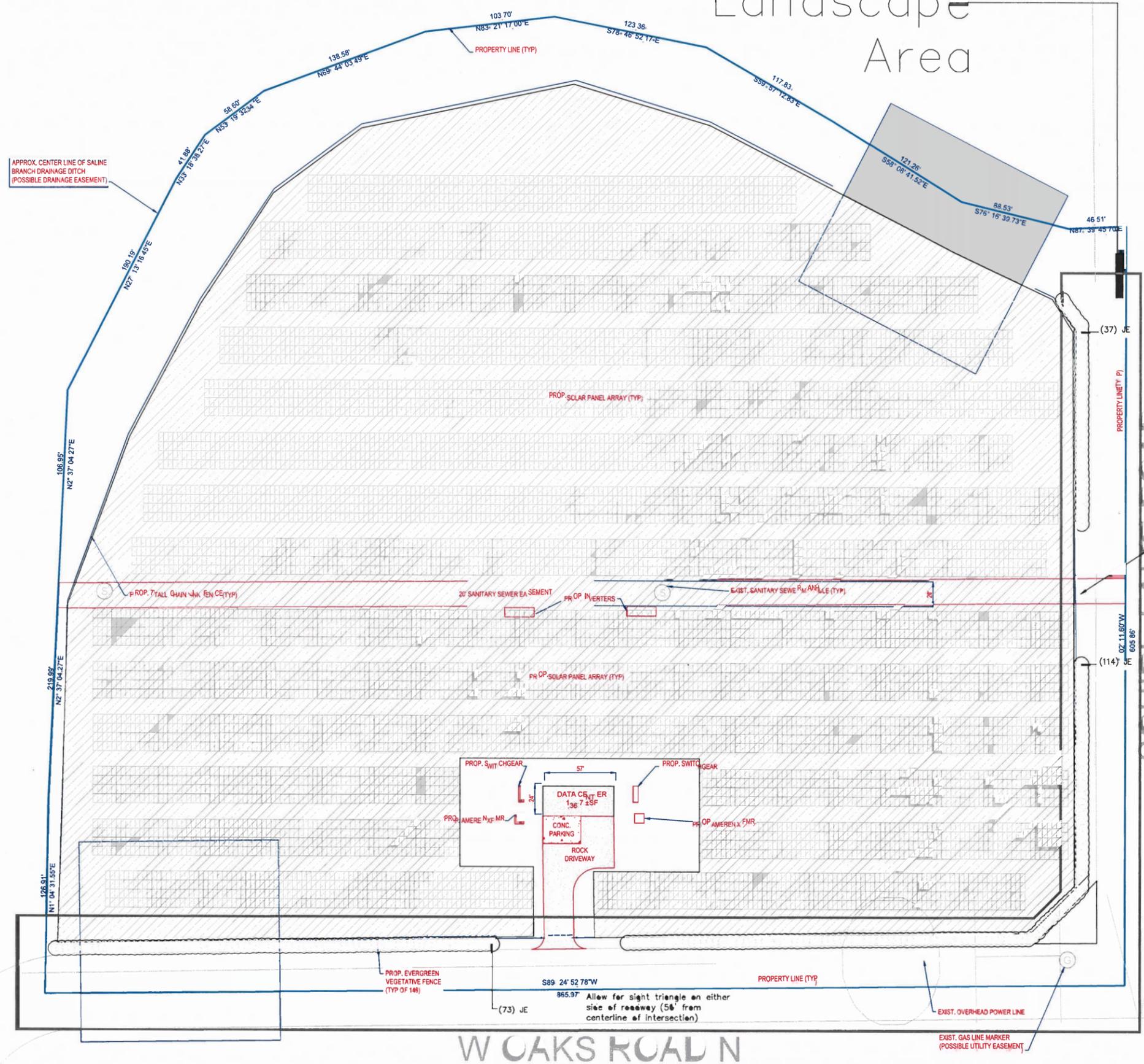
Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

TO BE PUBLISHED: WEDNESDAY, OCTOBER 12, 2022 ONLY

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

Our News Gazette account number is 99225860.

Landscape Area



RECEIVED
 DEC 14 2022
 CHAMPAIGN CO. P & Z DEPARTMENT

Screening Slots to be installed on Fence to ensure array is not visible from road

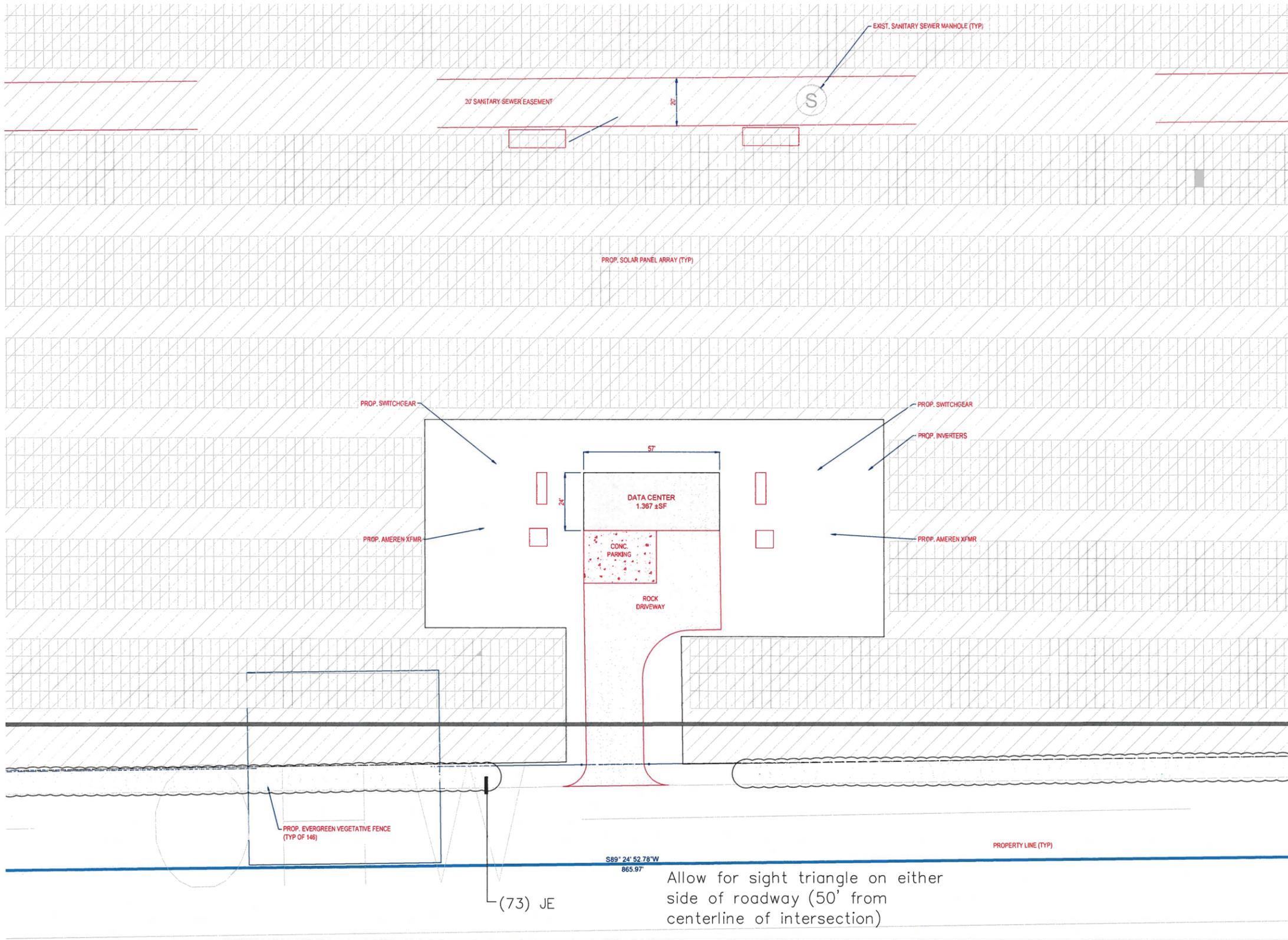
Allow for sight triangle on either side of roadway (50' from centerline of intersection)

Allow for sight triangle (50' from centerline of intersection)

SITE PLAN
 SCALE 1" = 40'

THIS DOCUMENT IS THE PROPERTY OF THE CHAMPAIGN COUNTY BOARD OF ZONING AND PLANNING. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE FOR WHICH IT WAS PREPARED. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE CHAMPAIGN COUNTY BOARD OF ZONING AND PLANNING.

NORTH	
ISSUE/REVISION	DATE
FOR PERMIT	2022/09/25
REVISION	2022/09/27
PROJECT	SOLAR FARM
W OAKS ROAD N	URBANA, IL 61802
TITLE	SITE PLAN
SHEET NO.	C100



Disclaimer
 THIS DOCUMENT CONTAINS INFORMATION BELONGING TO SKIDMORE, OWINGS & MERRILL LLP. IT IS THE PROPERTY OF SKIDMORE, OWINGS & MERRILL LLP. IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN CONSENT OF SKIDMORE, OWINGS & MERRILL LLP.

NORTH



ISSUE/REVISION	DATE
FOR PERMIT	2022/09/27

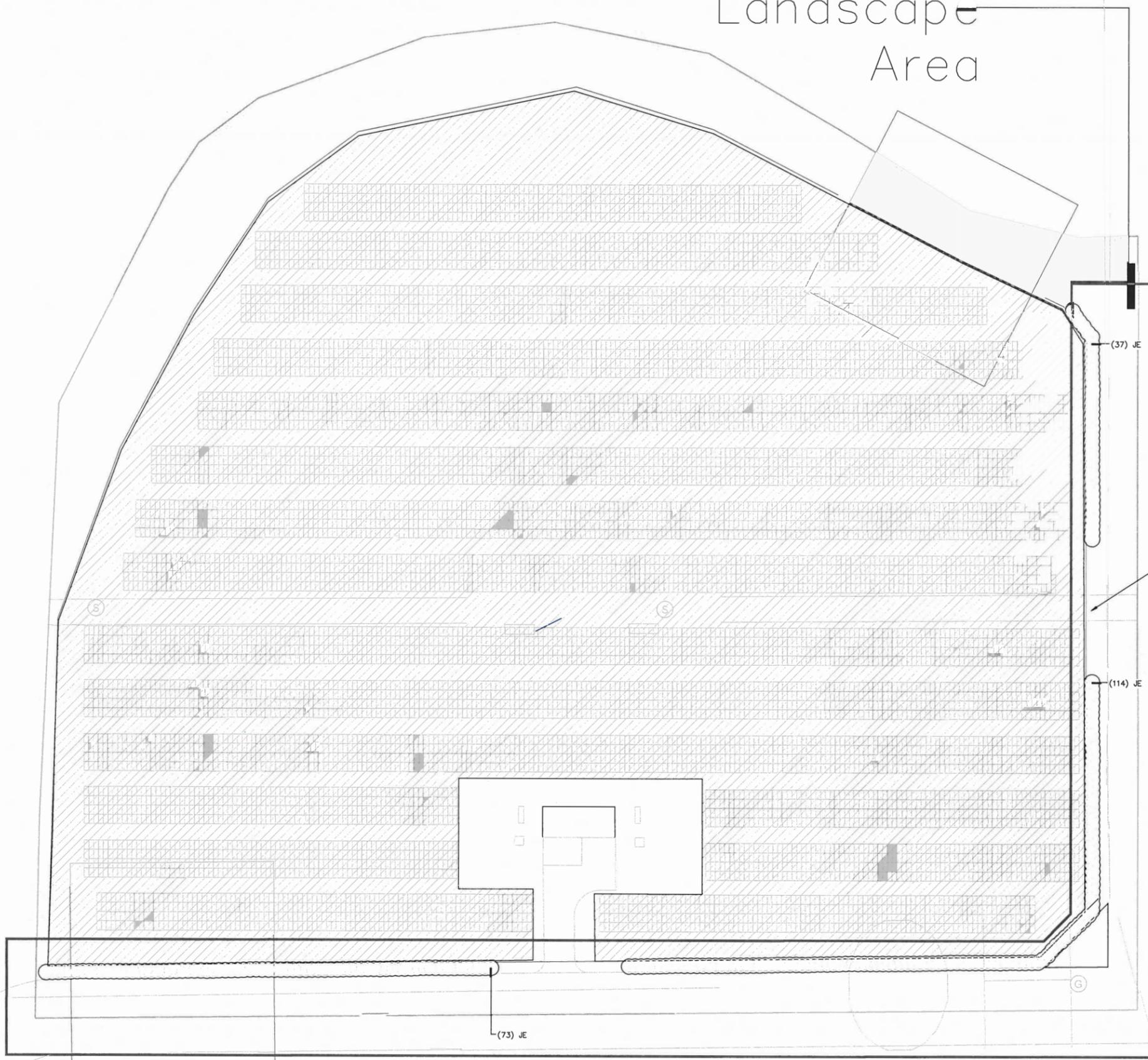
PROJECT:
SOLAR FARM
 W OAKS ROAD N
 URBANA, IL 61802
 TITLE:
DATA CENTER ENLARGEMENT
 SHEET NO:
C101

W OAKS ROAD N

DATA CENTER ENLARGEMENT
 SCALE: 1" = 20'



Landscape Area



PLANT SCHEDULE

TREES	CODE	BOTANICAL / COMMON NAME	SIZE	CONTAINER	QTY	REMARKS
JE		Juniperus virginiana / Eastern Redcedar	5 gal.	Pot	224	Spacing 5' O.C.

Maintenance Schedule:

Trees and Shrubs

- All newly planted trees and shrubs to be provided regular watering for the first growing season either by manual irrigation or automatic irrigation.
- Stake trees with (2) metal stakes on each tree. Provide approved rubber ties that allow proper movement of tree but provide support.
- Provide 2" hardwood bark mulch ring around each tree and shrub. Ring shall be 4" in diameter.
- Any dead or diseased plant material shall be replaced as per specifications on plan.

Grasses

- All native grasses planted are to be watered for entire first season either manually or via automatic irrigation.

Groundcover

- Groundcover inside of fenced-in area to be mowed to maintain a height of 10".
- Broad spectrum herbicide to be used along fence and around solar panel supports to control plant growth where mower cannot reach.
- Supplemental seeding may be required to maintain a dense plant stand. This most likely will be needed in the second season after establishment.

Groundcover Seed Mix Schedule

Common Name	Botanical Name
Western Yarrow	Achillea millefolium
Red Columbine	Aquilegia canadensis
Mistflower	Conoclinium coelestinum
Plains Coreopsis	Coreopsis tinctoria
White Prairie Clover	Dalea candida
Purple Prairie Clover	Dalea purpurea
Seedbox	Ludwigia alternifolia
Monkey Flower	Diplacus puniceus
Lemon Mint	Monarda citriodora
Hairy Beardtongue	Penstemon hirsutus
Prairie Cinquefoil	Drymocallis arguta
Slender Mountain Mint	Pycnanthemum tenuifolium
Blackeyed Susan	Rudbeckia hirta

 Groundcover Seed Mix

- General Notes:
- Site grading shall be done prior to site construction.
 - Soils shall be prepared to the satisfaction of Pheasants Forever prior to seeding.

Groundcover Mix

- Groundcover Mix shall be a shortgrass mix (growing no higher than 24") and be in accordance with all County Ordinances.
- Groundcover to be a productive habitat for local wildlife.
- Groundcover seed mix to be seeded via air seeded upon completion of solar farm project.

Plants:

- All trees, shrubs and grasses to be container grown.



REV.	DESCRIPTION	BY	DATE

 **HORTsolutions**
 PO Box 42
 Stockton, NJ 08559
 908-328-9961
 www.hortsolutions.net

CLIENT: **Solar Farm
 W. Oaks Road N.
 Urbana, IL**

PROJECT: **Landscape Plan**

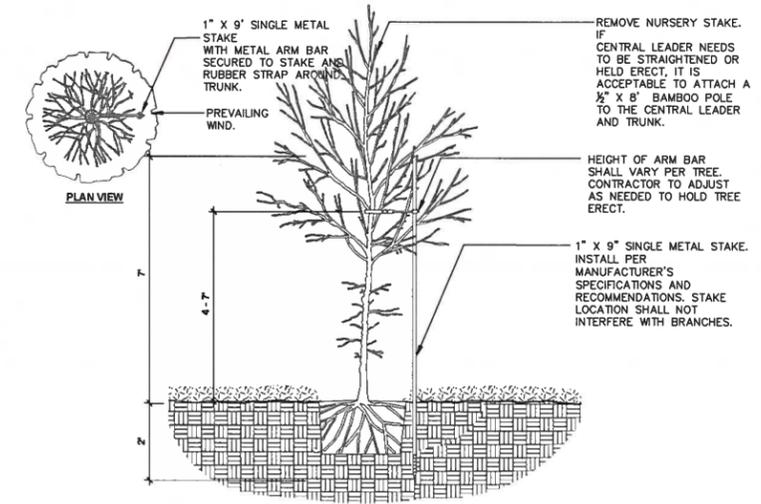
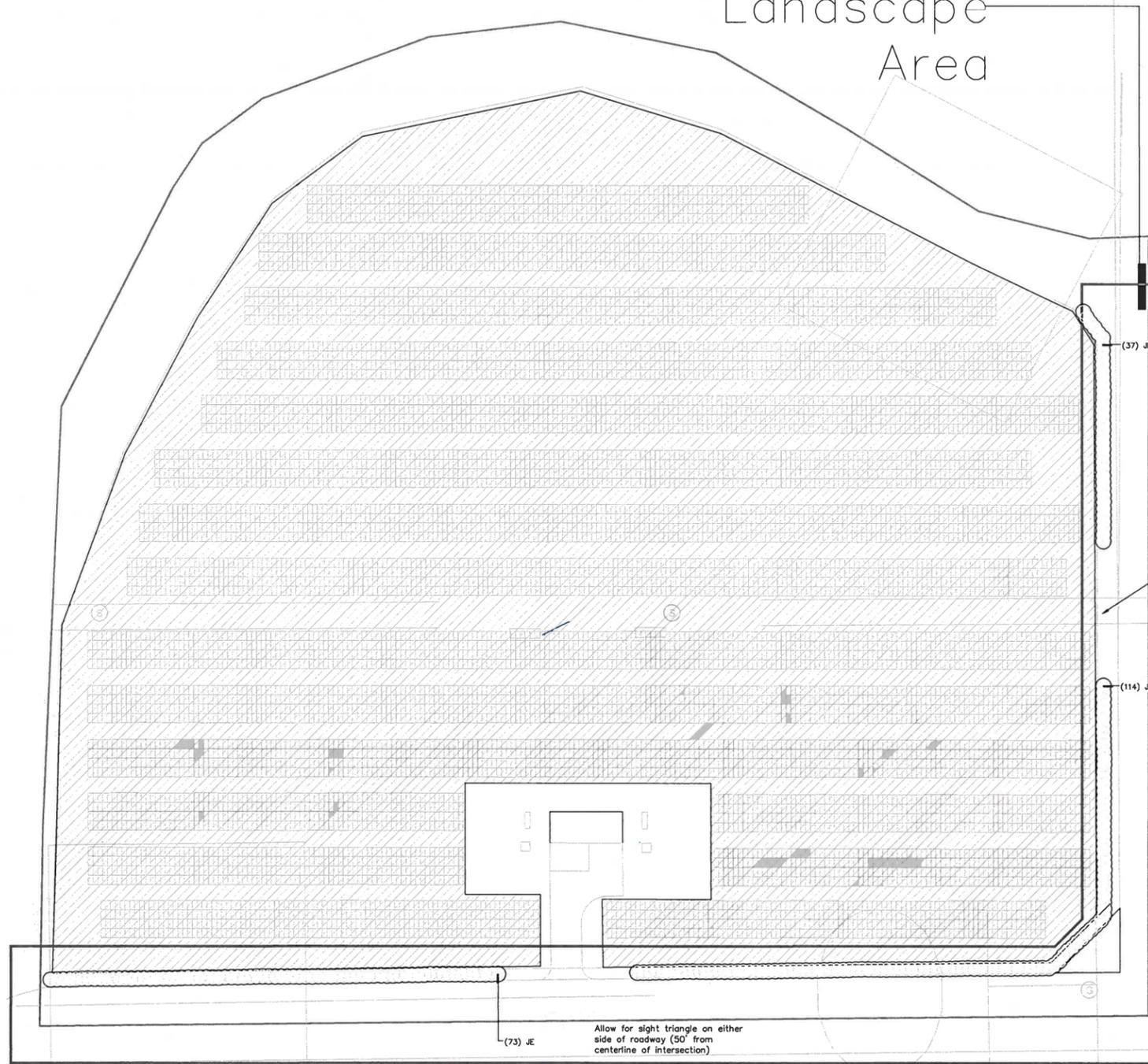
SITE: **W. Oaks Road N.
 Urbana, IL**

SHEET TITLE: **Planting Plan**

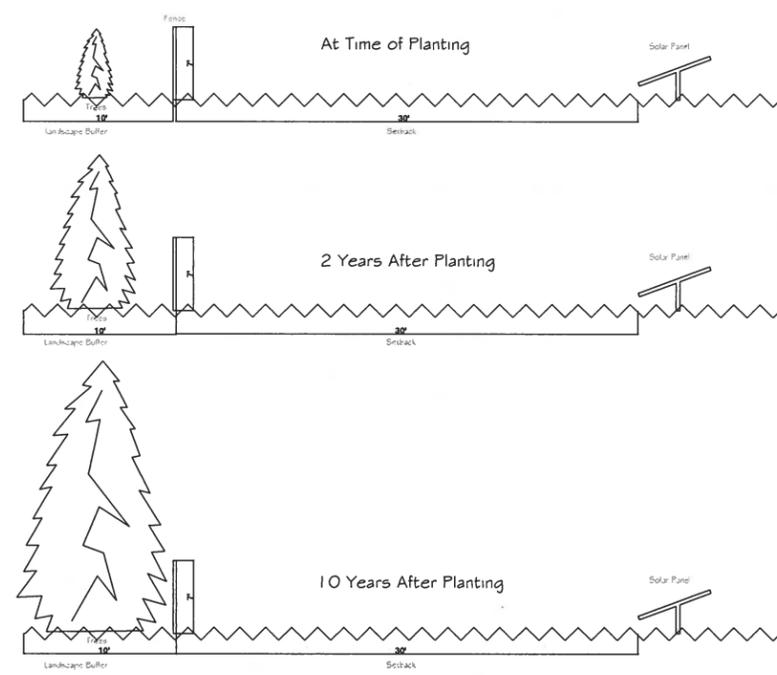
SCALE:	DATE:	DRAWN:	CHECKED:
As Shown	11/02/2022	MWO	MWO
PROJECT NO.:	DRAWING NO.:	REVISION:	
2022-142	LA-1	-	



Landscape Area



3 TREE STAKING - SINGLE METAL STAKE
 1/2" = 1'-0" FX-PL-FX-TREE-24

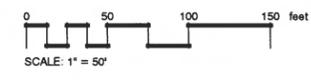


Screening Slats to be installed on Fence to ensure array is not visible from road

Allow for sight triangle (50' from centerline of intersection)

Allow for sight triangle (50' from centerline of intersection)

- General Notes:**
- A. Site grading shall be done prior to site construction.
 - B. Soils shall be prepared to the satisfaction of Pheasants Forever prior to seeding.
- Groundcover Mix**
- A. Groundcover Mix shall be a shortgrass mix (growing no higher than 24") and be in accordance with all County Ordinances.
 - B. Groundcover to be a productive habitat for local wildlife.
 - C. Groundcover seed mix to seeded via air seeded upon completion of solar farm project.
- Plants:**
- A. All trees, shrubs and grasses to be container grown.



