

MINUTES OF SPECIAL MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61802**

DATE:	July 13, 2023	PLACE:	Shields-Carter Meeting Room
			1776 East Washington Street
TIME:	6:30 p.m.		Urbana, IL 61802

MEMBERS PRESENT: Ryan Elwell, Larry Wood, Lee Roberts, Tom Anderson, Nolan Herbert, Thaddeus Bates

MEMBERS ABSENT: Jim Randol

STAFF PRESENT: John Hall, Susan Burgstrom, Stephanie Berry

OTHERS PRESENT: Elizabeth Reddington, Mike Boyer, Greg Miller, Chris Hausman

1. Call to Order

The meeting was called to order at 6:30 p.m.

2. Roll Call and Declaration of Quorum

The roll was called, and a quorum declared present.

Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign the Witness Register.

3. Correspondence – None

4. Minutes – June 15, 2023

Mr. Wood moved, seconded by Mr. Roberts, to approve the June 15, 2023 minutes. The motion passed by voice vote.

5. Audience participation with respect to matters other than cases pending before the Board - None

6. Continued Public Hearings - None

7. New Public Hearings

Cases 099-S-23 and 100-S-23

Petitioners: Champaign Solar 1 LLC, a subsidiary of Pivot Energy Development LLC, via agent Merrill Read, and participating landowner JHBLT LLC

Request:

Case 099-S-23

Authorize a Community PV Solar Farm with a total nameplate capacity of 5 megawatts (MW),

1 including access roads and wiring, in the AG-1 Agriculture Zoning District, and including the
2 following waivers of standard conditions:

3
4 **Part A: A waiver for a separation distance of 1.07 miles from a municipality with a zoning
5 ordinance in lieu of the minimum required 1.5 miles, per Section 6.1.5 B.(2)a.**

6
7 **Part B: A waiver for a fence that is less than 10 feet from the side property line in lieu of the
8 minimum required 10 feet, per Section 6.1.5 D.(3)b.**

9
10 **Part C: A waiver for a separation distance of 42 feet between the solar inverters and the
11 perimeter fence in lieu of the minimum required 275 feet, per Section 6.1.5 D.(6).**

12
13 **Part D: A waiver for not entering into a Roadway Upgrade and Maintenance Agreement or
14 waiver therefrom with the relevant local highway authority prior to consideration of the
15 Special Use Permit by the Board, per Section 6.1.5 G. of the Zoning Ordinance.**

16 **Other waivers may be necessary.**

17
18 **Case 100-S-23**

19 **Authorize a second Community PV Solar Farm with a total nameplate capacity of 5 megawatts
20 (MW), including access roads and wiring, in the AG-1 Agriculture Zoning District, and including
21 the following waivers of standard conditions:**

22
23 **Part A: A waiver for a separation distance of 1.07 miles from a municipality with a zoning
24 ordinance in lieu of the minimum required 1.5 miles, per Section 6.1.5 B.(2)a.**

25
26 **Part B: A waiver for a separation distance of 10 feet between the solar inverters and the
27 perimeter fence in lieu of the minimum required 275 feet, per Section 6.1.5 D.(6).**

28
29 **Part C: A waiver for not entering into a Roadway Upgrade and Maintenance Agreement or
30 waiver therefrom with the relevant local highway authority prior to consideration of the
31 Special Use Permit by the Board, per Section 6.1.5 G. of the Zoning Ordinance.**

32 **Other waivers may be necessary.**

33
34 **Location: A 90-acre tract of land west of the Canadian National Railroad in the Southeast Quarter
35 of Section 34, Township 17 North, Range 8 East of the Third Principal Meridian in
36 Pesotum Township, and commonly known as farmland owned by JHBLT LLC on the
37 north side of CR 0N.**

38
39 Mr. Elwell informed the audience that anyone wishing to testify for any public hearing tonight must sign
40 the witness register for that public hearing. He reminded the audience that when they sign the witness
41 register, they are signing an oath.

42
43 Mr. Elwell informed the audience that this Case is an Administrative Case, and as such, the County allows
44 anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for a
45 show of hands from those who would like to cross-examine, and each person will be called upon. He said
46 that those who desire to cross-examine do not have to sign the Witness Register but will be asked to clearly
47 state their name before asking any questions. He noted that no new testimony is to be given during the
48 cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
49 exempt from cross-examination. He asked if the petitioners would like to outline the nature of their

1 request.

2
3 Elizabeth Reddington, 625 W Adams, Floor 19, Chicago, said she would highlight both LLCs at once.
4 She said she is on the Pivot Energy development team. She said Pivot Energy is headquartered in Denver,
5 Colorado, but she works out of their Illinois office in Chicago with a handful of their team members who
6 work throughout the state. She said today they are there to propose a solar farm energy system that would
7 be utilized as a community solar garden. She said community solar gardens were set up through the State
8 of Illinois renewable portfolio standard goal to achieve 50% renewable generation by 2035. She said prior
9 to the Clean Energy Jobs Act that was enacted in September 2021, it was also under the Future Energy
10 Jobs Act previous to that. She said the new Clean Energy Jobs Act that created this new RPS standard
11 created this program in order for them to allow solar access for those who cannot put solar on their own
12 homes or businesses for whatever reason that may be. She said community solar is a way for people to be
13 able to benefit from renewable energy and to subscribe to the energy that is produced from these proposed
14 projects. She said Pivot Energy intends to subscribe residences, low- to moderate-income residences,
15 businesses, local municipalities, schools, commercial and industrial customers to be subscribers to these
16 gardens. She said there is no up-front cost to subscribers for this project and you just pay month to month
17 for the kilowatt hours that are produced that are subscribed to your account and you just pay it monthly
18 like your typical Ameren bill.

19
20 Ms. Reddington said the first project on the docket is Champaign Solar 1, which is currently zoned AG-1
21 Agriculture. She said the project area is 35.2 acres. She said they have designed the system to be 60 feet
22 from the county road and 1,000 feet from non-participating residences. She said the fencing they have
23 included would be the required eight feet chain-link or game fence and they also have proposed a 16-foot-
24 wide gravel access road. She said the system size is 6.25 megawatts DC and 5 megawatts AC with an
25 estimated production of 10.59 gigawatt hours per year, which is the equivalent of about 1,400 homes. She
26 said this type of project will not require utilities, so they will not require sewage, waste, irrigation, or
27 potable water services, trash, or recycling services. She said the only utility they would be utilizing is their
28 interconnection agreement to the existing distribution lines through Ameren Illinois there. She said they
29 completed their SHPO and DNR review, and there is no threatened or endangered species found on this
30 site.

31
32 Ms. Reddington said similar to Champaign Solar 1, Champaign Solar 1b is just north of that project. She
33 said it will also exceed the 60 feet from the county road because it's set farther back. She said the project
34 area is 26.7 acres on land that is also zoned AG-1 Agriculture. She said it is the same system size as
35 described in Champaign Solar 1, and again they would not be creating or having the need for utilities for
36 that site. She said the technology they are proposing are Tier 1 panel manufacturers. She said the panels
37 are made of non-reflective technology to absorb the sunlight; they will be dark blue or black in color. She
38 said they are also proposing string inverter technology, not large or central inverter units, which is why
39 that inverter setback request is included because string inverters are placed throughout the array, which
40 tend to end up being closer to the fence line. She said these motors and the generation noise cannot be
41 heard outside of the project fence. She said they were also going to be proposing single-axis trackers. She
42 said this is a steel racking system where the steel racking is pile-driven into the ground and the panels will
43 shift east to west throughout the day and follow the sun. She said the driven pile foundations do not require
44 additional concrete footing and the motors of that racking as well cannot be heard from outside of the
45 fence. She said they will be interconnecting to the existing distribution lines that run along and adjacent
46 to the project area, and they chose the site due to its proximity to the substation. She said this technology
47 in general does not create pollution or emissions on site, it's low profile and quiet equipment with minimal
48 site visits after construction. She said the next slide she had were photos of the equipment, typical
49 transformer type equipment that would be on the concrete pad and their weather station, which is how

1 they remotely monitor the system. She said they are also proposing native vegetation and pollinator seed
2 mixes, so they would like to participate in the Pollinator Scorecard with IDNR and the program that is
3 associated with the State of Illinois. She said this local vegetation is created and intended for pollinator
4 species and it's also going to be a low-growth native vegetation that would reduce their requirement for
5 mowing and lowers their cost to operate. She said it's a great habitat for bees, butterflies, and supports the
6 neighboring agriculture in the area. She said this will also help create a site that is resilient to droughts
7 and intense downpours, and it aids in their stormwater management plans when they go to submit for
8 building permit.
9

10 Ms. Reddington said the State of Illinois has enacted property tax assessment law for how gardens like
11 this would be subject to property taxes. She said based off of that property tax methodology, this parcel
12 once operational as a commercial solar energy system would produce about \$49,000 per year based off of
13 the two projects being built. She said over a 20-year lifespan, that brings the total to about \$613,000 in
14 property taxes total. She said if it were to remain ag, it's \$4,000 per year and during that 20-year total it
15 would have been about \$97,000, so there is a substantial amount of property taxes increase based off of
16 these systems without the need for large public spending. She said this site would again be interconnecting
17 to existing distribution lines that are adjacent to the property. She said their site access road would be
18 available for the utility, for construction, and also for emergency vehicle access. She said because of the
19 nature of the site currently, there is minimal grading required. She said also for a project of this size, they
20 are looking at about a 6-month construction timeline and that includes everything from their civil and
21 fencing all the way through to utility testing. She said during commercial operations, they will be remotely
22 monitoring the site through the weather station to ensure that the system is producing properly and to what
23 they had expected. She said the maintenance visits will be about two to four times per year, and that's to
24 ensure that everything is operating properly, and the site is well-maintained. She said they would also be
25 providing local training to fire and EMTs, and a Knox box will be located on the fence for access by those
26 emergency responders and also to the utility. She said they would be subject to the Illinois Department of
27 Agriculture's AIMA, so they will be executing that agreement with them 40 days prior to construction,
28 and also based off of their lease agreement with the landowner, they are required to restore the site to its
29 original condition after they decommission the site. She said they would also salvage any materials
30 possible, and they would remove all equipment including underground equipment from the site upon
31 decommissioning and it will be up to the landowner whether or not they want to keep the access road.
32