REV.	DESCRIPTION	BY	DATE

HORTsolutions
 PO Box 42
 Stockton, NJ 08559
 908-328-9961
 www.hortsolutions.net

CLIENT: **Solar Farm
 W. Oaks Road N.
 Urbana, IL**

PROJECT: **Landscape Plan**

SITE: **W. Oaks Road N.
 Urbana, IL**

SHEET TITLE: **Planting Plan**

SCALE: As Shown	DATE: 11/02/2022	DRAWN: MWO	CHECKED: MWO
PROJECT NO: 2022-142	DRAWING NO: LA-2	REVISION:	-



Tony Grilo <tonygrilo@gmail.com>

Oaks Rd Datacenter Site

Zeman, John <jczeman@urbanaillinois.us>

Mon, Oct 24, 2022 at 2:25 PM

To: Tony Grilo <tonygrilo@gmail.com>

Cc: "Cowan, Tim" <tacowan@urbanaillinois.us>, "Ricci, Marcus" <mericci@urbanaillinois.us>

Tony,

Regarding Oaks Road, the City would conduct pre- and post-construction inspections of the roadway. If we identify damages caused by construction activity, then you would be responsible for the costs of subsequent repairs. You could hire an engineer to provide pre- and post-construction inspections of the roadway as well. If possible with your eventual construction schedule, it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads.

Let me know if you have any further questions.

Thanks,

John C. Zeman, PE, SE

City Engineer

Public Works Department | City of Urbana
706 Glover Ave | Urbana, Illinois 61802

217.384.2342 (o) | 217.384.2390 (d)



RECEIVED

OCT 27 2022

CHAMPAIGN CO. P & Z DEPARTMENT

From: Tony Grilo <tonygrilo@gmail.com>

Sent: Friday, October 14, 2022 11:49 AM

To: Zeman, John <jczeman@urbanaillinois.us>

Subject: Re: Oaks Rd Datacenter Site

*** Email From An External Source ***

Susan Burgstrom

From: John Hall
Sent: Monday, December 12, 2022 2:47 PM
To: Susan Burgstrom
Subject: Beaver Lake/solar project

From: James Cottrell <jdc4@live.com>
Sent: Monday, December 12, 2022 2:42 PM
To: John Hall <jhall@co.champaign.il.us>
Subject: Beaver Lake/solar project

Dear Mr. Hall, the commissioners requested that I contact you and advise you that the districts easement is 75 feet on both sides of the ditch, starting at the top or crest of the ditch. I did talk with one of the commissioners this morning, who indicated that they had spoken with a representative of the solar project, and the easement is being "negotiated". I hope all is well.

RECEIVED

DEC 12 2022

CHAMPAIGN CO. P & Z DEPARTMENT

Susan Burgstrom

From: Ricci, Marcus <mericci@urbanaininois.us>
Sent: Friday, December 16, 2022 1:07 PM
To: Susan Burgstrom
Subject: RE: Champaign County Zoning Board of Appeals October 27, 2022 Meeting Packet

Susan,

Kevin informed me that the City of Urbana will not be commenting on the proposed Zoning Ordinance Map Amendment (CCZBA-067-M-22) or the related special use permits. I hope you have an excellent weekend!

Be safe, stay healthy,
Marcus

Marcus Ricci, AICP
Planner

Community Services Department | City of Urbana
400 S Vine St | Urbana, Illinois 61801
217.328.8283



RECEIVED

DEC 16 2022

CHAMPAIGN COUNTY & ZONING DEPARTMENT

REVISED DRAFT 12/29/22

067-AM-22

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

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

Date: ***{~~October 27, 2022~~December 29, 2022}***

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

Request: **Amend the Zoning Map to change the zoning district designation from the CR Conservation Recreation Zoning District to the AG-2 Agriculture Zoning District in order to allow a data center as a Special Use in related Zoning Case 068-S-22 and a PV solar array as a second principal use as a proposed County Board Special Use Permit in related Case 070-S-22.**

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FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 27, 2022** and **December 29, 2022**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 068-S-22)

- *1. Petitioner Anthony Donato, via IAG Investments LLC, owns the subject property. He is the sole owner and shareholder in IAG Investments LLC and Donato Solar – Urbana LLC.
- *2. The subject property is a 13.62-acre tract in the Southwest Quarter of the Northwest Quarter of Section 32, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, commonly known as the farmland located on the northwest corner of the intersection of West Oaks Road and Squire Farm Rd, Urbana.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities have protest rights in Map Amendment cases. Notice of the public hearing was sent to the City.
 - *B. The subject property is located within Somer Township, which does not have a Planning Commission.
4. Regarding comments by the petitioner, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioner has indicated: **“Per requirements outlined in 4.2.1c.5, a lot with a PV Solar Farm designated as its second principal use requires AG-2 zoning. The site 3225 W Oaks Rd will have a PV Solar Farm and a data center designated as dual principal uses for the property, thus requiring a rezoning.”**
5. Regarding comments by the petitioner, when asked on the petition what other circumstances justify the rezoning, the petitioner did not provide a response.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *6. Land use and zoning on the subject property and in the vicinity are as follows:
 - *A. The 13.62-acre subject property is currently zoned CR Conservation Recreation and is in agricultural production.
 - *B. Land to the north of the subject property is zoned CR Conservation Recreation and is residential in use to the northeast and vacant to the north-northwest.
 - *C. Land to the east of the subject property is zoned CR Conservation Recreation and I-1 Light Industry and is in agricultural production.
 - *D. Land to the south of the subject property is inside the City of Urbana and is industrial in use.

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- *E. Land to the west of the subject property is zoned CR Conservation Recreation and I-1 Light Industry and is vacant.
- *7. Regarding the Site Plan received August 1, 2022:
 - *A. Proposed features include:
 - *(1) Solar arrays cover the majority of the 13.62-acre tract.
 - *(2) One 2,000 square foot data center would be located in the south-central part of the subject property.
 - *(3) Inverters would be located adjacent to the data center building.
 - *B. A Revised Site Plan received September 27, 2022 indicates the following changes:
 - *(1) The data center has been reduced to 1,367 square feet.
 - *(2) A 20-foot-wide sanitary sewer easement has been added for the existing UCSD interceptor line running east-west through the subject property.
 - *(3) A seven-foot-tall chain link fence has been added.
 - *(4) Evergreen screening has been added on the south and east sides of the fenced area.
 - *C. There are no previous zoning permits for the subject property.
 - *D. There are no previous zoning cases for the subject property.

GENERALLY REGARDING THE EXISTING AND PROPOSED ZONING DISTRICTS

- *8. Regarding the existing and proposed zoning districts:
 - *A. Regarding the general intent of zoning districts (capitalized words are defined in the Ordinance) as described in Section 5 of the Ordinance:
 - *(1) The CR Conservation-Recreation DISTRICT is intended to protect the public health by restricting development in areas subject to frequent or periodic floods and to conserve the natural and scenic areas generally along the major stream networks of the COUNTY.
 - *(2) The AG-2 Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development.
 - B. Regarding the general locations of the existing and proposed zoning districts:
 - (1) The CR DISTRICT is generally located along major stream corridors.
 - (2) The AG-2 DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
 - (3) The subject property is adjacent to the City of Urbana.

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- C. Regarding the different uses that are authorized in the existing and proposed zoning districts by Section 5.2 of the Ordinance:
- (1) There are 8 types of uses authorized by right in the CR District and there are 15 types of uses authorized by right in the AG-2 District:
 - a. There are seven uses authorized by right in the CR District that are also authorized by right in the AG-2 District:
 - (a) SINGLE FAMILY DWELLING;
 - (b) SUBDIVISIONS totaling three lots or less;
 - (c) AGRICULTURE, including customary accessory uses;
 - (d) Roadside stand operated by farm operator;
 - (e) ADULT USE CANNABIS CULTIVATION CENTER;
 - (f) ADULT USE CANNABIS CRAFT GROWER; and
 - (g) TEMPORARY USES.
 - b. The following five uses are authorized by right in the AG-2 District and not at all in the CR District:
 - (a) Plant Nursery;
 - (b) Commercial breeding facility;
 - (c) Christmas Tree Sales Lot;
 - (d) OFF-PREMISES SIGN within 660' of the edge of the RIGHT-OF-WAY of an interstate highway; and
 - (e) OFF-PREMISES SIGN along federal highways except interstate highways.
 - c. The following three uses are authorized by right in the AG-2 District but require a Special Use Permit in the CR District:
 - (a) Minor RURAL SPECIALTY BUSINESS;
 - (b) Township Highway Maintenance Garage; and
 - (c) Country Club or golf course.
 - (2) There are 32 types of uses authorized by Special Use Permit (SUP) in the CR District and 82 types of uses authorized by SUP in the AG-2 District:
 - a. The following 29 uses may be authorized by SUP in the both the CR District and AG-2 District:
 - (a) HOTEL – no more than 15 lodging units;
 - (b) SUBDIVISIONS totaling more than three lots or with new streets or private accessways (SUP requires approval by County Board);
 - (c) MAJOR RURAL SPECIALTY BUSINESS;
 - (d) Artificial lake of 1 or more acres;
 - (e) Mineral extraction, quarrying, topsoil removal and allied activities;
 - (f) Elementary SCHOOL, Jr. High SCHOOL, or High SCHOOL;
 - (g) Church, temple, or church related TEMPORARY USES on church PROPERTY;
 - (h) Municipal or GOVERNMENT BUILDING;
 - (i) Police station or fire station;
 - (j) Library, museum or gallery;
 - (k) Sewage disposal plant or lagoon;

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- (l) Electrical substation;
 - (m) Telephone exchange;
 - (n) Public Fairgrounds;
 - (o) Resort or Organized CAMP;
 - (p) Bait Sales;
 - (q) Country Club Clubhouse;
 - (r) Lodge or private club;
 - (s) Outdoor commercial recreational enterprise (except amusement park);
 - (t) Public CAMP or picnic area;
 - (u) Riding Stable;
 - (v) Seasonal hunting or fishing lodge;
 - (w) Commercial Fishing Lake;
 - (x) Pet Cemetery;
 - (y) KENNEL;
 - (z) VETERINARY HOSPITAL;
 - (aa) Agricultural drainage contractor facility with no outdoor storage and/or outdoor OPERATIONS;
 - (bb) Agricultural drainage contractor facility with outdoor storage and/or outdoor OPERATIONS; and
 - (cc) SMALL SCALE METAL FABRICATING SHOP.
- b. The following use may be authorized by Special Use Permit in the CR District and not at all in the AG-2 District:
- (a) PARKING LOT.
- c. The following 52 uses may be authorized by SUP in the AG-2 District and not at all in the CR District:
- (a) TWO FAMILY DWELLING;
 - (b) Home for the aged;
 - (c) NURSING HOME;
 - (d) TRAVEL TRAILER camp;
 - (e) Residential PLANNED UNIT DEVELOPMENT;
 - (f) Commercial greenhouse;
 - (g) Greenhouse (not exceeding 1,000 square feet);
 - (h) Garden shop;
 - (i) Adaptive Reuse of GOVERNMENT BUILDINGS for any USE permitted by right in B-1, B-2, B-3, B-4, B-5 and I-1;
 - (j) Penal or correctional institution;
 - (k) Private or commercial transmission and receiving towers (including antennas) over 100' in height;
 - (l) Water treatment plant;
 - (m) Radio or Television Station;
 - (n) MOTOR BUS station;
 - (o) Truck terminal;
 - (p) Railroad yards and freight terminals;
 - (q) AIRPORT;

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- (r) RESIDENTIAL AIRPORTS;
 - (s) RESTRICTED LANDING AREAS;
 - (t) HELIPORT/HELISTOPS;
 - (u) HELIPORT-RESTRICTED LANDING AREAS;
 - (v) Mortuary or funeral home;
 - (w) Farm Chemicals and Fertilizer Sales including incidental storage and mixing of blended fertilizer;
 - (x) Roadside produce sales stand;
 - (y) Feed and grain (sales only);
 - (z) Livestock Sales Facility and Stockyards;
 - (aa) Slaughter Houses;
 - (bb) Grain Storage Elevator and Bins;
 - (cc) ADULT USE CANNABIS TRANSPORTING ORGANIZATION;
 - (dd) Agronomic Research and Training Facility;
 - (ee) Artist studio;
 - (ff) RESIDENTIAL RECOVERY CENTER;
 - (gg) DATA CENTER;
 - (hh) Antique sales and service;
 - (ii) Amusement park;
 - (jj) Private indoor recreational development;
 - (kk) Stadium or coliseum;
 - (ll) OUTDOOR THEATRE;
 - (mm) Aviation sales, service or storage;
 - (nn) Cemetery or Crematory;
 - (oo) Self-storage warehouses, without heat/utilities to individual units;
 - (pp) OFF-PREMISES SIGN beyond 660' of the edge of the RIGHT-OF-WAY of an interstate highway;
 - (qq) LANDSCAPE WASTE PROCESSING FACILITIES;
 - (rr) Contractors Facilities (with no outdoor STORAGE nor outdoor OPERATIONS);
 - (ss) Contractors Facilities with outdoor STORAGE and/or outdoor OPERATIONS;
 - (tt) Gas Turbine Peaker;
 - (uu) BIG WIND TURBINE TOWER (1-3 BIG WIND TURBINE TOWERS);
 - (vv) PV SOLAR ARRAY;
 - (ww) PV SOLAR FARM;
 - (xx) Wood fabricating shop and related activities;
 - (yy) Sawmills and Planing Mills, and related activities; and
 - (zz) Pre-existing Industrial Uses (existing prior to October 10, 1973).
- (4) Any proposed Special Use Permit can be evaluated on a case-by-case basis for compatibility with adjacent CR uses.

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GENERALLY REGARDING THE LRMP GOALS, OBJECTIVES, AND POLICIES

9. The County Board adopted the *Champaign County Land Resource Management Plan* (LRMP) on April 22, 2010. The LRMP Goals, Objectives, and Policies were drafted through an inclusive and public process that produced a set of ten goals, 42 objectives, and 100 policies, which are currently the only guidance for amendments to the *Champaign County Zoning Ordinance*, as follows:
- A. The Purpose Statement of the LRMP Goals, Objectives, and Policies is as follows:
“It is the purpose of this plan to encourage municipalities and the County to protect the land, air, water, natural resources and environment of the County and to encourage the use of such resources in a manner which is socially and economically desirable. The Goals, Objectives and Policies necessary to achieve this purpose are as follows...”
- B. The LRMP defines Goals, Objectives, and Policies as follows:
(1) Goal: an ideal future condition to which the community aspires
(2) Objective: a tangible, measurable outcome leading to the achievement of a goal
(3) Policy: a statement of actions or requirements judged to be necessary to achieve goals and objectives
- C. The Background given with the LRMP Goals, Objectives, and Policies further states, “Three documents, the *County Land Use Goals and Policies* adopted in 1977, and two sets of *Land Use Regulatory Policies*, dated 2001 and 2005, were built upon, updated, and consolidated into the LRMP Goals, Objectives and Policies.”

REGARDING RELEVANT LRMP GOALS & POLICIES

(Note: ***bold italics*** typeface indicates staff’s recommendation to the ZBA)

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

Goal 1 is always relevant to the review of the LRMP Goals, Objectives, and Policies in land use decisions but the proposed rezoning will ***NOT IMPEDE*** the achievement of Goal 1.

11. LRMP Goal 2 is entitled “Governmental Coordination” and states:
Champaign County will collaboratively formulate land resource and development policy with other units of government in areas of overlapping land use planning jurisdiction.

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

12. LRMP Goal 3 is entitled “Prosperity” and states:
Champaign County will encourage economic growth and development to ensure prosperity for its residents and the region.

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

13. LRMP Goal 4 is entitled “Agriculture” and states:

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

Goal 4 has 9 objectives and 22 policies. Objectives 4.4, 4.5, 4.6, 4.8, and 4.9 and their policies do not appear to be relevant to the proposed rezoning. The proposed amendment will **HELP ACHIEVE** Goal 4 for the following reasons:

A. Objective 4.1 is entitled “Agricultural Land Fragmentation and Conservation” and states: “Champaign County will strive to minimize the fragmentation of the County’s agricultural land base and conserve farmland, generally applying more stringent development standards on best prime farmland.”

Objective 4.1 includes nine subsidiary policies. Policies 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.7, and 4.1.9 do not appear to be relevant to the proposed rezoning. The proposed rezoning will **HELP ACHIEVE** Objective 4.1 because of the following:

(1) Policy 4.1.1 states, **“Commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.1.1 for the following reasons:

*a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.

(a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.

*b. The proposed PV SOLAR ARRAY will remove land from agricultural production, which can be returned to production should the SOLAR ARRAY be removed.

(2) Policy 4.1.6 states: **“Provided that the use, design, site and location are consistent with County policies regarding:**

i. Suitability of the site for the proposed use;

ii. Adequacy of infrastructure and public services for the proposed use;

iii. Minimizing conflict with agriculture;

iv. Minimizing the conversion of farmland; and

v. Minimizing the disturbance of natural areas; then

a) On best prime farmland, the County may authorize discretionary residential development subject to a limit on total acres converted which is generally proportionate to tract size and is based on the January 1, 1998 configuration of tracts, with the total amount of acreage converted to residential use (inclusive of by-right development) not to exceed three acres plus three acres per each 40 acres (including any existing right-of-way), but not to exceed 12 acres in total; or

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- b) **On best prime farmland, the County may authorize non-residential discretionary development; or**
- c) **The County may authorize discretionary review development on tracts consisting of other than best prime farmland.”**

The proposed rezoning will *HELP ACHIEVE* Policy 4.1.6 for the following reasons:

- *a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
 - (a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
 - *b. The Site Assessment (SA) portion of the LESA analysis for the subject property scored 34 out of 200 points.
 - *c. The total LESA Score of 121 for the subject property receives the lowest protection rating in LESA, which is “low rating for protection.”
 - *d. Agricultural drainage should not be affected because an Agricultural Impact Mitigation Agreement is required for the SOLAR ARRAY.
 - e. Regarding compliance with policies having to do with the suitability of the site for the proposed use, the ZBA has recommended that the proposed rezoning will *HELP ACHIEVE* Policy 4.3.2 regarding site suitability on best prime farmland.
 - f. Regarding compliance with policies having to do with the adequacy of infrastructure and public services for the proposed use, the ZBA has recommended that the proposed rezoning will *HELP ACHIEVE* Policy 4.3.3 regarding public services and Policy 4.3.4 regarding infrastructure.
 - g. Regarding compliance with policies having to do with minimizing conflict with agriculture, the ZBA has recommended that the proposed rezoning will either *HELP ACHIEVE* or will *NOT IMPEDE* Policies 4.2.2, 4.2.3, and 4.2.4 regarding minimizing conflict with agriculture.
 - h. Regarding compliance with policies having to do with minimizing the disturbance of natural areas:
 - (a) The subject property does not contain any natural areas.
 - (b) Additional information on natural resources is provided under Item 17 of this Finding of Fact (Goal 8: Natural Resources).
- (3) Policy 4.1.8 states, “**The County will consider the LESA rating for farmland protection when making land use decisions regarding a discretionary development.**”

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The proposed rezoning will **HELP ACHIEVE** Policy 4.1.8 for the following reasons:

- *a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
 - (a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
- *b. The Site Assessment (SA) portion of the LESA analysis for the subject property scored 34 out of 200 points.
- *c. The total LESA Score of 121 for the subject property receives the lowest protection rating in LESA, which is “low rating for protection.”

- B. Objective 4.2 is entitled “**Development Conflicts with Agricultural Operations**” and states, “**Champaign County will require that each *discretionary review* development will not interfere with agricultural operations.**”

Objective 4.2 includes four subsidiary policies. Policy 4.2.1 does not appear to be relevant to the proposed rezoning. The proposed rezoning will **NOT IMPEDE** Objective 4.2 because of the following:

- (1) **Policy 4.2.2 states, “The County may authorize *discretionary review* development in a rural area if the proposed development:**
 - a) **is a type that does not negatively affect agricultural activities; or**
 - b) **is located and designed to minimize exposure to any negative effect caused by agricultural activities; and**
 - c) **will not interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure.”**

The proposed rezoning will **NOT IMPEDE** Policy 4.2.2 for the following reasons:

- a. The proposed use of the subject property is **NOT NEGATIVELY AFFECTED** by agricultural activities because:
 - (a) The proposed project sits sufficiently back from adjacent property lines that agricultural production will not hinder the development.
- b. The proposed development in related Cases 068-S-22 and 070-S-22 **WILL NOT** interfere with agricultural activities or damage or negatively affect the operation of agricultural drainage systems, *rural* roads, or other agriculture-related infrastructure because:
 - (a) Agricultural related activities and systems should not be impacted by the proposed PV SOLAR ARRAY because an Agriculture Impact Mitigation Agreement will be in place.
 - (b) Regarding traffic on rural roads:

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- *i. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2018 near the subject property. West Oaks Road east of Lincoln Avenue had an ADT of 250.
 - *ii. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines recommends that local roads with an ADT of 250 to 400 vehicle trips have a minimum pavement width of 18 feet and a shoulder width of two feet.
 - (i) The pavement surface of Oaks Road near the subject property is oil and chip. The pavement is about 20 feet wide.
 - *iii. Traffic volumes are expected to increase during construction of the PV SOLAR ARRAYS, but no Traffic Impact Analysis has been done.
 - *iv. The Somer Township Highway Commissioner was notified of this case, and no comments have been received.
 - *v. The City of Urbana was notified of this case because West Oaks Road is within the City's maintenance jurisdiction. No comments have been received from the City.
- (2) **Policy 4.2.3 states, "The County will require that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land."**

The proposed rezoning will **HELP ACHIEVE** Policy 4.2.3 for the following reasons:

- a. The Petitioner understands that this is a rural area where agricultural activities take place.
 - b. A special condition has been proposed to ensure that any owner recognizes the rights of agricultural activities.
- (3) **Policy 4.2.4 states, "To reduce the occurrence of agricultural land use and non-agricultural land use nuisance conflicts, the County will require that all *discretionary review* consider whether a buffer between existing agricultural operations and the proposed development is necessary."**

The proposed rezoning will **NOT IMPEDE** Policy 4.2.4 for the following reasons:

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- a. The proposed project is adjacent to the Saline Branch on the west and north sides, and by roads on the east and south sides such that no buffer will be necessary.

- C. Objective 4.3 is entitled “Site Suitability for Discretionary Review Development” and states: “Champaign County will require that each discretionary review development is located on a suitable site.”

Objective 4.3 includes five subsidiary policies. Policies 4.3.1 and 4.3.5 are not relevant to the proposed rezoning. The proposed rezoning will **HELP ACHIEVE** Objective 4.3 because of the following:

- (1) **Policy 4.3.2 states, “On best prime farmland, the County may authorize a discretionary review development provided the site with proposed improvements is well-suited overall for the proposed land use.”**

The proposed rezoning will **HELP ACHIEVE** Policy 4.3.2 because the proposed site **IS WELL SUITED OVERALL** for the development proposed in related Cases 068-S-22 and 070-S-22 for the following reasons:

- *a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
 - (a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
- *b. The Site Assessment (SA) portion of the LESA analysis for the subject property scored 34 out of 200 points.
- *c. The total LESA Score of 121 for the subject property receives the lowest protection rating in LESA, which is “low rating for protection.”
- *d. Agricultural drainage should not be affected because an Agricultural Impact Mitigation Agreement is required for the PV SOLAR ARRAY.
- *e. Regarding wastewater treatment and disposal on the subject property:
 - *(a) No wastewater treatment will be required for the proposed development.
- f. Any proposed Special Use Permit can be evaluated on a case-by-case basis for compatibility with adjacent AG-1 uses separate from this proposed map amendment. However, the map amendment is not needed if there is no Special Use Permit approved, and the County Board is likely to have doubts about approving the map amendment if there is no information regarding an approved Special Use Permit.

- (2) **Policy 4.3.3 states, “The County may authorize a discretionary review development provided that existing public services are adequate to support the proposed development effectively and safely without undue public expense.”**

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The proposed rezoning will *HELP ACHIEVE* Policy 4.3.3 for the following reasons:

- a. The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of these cases, and no comments have been received.

- (3) **Policy 4.3.4 states, “The County may authorize a discretionary review development provided that existing public infrastructure, together with proposed improvements, is adequate to support the proposed development effectively and safely without undue public expense.”**

The proposed rezoning will *HELP ACHIEVE* Policy 4.3.4 for the following reasons:

- a. Regarding compliance with policies having to do with traffic impacts, the ZBA has recommended that the proposed rezoning will *HELP ACHIEVE* Policy 4.2.2 regarding negative effects on rural roads.

- D. Objective 4.7 is entitled “Right to Farm Resolution” and states: “Champaign County affirms County Resolution 3425 pertaining to the right to farm in Champaign County.”

Objective 4.7 has no subsidiary policies. The proposed rezoning will *HELP ACHIEVE* Objective 4.7 because of the following:

- (1) A special condition has been added regarding Right to Farm Resolution 3425.

14. LRMP Goal 5 is entitled “Urban Land Use” and states as follows:
Champaign County will encourage urban development that is compact and contiguous to existing cities, villages, and existing unincorporated settlements.

The proposed amendment will *NOT IMPEDE* the achievement of Goal 5.

15. LRMP Goal 6 is entitled “Public Health and Safety” and states as follows:
Champaign County will ensure protection of the public health and public safety in land resource management decisions.

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

16. LRMP Goal 7 is entitled “Transportation” and states as follows:
Champaign County will coordinate land use decisions in the unincorporated area with the existing and planned transportation infrastructure and services.

Goal 7 has 2 objectives and 7 policies. Objective 7.2 and its subsidiary policies do not appear to be relevant to the proposed rezoning. The proposed amendment will *NOT IMPEDE* Goal 7 for the following reasons:

- A. Objective 7.1 states, “Champaign County will consider traffic impact in all land use decisions and coordinate efforts with other agencies when warranted.”

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The proposed rezoning will **NOT IMPEDE** Objective 7.1 because of the following:

- (1) Policy 7.1.1 states, **“The County will include traffic impact analyses in discretionary review development proposals with significant traffic generation.”**

The proposed rezoning will **NOT IMPEDE** Policy 7.1.1 because:

- *a. Other than construction traffic during project development, traffic increases will not be significant.
- *b. The Somer Township Highway Commissioner was notified of this case, and no comments have been received.
- *c. The City of Urbana was notified of this case. ~~No comments were received regarding traffic volumes.~~ In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated “it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads.”
 - (a) A special condition has been added to Case 070-S-22 to ensure compliance.

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

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

Goal 8 has 9 objectives and 36 policies. Objectives 8.1, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, and 8.9 and the subsidiary policies are not relevant to the proposed amendment. The proposed amendment will **HELP ACHIEVE** Goal 8 for the following reasons:

- A. Objective 8.2 states, **“Champaign County will strive to conserve its soil resources to provide the greatest benefit to current and future generations.”**

The proposed rezoning will **HELP ACHIEVE** Objective 8.2 because of the following:

- (1) Policy 8.2.1 states, **“The County will strive to minimize the destruction of its soil resources by non-agricultural development and will give special consideration to the protection of best prime farmland. Best prime farmland is that comprised of soils that have a Relative Value of at least 91 and includes land parcels with mixed soils that have a Land Evaluation score of 91 or greater as defined in the LESA.”**
- *a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
 - (a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
 - *b. The proposed SOLAR ARRAY will remove land from agricultural production, which can be returned to production should the SOLAR ARRAY be removed.

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18. LRMP Goal 9 is entitled “Energy Conservation” and states as follows:
Champaign County will encourage energy conservation, efficiency, and the use of renewable energy sources.

The proposed amendment will **NOT IMPEDE** the achievement of Goal 9.

19. LRMP Goal 10 is entitled “Cultural Amenities” and states as follows:
Champaign County will promote the development and preservation of cultural amenities that contribute to a high quality of life for its citizens.

The proposed amendment will **NOT IMPEDE** the achievement of Goal 10.

GENERALLY REGARDING THE LASALLE FACTORS

20. In the case of *LaSalle National Bank of Chicago v. County of Cook*, the Illinois Supreme Court reviewed previous cases and identified six factors that should be considered in determining the validity of any proposed rezoning. Those six factors are referred to as the *LaSalle* factors. Two other factors were added in later years from the case of *Sinclair Pipe Line Co. v. Village of Richton Park*. The *Champaign County Zoning Ordinance* does not require that map amendment cases be explicitly reviewed using all of the *LaSalle* factors but it is a reasonable consideration in controversial map amendments and any time that conditional zoning is anticipated. The proposed map amendment compares to the *LaSalle* and *Sinclair* factors as follows:

- A. **LaSalle factor: The existing uses and zoning of nearby property.** Table 1 below summarizes the land uses and zoning of the subject property and nearby properties.

Table 1. Land Use and Zoning Summary

Direction	Land Use	Zoning
Onsite	Agriculture	CR Conservation Recreation (Proposed rezoning to AG-2)
North	Vacant/Residential	CR Conservation Recreation
West	Vacant	CR Conservation Recreation I-1 Light Industry
East	Agriculture	CR Conservation Recreation I-1 Light Industry
South	Industrial	City of Urbana zoning

- B. **LaSalle factor: The extent to which property values are diminished by the particular zoning restrictions.** Regarding this factor:
- (1) It is impossible to establish values without a formal real estate appraisal, which has not been requested nor provided and so any discussion of values is necessarily general.
 - (2) Regarding the effect of the proposed amendment on the value of nearby properties:
 - a. The rezoning will be an agricultural zoning district, and therefore is not expected to affect the value of nearby properties.

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- C. **LaSalle factor: The extent to which the destruction of property values of the plaintiff promotes the health, safety, morals, and general welfare of the public.**
- (1) There has been no evidence submitted regarding property values.
 - (2) If the petitioner is denied the map amendment and special use permit, the property can still be used for agricultural production.
- D. **LaSalle factor: The relative gain to the public as compared to the hardship imposed on the individual property owner.** Regarding this factor:
- (1) The gain to the public would be the creation of solar energy that will help reduce consumption of fossil fuels.
- E. **LaSalle factor: The suitability of the subject property for the zoned purposes.**
- (1) Regarding whether the site is well suited to the proposed land use, the ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** Policy 4.3.2 regarding whether the site with proposed improvements is well-suited overall for the proposed land use.
- F. **LaSalle factor: The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.** Regarding this factor:
- (1) The subject property has been in agricultural production for many years.
 - (2) Agricultural, residential and industrial uses surround the subject property, and most development has occurred south of the subject property in the City of Urbana.
- G. **Sinclair factor: The need and demand for the use.** Regarding this factor:
- (1) The proposed Special Use Permits are for a DATA CENTER and PV SOLAR ARRAY.
 - (2) There has been an increase in demand for data centers for mining cryptocurrency. These types of data centers have high energy demands that are most economically fulfilled with solar energy.
- H. **Sinclair factor: The extent to which the use conforms to the municipality's comprehensive planning.**
- (1) The subject property is within the 1.5-mile extraterritorial jurisdiction of the City of Urbana. The Urbana Comprehensive Plan Future Land Use Map adopted on April 11, 2005 shows the subject property in the "residential" future land use.
 - (2) The ZBA has recommended that the proposed rezoning will **HELP ACHIEVE** the Champaign County Land Resource Management Plan.
- I. Overall, the proposed map amendment **IS** consistent with the LaSalle and Sinclair factors.

REGARDING THE PURPOSE OF THE ZONING ORDINANCE

21. Regarding the purpose of the Zoning Ordinance as established in Section 2 of the Ordinance:

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- *A. Paragraph 2.0 (a) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to secure adequate light, pure air, and safety from fire and other dangers.
- * (1) This purpose is directly related to the limits on building coverage and the minimum yard requirements in the Ordinance and the proposed site plan would be in compliance with those requirements contingent upon approval of the waivers requested in zoning cases 068-S-22 and 070-S-22.
- *B. Paragraph 2.0 (b) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to conserve the value of land, BUILDINGS, and STRUCTURES throughout the COUNTY.
- (1) The requested Map Amendment should not decrease the value of nearby properties.
- * (2) If the petitioner is denied the map amendment and special use permit, the property can still be used for agricultural production.
- *C. Paragraph 2.0 (c) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid congestion in the public streets.
- (1) Probable traffic impacts are reviewed under Policy 7.1.1.
- *a. The traffic generated by the proposed use will be insignificant once construction of the solar arrays is complete.
- *D. Paragraph 2.0 (d) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to lessen and avoid hazards to persons and damage to property resulting from the accumulation of runoff of storm or flood waters.
- * (1) The north part of the subject property is located within a Special Flood Hazard Area and will have to be developed in compliance with the *Special Flood Hazard Area Ordinance*.
- * (2) The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
- *E. Paragraph 2.0 (e) of the Ordinance states that one purpose of the zoning regulations and standards that have been adopted and established is to promote the public health, safety, comfort, morals, and general welfare.
- * (1) In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
- * (2) In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- *F. Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and

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

These three purposes are directly related to the limits on building height and building coverage and the minimum setback and yard requirements in the Ordinance and the proposed site plan would be in compliance with those requirements contingent upon approval of the waivers requested in zoning cases 068-S-22 and 070-S-22.

- *G. Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

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

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

This purpose is directly related to maintaining compliance with the Zoning Ordinance requirements for the District and the specific types of uses and the proposed Special Use will have to be conducted in compliance with those requirements.

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

The proposed Special Uses in related Cases 068-S-22 and 070-S-22 do not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

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

The subject property is bordered on the north by the Saline Branch Drainage Ditch. The proposed project is not expected to worsen stream conditions.

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

*(1) The proposed Special Uses in related Cases 068-S-22 and 070-S-22 do not meet the definition of either “urban development” or “urban land use” as defined in the Appendix to Volume 2 of the Champaign County Land Resource Management Plan.

*(2) The proposed Special Use does not require additional public utilities or infrastructure.

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

The proposed development would remove 13.62 acres from agricultural production on a relatively small tract of land that is adjacent to the City of Urbana.

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

The proposed rezoning and Special Use will not hinder the development of renewable energy sources.

REGARDING SPECIAL CONDITIONS OF APPROVAL

22. Proposed Special Conditions of Approval:

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

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

Conformance with Policy 4.2.3 of the Land Resource Management Plan.

- B. **The Map Amendment is contingent upon approval of Cases 068-S-22 and 070-S-22.**

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

That the Special Use is consistent with the Zoning Ordinance and ZBA recommendations.

DOCUMENTS OF RECORD

1. Applications for Map Amendment, Special Use Permits and Variance received August 1, 2022, with attachments:
 - A Preliminary Site Plan
 - B FEMA Flood Insurance Rate Map Panel 17019C0314D effective October 2, 2013
 - C Inverter and modules design overview
 - D Erosion Control Plan
 - E Decommissioning and Site Reclamation Plan
 - F Pole barn (data center building) conceptual design
 - G Security system information
 - H Plat of Survey
 - I Letter from BTB Contracting dated July 7, 2022
 - J Email from Michael Retterer, Pheasants Forever dated July 6, 2022
 - K Proposed solar farm warning sign example photos
 - L Specifications sheets for Sunny Highpower Peak 3 inverter
 - M Specifications sheets for VSUN545-144BMH-DG solar panels
 - N Standard Agreement for Interconnection with Ameren
 - O Project contact information
 - P Commercial ground lease for subject property
 - Q Alta commitment for title insurance from Chicago Title Insurance Company
 - R Certificate of Liability from ACORD
2. Natural Resources Information Report created by Champaign County Soil and Water Conservation District received August 1, 2022
3. Revised Site Plan received September 27, 2022
4. Preliminary Memorandum dated October 19, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Revised Site Plan received September 27, 2022
 - C Plat of Survey received August 1, 2022
 - D Landscape Plan received October 18, 2022
 - E Map: Special Flood Hazard Area and 2020 elevation contours
 - F Letter from BTB Contracting dated July 7, 2022 and received August 1, 2022
 - G Email from Michael Retterer, Pheasants Forever, dated July 6, 2022 and received August 1, 2022
 - H Erosion Control Plan received August 1, 2022
 - I Decommissioning and Site Reclamation Plan received August 1, 2022
 - J Specifications sheets for Sunny Highpower Peak 3 inverter
 - K Specifications sheets for VSUN545-144BMH-DG solar panels
 - L Terrasart specification sheets
 - M Natural Resources Information Report created by Champaign County Soil and Water Conservation District received August 1, 2022
 - N LRMP Land Use Goals, Objectives, and Policies (available on ZBA meetings website)
 - O LRMP Appendix of Defined Terms (available on ZBA meetings website)
 - P Right to Farm Resolution 3425

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- Q Site Visit Photos taken July 29, 2022
- R Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated October 27, 2022
- S Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated October 27, 2022
- T Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated October 27, 2022

5. Supplemental Memorandum #1 dated December 20, 2022, with attachments:

- A Legal Advertisement**
- B Landscape Plan received December 14, 2022**
- C Email from John Zeman received October 27, 2022**
- D Email from James Cottrell received December 12, 2022**
- E Email from Marcus Ricci received December 16, 2022**
- F Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated December 29, 2022**
- G Revised Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated December 29, 2022**
- H Revised Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated December 29, 2022**

SUMMARY FINDING OF FACT FOR CASE 067-AM-22

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 27, 2022 and December 29, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The proposed Zoning Ordinance map amendment will **HELP ACHIEVE** the Land Resource Management Plan because:
 - A. Regarding Goal 4:
 - (1) It will **HELP ACHIEVE** Objective 4.1 requiring minimization of the fragmentation of farmland, conservation of farmland, and stringent development standards on best prime farmland because of the following:
 - a. Policy 4.1.1, which states that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. The County will not accommodate other land uses except under very restricted conditions or in areas of less productive soils (see Item 13.A.(1)).
 - b. Policy 4.1.6 requiring that the use, design, site and location are consistent with policies regarding suitability, adequacy of infrastructure and public services, conflict with agriculture, conversion of farmland, and disturbance of natural areas (see Item 13.A.(2)).
 - c. Policy 4.1.8 requiring that the County consider the LESA rating for farmland protection when making land use decisions regarding a discretionary development (see Item 13.A.(3)).
 - (2) It will **NOT IMPEDE** Objective 4.2 requiring discretionary development to not interfere with agriculture because of the following:
 - a. Policy 4.2.2 requiring discretionary development in a rural area to not interfere with agriculture or negatively affect rural infrastructure (see Item 13.B.(1)).
 - c. Policy 4.2.3 requiring that each proposed *discretionary development* explicitly recognize and provide for the right of agricultural activities to continue on adjacent land (see Item 13.B.(2)).
 - d. Policy 4.2.4 requiring that all discretionary review consider whether a buffer between existing agricultural operations and the proposed development is necessary (see Item 13.B.(3)).
 - (3) It will **HELP ACHIEVE** Objective 4.3 requiring any discretionary development to be on a suitable site because of the following:
 - a. Policy 4.3.2 requiring a discretionary development on best prime farmland to be well-suited overall (see Item 13.C.(1)).

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- A. Establishing the AG-2 District in this location will **NOT WORSEN** hazards to persons and damage to property resulting from the accumulation of runoff of storm or floodwaters because the subject property is partially in the flood hazard area and a Floodplain Development Permit will be required for the project.
 - B. Establishing the AG-2 District at this location **WILL** help classify, regulate, and restrict the location of the uses authorized in the AG-2 District (Purpose 2.0 (i), see Item 21.G.).
 - C. Establishing the AG-2 District at this location **WILL NOT** impact the protection of natural features (Purpose 2.0 (o), see Item 21.J.).
 - D. Establishing the AG-2 District at this location **WILL NOT** change the agricultural nature or character of the area (Purpose 2.0 (q), see Item 21.L.).
 - E. The proposed rezoning and proposed Special Use **WILL NOT** hinder the development of renewable energy sources (Purpose 2.0(r), see Item 21.M).
4. The proposed Zoning Ordinance map amendment is subject to the following special conditions:
- A. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425 (see attached).**

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

Conformance with Land Resource Management Plan Policy 4.2.3.