33 Ms. Reddington said overall, the economic benefits to the community are that those that elect to subscribe
34 to the garden can achieve electricity savings, particularly for residences and small businesses. She said
35 there would be a property tax revenue increase without large public spending on any utility expansions.
36 She said they are also working with workforce training and development programs regionally based off
37 of the Clean Energy Jobs Act requirements. She said they are actively hiring from those that have
38 graduated from solar energy installation programs, whether it's union-sponsored or other community
39 college classes that are encouraging those that want to learn about solar installation, they will be hiring
40 from those programs based on the adjustable block program that they participate in. She said they would
41 also be providing a community donation of \$50,000 toward a regional non-profit that reduces energy
42 burden or encourages those workforce development training programs. She said that is Pivot's business
43 model where they reach out to community members, whether it's through the County or maybe locally
44 more towards where the actual project is to identify those partners to create either scholarship programs
45 or provide energy assistance. She said that concluded the presentation and she offered to answer any
46 questions.
47

48 Mr. Elwell thanked Ms. Reddington and asked if there were any questions from the Board.
49

1 Mr. Wood asked if they had gotten the waiver on the roadway upgrade and maintenance agreement from
2 Tuscola.

3
4 Ms. Reddington said they have been working with Danny Cleveland and Tom Crane. She said Douglas
5 County and Tuscola Township Highway Commissioners are actually redoing their road agreement
6 template, so once that is completed that is what they will be executing with them. She said they have
7 reviewed their plans, they don't have any comments about where the access is located, it's just that they
8 are working with an attorney to update their template for the road agreement.

9
10 Mr. Wood said he's assuming this application was put in before the State changed the law, so we're basing
11 this on the old rules.

12
13 Ms. Burgstrom said yes, that's correct, and that's in agreement with the company of course.

14
15 Mr. Herbert asked who had the sheep.

16
17 Ms. Reddington said they work with a national co-op that provides contacts and organizes all the local
18 grazers that they have. She said if there are any grazers locally that you're aware of, they can have them
19 work with their co-op, but they will be regional grazers from Illinois to come to the site. She said they're
20 very excited to start rolling that out with their sites where the jurisdiction allows of course. She said they
21 have grazers already under contract and they're ready to go once these can be built.

22
23 Mr. Herbert asked what the price of a membership on that is.

24
25 Ms. Reddington said she did not know but would be able to provide that through Ms. Burgstrom.

26
27 Mr. Herbert asked if there are any known drainage tiles in that area and what are they going to do about
28 correcting or preserving those.

29
30 Ms. Reddington said their aim is to preserve them; there are extensive drain tiles and also communicating
31 with the landowner they have a rough estimate of where the drain tiles are and because of that they've
32 already completed a drain tile survey and they're just waiting for the actual final report. She said the field
33 site visit has been completed and located; they'll just get the GIS coordinates back so they can start their
34 final design to avoid any drain tiles.

35
36 Mr. Anderson referred to Attachment J and said that Janet Boyer agreed to waive the 1,000 feet minimum
37 requirement for screening and the house sits 945 feet from the solar farm.

38
39 Ms. Reddington asked if this was in reference to the letter from the landowner about their home.

40
41 Mr. Anderson said yes.

42
43 Ms. Reddington said this waiver is from the landowner because they are the nearest resident to the project
44 area, so this is them as a participating member of the project waiving the residential setback requirement.

45
46 Mr. Anderson asked her to explain that again.

47
48 Ms. Reddington said the landowner is the person that wrote the waiver, so they are waiving the 1,000-foot
49 setback requirement because they are the participating party to this project as the landowner. She said they

1 are just stating here that they are waiving the 1,000-foot setback requirement from their residence.

2
3 Mr. Anderson asked if Ms. Reddington was satisfied with that.

4
5 Ms. Reddington said yes, they are satisfied with them waiving that requirement.

6
7 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
8 anyone would like to cross-examine this witness.

9
10 Mr. Chris Hausman said he is a drainage commissioner that is in the affected area of this proposed project,
11 and he is also a landowner that butts up against this property. He said this whole project just came to their
12 attention with the mailing of the notice of this tonight, so this has kind of been quickly put together. He
13 said the question he has is in regard to the waiver for a fence that's less than ten feet from the proposed
14 property line that's being asked for. He said he's not sure if this is the proper procedure to ask a question
15 in regard to that, but he would like to respond to the impact of what a waiver of that fence line setback
16 being an adjacent landowner to this project, so he has a comment for that and then also as a drainage
17 commissioner.

18
19 Mr. Elwell said he could ask Ms. Reddington about the fence, and then if he would like to provide
20 testimony from the landowner's perspective or from the drainage district perspective, then he would have
21 him come to the witness microphone after he asks his questions.

22
23 Mr. Hausman said the question he would ask is of this notice that they received in the mail under waiver
24 part B, is there a waiver that would allow a fence to be constructed up to the property line.