- B. **The Map Amendment is contingent upon approval of Cases 068-S-22 and 070-S-22.**

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

That the Special Use is consistent with the Zoning Ordinance and ZBA recommendations.

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FINAL DETERMINATION

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

The Zoning Ordinance Amendment requested in **Case 067-AM-22** should ***{BE ENACTED / NOT BE ENACTED}*** by the County Board in the form attached hereto.

SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- A. **The owners of the subject property hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.**
- B. **The Map Amendment is contingent upon approval of Cases 068-S-22 and 070-S-22.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

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068-S-22 and 069-V-22

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

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

Date: *{~~October 27~~December 29, 2022}*

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

Request: **Case 068-S-22**

Authorize a data center as a Special Use Permit, subject to the proposed rezoning in Case 067-AM-22, with the following waiver:

Authorize a waiver from Section 6.1.3 of the Zoning Ordinance that requires a noise analysis to be performed for a DATA CENTER.

Case 069-V-22

Authorize the following variance for the data center proposed as a Special Use Permit in related case 068-S-22:

Part A: Authorize a variance for 3 parking spaces in lieu of the minimum required 7 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

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

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 27, 2022 and December 29, 2022**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 067-AM-22)

- *1. Petitioner Anthony Donato, via IAG Investments LLC, owns the subject property. He is the sole owner and shareholder in IAG Investments LLC and Donato Solar – Urbana LLC.
- *2. The subject property is a 13.62-acre tract in the Southwest Quarter of the Northwest Quarter of Section 32, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, commonly known as the farmland located on the northwest corner of the intersection of West Oaks Road and Squire Farm Rd, Urbana.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities do not have protest rights in Special Use Permit cases, but are notified of such cases. Notice of the public hearing was sent to the City.
 - *B. The subject property is located within Somer Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- *4. Regarding land use and zoning on the subject property and in the vicinity of the subject property:
 - *A. The 13.62-acre subject property is zoned Conservation Recreation and is in agricultural production.
 - *B. Land to the north of the subject property is zoned CR Conservation Recreation and is residential in use to the northeast and vacant to the north-northwest.
 - *C. Land to the east of the subject property is zoned CR Conservation Recreation and I-1 Light Industry and is in agricultural production.
 - *D. Land to the south of the subject property is inside the City of Urbana and is industrial in use.
 - *E. Land to the west of the subject property is zoned CR Conservation Recreation and I-1 Light Industry and is vacant in use.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

5. Regarding the Site Plan received August 1, 2022:
 - *A. Proposed features include:
 - * (1) Solar arrays cover the majority of the 13.62-acre tract.

- * (2) One 2,000 square foot data center would be located in the south-central part of the subject property.
- * (3) Inverters would be located adjacent to the data center buildings.
- * B. A Revised Site Plan received September 27, 2022 indicates the following changes:
 - * (1) The data center has been reduced to 1,367 square feet.
 - * (2) A 20-foot-wide sanitary sewer easement has been added for the existing UCSD interceptor line running east-west through the subject property.
 - * (3) A seven-foot-tall chain link fence has been added.
 - * (4) Evergreen screening has been added on the south and east sides of the fenced area.
- * C. There are no previous zoning permits for the subject property.
- * D. There are no previous zoning cases for the subject property.
- E. The required variance is as follows:
 - (1) Part A: Authorize a variance for 3 parking spaces in lieu of the minimum required 7 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.
 - (2) Part B: Authorize a variance for no loading berth in lieu of the minimum required 1 loading berth, per Section 7.4.1 C.5. of the Zoning Ordinance.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

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

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- c. Any development site that includes a significant amount (10% or more of the area proposed to be developed) of Agriculture Value Groups 1, 2, 3 and/or 4 soils as determined by the Champaign County LESA system.
 - (4) “DATA CENTER” is a centralized location where computing and networking equipment is concentrated for the purpose of collecting, storing, processing, distributing or allowing access to large amounts of data.
 - (5) “DISCRETIONARY DEVELOPMENT” is a non-agricultural land USE that may occur provided that a SPECIAL USE permit and/or a rezoning request is granted by the BOARD and/or by the GOVERNING BODY following a DISCRETIONARY review process and additionally provided that the USE complies with provisions of the Zoning Ordinance and other applicable ordinances and regulations.
 - (6) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (7) “SPECIAL CONDITION” is a condition for the establishment of a SPECIAL USE.
 - (8) “SPECIAL USE” is a USE which may be permitted in a DISTRICT pursuant to, and in compliance with, procedures specified herein.
 - (9) “USE” is the specific purpose for which land, a STRUCTURE or PREMISES, is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted USE” or its equivalent shall not be deemed to include any NONCONFORMING USE.
 - (10) “VARIANCE” is a deviation from the regulations or standards adopted by this ordinance which the Hearing Officer or the Zoning BOARD of Appeals are permitted to grant.
 - (11) WELL SUITED OVERALL: A discretionary review performance standard to describe the site on which a development is proposed. A site may be found to be WELL SUITED OVERALL if the site meets these criteria:
 - a. The site is one on which the proposed development can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public; and
 - b. The site is reasonably well-suited in all respects and has no major defects.
- B. Section 5.2 authorizes a DATA CENTER as a Special Use only in the AG-2, B-4, and I-1 Zoning Districts.
- C. Section 6.1 contains standard conditions that apply to all SPECIAL USES, standard conditions that may apply to all SPECIAL USES, and standard conditions for specific types of SPECIAL USES. Relevant requirements from Subsection 6.1 are as follows:

- (1) Paragraph 6.1.2 A. indicates that all Special Use Permits with exterior lighting shall be required to minimize glare on adjacent properties and roadways by the following means:
 - a. All exterior light fixtures shall be full-cutoff type lighting fixtures and shall be located and installed so as to minimize glare and light trespass. Full cutoff means that the lighting fixture emits no light above the horizontal plane.
 - b. No lamp shall be greater than 250 watts and the Board may require smaller lamps when necessary.
 - c. Locations and numbers of fixtures shall be indicated on the site plan (including floor plans and building elevations) approved by the Board.
 - d. The Board may also require conditions regarding the hours of operation and other conditions for outdoor recreational uses and other large outdoor lighting installations.
 - e. The Zoning Administrator shall not approve a Zoning Use Permit without the manufacturer's documentation of the full-cutoff feature for all exterior light fixtures.

- D. Section 6.1.3 Schedule of Standard Conditions for Specific Types of Uses states the following regarding a DATA CENTER:
 1. The location of the DATA CENTER must be approved in writing by the relevant Fire Protection District.
 2. The petitioner shall provide the P&Z Department with a written explanation of security features for the DATA CENTER.
 3. DATA CENTERS constructed with PV SOLAR ARRAYS shall be located adjacent to the solar inverter and as far as possible from property lines and adjacent DWELLINGS consistent with good engineering practice.
 4. Noise levels from any DATA CENTER shall be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 Illinois Administrative Code, Subtitle H: Noise, Parts 900, 901, 910).
 - A. Any applicant located within 1,500 feet of a DWELLING shall submit a noise analysis by a qualified professional that demonstrates compliance with the IPCB noise regulations similar to the requirements of Section 6.1.5 I.(3). The analysis shall include manufacturer's sound power level characteristics and other relevant data regarding noise characteristics of proposed DATA CENTER equipment.
 - B. Enforcement shall follow protocols established in Section 6.1.5 I.(4) of the Zoning Ordinance.

- E. Section 7.4 establishes requirements for off-street PARKING SPACES and LOADING BERTHS:

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

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

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(e) Schedule of off-street LOADING BERTHS:

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

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

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

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

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

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

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

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

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

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
 - A. The Petitioner testified on the application, **“Creation of a small data center and storage shed at the proposed site location will enable on-site consumption of energy generated by the proposed solar farm in a way that is most efficient to the utility and the township by improving base load demand.”**
 - B. The petitioner has already purchased the property, which is adjacent to the necessary power lines.

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

8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
 - A. The Petitioner have testified on the application, **“The data center is a fully self-contained storage container and will be painted white with no visible markings. The center will be operated predominantly remotely, emits little to no noise, and secured with camera and automated locks to ensure that there is no detriment to public welfare.”**
 - B. Regarding surface drainage:
 - (1) The Natural Resource Information Report by the Champaign County Soil and Water Conservation District received August 1, 2022, states the following:
 - *a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.

- (a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
 - (b) 3107a Sawmill soils are classified as “very limited” due to ponding, flooding, depth to saturated zone, and shrink-swell properties. “The degree of limitation generally requires major soil reclamation, special design, or intensive maintenance, which in most situations is difficult and costly.”
 - (c) 234A Sunbury soils are classified as “very limited” due to depth to saturated zone and shrink-swell properties. “The degree of limitation generally requires major soil reclamation, special design, or intensive maintenance, which in most situations is difficult and costly.”
 - (d) 291B Xenia soils are classified as “somewhat limited” due to depth to saturated zone and shrink-swell properties. “Special planning, design, or maintenance can overcome this degree of limitation. During some part of the year, the expected performance is less desirable than for soils rated “not limited.”
- C. Regarding impacts on traffic:
- * (1) The subject property is located on West Oaks Road. The pavement surface of West Oaks Road near the subject property is oil and chip and is about 20 feet wide.
 - * (2) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2018 near the subject property. Oaks Road east of Lincoln Avenue had an ADT of 250.
 - * (3) The Somer Township Highway Commissioner was notified of the hearing for this case and no comments have been received.
 - * (4) The City of Urbana was notified of this case. In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated “it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads.”
 - a. A special condition has been added to Case 070-S-22 to ensure compliance.
- D. Regarding fire protection:
- (1) The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of these cases, and no comments have been received.
- E. The northern part of the subject property is located within a mapped floodplain.

- F. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
- (1) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
- G. Regarding outdoor lighting on the subject property, the application received August 1, 2022, does not indicate outdoor lighting. A special condition has been added to ensure compliance for any future outdoor lighting installation.
- H. Regarding wastewater treatment and disposal on the subject property, there is no wastewater treatment and disposal required or planned for the proposed project.
- I. Regarding life safety considerations related to the proposed Special Use:
- (1) Champaign County has not adopted a building code. Life safety considerations are considered to a limited extent in Champaign County land use regulation as follows:
 - a. The Office of the State Fire Marshal has adopted the Code for Safety to Life from Fire in Buildings and Structures as published by the National Fire Protection Association (NFPA 101) 2000 edition, Life Safety Code, as the code for Fire Prevention and Safety as modified by the Fire Prevention and Safety Rules, 41 Ill. Adm Code 100, that applies to all localities in the State of Illinois.
 - b. The Office of the State Fire Marshal is authorized to enforce the Fire Prevention and Safety Rules and the code for Fire Prevention and Safety and will inspect buildings based upon requests of state and local government, complaints from the public, or other reasons stated in the Fire Prevention and Safety Rules, subject to available resources.
 - c. The Office of the State Fire Marshal currently provides a free building plan review process subject to available resources and subject to submission of plans prepared by a licensed architect, professional engineer, or professional designer that are accompanied by the proper Office of State Fire Marshal Plan Submittal Form.
 - d. Compliance with the code for Fire Prevention and Safety is mandatory for all relevant structures anywhere in the State of Illinois whether or not the Office of the State Fire Marshal reviews the specific building plans.
 - e. Compliance with the Office of the State Fire Marshal's code for Fire Prevention and Safety is not required as part of the review and approval of Zoning Use Permit Applications.
 - f. The Illinois Environmental Barriers Act (IEBA) requires the submittal of a set of building plans and certification by a licensed architect that the specific construction complies with the Illinois Accessibility Code for all construction projects worth \$50,000 or more and requires that compliance

with the Illinois Accessibility Code be verified for all Zoning Use Permit Applications for those aspects of the construction for which the Zoning Use Permit is required.

- g. The Illinois Accessibility Code incorporates building safety provisions very similar to those of the code for Fire Prevention and Safety.
- h. The certification by an Illinois licensed architect that is required for all construction projects worth \$50,000 or more should include all aspects of compliance with the Illinois Accessibility Code including building safety provisions very similar to those of the code for Fire Prevention and Safety.
- i. When there is no certification required by an Illinois licensed architect, the only aspects of construction that are reviewed for Zoning Use Permits and which relate to aspects of the Illinois Accessibility Code are the number and general location of required building exits.
- j. Verification of compliance with the Illinois Accessibility Code applies only to exterior areas. With respect to interiors, it means simply checking that the required number of building exits is provided and that they have the required exterior configuration. This means that other aspects of building design and construction necessary to provide a safe means of egress from all parts of the building are not checked.

J. The following is a summary of comments received at the October 27, 2022 ZBA meeting:

- (1) Mr. Harold Scharlau said his biggest concern was with the waiver of the decommissioning and site reclamation plan. He said they were asking for a waiver that included the cost prepared by an Illinois licensed professional engineer prior to the consideration of a Special Use Permit by the ZBA. He was concerned that the Board was not going to have any control over the plan if they applied the requested waivers. He wanted to know where the estimate was going to come from and to him that should be a licensed engineer who could realize the cost otherwise the taxpayers of the county could end up on the hook for the decommissioning of the site. He felt that variance should not be allowed.**
- (2) Mrs. Janet Scharlau said an AG-2 zoning district was there to prevent scattered and discriminate urban development and preserve the agricultural nature within the areas which are predominantly vacant, and which presumably do not demonstrate any significant potential for development. She said to her this is farmland. She said there was no other business around it and the closest business was located on the corner of Lincoln and Oak. She said this has always been farmland and its intended use is farmland. She said she thought it was a perfect example of urban sprawl and what she wanted to try and prevent. She said they need their farmland to feed our people and not to have another business. She said there were a lot of waivers being requested which seemed to her that they should have perhaps looked for a piece of land that better fits what they need rather than find a parcel and ask for waivers. She said there was a piece of business property available at the corner of Lincoln Avenue and Oaks Road. She said there was a big for sale sign on it in a business**

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area contiguous with the City of Urbana. She said it was almost a one lane road, maybe a car and a half. She said she thought it was just not in harmony with what was already present in the area and was currently zoned CR. She felt that even switching CR to AG-2 was not correct because they already had unsightly development creeping up Lincoln Avenue and to plop another one in the middle of a country area seems like it does not follow the county or City of Urbana's plan.

- (3) Mr. Scott Ziegler said he was the tenant farmer for the Squire Farm and had a tract of ground right across from the subject property to the east. He said his concern was the drainage aspect of the project. He said the Board was already aware how the Olympia Road as well as Lincoln Avenue have dissected and cut up the Squire Farm over the past five to seven years. He said the property has had drainage issues ever since. He said there was drainage disrupted but his father had the sense to put the repair maintenance in the land use contract. He said his concern was this CR property, to him the most specific type of zoning one could have in the county for that tract of ground, was being backed up to something else that does not include a floodplain watershed. He said it was his understanding that the solar panels have footings placed in the ground and he was curious what potential harm could be done to the drainage tile present as well as the surface flow of water. He said the easement that crossed the subject property also crosses the corner of the Squire farmland he farms. He said they put that in in 1991 and reshaped the road ditch making the drainage come across the field and not the road ditch. He said he knew from experience that this was not going to be done right and there really needed to be a backup plan for it.
- (4) An email from Pamela Warren was received prior to the meeting, which was summarized during the meeting: Ms. Warren said she was one of the family owners of Squire Farms and she had several comments regarding the different waivers. She said they should be required to complete the noise analysis at the homes, there needed to be a plan in place to remove the solar panels, so she was concerned about the waiver for the decommissioning and site reclamation plan. She said there was a request for a waiver to lessen the difference between the solar inverters and the perimeter and fence, she asked why and thought the Board had a good reason for setting that requirement at 275 feet. She said she was worried about the implications of shortening that distance if it were to go forward as requested by the business. She read that Ms. Warren was concerned about the request for a waiver to submit a landscape plan and felt the new owner should be required to keep up the property outside the data center just like an in-town business would be required to do. She also asked if there was a tax impact after changing the zoning distinction from CR to AG-2. She said she was opposed to the changes to the Champaign County Zoning Ordinance and believed the agricultural area of Champaign County was an asset and should be maintained. She said the waivers would have a negative impact on the area and hoped her feelings would be considered when making the decision.

JK. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as

odor, noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conform to all applicable regulations and standards and preserve the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:
 - A. The Petitioner have testified on the application, “**Yes.**”
 - B. Regarding compliance with the *Zoning Ordinance*:
 - (1) Section 5.2 authorizes a DATA CENTER as a Special Use only in the AG-2, B-4 and I-1 Zoning Districts.
 - (2) Regarding parking on the subject property for the proposed special use:
 - a. As interpreted by the Zoning Administrator, a DATA CENTER requires one parking space per 200 square feet of building area and must provide accessible parking.
 - (a) The proposed building is 1,367 square feet, which requires seven parking spaces. The petitioner has requested a waiver for providing three parking spaces in lieu of seven spaces.
 - (b) The revised Site Plan received September 26, 2022 shows one accessible parking space and area on the south side of the building sufficient for two parking spaces, for a total of three provided parking spaces.
 - (c) The Illinois Accessibility Code requires one accessible parking space. A special condition has been added to ensure compliance with the Illinois Accessibility Code.
 - b. Section 7.4.1 C.4. provides parking SCREENS requirements for commercial establishments. No screening is required for the parking area because it is more than 100 feet from the building restriction line of a lot containing a dwelling.
 - (3) Regarding the required LOADING BERTHS:
 - a. For commercial facilities with 1,000 to 9999 square feet in floor area, one 12 feet by 40 feet LOADING BERTH must be constructed per the requirements in Section 7.4.2.
 - (a) The petitioner has requested a variance from this requirement.
 - C. Regarding compliance with the *Storm Water Management and Erosion Control Ordinance*:
 - (1) The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will

be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.

- (2) A special condition has been added to ensure compliance with the Ordinance.
- D. Regarding the *Special Flood Hazard Areas Ordinance*, the northern part of the subject property is located within the mapped floodplain and is therefore subject to the Ordinance.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and the subject property is in compliance.
- F. The proposed Special Use must comply with the Illinois Accessibility Code, which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.
 - (1) A special condition has been added to ensure compliance with the Illinois Accessibility Code.

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

10. Regarding the *Zoning Ordinance* requirement that the proposed Special Use be in harmony with the general intent and purpose of the Ordinance:
 - A. Regarding the proposed Special Use:
 - (1) In the AG-2 Zoning District, Section 5.2 authorizes a DATA CENTER only via Special Use.
 - B. Regarding whether the proposed Special Use Permit is in harmony with the general intent of the Zoning Ordinance:
 - (1) Subsection 5.1.2 of the Ordinance states the general intent of the AG-2 District as follows (capitalized words are defined in the Ordinance):

The AG-2 Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
 - (2) The types of uses authorized in the AG-2 District are in fact the types of uses that have been determined to be acceptable in the AG-2 District. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
 - C. Regarding whether the proposed Special Use Permit is in harmony with the general purpose of the Zoning Ordinance:

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

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

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

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

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

The proposed Special Use is unlikely to significantly increase traffic.

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

- a. The northern part of the subject property is in the Special Flood Hazard Area and is therefore subject to the *Special Flood Hazard Area Ordinance*.
- b. The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
 - (a) A special condition has been added to ensure compliance.

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

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

- c. ~~Comments on the proposed project can be found under Item 8.J. No comments have been received regarding the proposed Special Use.~~

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

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

- (7) Paragraph 2.0 (i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0 (j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0 (k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0 (l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

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

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

The proposed DATA CENTER will be a new building.

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

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

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

The subject property is bordered on the north by the Saline Branch Drainage Ditch. The proposed project is not expected to worsen stream conditions.

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

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

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

The subject property is a relatively small tract of land in crop production that is adjacent to the City of Urbana and industrial uses.

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

The proposed Special Use will not hinder the development of renewable energy sources.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

11. Regarding the *Zoning Ordinance* requirement that in the case of an existing NONCONFORMING USE the granting of the Special Use Permit will make the use more compatible with its surroundings:
- A. The Petitioner did not provide a response on the application.
 - B. The proposed use is not an existing non-conforming use.

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

12. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. Regarding the proposed waiver for not submitting a noise analysis:

- (1) The petitioner stated on the application that the technology they are using will be immersed in fluid, and therefore will not make noise.

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

13. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. Without the proposed waivers, the petitioner would have to invest time and financial resources to acquire a professional noise study.

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

14. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. Regarding the proposed waiver for not submitting a noise analysis: the applicants do not feel that the noise analysis is necessary because the technology they are using will be immersed in fluid, and therefore will not make noise.

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

15. Regarding the *Zoning Ordinance* requirement that the waivers of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:
 - A. Regarding the proposed waiver for not submitting a noise analysis: the requested variance is 0% of the minimum required, for a variance of 100%.

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

16. Regarding the Zoning Ordinance requirement for a finding that the granting of the waiver (variance) will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The City of Urbana has been notified of this case, and no comments have been received.
 - B. The Somer Township Highway Commissioner has been notified of this case, and no comments have been received.
 - C. The Eastern Prairie Fire Protection District has been notified of this case, and no comments have been received.
 - D. Comments on the proposed project can be found under Item 8.J. No comments have been received regarding the noise analysis.

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

17. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved that are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. The Petitioner has testified on the application, **“Data center and storage shed that will not require an in person presence. Technology allows for remote monitoring with routine visits for maintenance, as needed. Facility will not have a bathroom and will have limited number of windows.”**
 - B. The proposed data center will be monitored remotely and will have only occasional visits by employees for maintenance. There is therefore limited need for parking and no need for a loading berth.

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

18. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. The Petitioner has testified on the application, **“To honor the parking requirements, we would need to reduce the size of the solar farm. The extra 7 spaces would take up a minimum of 1,400 square feet which will reduce our clean energy production output. Seeing as there is no need for 10+ personnel to ever be at the location, given the nature of the center, we do not believe it is a productive use of space.”**
 - B. Without the proposed variance, the petitioner would have to utilize area set aside for the proposed PV SOLAR ARRAY for parking and loading berth areas.

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

19. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. The Petitioner has testified on the application, **“N/A.”**
 - B. The petitioner does not expect any visitors to the DATA CENTER and only occasional visits by employees. They do not anticipate a need for a loading berth.

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

20. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
 - A. The Petitioner did not provide a response on the application.
 - B. Regarding the proposed variance for three parking spaces in lieu of seven parking spaces: the requested variance is 43% of the minimum required, for a variance of 57%.

- (1) Regarding the requirements for the minimum number of parking spaces: the Zoning Ordinance does not clearly state the considerations that underlie the parking requirements. Presumably, the parking space requirements are intended to ensure that employees, customers, and deliverers of goods and services have ample room to park safely in consideration of pedestrians and other roadway users.
 - (2) The petitioner does not anticipate visitors or deliveries at this site. They do not expect many employee visits because the DATA CENTER will be monitored remotely.
- C. Regarding the proposed variance for no loading berth in lieu of one loading berth: the requested variance is 0% of the minimum required, for a variance of 100%.
- (1) Regarding the minimum requirements for the number of loading berths: off-street loading berths are presumably required to minimize congestion in the street when deliveries are made.
 - (2) The petitioner does not anticipate deliveries at this site other than during construction.
- D. The requested variance is not prohibited by the *Zoning Ordinance*.

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

21. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
- A. The Petitioner did not provide a response on the application.
 - B. The Somer Township Road Commissioner has been notified of this variance and no comments have been received.
 - C. The Eastern Prairie Fire Protection District has been notified of this variance and no comments have been received.
 - D. No comments have been received for the proposed variance.

GENERALLY REGARDING ANY OTHER JUSTIFICATION FOR THE VARIANCE

22. Generally regarding any other circumstances that justify the Variance:
- A. The Petitioner has testified on the application, **“Per Champaign County, the 2000 sq. ft. storage shed / data center will qualify as a business use and therefore be subjected to parking space requirements of 1 per every 200 feet and a minimum of one handicap accessible space. Given that there will be no employees, no office space, and no bathrooms at the facility, we find it unnecessary and costly to put 10 parking spaces for the building. We are requesting a variance to reduce the number of parking spaces down from 10 to 3, which is the maximum number of spaces that will fit given the current design of the site.”**

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

23. Regarding proposed special conditions of approval for the Special Use Permit in Case 068-S-22:

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

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

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

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

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

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

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

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

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

- D. **A noise study shall be completed by the petitioner that meets the requirements of 6.1.5 I.3. and that has been approved by the Environment and Land Use Committee.**

The above special condition is required to ensure that:

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

DOCUMENTS OF RECORD

1. Applications for Map Amendment, Special Use Permits and Variance received August 1, 2022, with attachments:
 - A Preliminary Site Plan
 - B FEMA Flood Insurance Rate Map Panel 17019C0314D effective October 2, 2013
 - C Inverter and modules design overview
 - D Erosion Control Plan
 - E Decommissioning and Site Reclamation Plan
 - F Pole barn (data center building) conceptual design
 - G Security system information
 - H Plat of Survey
 - I Letter from BTB Contracting dated July 7, 2022
 - J Email from Michael Retterer, Pheasants Forever dated July 6, 2022
 - K Proposed solar farm warning sign example photos
 - L Specifications sheets for Sunny Highpower Peak 3 inverter
 - M Specifications sheets for VSUN545-144BMH-DG solar panels
 - N Standard Agreement for Interconnection with Ameren
 - O Project contact information
 - P Commercial ground lease for subject property
 - Q Alta commitment for title insurance from Chicago Title Insurance Company
 - R Certificate of Liability from ACORD
2. Natural Resources Information Report created by Champaign County Soil and Water Conservation District received August 1, 2022
3. Revised Site Plan received September 27, 2022
4. Preliminary Memorandum dated October 19, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Revised Site Plan received September 27, 2022
 - C Plat of Survey received August 1, 2022
 - D Landscape Plan received October 18, 2022
 - E Map: Special Flood Hazard Area and 2020 elevation contours
 - F Letter from BTB Contracting dated July 7, 2022 and received August 1, 2022
 - G Email from Michael Retterer, Pheasants Forever, dated July 6, 2022 and received August 1, 2022
 - H Erosion Control Plan received August 1, 2022
 - I Decommissioning and Site Reclamation Plan received August 1, 2022
 - J Specifications sheets for Sunny Highpower Peak 3 inverter
 - K Specifications sheets for VSUN545-144BMH-DG solar panels
 - L Terrasart specification sheets
 - M Natural Resources Information Report created by Champaign County Soil and Water Conservation District received August 1, 2022
 - N LRMP Land Use Goals, Objectives, and Policies (available on ZBA meetings website)
 - O LRMP Appendix of Defined Terms (available on ZBA meetings website)
 - P Right to Farm Resolution 3425

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- Q Site Visit Photos taken July 29, 2022
- R Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated October 27, 2022
- S Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated October 27, 2022
- T Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated October 27, 2022

5. Supplemental Memorandum #1 dated December 20, 2022, with attachments:

- A Legal Advertisement
- B Landscape Plan received December 14, 2022
- C Email from John Zeman received October 27, 2022
- D Email from James Cottrell received December 12, 2022
- E Email from Marcus Ricci received December 16, 2022
- F Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated December 29, 2022
- G Revised Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated December 29, 2022
- H Revised Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated December 29, 2022

SUMMARY DRAFT FINDINGS OF FACT FOR CASES 068-S-22 & 069-V-22

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **068-S-22** held on **October 27, 2022** **and December 29, 2022,** the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit ***{IS / IS NOT}*** necessary for the public convenience at this location because:
 - a. ***The petitioner has already purchased the property, which is adjacent to necessary power lines.***

2. The requested Special Use Permit ***{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}*** is so designed, located, and proposed to be operated so that it ***{WILL NOT / WILL}*** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has ***{ADEQUATE / INADEQUATE}*** traffic capacity and the entrance location has ***{ADEQUATE / INADEQUATE}*** visibility because:
 - a. ***Traffic volumes are not expected to increase significantly other than during construction of the project.***
 - b. ***Notice was sent to the City of Urbana, ~~and no comments have been received.~~ In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated "it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads." A special condition has been added to Case 070-S-22 to ensure compliance.***
 - c. ***Notice was also sent to the Township Supervisor and the Township Road Commissioner, and no comments have been received.***

 - b. Emergency services availability is ***{ADEQUATE / INADEQUATE}*** because:
 - a. ***The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of these cases, and no comments have been received.***

 - c. The Special Use ***{WILL / WILL NOT}*** be compatible with adjacent uses because:
 - a. ***The subject property is surrounded by agriculture, industrial uses, and one dwelling to the northeast that is approximately 750 feet from the DATA CENTER.***

 - d. Surface and subsurface drainage will be ***{ADEQUATE / INADEQUATE}*** because:
 - a. ***The northern part of the subject property is located within a mapped floodplain and will therefore have to comply with the Special Flood Hazard Areas Ordinance.***
 - b. ***A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts, per the Storm Water Management and Erosion Control Ordinance.***

 - e. Public safety will be ***{ADEQUATE / INADEQUATE}*** because:

- a. *The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of these cases, and no comments have been received.*
 - b. *Notice was also sent to the Township Supervisor and Township Road Commissioner, and no comments have been received.*
- f. The provisions for parking will be **{ADEQUATE / INADEQUATE}** because:
- a. *There is no significant increase in traffic expected for the DATA CENTER.*
- g. The property **{IS/IS NOT}** WELL SUITED OVERALL for the proposed improvements **{because*}**:
- a. *The site can be safely and soundly accommodated using simple engineering and common, easily maintained construction methods with no unacceptable negative effects on neighbors or the general public.*
- h. Existing public services **{ARE/ARE NOT}** available to support the proposed SPECIAL USE without undue public expense **{because*}**:
- a. *No additional public services are necessary for the proposed development.*
- i. Existing public infrastructure together with the proposed development **{IS/IS NOT}** adequate to support the proposed development effectively and safely without undue public expense **{because*}**:
- a. *No new public infrastructure is required for the proposed development.*

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

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

{WILL / WILL NOT} be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.

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

5. The requested Special Use ***IS NOT*** an existing non-conforming use.

6. ***SUBJECT TO THE FOLLOWING WAIVER OF STANDARD CONDITIONS:***

- A. Regarding the waiver of the standard condition in Section 6.1.3 of the Zoning Ordinance that requires a noise analysis for the DATA CENTER:

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

a. ***Relevant jurisdictions have been notified of the waiver, and no comments have been received.***

- (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:

a. ***The petitioner stated on the application that the technology they are using will be immersed in fluid, and therefore will not make noise.***

- (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because:

a. ***Without the proposed waivers, the petitioner would have to invest time and financial resources to acquire a professional noise study.***

- (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:

a. ***The applicants do not feel that the noise analysis is necessary because the technology they are using will be immersed in fluid, and therefore will not make noise.***

- (5) The requested waiver **{IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because:

a. ***The petitioner stated on the application that the technology they are using will be immersed in fluid, and therefore will not make noise.***

7. Regarding the variance:

- a. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:

a. ***The proposed data center will be monitored remotely and will have only occasional visits by employees for maintenance. There is therefore limited need for parking and no need for a loading berth.***

- b. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because:
- a. *Without the proposed variance, the petitioner would have to utilize area set aside for the proposed PV SOLAR ARRAY for parking and loading berth areas.*
- c. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:
- a. *The petitioner does not anticipate visitors or deliveries at this site.*
- d. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
- a. *The petitioner does not anticipate visitors or deliveries at this site. They do not expect many employee visits because the DATA CENTER will be monitored remotely.*
- e. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: *notice of the proposed variance was sent to relevant jurisdictions, and no comments have been received.*
- f. The requested variance **{SUBJECT TO THE PROPOSED CONDITION}** **{IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because:
- a. *The petitioner would have to reduce the size of the proposed PV SOLAR ARRAY if they have to provide more parking and a loading berth.*
8. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:**
- A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**
- The special condition stated above is required to ensure the following:
That the proposed Special Use meets applicable State requirements for accessibility.
- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**
- The special condition stated above is required to ensure the following:
That the proposed use is in compliance with the Zoning Ordinance.
- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other**

qualified inspector certifying that the new buildings comply with the following codes: (A) the current edition or most recent preceding edition of the International Building Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.

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

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

- D. **A noise study shall be completed by the petitioner that meets the requirements of 6.1.5 I.3. and that has been approved by the Environment and Land Use Committee.**

The above special condition is required to ensure that:

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

FINAL DETERMINATION FOR CASE 068-S-22

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

The Special Use requested in Case **068-S-22** is hereby *{GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Donato Solar – Urbana LLC**, to authorize the following:

Authorize a data center as a Special Use Permit, subject to the proposed rezoning in Case 067-AM-22, with the following waiver:

Authorize a waiver from Section 6.1.3 of the Zoning Ordinance that requires a noise analysis to be performed for a DATA CENTER.

{SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:}

- A. **The Zoning Administrator shall not issue a Zoning Compliance Certificate for the proposed special use until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**
- B. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate until the petitioner has demonstrated that any new or proposed exterior lighting on the subject property will comply with the lighting requirements of Section 6.1.2.**
- C. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate authorizing occupancy of the proposed buildings until the Zoning Administrator has received a certification of inspection from an Illinois Licensed Architect or other qualified inspector certifying that the new buildings comply with the following codes: (A) the current edition or most recent preceding edition of the International Building Code, and (B) the current edition or most recent preceding edition of the National Electrical Code NFPA 70.**
- D. **A noise study shall be completed by the petitioner that meets the requirements of 6.1.5 I.3. and that has been approved by the Environment and Land Use Committee.**

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

FINAL DETERMINATION FOR CASE 069-V-22

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

The Variance requested in Case **069-V-22** is hereby *{GRANTED/GRANTED WITH SPECIAL CONDITIONS / DENIED}* to the applicant, **Donato Solar – Urbana LLC**, to authorize the following variance in the AG-2 Agriculture Zoning District:

Authorize the following variance for the data center proposed as a Special Use Permit in related case 068-S-22:

Part A: Authorize a variance for 3 parking spaces in lieu of the minimum required 7 parking spaces, per Section 7.4.1 C.3. of the Zoning Ordinance.

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

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date

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070-S-22

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

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

Date: ***{~~October 27, 2022~~December 29, 2022}***

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

Request: **Subject to the rezoning in related Case 067-AM-22 and in addition to the Special Use Permit requested in related Case 068-S-22, authorize the following additional special use permits:**

- A. A Special Use Permit for a second principal use; and**
- B. As the second principal use, authorize a photovoltaic solar array with a total nameplate capacity of 4 megawatts (MW), including access roads and wiring, as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):**

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

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

Part C: A waiver for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet, per Section 6.1.5 D.(6).

Part D: A waiver for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Zoning Board of Appeals, per Section 6.1.5 F.(9)a.(b).iv.

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SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **October 27, 2022** **and December 29, 2022**, the Zoning Board of Appeals of Champaign County finds that:

(Note: asterisk indicates items of evidence that are identical to evidence in Case 067-AM-22)

- *1. Petitioner Anthony Donato, via IAG Investments LLC, owns the subject property. He is the sole owner and shareholder in IAG Investments LLC and Donato Solar – Urbana LLC.
- *2. The subject property is a 13.62-acre tract in the Southwest Quarter of the Northwest Quarter of Section 32, Township 20 North, Range 9 East of the Third Principal Meridian in Somer Township, commonly known as the farmland located on the northwest corner of the intersection of West Oaks Road and Squire Farm Rd, Urbana.
- *3. Regarding municipal extraterritorial jurisdiction and township planning jurisdiction:
 - *A. The subject property is within the one and one-half mile extraterritorial jurisdiction of the City of Urbana, a municipality with zoning. Zoned municipalities have protest rights in Map Amendment cases. Notice of the public hearing was sent to the City.
 - *B. The subject property is located within Somer Township, which does not have a Planning Commission.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

- 4. Regarding land use and zoning on the subject property and in the vicinity of the subject property:
 - *A. The 13.62-acre subject property is zoned Conservation Recreation and is in agricultural production.
 - *B. Land to the north of the subject property is zoned CR Conservation Recreation and is residential in use to the northeast and vacant to the north-northwest.
 - *C. Land to the east of the subject property is zoned CR Conservation Recreation and I-1 Light Industry and is in agricultural production.
 - *D. Land to the south of the subject property is inside the City of Urbana and is industrial in use.
 - *E. Land to the west of the subject property is zoned CR Conservation Recreation and I-1 Light Industry and is vacant in use.

GENERALLY REGARDING THE PROPOSED SPECIAL USE

- 5. Regarding the Site Plan received August 1, 2022:
 - *A. Proposed features include:
 - * (1) Solar arrays cover the majority of the 13.62-acre tract.

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- * (2) One 2,000 square foot data center would be located in the south-central part of the subject property.
- * (3) Inverters would be located adjacent to the data center buildings.
- * B. A Revised Site Plan received September 27, 2022 indicates the following changes:
 - * (1) The data center has been reduced to 1,367 square feet.
 - * (2) A 20-foot-wide sanitary sewer easement has been added for the existing UCSD interceptor line running east-west through the subject property.
 - * (3) A seven-foot-tall chain link fence has been added.
 - * (4) Evergreen screening has been added on the south and east sides of the fenced area.
- * C. There are no previous zoning permits for the subject property.
- * D. There are no previous zoning cases for the subject property.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS

- 6. Regarding authorization for a “PV SOLAR FARM” in the AG-2 Agriculture Zoning District in the *Zoning Ordinance*:
 - A. The County Board amended the Zoning Ordinance by adopting PV SOLAR FARM requirements when it adopted Ordinance No. 2018-4 on August 23, 2018.
 - B. The following definitions from the *Zoning Ordinance* are especially relevant to the requested Special Use Permit (capitalized words are defined in the Ordinance):
 - (1) “ACCESS” is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
 - (2) “AGRICULTURE” is the growing, harvesting and storing of crops including legumes, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry, and the keeping, raising, and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting, and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning, or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include, without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.

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

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In the case of a triangular or gore shaped LOT or where the LOT comes to a point opposite the FRONT LOT LINE it shall mean a line within the LOT 10 feet long and parallel to and at the maximum distance from the FRONT LOT LINE or said tangent.

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

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

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

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

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

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

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

7. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use is necessary for the public convenience at this location:
- A. The Petitioner has testified on the application, **“The proposed solar project is situated within a predominantly agricultural and commercial area located in the northeast corner of the city limits of Urbana, Illinois. Allowing this property to be developed into a solar facility will provide approximately 4.0 MWs of clean, renewable energy to the local electrical grid. In addition, this project will help generate additional income for the landowner, contribute to job creation stimulation through new investments in energy efficiency, renewables, and innovation, and help preserve the State of Illinois’ low energy rates for residents and businesses within the County.”**

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- B. The State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25% of the State's energy coming from renewable sources by the year 2025.
- C. The Illinois Future Energy Jobs Act requires installation of 3,000 MW of new solar capacity by the year 2030.

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

- 8. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use be designed, located, and operated so that it will not be injurious to the District in which it shall be located, or otherwise detrimental to the public welfare:
 - A. The Petitioner has testified on the application, **“The proposed Project would be situated on zoned agricultural land, located away from public areas. Because there are no significant traffic impacts associated with the construction and maintenance of the solar farm and no dangerous or hazardous chemicals associated with solar energy, no anticipated effects to public health, safety, comfort, convenience, morals, or general welfare to the citizens of the County are expected. Lastly, the design of the solar farm poses no risk to harming the land in the floodplain, as we only require posts placed in ground approximately every 4 feet which hold the solar panels in the air.**

According to the National Renewable Energy Laboratory, once constructed, solar projects require little maintenance and no on-site employees. Donato Solar – Urbana LLC intends on utilizing PV modules for this system which use a non-reflective glass and are designed to absorb light rather than reflect it, thus reducing glint and glare to adjacent roadways and residences. Furthermore, the noisiest components of the solar farms are the inverters, which generate a low buzzing sound as they convert electricity from direct current to alternating current. This noise is generally not audible above ambient noise outside of the perimeter fence.”

- B. Regarding surface drainage:
 - (1) The Natural Resource Information Report by the Champaign County Soil and Water Conservation District received August 1, 2022, states the following:
 - *a. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
 - (a) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
 - (b) 3107a Sawmill soils are classified as “very limited” due to ponding, flooding, depth to saturated zone, and shrink-swell properties. “The degree of limitation generally requires major soil reclamation, special design, or intensive maintenance, which in most situations is difficult and costly.”

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- (c) 234A Sunbury soils are classified as “very limited” due to depth to saturated zone and shrink-swell properties. “The degree of limitation generally requires major soil reclamation, special design, or intensive maintenance, which in most situations is difficult and costly.”
 - (d) 291B Xenia soils are classified as “somewhat limited” due to depth to saturated zone and shrink-swell properties. “Special planning, design, or maintenance can overcome this degree of limitation. During some part of the year, the expected performance is less desirable than for soils rated “not limited.”
- (2) The application included a section on “damage to farmland mitigation” that states, “Donato Solar – Urbana LLC agrees to comply with all standard conditions to mitigate damage to farmland. We have spoken with representatives at the Beaver Lake drainage district, and they informed us that there is no known drainage tile on the property that is of concern. As such, there will be no required backfilling and/or relocation of drainage tile. Additionally, all construction / trenching will comply with the topsoil compaction and removal techniques as stipulated. See attached soil erosion plan for more details.”
 - (3) The decommissioning plan received with the application on August 1, 2022, states: “Those areas disturbed during decommissioning activities will be graded as necessary to ensure a uniform slope for property storm water management, prevent the ponding of waters and address any rutting or other depressions caused by removal equipment.”