25
26 Ms. Reddington said she may need assistance about the ordinance there, but they have the flexibility of
27 this site to move their fence line at this point as proposed, so if she's understanding his question correctly,
28 he's wanting the fence to be 10 feet from the property boundary; they can do that.

29
30 Mr. Hausman said is this not a waiver asking not to have a ten-foot buffer.

31
32 Ms. Burgstrom said yes it is, and there's a couple of different things she wants to address about that. She
33 said the first is after Staff printed all the packet that you have before you, Ms. Reddington contacted Staff
34 and told her that they are able to go ahead and move that fence so that there is ten feet, that's not a problem.
35 She said the specific area we're talking about, if you look at Attachment B, there's a site plan. She said in
36 the very southeast corner of the project area, that is the only location where they were suggesting was
37 going to be less than ten feet, but since then Pivot Energy has said that they will meet that requirement so
38 that waiver part B for Case 099-S-23 is no longer necessary.

39
40 Mr. Hausman said their property would be right to the north of this property butting up against this. He
41 said if he could make a comment about a fence being on the property line versus a ten-foot setback, that's
42 appropriate.

43
44 Mr. Elwell told Mr. Hausman he will be able to give testimony later, but right now it's just cross-
45 examination.

46
47 Mr. Hausman asked if they had contacted anybody in the drainage district currently that is affected by this
48 property that is within the Pesotum Consolidated Drainage District. He asked if there had been contact
49 with any of the commissioners or to the drainage attorney about the location of the district tiles.

- 1 Ms. Reddington said no, they have not contacted the drainage district, but they have performed a drainage
2 tile survey to locate all drainage tiles.
3
- 4 Ms. Burgstrom said from a Staff point of view, we sent Mr. Hausman a notice on June 28th, and we also
5 sent one to the Hays Branch Drainage District, which to her understanding is also related. She said they
6 haven't heard anything from the notices, but they did make contact.
7
- 8 Mr. Herbert asked if any district tiles run through the property and will there be any solar panels directly
9 on top of any district tile.
10
- 11 Ms. Reddington said she cannot answer that definitively without seeing the survey, but they would be
12 avoiding any drain tiles with their posts based off of the survey.
13
- 14 Mr. Herbert said but as a district tile, that tile is going to have to be maintained if a breakage happens. He
15 said you can't fix that tile when there's solar panels directly on top of it regardless of where the posts are.
16 He said you have to be able to dig that back up and maintain that.
17
- 18 Ms. Reddington said if they damage any tiles, they are responsible for replacing and maintaining them
19 with their AIMA requirement through their agreement with the Department of Agriculture.
20
- 21 Mr. Herbert said he can understand them being responsible for damaging them during construction, but
22 he's saying at any given point that tile may collapse and have to be maintained five years from now. He
23 said it has to be able to be accessed.
24
- 25 Ms. Reddington said in the event that there would be a requirement to fix drain tiles that may be damaged
26 from something on the adjacent property, they would be the company to contact to gain access to the site
27 for any sort of maintenance or replacement from outside parties that would need access.
28
- 29 Mr. Herbert said he has dealt with contacting outside parties to fix a tile that they broke, and he still has
30 one tile that he's five years in the waiting. He said the district's responsibility is to maintain that tile; will
31 they have direct access to that tile.
32
- 33 Ms. Reddington said they can provide the district access inside of their fence in order to fix any tiles that
34 they're needing to fix and maintain if they need to get inside the fence.
35
- 36 Mr. Wood asked if that would also include removing any solar panels and/or other infrastructure in order
37 to be able to get to that.
38
- 39 Ms. Reddington said they wouldn't be able to take out the racking or anything that would affect the
40 production of the system.
41
- 42 Mr. Herbert said in his opinion there needs to be a direct right-of-way on top of any district tile in order
43 for maintenance to occur at any point. He said racking cannot cross over that; he guesses that would be
44 his take on that. He said so a site map of where the tile and district tile is would be a pretty good help.
45
- 46 Ms. Reddington said this is what they have completed with their field study, is locating all of those tiles
47 and they can work with the commission to identify which ones are the drainage commission's
48 responsibility and they can also provide the site plan of where those are and how it impacts the design and
49 if they need to change something they can absolutely coordinate with the commission.