C. Regarding impacts on traffic:

- * (1) The subject property is located on West Oaks Road. The pavement surface of West Oaks Road near the subject property is oil and chip and is about 20 feet wide.
- * (2) The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Average Daily Traffic (ADT). The most recent ADT data is from 2018 near the subject property. Oaks Road east of Lincoln Avenue had an ADT of 250.
- * (3) The Somer Township Highway Commissioner was notified of the hearing for this case and no comments have been received.
- * (4) The City of Urbana was notified of this case. In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated “it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads.”
 - a. A special condition has been added to ensure compliance.

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- D. Regarding fire protection:
- (1) The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of this case, and no comments have been received.
- E. The northern part of the subject property is located within a mapped floodplain.
- F. The soil on the 13.62-acre subject property is Best Prime Farmland and consists of 3107A Sawmill silty clay loam, 291B Xenia silt loam, and 234A Sunbury silt loam, and has an average Land Evaluation score of 87.
- (1) Even though the average LE Score is less than 91, there is at least 10% that is in agricultural value groups 1 through 4, and therefore the soil is considered Best Prime Farmland.
- G. Regarding outdoor lighting on the subject property, the application received August 1, 2022, does not indicate outdoor lighting. A special condition has been added to ensure compliance for any future outdoor lighting installation.
- H. Regarding wastewater treatment and disposal on the subject property, there is no wastewater treatment and disposal required or planned for the proposed project.
- I. Regarding parking, there is no required parking for the proposed PV SOLAR FARM.
- J. The following is a summary of comments received at the October 27, 2022 ZBA meeting:
- (1) Mr. Harold Scharlau said his biggest concern was with the waiver of the decommissioning and site reclamation plan. He said they were asking for a waiver that included the cost prepared by an Illinois licensed professional engineer prior to the consideration of a Special Use Permit by the ZBA. He was concerned that the Board was not going to have any control over the plan if they applied the requested waivers. He wanted to know where the estimate was going to come from and to him that should be a licensed engineer who could realize the cost otherwise the taxpayers of the county could end up on the hook for the decommissioning of the site. He felt that variance should not be allowed.
 - (2) Mrs. Janet Scharlau said an AG-2 zoning district was there to prevent scattered and discriminate urban development and preserve the agricultural nature within the areas which are predominantly vacant, and which presumably do not demonstrate any significant potential for development. She said to her this is farmland. She said there was no other business around it and the closest business was located on the corner of Lincoln and Oak. She said this has always been farmland and its intended use is farmland. She said she thought it was a perfect example of urban sprawl and what she wanted to try and prevent. She said they need their farmland to feed our people and not to have another business. She said there were a lot of waivers being requested which seemed to her that they should have perhaps looked for a piece of land that better fits what they need rather than find a parcel and ask for waivers. She said there was a piece of business property available at the corner of Lincoln Avenue and Oaks Road. She said there was a big for sale sign on it in a business

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area contiguous with the City of Urbana. She said it was almost a one lane road, maybe a car and a half. She said she thought it was just not in harmony with what was already present in the area and was currently zoned CR. She felt that even switching CR to AG-2 was not correct because they already had unsightly development creeping up Lincoln Avenue and to plop another one in the middle of a country area seems like it does not follow the county or City of Urbana's plan.

- (3) Mr. Scott Ziegler said he was the tenant farmer for the Squire Farm and had a tract of ground right across from the subject property to the east. He said his concern was the drainage aspect of the project. He said the Board was already aware how the Olympia Road as well as Lincoln Avenue have dissected and cut up the Squire Farm over the past five to seven years. He said the property has had drainage issues ever since. He said there was drainage disrupted but his father had the sense to put the repair maintenance in the land use contract. He said his concern was this CR property, to him the most specific type of zoning one could have in the county for that tract of ground, was being backed up to something else that does not include a floodplain watershed. He said it was his understanding that the solar panels have footings placed in the ground and he was curious what potential harm could be done to the drainage tile present as well as the surface flow of water. He said the easement that crossed the subject property also crosses the corner of the Squire farmland he farms. He said they put that in in 1991 and reshaped the road ditch making the drainage come across the field and not the road ditch. He said he knew from experience that this was not going to be done right and there really needed to be a backup plan for it.
- (4) An email from Pamela Warren was received prior to the meeting, which was summarized during the meeting: Ms. Warren said she was one of the family owners of Squire Farms and she had several comments regarding the different waivers. She said they should be required to complete the noise analysis at the homes, there needed to be a plan in place to remove the solar panels, so she was concerned about the waiver for the decommissioning and site reclamation plan. She said there was a request for a waiver to lessen the difference between the solar inverters and the perimeter and fence, she asked why and thought the Board had a good reason for setting that requirement at 275 feet. She said she was worried about the implications of shortening that distance if it were to go forward as requested by the business. She read that Ms. Warren was concerned about the request for a waiver to submit a landscape plan and felt the new owner should be required to keep up the property outside the data center just like an in-town business would be required to do. She also asked if there was a tax impact after changing the zoning distinction from CR to AG-2. She said she was opposed to the changes to the Champaign County Zoning Ordinance and believed the agricultural area of Champaign County was an asset and should be maintained. She said the waivers would have a negative impact on the area and hoped her feelings would be considered when making the decision.

JK. Other than as reviewed elsewhere in this Summary of Evidence, there is no evidence to suggest that the proposed Special Use will generate either nuisance conditions such as odor,

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noise, vibration, glare, heat, dust, electromagnetic fields or public safety hazards such as fire, explosion, or toxic materials release, that are in excess of those lawfully permitted and customarily associated with other uses permitted in the zoning district.

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

9. Generally regarding the *Zoning Ordinance* requirement that the proposed Special Use conforms to all applicable regulations and standards and preserves the essential character of the District in which it shall be located, except where such regulations and standards are modified by Section 6 of the Ordinance:

A. The Petitioner has testified on the application, **“Due to the rural location of the proposed Project Area, adverse impacts to the surrounding areas are expected to be negligible. The general land use surrounding the Project Area is comprised predominantly of agricultural farmland under cultivation of row crops. The proposed Project would remove the land from agricultural production on the Project Area only and will have no effect on surrounding agricultural fields.**

The proposed solar facility will be maintained in association with all applicable ordinances set forth by Champaign County and is small enough in size (4.0 MWs) to not significantly impact the current and/or future operations conducted at the adjacent properties. Furthermore, the solar array will be strategically sited to avoid glint and glare reflection towards adjacent roadways and surrounding areas. As a result, the solar facility is not anticipated to negatively impact the character of this district.”

B. Regarding compliance with the *Zoning Ordinance*, the following evidence was provided:

- (1) Section 5.2 authorizes a PV SOLAR FARM only by a County Board Special Use Permit in the AG-1 and AG-2 Agriculture Zoning Districts. It is not permitted by right in any district.
- (2) There is no required parking.
- (3) Requirements for what must be included in the area of the PV SOLAR FARM Special Use Permit are in subparagraph 6.1.5 B.(1).
 - a. The Revised Site Plan received September 27, 2022 appears to conform to this requirement.
- (4) Requirements which identify certain areas where a PV SOLAR FARM Special Use Permit shall not be located can be found in Subparagraph 6.1.5 B.(2).
 - a. Item 6.1.5 B.(2)a. requires a PV SOLAR FARM to be more than one and one half miles from an incorporated municipality with a zoning ordinance, unless the following is provided:
 - (a) No part of a PV SOLAR FARM shall be located within a contiguous urban growth area (CUGA) as indicated in the most recent update of the CUGA in the Champaign County Land Resource Management Plan, and there shall be a separation of one-half mile from a proposed PV SOLAR FARM to a municipal boundary at the time of application

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for the SPECIAL USE Permit, except for any power lines of 34.5 kVA or less and except for any proposed PV SOLAR FARM substation and related proposed connection to an existing substation.

i. The 13.62-acre subject property is located within one-half mile of the City of Urbana and is within the city's contiguous urban growth area.

ii. The City of Urbana is aware of the proposed project. In an email received December 16, 2022, Marcus Ricci, Planner with the City of Urbana, stated that the City would not be providing comments on the proposed Map Amendment and related Special Use Permit cases, and has not provided comments as of October 19, 2022.

(b) The PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM.

i. The City of Urbana is aware of the proposed project.

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

i. No resolution from the City of Urbana has been received as of ~~October 19~~December 20, 2022.

ii. Notice of the October 27, 2022, ZBA public hearing was sent by P&Z Staff to the City of Urbana on October 12, 2022.

iii. Notice of the December 29, 2022 ZBA public hearing was sent via email by P&Z Staff to the City of Urbana on December 20, 2022.

(5) Requirements regarding interconnection to the power grid can be found in Subparagraph 6.1.5 B.(3), but for a PV SOLAR ARRAY, the following requirements are in lieu of the requirements of Section 6.1.5B.(3):

a. The utility interconnection application must be applied for with the relevant utility and documentation provided at the time of Special Use Permit application.

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- (a) The petitioner included a signed interconnection agreement with their application.
 - b. Documentation must be provided that the utility has accepted the application for the PV SOLAR ARRAY prior to issuance of the Zoning Compliance Certificate.
- (6) Requirements regarding Right to Farm can be found in Subparagraph 6.1.5 B.(4):
“The owners of the subject property and the Applicant, its successors in interest, and all parties to the decommissioning plan and site reclamation plan hereby recognize and provide for the right of agricultural activities to continue on adjacent land consistent with the Right to Farm Resolution 3425.”
 - a. A special condition was added to rezoning Case 067-AM-22 to ensure compliance.
- (7) Requirements regarding minimum lot standards can be found in Subparagraph 6.1.5 C.:

Subparagraph 6.1.5 C. eliminates LOT AREA, AVERAGE LOT WIDTH, SETBACK, YARD, maximum LOT COVERAGE, or maximum LOT AREA requirements on BEST PRIME FARMLAND requirements for a PV SOLAR FARM or for LOTS for PV SOLAR FARM substations and/ or PV SOLAR FARM maintenance and management facilities.
- (8) Requirements regarding minimum separations for PV SOLAR FARMS from other STRUCTURES, BUILDINGS, and USES can be found in Subparagraph 6.1.5 D.
 - a. The revised Site Plan received September 27, 2022, shows the separations between the solar farm fence and adjacent buildings and uses.
 - b. The proposed PV SOLAR FARM complies with all minimum separations in paragraph 6.1.5 D. in the following manner:
 - (a) Subparagraph 6.1.5 D.(1) requires PV SOLAR FARM fencing to be set back from the street centerline a minimum of 40 feet from a MINOR STREET and a minimum of 55 feet from a COLLECTOR STREET and a minimum of 60 feet from a MAJOR STREET unless a greater separation is required for screening pursuant to Section 6.1.5 M.(2)a., but in no case shall the perimeter fencing be less than 10 feet from the RIGHT OF WAY of any STREET.
 - i. The revised Site Plan received September 27, 2022 shows the 40 feet setback from Oaks Road, which is a MINOR STREET.
 - (b) Subparagraph 6.1.5 D.(2) states that for properties participating in the solar farm, there is no required separation from any existing DWELLING or existing PRINCIPAL BUILDING except as required to ensure that a minimum zoning lot is provided for the existing DWELLING or PRINCIPAL BUILDING.

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- a. The subject property meets minimum zoning lot requirements.
- (c) Subparagraph 6.1.5 D.(3)a. states that for any adjacent LOT that is 10 acres or less in area (not including the STREET RIGHT OF WAY):
 - i. For any adjacent LOT that is bordered (directly abutting and/or across the STREET) on no more than two sides by the PV SOLAR FARM, the separation shall be no less than 240 feet from the property line.
 - (i) There is a 0.36-acre lot with a dwelling to the northeast of the subject property, but it is not bordered by the subject property.
 - ii. For any adjacent LOT that is bordered (directly abutting and/or across the STREET) on more than two sides by the PV SOLAR FARM, the separation shall exceed 240 feet as deemed necessary by the BOARD.
 - (i) There are no adjacent lots that are 10 acres or less in lot area and bordered on more than two sides by the PV SOLAR FARM.
- (d) Subparagraph 6.1.5 D.(3)b. states that for any adjacent LOT that is more than 10 acres in area (not including the STREET RIGHT OF WAY), the separation shall be no less than 255 feet from any existing DWELLING or existing PRINCIPAL BUILDING and otherwise the perimeter fencing shall be a minimum of 10 feet from a SIDE or REAR LOT LINE. This separation distance applies to properties that are adjacent to or across a STREET from a PV SOLAR FARM.
 - i. There are no adjacent lots with dwellings that are more than 10 acres in lot area.
- (e) Subparagraph 6.1.5 D.(3)c. states that additional separation may be required to ensure that the noise level required by 35 Ill. Admin. Code Parts 900, 901 and 910 is not exceeded or for other purposes deemed necessary by the BOARD.
 - i. There are no proposed additional separations at this time.
- (f) Subparagraph 6.1.5 D.(4) states that there must be a separation of at least 500 feet from specific types of airport and restricted landing area facilities unless the SPECIAL USE permit application includes results provided from an analysis using the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, Federal Aviation Administration (FAA) Review of Solar Energy Projects on Federally Obligated Airports, or the most recent version adopted by the FAA, and the SGHAT results show no detrimental affect with less than a 500 feet separation.

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- i. Frasca Field is approximately 1,900 feet southeast of the subject property. No glare analysis is required.
- (g) Subparagraph 6.1.5 D.(5) requires a separation of at least 500 feet between substations and transmission lines of greater than 34.5 kVA to adjacent dwellings and residential DISTRICTS.
 - i. There are no new substations or transmission lines of greater than 34.5 kVA within 500 feet of adjacent dwellings or residential DISTRICTS.
- (h) Subparagraph 6.1.5 D.(6) states that electrical inverters shall be located as far as possible from property lines and adjacent DWELLINGS consistent with good engineering practice. Inverter locations that are less than 275 feet from the perimeter fence shall require specific approval and may require special sound deadening construction and noise analysis.
 - i. P&Z Staff has verified that the inverters shown on the revised Site Plan received September 27, 2022, are approximately 97 feet away from the PV SOLAR FARM perimeter fence to the south. A waiver has been requested for this reduced separation distance.
 - ii. Regarding the distance between the inverters and nearby lots with dwellings, based on the revised Site Plan received September 27, 2022:
 - (i) There is a 0.36-acre lot with a residence northeast of the subject property. The closest distance between the property line and an inverter is approximately 600 feet.
- (i) Subparagraph 6.1.5 D.(7) states that separation distances for any PV SOLAR FARM with solar equipment exceeding 8 feet in height, with the exception of transmission lines which may be taller, shall be determined by the BOARD on a case-by-case basis.
 - i. The application stated that the arrays will not exceed 8 feet in height.
- (j) Subparagraph 6.1.5 D.(8) states that PV SOLAR FARM solar equipment other than inverters shall be no less than 26 feet from the property line of any lot more than 10 acres in area.
 - i. The revised Site Plan received September 27, 2022, shows that there is a 45 feet separation between the east property line of the PV SOLAR ARRAY and the nearest array.
- (9) Paragraph 6.1.5 E. contains standard conditions for the design and installation of PV SOLAR FARMS. Compliance with paragraph 6.1.5 E. can be summarized as follows:

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- a. Subparagraph 6.1.5 E.(1) requires certification by an Illinois Professional Engineer or Illinois Licensed Structural Engineer or other qualified professional that that the constructed building conforms to Public Act 96-704 regarding building code compliance and conforms to the Illinois Accessibility Code.
 - (a) The Special Use Permit application packet received August 1, 2022, does not include any buildings. The data center building is independent of the solar arrays.

- b. Subparagraph 6.1.5 E.(2) establishes minimum requirements for electrical components.
 - (a) Part 6.1.5 E.(2)a. states that all electrical components of the PV SOLAR FARM shall conform to the National Electrical Code as amended and shall comply with Federal Communications Commission (FCC) requirements.
 - i. No information was required or submitted for the Special Use Permit application.

 - (b) Part 6.1.5 E.(2)b. states that burying power and communication wiring underground shall be minimized consistent with best management practice regarding PV solar farm construction and minimizing impacts on agricultural drainage tile.
 - i. No information was required or submitted for the Special Use Permit application.

- c. Subparagraph 6.1.5 E.(3) states that the height limitation established in Section 5.3 shall not apply to a PV SOLAR FARM, and requires the maximum height of all above ground STRUCTURES to be identified in the application and as approved in the SPECIAL USE permit.
 - (a) Solar array height will be under eight feet.

- d. Subparagraph 6.1.5 E.(4) requires that a reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 - (a) The petitioner provided example photos of a warning sign as part of the application received August 1, 2022.

- e. Subparagraph 6.1.5 E.(5) requires that no PV SOLAR FARM construction may intrude on any easement or right of way for a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE, an underground water main or sanitary sewer, a drainage district ditch or tile, or any other public utility facility unless specifically authorized by a crossing agreement that has been entered into with the relevant party.
 - (a) The petitioner stated on their application that they spoke with a representative with Beaver Lake Drainage District. ~~who indicated there is no Drainage District tile on the subject property.~~

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- d. Subparagraph 6.1.5 F.(1) establishes a minimum depth of 5 feet for underground wiring or cabling below grade or deeper if required to maintain a minimum one foot of clearance between the wire or cable and any agricultural drainage tile or a lesser depth if so authorized by the Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture as required by paragraph 6.1.5 R.
 - (a) No information was required or submitted for the Special Use Permit application.

- e. Subparagraph 6.1.5 F.(2) establishes requirements for protection of agricultural drainage tile.
 - (a) The petitioner stated on the application, “Donato Solar – Urbana LLC agrees to comply with all standard conditions to mitigate damage to farmland. We have spoken with representatives at the Beaver Lake drainage district, and they informed us that there is no known drainage tile on the property that is of concern. As such, there will be no required backfilling and/or relocation of drainage tile. Additionally, all construction / trenching will comply with the topsoil compaction and removal techniques as stipulated. See attached soil erosion plan for more details.”

 - (b) The petitioner searched for agricultural tile along part of the south property line, and nothing was found.**

- f. Subparagraph 6.1.5 F.(3) requires restoration for any damage to soil conservation practices.
 - (a) No information was required or submitted for the Special Use Permit application.

- g. Subparagraph 6.1.5 F.(4) establishes requirements for topsoil replacement pursuant to any open trenching.
 - (a) The petitioner stated on the application, “All construction / trenching will comply with the topsoil compaction and removal techniques as stipulated.”

- h. Subparagraph 6.1.5 F.(5) establishes requirements for mitigation of soil compaction and rutting.
 - (a) No information was required or submitted for the Special Use Permit application.

- i. Subparagraph 6.1.5 F.(6) establishes requirements for land leveling.
 - (a) No information was required or submitted for the Special Use Permit application.

- j. Subparagraph 6.1.5 F.(7) establishes requirements for a permanent Erosion and Sedimentation Control Plan.
 - (a) The petitioner submitted an Erosion Control Plan; this is not required until submittal of the Zoning Use Permit.

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- k. Subparagraph 6.1.5 F.(8) establishes requirements for retention of all topsoil.
 - (a) No information was required or submitted for the Special Use Permit application.

- l. Subparagraph 6.1.5 F.(9) establishes requirements for minimizing the disturbance to BEST PRIME FARMLAND by establishing a specific type of vegetative ground cover.
 - (a) The petitioner stated on the application: “Following construction of the solar facility, disturbed grounds will be re-established by Pheasants Forever with low growth / low maintenance ground cover. Pheasants Forever will be responsible for inspecting and maintaining the vegetative integrity of the solar facility. The contractor will conduct on-site activities during growing months at the frequency of approximately 2-3 times per year. The contractor is expected to adjust site maintenance frequency based on time of year and weather conditions. To avoid rutting, erosion, and soil compaction, weather forecasts will be consulted, and on-site field inspections will be conducted prior to mowing or cutting to ensure that these practices occur when the site is able to withstand this type of activity. The proposed project may follow practices that: (1) provide native perennial vegetation and foraging habitat which is beneficial to game birds, songbirds, and pollinators; and (2) reduce storm water runoff and erosion at the solar site. To the extent practical, if establishing perennial vegetation and beneficial foraging habitat, the project shall use native plant species and certified seed mixes that are free from noxious or exotic weed seeds.”

- (11) Paragraph 6.1.5 G. contains standard conditions for use of public streets.
 - a. Paragraph 6.1.5 G.(1) requires the Applicant to enter into a signed Roadway Upgrade and Maintenance agreement approved by the County Engineer and State’s Attorney and/or any relevant Township Highway Commissioner prior to the close of the public hearing for the use of public streets, except for any COMMUNITY PV SOLAR FARM for which the relevant highway authority has agreed in writing to waive the requirements, and the signed and executed Roadway Upgrade and Maintenance agreements must provide for certain conditions.
 - (a) The City of Urbana has maintenance jurisdiction over West Oaks Road. No agreement or letter waiving the requirements has been received as of December 20, 2022.
 - i. In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated, “Regarding Oaks Road, the City would conduct pre- and post-construction inspections of the roadway. If we identify damages caused by construction activity, then you would be responsible for the costs of subsequent repairs.”

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- *(b) The City of Urbana was notified of this case. In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated “it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads.”
- i. A special condition has been added to ensure compliance.
- b. Paragraph 6.1.5 G.(2) requires that the County Engineer and State’s Attorney, or Township Highway Commissioner, or municipality where relevant, has approved a Transportation Impact Analysis provided by the Applicant and prepared by an independent engineer that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney, or Township Highway Commissioner, or municipality.
- (a) The City of Urbana has maintenance jurisdiction over West Oaks Road. No agreement or letter waiving the requirements has been received as of ~~October 19, 2022~~December 20, 2022.
- i. In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated, “Regarding Oaks Road, the City would conduct pre- and post-construction inspections of the roadway. If we identify damages caused by construction activity, then you would be responsible for the costs of subsequent repairs.”
- c. Paragraph 6.1.5 G.(3) requires the Applicant or its successors in interest to enter into a Roadway Use and Repair Agreement with the appropriate highway authority for decommissioning the PV SOLAR FARM.
- (a) No information was required or submitted for the Special Use Permit application.
- (12) Paragraph 6.1.5 H. contains standard conditions for coordination with local fire protection districts.
- a. The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. No information has been received from the Fire Chief as of ~~October 19~~December 20, 2022.
- b. No information was provided in the application regarding the petitioner’s cooperation with the Eastern Prairie Fire Protection District in creating an emergency response plan for the proposed solar farm.
- (13) Paragraph 6.1.5 I. contains standard conditions for the allowable noise level.
- a. Subparagraph 6.1.5 I.(1) requires the noise level from each PV SOLAR FARM to be in compliance with the applicable Illinois Pollution Control Board (IPCB) regulations (35 *Illinois Administrative Code* Subtitle H: Noise Parts 900, 901, 910).
- (a) No information was required for the Special Use Permit application.

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- b. Subparagraph 6.1.5 I.(3)a. requires that a SPECIAL USE Permit application for other than a COMMUNITY PV SOLAR FARM shall include a noise analysis.
 - (a) The project size is considered to be a COMMUNITY PV SOLAR FARM and therefore a noise analysis is not required unless the ZBA requires one.

- (14) Paragraph 6.1.5 J. contains standard conditions for endangered species consultation. Regarding compliance with 6.1.5 J.:
 - a. No information was required or submitted for the Special Use Permit application.

- (15) Paragraph 6.1.5 K. contains standard conditions for historic and archaeological resources review. Regarding compliance with 6.1.5 K.:
 - a. No information was required or submitted for the Special Use Permit application.

- (16) Paragraph 6.1.5 L. states: “The PV SOLAR FARM shall be located, designed, constructed, and operated so as to avoid and if necessary mitigate the impacts to wildlife to a sustainable level of mortality.”
 - a. No information was required or submitted for the Special Use Permit application.

- (17) Paragraph 6.1.5 M. contains standard conditions for screening and fencing.
 - a. Subparagraph 6.1.5 M.(1) requires the PV SOLAR FARM to have perimeter fencing that is at least 7 feet tall, with Knox boxes and keys provided at locked entrances, and a vegetation management plan included in the application to control NOXIOUS WEEDS.
 - (a) Perimeter fencing will be 7 feet tall.
 - (b) Regarding a vegetation management plan, the petitioner has requested a waiver to provide a Landscape Plan with weed control plan at a later date. A Landscape Plan was received on December 14, 2022. The Landscape Plan did not include a weed control plan.

 - b. Subparagraph 6.1.5 M.(2) requires a visual screen around the perimeter of the PV SOLAR FARM.
 - (a) Subparagraph 6.1.5 M.(2)a.(a) requires that a visual screen be provided for any part of the PV SOLAR FARM that is visible to and located within 1,000 feet of an existing DWELLING or residential DISTRICT.

 - (b) There is an existing DWELLING to the northeast that is within 1,000 feet of the proposed solar farm; it appears that existing vegetation surrounding the Saline Branch Drainage Ditch provides a sufficient screen.

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- (c) There is an existing DWELLING to the southeast that is within 1,000 feet of the proposed solar farm.
- (ed) The Revised Site Plan Landscape Plan received September 27 December 14, 2022 shows a vegetative screen on the east and south sides of the solar facility.
- (18) Paragraph 6.1.5 N. contains standard conditions to minimize glare from the PV SOLAR FARM. Subparagraph 6.1.5 N.(1) requires that the design and construction of the PV SOLAR FARM shall minimize glare that may affect adjacent properties and the application shall include an explanation of how glare will be minimized.
- a. The petitioner stated in the application, “Donato Solar – Urbana LLC intends to utilize VSUN545-144BMH-DG panels (see attached information on panels) which are constructed of anti-reflective coated tempered glass. In addition, the facility will be sited strategically to face due south (179 degrees) to avoid glint and glare reflection towards adjacent roadways and surrounding areas.”
- (19) Paragraph 6.1.5 O. contains standard conditions for the minimum liability insurance for the PV SOLAR FARM.
- a. No information was required for the Special Use Permit application.
- (20) Paragraph 6.1.5 P. contains other standard conditions for operation of the PV SOLAR FARM.
- a. Subparagraph 6.1.5 P.(1)c. states: “The Application shall explain methods and materials used to clean the PV SOLAR FARM equipment including an estimation of the daily and annual gallons of water used and the source of the water and the management of wastewater. The BOARD may request copies of well records from the Illinois State Water Survey and may require an estimate by a qualified hydrogeologist of the likely impact on adjacent waterwells.”
- (a) The petitioner stated on the application that they expect rainfall to clean the solar panels sufficiently.
- b. Subparagraph 6.1.5 P.(3) states: “The PV SOLAR FARM SPECIAL USE permit application shall include a weed control plan for the total area of the SPECIAL USE permit including areas both inside of and outside of the perimeter fencing. The weed control plan shall ensure the control and/or eradication of NOXIOUS WEEDS consistent with the Illinois Noxious Weed Law (505 ILCS 100/1 et seq.). The weed control plan shall be explained in the application.
- (a) The petitioner stated on the application, “To the extent practical, if establishing perennial vegetation and beneficial foraging habitat, the project shall use native plant species and certified seed mixes that are free from noxious or exotic weed seeds.”

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- (b) The petitioner has requested a waiver to provide a Landscape Plan with weed control plan at a later date. A Landscape Plan was received on December 14, 2022. The Landscape Plan did not include a weed control plan.
- c. All other requirements in Paragraph 6.1.5 P. do not have to be submitted as part of the Special Use Permit application; rather, they will be required during construction, operations, and/or decommissioning phases of the project.
- (21) Paragraph 6.1.5 Q. contains standard conditions for a Decommissioning and Site Reclamation Plan for the PV SOLAR FARM and modifies the basic site reclamation requirements in paragraph 6.1.1 A. Compliance with paragraph 6.1.5 Q. can be summarized as follows:
- a. Subparagraph 6.1.5 Q.(1) of the Ordinance requires a signed Decommissioning and Site Reclamation Plan conforming to the requirements of paragraph 6.1.1 A. of the Ordinance and the remainder of 6.1.5 Q. of the Ordinance. Compliance with the requirements of paragraph 6.1.1 A. of the Ordinance can be summarized as follows:
- (a) Subparagraph 6.1.1 A.1. of the Ordinance requires the petitioner to submit a Decommissioning and Site Reclamation Plan for consideration by the Board.
- i. A draft Decommissioning Plan for the proposed PV SOLAR FARM was received with the application on August 1, 2022.
- (b) Subparagraph 6.1.1 A.2. of the Ordinance requires that the decommissioning and site reclamation plan shall be binding upon all successors of title, lessees, to any operator and/or owner of a NON-ADAPTABLE STRUCTURE, and to all parties to the decommissioning and site reclamation plan. Prior to the issuance of a SPECIAL USE Permit for such NON-ADAPTABLE STRUCTURES, the landowner or applicant shall also record a covenant incorporating the provisions of the decommissioning and site reclamation plan on the deed subject to the LOT, requiring that the reclamation work be performed and that a letter of credit be provided for financial assurance.
- i. The draft Decommissioning Plan received August 1, 2022 does not include the required language.
- (c) Subparagraph 6.1.1 A.3. of the Ordinance requires that separate cost estimates for Section 6.1.1 A.4.a., 6.1.1 A.4.b., and 6.1.1 A.4.c. shall be provided by an Illinois Licensed Professional Engineer and are subject to approval of the BOARD.
- i. The petitioner has requested a waiver to provide detailed cost estimates at a later date.
- ii. Waiver Part A and a special condition were added to ensure compliance.

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- (d) Subparagraph 6.1.1 A.4.d. of the Ordinance requires the Decommissioning and Site Reclamation Plan to provide for provision and maintenance of a letter of credit, as set forth in Section 6.1.1 A.5.
 - i. The draft Decommissioning Plan received August 1, 2022, does not include language regarding this requirement.
 - ii. A waiver allowing approval at a later date and a special condition were added to ensure compliance.
 - (e) Subparagraph 6.1.1 A.5. of the Ordinance requires submission of an irrevocable letter of credit in the amount of 150% of the cost estimate required by 6.1.1 A.3 prior to issuance of a Zoning Use Permit.
 - i. No specifics were required or submitted regarding the Letter of Credit.
 - (f) Subparagraph 6.1.1 A.6. of the Ordinance establishes a time period prior to the expiration of the irrevocable letter of credit during which the Zoning Administrator shall contact the landowner regarding the intent to renew the letter of credit and the landowner shall reply within a certain amount of time.
 - i. No specifics were required or submitted for the Special Use Permit application regarding this requirement.
 - (g) Subparagraph 6.1.1 A.7. of the Ordinance establishes 5 factors to be considered in determining if a NON-ADAPTABLE structure (PV SOLAR FARM in this instance) is abandoned in place and 6.1.1 A.9. of the Ordinance establishes 7 conditions when the Zoning Administrator may draw upon the letter of credit and jointly these 12 circumstances comprise when the Zoning Administrator may draw upon the letter of credit.
 - i. No specifics were required or submitted for the Special Use Permit application regarding this requirement.
 - (h) All other requirements in Paragraph 6.1.5 Q.(1) do not have to be submitted as part of the Special Use Permit application; rather, they will be required during construction, operations, and/or decommissioning phases of the project.
- b. Subparagraph 6.1.5 Q.(2) of the Ordinance requires that in addition to the costs listed in subparagraph 6.1.1 A.4. of the Ordinance, the decommissioning and site reclamation plan shall also include provisions for anticipated repairs to any public STREET used for the purpose of reclamation of the PV SOLAR FARM and all costs related to removal of access driveways.
- (a) The draft Decommissioning Plan received August 1, 2022, does not include reference to making street repairs, but does include removing access driveways.

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- c. Subparagraph 6.1.5 Q.(3) of the Ordinance requires the Decommissioning and Site Reclamation Plan to include additional information.
 - (a) The petitioner has not provided all information required in the draft Decommissioning Plan received August 1, 2022.
 - (b) A waiver allowing approval at a later date and a special condition were added to ensure compliance.
 - d. Subparagraph 6.1.5 Q.(4) of the Ordinance requires that the Applicant shall provide financial assurance in the form of an irrevocable letter of credit as required in paragraph 6.1.1 A.5. of the Ordinance. Regarding compliance with this subparagraph:
 - (a) The petitioner does not mention a letter of credit in the draft Decommissioning Plan received August 1, 2022.
 - e. Subparagraph 6.1.5 Q.(5) of the Ordinance states that in addition to the conditions listed in subparagraph 6.1.1 A.9. the Zoning Administrator may also draw on the funds for a myriad of reasons.
 - (a) No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received.
 - f. Subparagraph 6.1.5 Q.(6) of the Ordinance states that the Zoning Administrator may, but is not required to, deem the PV SOLAR FARM abandoned, or the standards set forth in Section 6.1.5 Q.(5) met, with respect to some, but not all, of the PV SOLAR FARM. In that event, the Zoning Administrator may draw upon the financial assurance to perform the reclamation work as to that portion of the PV SOLAR FARM only. Upon completion of that reclamation work, the salvage value and reclamation costs shall be recalculated as to the remaining PV SOLAR FARM.
 - (a) No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received.
 - g. Subparagraph 6.1.5 Q.(7) of the Ordinance states that the Decommissioning and Site Reclamation Plan shall be included as a condition of approval by the BOARD and the signed and executed irrevocable letter of credit must be submitted to the Zoning Administrator prior to any Zoning Use Permit approval.
 - (a) A special condition has been added to ensure compliance.
- (22) Paragraph 6.1.5 R. contains standard conditions for securing an Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture.
- a. The petitioner did not provide any information on this with their application.

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- b. No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received. A special condition has been added to ensure compliance.
- (23) Paragraph 6.1.5 S. contains standard conditions for a complaint hotline for complaints related to PV SOLAR FARM construction and ongoing operations.
- a. No information regarding this standard condition is required as part of the Special Use Permit application unless the Petitioner seeks a waiver of any part or all of this standard condition, and no waiver request has been received. A special condition has been added to ensure compliance.
- (24) Paragraph 6.1.5 T. contains a standard condition stating that the PV SOLAR FARM County Board SPECIAL USE Permit designation shall expire in 10 years if no Zoning Use Permit is granted.
- (25) Paragraph 6.1.5 U. contains standard conditions establishing additional requirements for application for a PV SOLAR FARM County Board Special Use Permit that supplement the basic requirements for a special use permit application.
- a. Subparagraph 6.1.5 U.(1)a. requires a PV SOLAR FARM Project Summary.
 - (a) A Project Description was included with the application received August 1, 2022.
 - b. Subparagraph 6.1.5 U.(1)b. requires the name(s), address(es), and phone number(s) of the Applicant(s), Owner and Operator, and all property owner(s) for the PV SOLAR FARM County Board SPECIAL USE permit.
 - (a) The application received August 1, 2022, demonstrates compliance with this requirement.
 - c. Subparagraph 6.1.5 U.(1)c. requires a site plan for the SOLAR FARM which includes the following:
 - (a) The approximate planned location of all PV SOLAR FARM STRUCTURES, property lines (including identification of adjoining properties), required separations, public access roads and turnout locations, access driveways, solar devices, electrical inverter(s), electrical transformer(s), cabling, switching station, electrical cabling from the PV SOLAR FARM to the Substations(s), ancillary equipment, screening and fencing, third party transmission lines, meteorological station, maintenance and management facilities, and layout of all structures within the geographical boundaries of any applicable setback.
 - i. The revised Site Plan received September 27, 2022, appears to demonstrate compliance with this requirement.
 - (b) The site plan shall clearly indicate the area of the proposed PV SOLAR FARM County Board SPECIAL USE Permit as required by subparagraph 6.1.5 B.(1).
 - i. The revised Site Plan received September 27, 2022 appears to conform to this requirement.

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- (c) The location of all below-ground wiring.
 - i. The revised Site Plan received September 27, 2022 does not demonstrate compliance with this requirement.
- (d) The location, height, and appearance of all above-ground wiring and wiring structures.
 - i. The revised Site Plan received September 27, 2022 does not demonstrate compliance with this requirement.
- (e) The separation of all PV SOLAR FARM structures from adjacent DWELLINGS and/or PRINCIPAL BUILDINGS or uses shall be dimensioned on the approved site plan and that dimension shall establish the effective minimum separation that shall be required for any Zoning Use Permit. Greater separation and somewhat different locations may be provided in the approved site plan for the Zoning Use Permit provided that that the greater separation does not increase the noise impacts and/or glare that were approved in the PV SOLAR FARM County Board SPECIAL USE Permit. PV SOLAR FARM structures includes substations, third party transmission lines, maintenance and management facilities, or other significant structures.
 - i. There are no adjacent dwellings or principal buildings.
- d. Subparagraph 6.1.5 U.(1)d. requires submittal of all other required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this Ordinance.
 - (a) Compliance with this subparagraph has been shown in previous sections of this Summary of Evidence.
- e. Subparagraph 6.1.5 U.(1)e. requires that the PV SOLAR FARM SPECIAL USE permit application shall include documentation that the applicant has provided a complete copy of the SPECIAL USE permit application to any municipality within one-and-one-half miles of the proposed PV SOLAR FARM as required by Section 6.1.5 B.(2)a.(b).
 - (a) The City of Urbana is aware of the proposed project.
- f. Subparagraph 6.1.5 U.(1)f. requires that a municipal resolution regarding the PV SOLAR FARM by any municipality located within one-and-one-half miles of the PV SOLAR FARM must be submitted to the ZONING ADMINISTRATOR prior to the consideration of the PV SOLAR FARM SPECIAL USE permit by the Champaign County Board or, in the absence of such a resolution, the ZONING ADMINISTRATOR shall provide documentation to the County Board that any municipality within one-and-one-half miles of the PV SOLAR FARM was provided notice of the meeting dates for consideration of the proposed PV SOLAR FARM SPECIAL USE Permit for both the Environment and Land Use Committee and the County Board as required by Section 6.1.5 B.(2)a.(c).

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- (a) No resolution from the City of Urbana has been received as of ~~October 19~~December 20, 2022.
 - (b) Notice of the October 27, 2022, ZBA public hearing was sent by P&Z Staff to the City of Urbana on October 12, 2022.
 - (c) Notice of the December 29, 2022 ZBA public hearing was sent by P&Z Staff via email to the City of Urbana on December 20, 2022.
 - g. Subparagraph 6.1.5 U.(1)g. requires that documentation of an executed interconnection agreement with the appropriate electric utility shall be provided prior to issuance of a Zoning Compliance Certificate to authorize operation of the PV SOLAR FARM as required by Section 6.1.5 B.(3)b.
 - (a) The petitioner included a signed interconnection agreement with their application.
 - h. Subparagraph 6.1.5 U.(2) requires that the Applicant shall notify the COUNTY of any changes to the information provided above that occurs while the County Board SPECIAL USE permit application is pending.
 - (a) The P&Z Department received a revised Site Plan on September 27, 2022 and a Landscape Plan on December 14, 2022.
 - i. Subparagraph 6.1.5 U.(2) requires that the Applicant shall include a copy of the signed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture with the Zoning Use Permit Application to authorize construction. A special condition has been added to ensure compliance.
- C. Regarding compliance with the *Stormwater Management and Erosion Control Ordinance*:
- (1) The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
 - (3) Regarding the SWMEC requirement to protect agricultural field tile, see the review of compliance with paragraph 6.1.5 F. that contains standard conditions to mitigate damage to farmland.
- D. Regarding the Special Flood Hazard Areas Ordinance, the northern part of the subject property is located within a Special Flood Hazard Area and therefore must comply with the *Special Flood Hazard Areas Ordinance*.
- E. Regarding the Subdivision Regulations, the subject property is located in the City of Urbana subdivision jurisdiction and appears to be in compliance.
- F. Regarding the requirement that the Special Use preserve the essential character of the AG-2 Agriculture Zoning districts:

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- (1) The proposed use is a PV SOLAR FARM that is consistent with the essential character of the AG-2 Agriculture districts because it is only authorized in the AG-1 and AG-2 Districts.
- G. The proposed Special Use must comply with the Illinois Accessibility Code which is not a County ordinance or policy and the County cannot provide any flexibility regarding that Code. A Zoning Use Permit cannot be issued for any part of the proposed Special Use until full compliance with the Illinois Accessibility Code has been indicated in drawings.

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

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

The AG-2 Agriculture DISTRICT is intended to prevent scattered indiscriminate urban development and to preserve the AGRICULTURAL nature within areas which are predominately vacant and which presently do not demonstrate any significant potential for development. This DISTRICT is intended generally for application to areas within one and one-half miles of existing communities in the COUNTY.
 - (2) The types of uses authorized in the AG-2 district are in fact the types of uses that have been determined to be acceptable in the AG-2 districts. Uses authorized by Special Use Permit are acceptable uses in the district provided that they are determined by the ZBA to meet the criteria for Special Use Permits established in paragraph 9.1.11 B. of the Ordinance.
 - (3) Paragraph 2.0(a) of the Ordinance states that one purpose of the Ordinance is securing adequate light, pure air, and safety from fire and other dangers.

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

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

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

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

- (6) Paragraph 2.0(d) of the Ordinance states that one purpose of the Ordinance is lessening and avoiding the hazards to persons and damage to PROPERTY resulting from the accumulation of runoff from storm or flood waters.
- a. The northern part of the subject property is located within a Special Flood Hazard Area and therefore must comply with the *Special Flood Hazard Areas Ordinance*.
 - b. The proposed Special Use is not exempt from the *Storm Water Management and Erosion Control Ordinance*. A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and solar array rack posts.
 - c. The Decommissioning Plan received August 1, 2022, states: “Those areas disturbed during decommissioning activities will be graded as necessary to ensure a uniform slope for proper storm water management, prevent the

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ponding of waters and address any rutting or other depressions caused by removal equipment.”

- (7) Paragraph 2.0I of the Ordinance states that one purpose of the Ordinance is promoting the public health, safety, comfort, morals, and general welfare.
 - a. In regards to public safety, this purpose is similar to the purpose established in paragraph 2.0 (a) and is in harmony to the same degree.
 - b. In regards to public comfort and general welfare, this purpose is similar to the purpose of conserving property values established in paragraph 2.0 (b) and is in harmony to the same degree.
- (8) Paragraph 2.0 (f) states that one purpose of the Ordinance is regulating and limiting the height and bulk of BUILDINGS and STRUCTURES hereafter to be erected; and paragraph 2.0 (g) states that one purpose is establishing, regulating, and limiting the BUILDING or SETBACK lines on or along any STREET, trafficway, drive or parkway; and paragraph 2.0 (h) states that one purpose is regulating and limiting the intensity of the USE of LOT AREAS, and regulating and determining the area of OPEN SPACES within and surrounding BUILDINGS and STRUCTURES.