1 Mr. Hausman asked how deep the pilings are that are being driven into the ground.
2
3 Ms. Reddington said it varies by site and they're usually not deeper than 15 feet.
4
5 Mr. Hausman said so you're saying they could be 15 feet deep.
6
7 Ms. Reddington said it's highly unlikely, but she's seen in some regions in this area where they at least
8 test up to 15 feet. She said the requirement is usually less than 15 feet for racking.
9
10 Mr. Elwell thanked Ms. Reddington and said he would now move to Mr. Boyer.
11
12 Mr. Michael F. Boyer, 305 E Sale St, Tuscola, said essentially they're going into this project for
13 diversification of income and also with the push toward greener forms of energy that's actually been one
14 of their incentives. He said the people who actually do farm their land for them have put some solar
15 equipment in at their land as well.
16
17 Ms. Burgstrom asked if he was the owner of the land where they want to put the solar farms.
18
19 Mr. Boyer said yes.
20
21 Mr. Elwell asked if there were any questions from the Board or Staff.
22
23 Mr. Hall asked Mr. Boyer if he was satisfied that all the drainage tiles that he suspects have been identified.
24
25 Mr. Boyer said assuming that the survey of it has gone through, which Ms. Reddington told him was going
26 to be done, then he thinks that is probably successful and sufficient.
27
28 Mr. Hall asked if he had seen a copy of that survey.
29
30 Mr. Boyer said he had not.
31
32 Mr. Hall thanked Mr. Boyer.
33
34 Mr. Elwell asked if anyone would like to cross-examine Mr. Boyer. Seeing no one, he thanked Mr. Boyer.
35 He invited Mr. Hausman to testify.
36
37 Mr. Chris Hausman, 948 CR 100N, Pesotum, said he'd just like to say again being a little bit late to the
38 information and not being able to study it, being an adjacent landowner and also a drainage district
39 commissioner, it brought this to attention. He said the first thing that came to mind was protection of the
40 drainage tile. He said they do have a district tile that runs through this property that is important to make
41 sure that the tile can be maintained for future generations and for the productivity of the farmland that is
42 counting on that drainage tile to drain. He said the one thing that got to his attention was that was the
43 waiver of the ten-foot buffer for a fence line. He said as agricultural land, whenever you have a
44 neighboring property it's important to be able to literally farm up to the line or actually even hang over.
45 He said in the farming community, usually whoever is there first usually hangs over a little bit, keeping
46 the weeds and things in check. He said if a fence is constructed on the actual line, that pretty well is going
47 to be almost a taking of some of the property that abuts against that property just because you're going to
48 have to stay back from that fence. He said the other issue in regard to allowing a fence to be put on a
49 property line would be weed control and maintaining the weed pressure that's going to inevitably come

1 from that fence line. He said we see that with the Canadian National railroad and having to continually
2 fight the weed pressure that sometimes occurs there. He said he is not personally opposed to solar energy;
3 he thinks it's an appropriate mix of our future energy needs, and he has no problem whatsoever. He said
4 the concern he has is the protection of the drainage tile, making sure the district would have access to
5 those tiles to maintain them in the future and then also that the fence would be at least a ten-foot setback
6 from the property line so the owner of the property can maintain that and not put the onus of that on the
7 adjacent landowners. He said that's all that he wanted to add to this process.

8
9 Mr. Elwell asked Mr. Hausman if he could describe some of the equipment he uses to repair tile.

10
11 Mr. Hausman said yes, on these existing tile lines, most of them are probably 100 years old or more, clay
12 tile, and they do break quite frequently. He said they can break for numerous reasons. He said when they
13 do break, the choice of equipment to repair that is usually going to be a backhoe that can go in and excavate
14 the area and then be able to replace those broken clay tiles with normally a plastic preform tile. He said
15 we normally don't go back with clay tile anymore, but perforated plastic tile would be the choice for
16 repair. He said normally it's going to be a backhoe or some type of equipment that can dig and excavate;
17 most of these tiles are going to be anywhere from three to four feet deep. He said the concern of a piling
18 going 15 feet deep would definitely interact with that tile. He said it does get their attention when there's
19 construction above a district tile, that would be concerning.

20
21 Mr. Elwell said it's his understanding that the ten-foot setback will be in the southeastern section adjacent
22 to the railroad. He said he understands the concern if it's planted field by planted field, but it seems like
23 here you have the little ditch and the railroad, so is knowing that now compared to reading this half hour
24 ago different.

25
26 Mr. Hausman said he would have no concern of the fence being up against the railroad property, but when
27 he got the notice, there was no way of him knowing where the proposed variance was being asked for, so
28 he was assuming it would be the entire perimeter of the project, which would then affect him as a
29 landowner. He said if we're only talking about a fence up against the Canadian National railroad, he thinks
30 there's currently a fence there, an old metal fence, and so that would have no impact.

31
32 Mr. Elwell asked Mr. Hall if there is a standard right-of-way when it comes to a tile – is it ten feet, 20 feet
33 on either side.

34
35 Mr. Hall said it's much greater for a drainage district tile. He said we just had that in a recent meeting,
36 and he can't recall but he thinks it's at least 40 feet total easement. He said we'd want to know what the
37 drainage district needs, but he thinks it's 40 feet.

38
39 Mr. Elwell asked Mr. Hausman if it was 40 feet, don't quote us, but if it was that type of area, is that
40 something that you as the drainage district commissioner think is in the ballpark.

41
42 Mr. Hausman said yes, if we had a 40 foot easement over the top of the district tile, that would be in his
43 opinion, as one commissioner and he hasn't heard back from their drainage attorney on the questions just
44 raised, but in his opinion as a commissioner a 40-foot easement would be adequate to maintain that district
45 tile.

46
47 Mr. Elwell asked if there were any other questions from the Board.