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

- (9) Paragraph 2.0(i) of the Ordinance states that one purpose of the Ordinance is classifying, regulating, and restricting the location of trades and industries and the location of BUILDINGS, STRUCTURES, and land designed for specified industrial, residential, and other land USES; and paragraph 2.0(j.) states that one purpose is dividing the entire COUNTY into DISTRICTS of such number, shape, area, and such different classes according to the USE of land, BUILDINGS, and STRUCTURES, intensity of the USE of LOT AREA, area of OPEN SPACES, and other classification as may be deemed best suited to carry out the purpose of the ordinance; and paragraph 2.0(k) states that one purpose is fixing regulations and standards to which BUILDINGS, STRUCTURES, or USES therein shall conform; and paragraph 2.0(l) states that one purpose is prohibiting USES, BUILDINGS, OR STRUCTURES incompatible with the character of such DISTRICT.

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

- (10) Paragraph 2.0(m) of the Ordinance states that one purpose of the Ordinance is preventing additions to and alteration or remodeling of existing BUILDINGS, STRUCTURES, or USES in such a way as to avoid the restrictions and limitations lawfully imposed under this ordinance.

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

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

The subject property, subject to the proposed Map Amendment, would be located in the AG-2 Agriculture district and is, by definition, a rural use.

- (12) Paragraph 2.0(o) of the Ordinance states that one purpose of the Ordinance is protecting natural features such as forested areas and watercourses.
- a. The subject property is bordered on the north by the Beaver Lake Drainage Ditch. The proposed project is not expected to worsen stream conditions.
- b. In an email received December 12, 2022, James Cottrell, Attorney for Beaver Lake Drainage District, indicated that the District's easement is 75 feet on both sides of the ditch, starting at the top or crest of the ditch. A special condition has been added to ensure the easement is protected.

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

The subject property, subject to the proposed Map Amendment, would be located in the AG-2 Agriculture district and is, by definition, a rural use.

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

The subject property, subject to the proposed Map Amendment, would be located in the AG-2 Agriculture district and is, by definition, a rural use.

- (15) Paragraph 2.0(r) of the Ordinance states that one purpose of the Ordinance is to provide for the safe and efficient development of renewable energy sources in those parts of the COUNTY that are most suited to their development.

The Zoning Ordinance has designated the AG-2 Agriculture Zoning District as an acceptable area to develop PV SOLAR ARRAYS.

GENERALLY REGARDING WHETHER THE SPECIAL USE IS AN EXISTING NONCONFORMING USE

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

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

12. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
 - A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board:
 - (1) Some details that are required to develop the cost estimates might not be available until the Zoning Use Permit phase, when more specific calculations are made by the applicants.
 - (2) A special condition has been added requiring the applicant to submit a Decommissioning and Site Reclamation Plan approved by ELUC at the time of application for a Zoning Use Permit.
 - B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality:
 - (1) The City of Urbana is aware of the proposed project. In an email received December 16, 2022, Marcus Ricci, Planner for the City of Urbana, stated that the City would not be commenting on the map amendment and special use permit cases, and has not provided comments as of October 19, 2022.
 - C. Regarding Part C of the proposed waivers, for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet:
 - (1) The subject property has a sanitary sewer easement that prohibits the placement of the inverters farther north on the property.
 - D. Regarding Part D of the proposed waivers, for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Board:
 - (1) The petitioner continues to work on a Landscape Plan and weed control plan that is customized to the subject property.

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

13. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
 - A. Without Part A of the proposed waivers, the Special Use Permit process might have to be extended in order to have sufficient time to prepare cost estimates and other Decommissioning and Site Reclamation Plan requirements.
 - B. Without Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality: the project could not be constructed on the subject property.

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- C. Without Part C of the proposed waivers, for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet: the sanitary sewer easement would prevent project construction.
- D. Without Part D of the proposed waivers, for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Board: the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.

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

- 14. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
 - A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board: some details such as cost estimates are not available until closer to construction.
 - B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality: the petitioner was not aware of this requirement when they purchased the land for the project.
 - C. Regarding Part C of the proposed waivers, for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet: the petitioner was not aware of this requirement when they purchased the land for the project.
 - D. Regarding Part D of the proposed waivers, for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Board: the petitioner continues to work on the Landscape Plan and weed control plan and will provide it as soon as possible.

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

- 15. Regarding the *Zoning Ordinance* requirement that the waivers of standard conditions of the Special Use will be in harmony with the general purpose and intent of the ordinance:
 - A. Regarding Part A of the proposed waivers, for not providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board: the requested waiver is 0% of the minimum required, for a waiver of 100%.
 - B. Regarding Part B of the proposed waivers, for locating the PV SOLAR ARRAY less than one-half mile from an incorporated municipality and within the contiguous urban growth area of a municipality: the requested waiver is 0% of the minimum required, for a waiver of 100%.

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- C. Regarding Part C of the proposed waivers, for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet: the requested waiver is 35% of the minimum required, for a waiver of 65%.
- D. Regarding Part D of the proposed waivers, for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Board: the requested waiver is 0% of the minimum required, for a waiver of 100%.

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

- 16. Regarding the Zoning Ordinance requirement for a finding that the granting of the waiver (variance) will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. ~~The City of Urbana has been notified of this case, and no comments have been received.~~ The City of Urbana was notified of this case. In an email received October 27, 2022, John Zeman, City of Urbana Engineer, stated “it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period. That is when the road would be most susceptible to damage from heavy axle loads.”
(1) A special condition has been added to ensure compliance.
 - B. The Somer Township Highway Commissioner has been notified of this case, and no comments have been received.
 - C. The Eastern Prairie Fire Protection District has been notified of this case, and no comments have been received regarding the waivers.
 - D. The Beaver Lake Drainage District has been notified of this case, ~~and no comments have been received.~~ In an email received December 12, 2022, James Cottrell, Attorney for the District, indicated that the district’s easement is 75 feet on both sides of the ditch, starting at the top or crest of the ditch. The petitioner is working with the Drainage District to finalize the easement area.
 - E. Considerations of public health, safety, and welfare for the proposed special use are discussed under Item 8 and are also applicable to the proposed waivers.

GENERALLY REGARDING PROPOSED SPECIAL CONDITIONS OF APPROVAL

- 17. Regarding proposed special conditions of approval:
 - A. **The approved site plan consists of the following documents:**
 - **Site Plan sheets received September 27, 2022.**

The above special condition is required to ensure that:

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

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- 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 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 Landscape Plan with Weed Control Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.5 M. and Section 6.1.5 P.(3) of the Zoning Ordinance.**

The above special conditions are required to ensure that:

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

- 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.**

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

The 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.**

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The above special condition is required to ensure that:

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

The 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 ARRAY.

- J. The perimeter security fence shall not encroach into the easement along the Beaver Lake Drainage Ditch and the developer shall provide documentation of that easement with the Zoning Use Permit Application and shall map the easement on the development site plan and shall document the actual location of the fence in an as-built site plan.**

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

To ensure unencumbered access for maintenance of the Beaver Lake Drainage Ditch.

- K. The number of loaded trucks on Oaks Road should be minimized during the spring thaw period.**

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

To minimize susceptibility to road damage from heavy loads.

DOCUMENTS OF RECORD

1. Applications for Map Amendment, Special Use Permits and Variance received August 1, 2022, with attachments:
 - A Preliminary Site Plan
 - B FEMA Flood Insurance Rate Map Panel 17019C0314D effective October 2, 2013
 - C Inverter and modules design overview
 - D Erosion Control Plan
 - E Decommissioning and Site Reclamation Plan
 - F Pole barn (data center building) conceptual design
 - G Security system information
 - H Plat of Survey
 - I Letter from BTB Contracting dated July 7, 2022
 - J Email from Michael Retterer, Pheasants Forever dated July 6, 2022
 - K Proposed solar farm warning sign example photos
 - L Specifications sheets for Sunny Highpower Peak 3 inverter
 - M Specifications sheets for VSUN545-144BMH-DG solar panels
 - N Standard Agreement for Interconnection with Ameren
 - O Project contact information
 - P Commercial ground lease for subject property
 - Q Alta commitment for title insurance from Chicago Title Insurance Company
 - R Certificate of Liability from ACORD
2. Natural Resources Information Report created by Champaign County Soil and Water Conservation District received August 1, 2022
3. Revised Site Plan received September 27, 2022
4. Preliminary Memorandum dated October 19, 2022, with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Revised Site Plan received September 27, 2022
 - C Plat of Survey received August 1, 2022
 - D Landscape Plan received October 18, 2022
 - E Map: Special Flood Hazard Area and 2020 elevation contours
 - F Letter from BTB Contracting dated July 7, 2022 and received August 1, 2022
 - G Email from Michael Retterer, Pheasants Forever, dated July 6, 2022 and received August 1, 2022
 - H Erosion Control Plan received August 1, 2022
 - I Decommissioning and Site Reclamation Plan received August 1, 2022
 - J Specifications sheets for Sunny Highpower Peak 3 inverter
 - K Specifications sheets for VSUN545-144BMH-DG solar panels
 - L Terrasart specification sheets
 - M Natural Resources Information Report created by Champaign County Soil and Water Conservation District received August 1, 2022
 - N LRMP Land Use Goals, Objectives, and Policies (available on ZBA meetings website)
 - O LRMP Appendix of Defined Terms (available on ZBA meetings website)
 - P Right to Farm Resolution 3425

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- Q Site Visit Photos taken July 29, 2022
- R Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated October 27, 2022
- S Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated October 27, 2022
- T Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated October 27, 2022

5. Supplemental Memorandum #1 dated December 20, 2022, with attachments:

- A Legal Advertisement**
- B Landscape Plan received December 14, 2022**
- C Email from John Zeman received October 27, 2022**
- D Email from James Cottrell received December 12, 2022**
- E Email from Marcus Ricci received December 16, 2022**
- F Revised Finding of Fact, Summary Finding of Fact, and Final Determination for Case 067-AM-22 dated December 29, 2022**
- G Revised Summary of Evidence, Finding of Fact, and Final Determination for Cases 068-S-22 and 069-V-22 dated December 29, 2022**
- H Revised Summary of Evidence, Finding of Fact, and Final Determination for Case 070-S-22 dated December 29, 2022**

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning case **070-S-22** held on **October 27, 2022** **and December 29, 2022**, the Zoning Board of Appeals of Champaign County finds that:

1. The requested Special Use Permit *{IS / IS NOT}* necessary for the public convenience at this location because:
 - a. *The State of Illinois has adopted a Renewable Portfolio Standard that established a goal of 25% of the State's energy coming from renewable sources by the year 2025.*
 - b. *The Illinois Future Energy Jobs Act requires installation of 3,000 MW of new solar capacity by the year 2030.*

2. The requested Special Use Permit *{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}* is so designed, located, and proposed to be operated so that it *{WILL NOT / WILL}* be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare because:
 - a. The street has *{ADEQUATE / INADEQUATE}* traffic capacity and the entrance location has *{ADEQUATE / INADEQUATE}* visibility.
 - a. *Traffic volumes are not expected to increase significantly other than during construction of the project.*
 - b. *~~No comments have been received from the~~ The City of Urbana, ~~which~~ has maintenance jurisdiction for West Oaks Road. In an email received October 27, 2022, John Zeman with Urbana Public Works stated, "it would be best to minimize the number of loaded trucks driving on Oaks Road during the spring thaw period." A special condition has been added to ensure compliance.*
 - c. *Notice was also sent to the Township Supervisor and the Township Road Commissioner, and no comments have been received.*

 - b. Emergency services availability is *{ADEQUATE / INADEQUATE}* *{because*}*:
 - a. *The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of this case, and no comments have been received.*

 - c. The Special Use *{WILL / WILL NOT}* be compatible with adjacent uses *{because*}*:
 - a. *The proposed PV SOLAR ARRAY will not be disruptive to surrounding agriculture.*
 - b. *The inverters are located approximately 600 feet from the closest residence to the northeast.*

 - d. Surface and subsurface drainage will be *{ADEQUATE / INADEQUATE}* *{because*}*:
 - a. *The northern part of the subject property is located within a mapped floodplain and will therefore have to comply with the Special Flood Hazard Areas Ordinance.*
 - b. *A Storm Water Drainage Plan and detention basin will be required if more than 16% of the subject property is impervious area, including gravel, buildings, and*

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solar array rack posts, per the Storm Water Management and Erosion Control Ordinance.

- e. Public safety will be **{ADEQUATE / INADEQUATE}** ***{because*}***:
 - a. *The subject property is located approximately 4.3 road miles from the Eastern Prairie Fire Station. The Fire Chief was notified of this case, and no comments have been received.*
 - b. *Notice was also sent to the Township Supervisor and Township Road Commissioner, and no comments have been received.*
- f. The provisions for parking will be **{ADEQUATE / INADEQUATE}** ***{because*}***:
 - a. *A PV SOLAR ARRAY does not require parking.*
 - b. *There is no significant increase in traffic expected for the proposed development.*
- g. The property **{IS/IS NOT}** WELL SUITED OVERALL for the proposed improvements ***{because*}***:
 - a. *The site is reasonably well-suited in all respects and has no major defects.*
- h. Existing public services **{ARE/ARE NOT}** available to support the proposed SPECIAL USE without undue public expense ***{because*}***:
 - a. *No additional public services are necessary for the proposed development.*
- i. Existing public infrastructure together with the proposed development **{IS/IS NOT}** adequate to support the proposed development effectively and safely without undue public expense ***{because*}***:
 - a. *No new public infrastructure is required for the proposed development.*

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

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

- 3a. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** **{DOES / DOES NOT}** conform to the applicable regulations and standards of the DISTRICT in which it is located, subject to approval of the requested waivers.
- 3b. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** **{DOES / DOES NOT}** preserve the essential character of the DISTRICT in which it is located because:
 - a. The Special Use will be designed to **{CONFORM / NOT CONFORM}** to all relevant County ordinances and codes.
 - b. The Special Use **{WILL / WILL NOT}** be compatible with adjacent uses.
 - c. Public safety will be **{ADEQUATE / INADEQUATE}**.
- 4. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** **{IS / IS NOT}** in harmony with the general purpose and intent of the Ordinance because:
 - a. The Special Use is authorized in the District.

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- b. The requested Special Use Permit **{IS/ IS NOT}** necessary for the public convenience at this location.
 - c. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** is so designed, located, and proposed to be operated so that it **{WILL / WILL NOT}** be injurious to the district in which it shall be located or otherwise detrimental to the public health, safety, and welfare.
 - d. The requested Special Use Permit **{SUBJECT TO THE SPECIAL CONDITIONS IMPOSED HEREIN}** **{DOES / DOES NOT}** preserve the essential character of the DISTRICT in which it is located.
5. The requested Special Use **IS NOT** an existing nonconforming use.
 6. Regarding necessary waivers of standard conditions:

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

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

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

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- (1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because:
 - a. ***Relevant jurisdictions have been notified of these cases, and no comments have been received.***
 - (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: ***the City of Urbana is aware of the proposed project and has decided not to provide comments on these casesno comments have been received.***
 - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: ***without the waiver, the project could not be constructed on the subject property.***
 - (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: ***the petitioner was not aware of this requirement when they purchased the land for the project.***
 - (5) The requested waiver **{SUBJECT TO THE PROPOSED SPECIAL CONDITION} {IS/ IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because: ***without the waiver, the project could not be constructed on the subject property.***
- C. Regarding Part C of the proposed waivers, for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet:
- (1) The waiver **{IS/ IS NOT}** in accordance with the general purpose and intent of the Zoning Ordinance and **{WILL/ WILL NOT}** be injurious to the neighborhood or to the public health, safety, and welfare because:
 - a. ***Relevant jurisdictions have been notified of these cases, and no comments have been received.***
 - (2) Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because:
 - a. ***The subject property has a sanitary sewer easement that prohibits the placement of the inverters farther north on the property.***
 - (3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because:
 - a. ***The sanitary sewer easement would prevent project construction.***
 - (4) The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because:

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a. *The petitioner was not aware of this requirement when they purchased the land for the project.*

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

a. *The subject property has a sanitary sewer easement that prohibits the placement of the inverters farther north on the property.*

D. Regarding Part D of the proposed waivers, for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Board:

(1) The waiver {***IS / IS NOT***} in accordance with the general purpose and intent of the Zoning Ordinance and {***WILL / WILL NOT***} be injurious to the neighborhood or to the public health, safety, and welfare because: *the petitioner will still need to provide this document prior to receiving a Zoning Use Permit.*

(2) Special conditions and circumstances {***DO / DO NOT***} exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: *the petitioner continues to work on a Landscape Plan and weed control plan that is customized to the subject property.*

(3) Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied {***WILL / WILL NOT***} prevent reasonable or otherwise permitted use of the land or structure or construction because: *the Special Use Permit process might have to be extended in order to have sufficient time to prepare the required materials.*

(4) The special conditions, circumstances, hardships, or practical difficulties {***DO / DO NOT***} result from actions of the applicant because: *the petitioner continues to work on the Landscape Plan and weed control plan and will provide it as soon as possible.*

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

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

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

- **Site Plan sheets received September 27, 2022.**

The above special condition is required to ensure that:

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

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- 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 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 Landscape Plan with Weed Control Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.5 M. and Section 6.1.5 P.(3) of the Zoning Ordinance.**

The above special conditions are required to ensure that:

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

- 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.**

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

The 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.**

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The above special condition is required to ensure that:

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

The 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 ARRAY.

- J. The perimeter security fence shall not encroach into the easement along the Beaver Lake Drainage Ditch and the developer shall provide documentation of that easement with the Zoning Use Permit Application and shall map the easement on the development site plan and shall document the actual location of the fence in an as-built site plan.**

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

To ensure unencumbered access for maintenance of the Beaver Lake Drainage Ditch.

- K. The number of loaded trucks on Oaks Road should be minimized during the spring thaw period.**

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

To minimize susceptibility to road damage from heavy loads.

FINAL DETERMINATION

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

The Special Use requested in Case **070-S-22** be {**GRANTED/ GRANTED WITH SPECIAL CONDITIONS / DENIED**} to the applicant, **Donato Solar – Urbana LLC**, to authorize the following as a Special Use on land in the AG-2 Agriculture Zoning district:

Subject to the rezoning in related Case 067-AM-22 and in addition to the Special Use Permit requested in related Case 068-S-22, authorize the following additional special use permits:

- A. A Special Use Permit for a second principal use; and**
- B. As the second principal use, authorize a photovoltaic solar array with a total nameplate capacity of 4 megawatts (MW), including access roads and wiring, as a County Board Special Use Permit and including the following waivers of standard conditions (other waivers may be necessary):**

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

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

Part C: A waiver for a separation distance of 97 feet between the solar inverters and the perimeter fence in lieu of the minimum required 275 feet, per Section 6.1.5 D.(6).

Part D: A waiver for not submitting a Landscape Plan with weed control plan prior to consideration of the Special Use Permit by the Zoning Board of Appeals, per Section 6.1.5 F.(9)a.(b).iv.

{ SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS: }

- A. The approved site plan consists of the following documents:**
 - Site Plan sheets received September 27, 2022.**
- 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.**

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- 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.**
- D. **The Zoning Administrator shall not authorize a Zoning Use Permit until the petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement with the Illinois Department of Agriculture per the requirements established in Paragraph 6.1.5 R. of the Zoning Ordinance.**
- E. **A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost estimate prepared by an Illinois Professional Engineer.**
- F. **A Landscape Plan with Weed Control Plan that has been approved by ELUC is required at the time of application for a Zoning Use Permit that complies with Section 6.1.5 M. and Section 6.1.5 P.(3) of the Zoning Ordinance.**
- 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. **Certification by an Illinois Professional Engineer that any relocation of drainage district tile conforms to the Champaign County Storm Water Management and Erosion Control Ordinance.**
 3. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of "A" by S&P or a rating of "A3" by Moody's or a rating of "A-" by Kroll Bond Rating Agency within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM including any access road that conforms to the relevant Natural Resources Conservation Service guidelines and that is prepared by an Illinois Licensed Professional Engineer.**
 5. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
 6. **The telephone number for the complaint hotline required by 6.1.5 S.**
 7. **Any updates to the approved Site Plan per the requirements provided in Section 6.1.5 U.1.c.**

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8. **A noise study that meets the requirements of 6.1.5 I.3. that has been approved by the Environment and Land Use Committee.**

- 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.**

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

- J. **The perimeter security fence shall not encroach into the easement along the Beaver Lake Drainage Ditch and the developer shall provide documentation of that easement with the Zoning Use Permit Application and shall map the easement on the development site plan and shall document the actual location of the fence in an as-built site plan.**

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K. The number of loaded trucks on Oaks Road should be minimized during the spring thaw period.

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

SIGNED:

ATTEST:

Ryan Elwell, Chair
Champaign County Zoning Board of Appeals

Secretary to the Zoning Board of Appeals

Date