48
49 Mr. Wood asked if there is just one district tile that runs through there, and does Mr. Hausman know

1 approximately where it is.
2

3 Mr. Hausman said the maps that we currently have show one district tile and it is identified in the map
4 Mr. Wood showed him. He said there's also an area that is shaded that's noted as a wetland; they did some
5 surface drainage work there. He said there's also tile in the bottom of that and whether or not it's a district
6 tile or not, sometimes district tiles are vague – are they a district tile or are they a private tile. He said
7 that's a question for a drainage attorney to answer; a lot of times they will go by the size of the tile, and
8 usually if it's something greater than a ten- to twelve-inch tile, it'll be considered a district tile. He said
9 anything smaller than that would be considered a private tile. He said in that case in that tile going up, he
10 thinks there was some drainage work done and that tile could be considered a district tile. He said the one
11 that actually goes kind of east and west does go under the Canadian National railroad and is dependent on
12 draining some of the district acres from the land east of that property. He said it does flow into there; the
13 land is to the east but it's flowing to the west. He said there's been quite a bit of work done in the recent
14 past of getting that outlet under the Canadian National railroad to make sure it's not broken down. He said
15 that was done in the last 15-20 years ago. He said for their knowledge, there's just one district tile on their
16 maps with the possibility of another one being considered.
17

18 Mr. Elwell asked if there were any further questions.
19

20 Mr. Bates asked when notification was sent out and when did Mr. Hausman receive his.
21

22 Mr. Hausman said they were actually gone on vacation over the 4th and got back here just a few days ago
23 and it was in the mail. He said they left on the 2nd of July, and it was also right after the big derecho wind
24 event, they were out of power, but mail-wise they had not received anything when they had left. He said
25 it was in their mail when they got home. He said he also had a conversation with the tenant farmer, and
26 he was the one who gave him a heads up on what was going on. He said he was aware of the proposed
27 project before he received anything in the mail.
28

29 Mr. Bates asked when notification was sent out. He said this could possibly impact the village as well
30 because of their meetings and timing.
31

32 Ms. Burgstrom said the notice went out June 28th.
33

34 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
35 anyone would like to cross-examine Mr. Hausman. He called Mr. Boyer to come forward.
36

37 Mr. Michael Boyer asked if it made any sense to replace that district tile in the section where the solar
38 project is happening before it happens so that way the maintenance would be reduced on it during its
39 proposed lifetime; in other words, there is the tile that is outside of it, once again you could get into those
40 with a backhoe, but the section that is right over the tile, wouldn't that reduce maintenance in the long run
41 or at least help.
42

43 Mr. Herbert said his next question would be what would happen if you cut off a tile that was tied into the
44 old one unaware and did not replace that tile with a new one, now all the solar panels are up and now you
45 have a washout that's affecting the neighbor. He said he guesses he would rather see leaving the old tile
46 where it's at.
47

48 Mr. Boyer said he's not a tiling person, he was just throwing that out there as a thought.
49

1 Mr. Hausman said as a drainage commissioner, if a proposed project like this would be willing to pick the
2 cost up of replacing that existing tile with new perforated tile, yes, that would definitely be a benefit and
3 probably keep from any future maintenance issues. He said keep in mind any new tile, especially after the
4 construction, there's always going to be the connections of the old tile to that new tile that is inevitably
5 going to fail at times right after you tie in and that usually happens within six months of that new
6 construction that you're going to find washout because of the tying in. He said it looks like the site map
7 of the proposed project is staying away from that district tile; it appears that it's off of it. He said if that's
8 the case, he thinks that would be the main concern as a drainage commissioner if they just don't build
9 over the top of that district tile. He said then after that it would be you as a landowner and your private
10 tile if those pilings hit that. He said the thing about a tile survey, he's not sure how that's going to be
11 accomplished, but to find every drainage tile out in a field is quite a project. He said there's different ways
12 of doing it, but he's not for sure how they're actually surveying this, but he's been farming for 40 years,
13 and he'll occasionally find a tile that he didn't even know existed, and it's an active tile. He said they
14 didn't keep very good records of when these private tiles were laid. He said but they are important, and a
15 lot of times it comes to your attention when things start to back up and aren't draining, then you go out
16 and start probing and then you find out there is a tile and it's usually broken down. He said in this case,
17 you're going to be restricted to be able to fix those private tiles when it does happen, and it could have a
18 major impact on how the water is going to drain off of the farm.

19

20 Mr. Roberts asked if this wetland on the map is a waterway or a farmable swale.

21

22 Mr. Hausman said it's farmable. He said about six years ago, there was some surface drainage done, which
23 they just went in and kind of connected the low areas to get the surface water to get off; in addition to the
24 drainage tile it just kind of speeded up the process. He said that area that was identified was kind of
25 reshaped and allowed some of these ponds, we called them old buffalo wallers back in the day, and the
26 water just stood there and there was nothing you could do. He said getting it channeled to where it would
27 move was what occurred on that. He said it is farmed and you wouldn't even be able to notice it with the
28 grading that they work with; it doesn't take much of a cut to get water to move. He said they try to keep
29 it at a minimum.

30

31 Mr. Roberts said so the main concern then is the feeder tile that goes into this farmable swale.

32

33 Mr. Hausman said if it was a property that was being developed, yes, it would be a concern, especially if
34 it has recently been pattern tiled. He said a lot of ground today, every hundred feet, a tile line is laid out
35 there and you want to protect that asset of what's been invested. He said in Mr. Boyer's case, he doesn't
36 know whether he has pattern tiled a lot.

37

38 Mr. Boyer said the old map from Crane said that he had. He said the only thing he showed was the district
39 tile going through there, so that's literally all he saw going through there.

40

41 Mr. Hausman said in that case, there would just be a lot of what he would consider the old clay tiles that
42 are feeding into that. He said a lot of them had catch basins that have been removed, they would just be
43 the old clay private tiles is how they drained that.

44

45 Mr. Roberts asked if he had any implosions that he knew of in the old clay tile recently.

46

47 Mr. Hausman said on this one yes. He said he thought Kurt had just said, and actually he hasn't gone
48 through his mail, but he just had a bill from their drainage contractor and he hasn't opened it up yet, but
49 he's assuming he thinks the contractor said there were two holes or one on this particular tile that needed

1 to be repaired. He said their drainage contractor had come in and patched and repaired them. He said it
2 happens all the time; they break down, they're old, and they're going to fail.

3
4 Mr. Roberts said he used to be a drainage commissioner, so he understands.

5
6 Mr. Elwell asked if there were any other questions from the Board or Staff. Seeing none, he asked if
7 anyone would like to cross-examine the witness.

8
9 Ms. Reddington said she didn't have a question, but more of a response.

10
11 Mr. Elwell said he would finish cross-examination and then she could step back up. He thanked Mr.
12 Hausman and invited Ms. Reddington to testify.

13
14 Ms. Reddington said in response to the drainage tile, she has been able to look through her files. She said
15 they have received files from the landowner of existing tiles he knew of, again from the contractor Crane
16 that would have installed them. She said as discussed, they are already extensively avoiding the east to
17 west drainage; they have been considering it as a wetland and as such it has quite a big setback already.
18 She said there is also another drainage that runs north south that they're also set back from to east, so
19 they're not crossing that. She said upon the results of the completed drain tile study that they have initiated
20 already, they can coordinate with the drainage tile district and adjust their site plan based on any required
21 easements that particular drainage district has. She said if it's 40 feet, 30, 20 from that drainage tile, they
22 would be required to adhere to those easements based on the drainage commissioners and attorney
23 feedback and also based off of their title insurance. She said they've pulled title insurance and in the State
24 of Illinois, especially for ag-zoned land, drainage requirements are a part of their title insurance policy, so
25 they won't be able to get insurance on this site until they work with the drainage commissioners. She said
26 so they will adhere to and coordinate on any requirements from the drainage district.

27
28 Mr. Elwell asked if there were any questions from the Board.

29
30 Mr. Herbert asked when the tile survey was done.

31
32 Ms. Reddington said that the tile survey has started; all of their sites got commissioned at once by the
33 surveyors, so they started in April.

34
35 Mr. Herbert asked what crop is on the land right now.

36
37 Ms. Reddington said she believes it's corn, she hasn't been to the site lately.

38
39 Mr. Roberts confirmed that it is corn.

40
41 Mr. Herbert asked how they are surveying the tile – are they probing out each individual tile.

42
43 Ms. Reddington said they do. She said they also look for any existing documentation of the location, they
44 do use any public data. She said they do use a backhoe if necessary to locate tiles, and they also probe and
45 use underground cameras to locate the tiles, so they definitely dig and search for the tiles.

46
47 Mr. Herbert said he guesses his question is, if that started in April when the crops were planted in April,
48 how much did they get done, how do you have that completed.

49

1 Ms. Reddington said they have worked on all the sites that they're on, so there's over 12 that they've
2 completed. She said she just hasn't received the full GIS report back yet. She said they've initiated all
3 work prior to full crop.

4
5 Mr. Elwell asked if there were any questions from the Board or Staff. Seeing none, he asked if anyone
6 would like to cross-examine Ms. Reddington. Seeing no one, he asked if anyone else would like to testify.
7 Seeing no one, he asked if there was a motion to close the Witness Register.

8
9 **Mr. Roberts moved, seconded by Mr. Wood, to close the Witness Register. The motion carried by**
10 **voice vote.**

11
12 Mr. Elwell asked how the Board would like to proceed.

13
14 Mr. Herbert said he's not sure that without seeing the completed tile location and approval from the
15 drainage district, or communications with the drainage district, that we can proceed, in his opinion.

16
17 Mr. Bates asked if there had been a response from Pesotum.

18
19 Ms. Burgstrom said no.

20
21 Mr. Bates said assuming they meet once a month, he doesn't know how we can expect a response from
22 Pesotum or any others in what he counted as ten business days that mail could have been received with
23 the 4th of July in there as well.

24
25 Mr. Elwell asked Ms. Reddington if she knew when they might expect the tile survey to be signed, sealed
26 and delivered.

27
28 Ms. Reddington said the drain tile survey will be completed within the month, at max two months. She
29 requested that it be a condition of the Special Use Permit that they would not be able to continue until the
30 drain tile survey is completed and shared with the drainage district. She said as far as the nearest town
31 Pesotum, they did submit their application to them, and they did not receive any response, so that
32 submission would have been prior to them submitting to the County and they haven't received any
33 feedback so that would have been over a month ago. She said they will have a completed drain tile survey
34 within the next month.

35
36 Mr. Elwell asked Mr. Hall if that needs to be on the site plan or can it be outside of the site plan.

37
38 Mr. Hall asked if he was talking about the protections for the drainage district tile and any other tile.

39
40 Mr. Elwell said yes.

41
42 Mr. Hall said he thinks everyone is better off with it being on the site plan so the expectations are very
43 clear and enforceable. He said based on Ms. Reddington's testimony, and by the way, this is the first time
44 two important things happened in this hearing. He said it's the first time a Decommissioning and Site
45 Reclamation Plan was submitted in time for the ZBA to review it. He said second, it's the first time a
46 petitioner has already started a drain tile survey without being prompted by the Board, and that is
47 wonderful. He said but as a Zoning Administrator, he would much rather see everything on the site plan
48 knowing that everyone is satisfied and that he's not going to get a call from a drainage district
49 commissioner later saying what are you guys doing approving this without our comments. He said he

1 wanted to thank Ms. Reddington for everything she's done, but his impression is we're just a little shy at
2 this point, even though she's exceeded what anyone else has ever done.

3
4 Mr. Herbert said he doesn't think he's comfortable moving forward until we have that on the site plan and
5 in agreeance with the drainage commissioners. He said everyone he thinks needs some time on that to get
6 that talked through and make sure that's the correct method or way of going about what they're doing. He
7 said that's assuming the tile is even affected at this point, but until we know that he doesn't think we can
8 move forward on that yet.

9
10 Mr. Elwell told Ms. Reddington that he has no doubt that they will be good stewards of the land and stuff
11 like that, but he does echo the concerns of having it in hand, so he does agree with Mr. Herbert.

12
13 Mr. Herbert said he had one more thing to add. He asked Mr. Hall if we have any sort of requirements on
14 the fence to be used.

15
16 Mr. Hall said we don't have any rigid requirements; we've been encouraging everyone to date to use what
17 he thinks Ms. Reddington has referred to as a game fence, something with holes large enough to let small
18 wildlife pass through freely. He said in this location, being that it's not near the CR district, he doesn't
19 know how important that is.

20
21 Mr. Herbert said he liked in this the option of the chain-link fence or the more agricultural-style fence
22 which he's assuming is that what Ms. Reddington was calling a game fence.

23
24 Ms. Reddington said yes.

25
26 Mr. Herbert asked if the game fence was equally as high or is that a five-foot-tall fence.

27
28 Ms. Reddington said the game fence would be in accordance with the ordinance, which she believes is
29 eight feet tall. She said the game fences they've installed on other sites have achieved that height
30 requirement. She said she would ask about the drain tile surveys that it either be a condition of the building
31 permit, or if she can provide the drain tile completed survey by the County Board or the environmental
32 committee, to show that they're in good faith working on the survey, she would ask a conditional addition
33 to this Special Use request to continue, knowing we're required to have a drain tile survey and it wasn't
34 required to be on the site plan for the submission of this application.

35
36 Mr. Herbert said but he's not sure that the Board would be approving the final product if that makes sense.
37 He said if the Board is not seeing the drainage tile on a map or seeing the actual results of the drainage
38 tile survey or knowing that all of the drainage district commissioners are on board, we're not getting the
39 final picture. He said the County Board may, but we are not. He said he feels like it starts here for a reason,
40 and it needs to move forward as a final picture, not a part of a piece that they have pushed forward.

41
42 Ms. Reddington asked if other solar projects included the drain tile locations in the Special Use
43 application.

44
45 Mr. Hall said we've never had an instance with drainage district tile going through a solar farm. He said
46 this is a much different situation than we've ever had.

47
48 Ms. Reddington said okay.

1 Mr. Herbert said we did have one a few months back that we had that easement through there.
2
3 Mr. Elwell said on Oaks Road, he believes.
4
5 Mr. Hall said that was a sanitary sewer easement that was already established.
6
7 Mr. Herbert said he thought we had one on a drainage tile, he thinks it was a private tile, but he thought
8 there was an easement on a drainage tile.
9
10 Ms. Burgstrom said the Village of Rantoul project for Mr. Donato had a drainage tile that was through the
11 Village of Rantoul that came down from the sports complex, and it ended up being a 20 or 30-foot right
12 of way that they established she believes.
13
14 Mr. Hall said as he recalls, we didn't even know, we had no information on that tile at the first hearing;
15 the case was continued and then there's actually been a tile installed with an easement we found out later.
16
17 Mr. Bates said it was news to Mr. Donato at that time when that came out.
18
19 Mr. Hall said and no respect to Mr. Donato, they had done some research but just apparently had not done
20 quite enough.
21
22 Mr. Elwell said so it sounds like, do you still think the two months, looking forward into when we could
23 reschedule the case, if that's what the Board decides to do, when would be the earliest Ms. Reddington
24 would be able to have an updated site plan with the tile updated on the site plan.
25
26 Ms. Reddington said given that we're already including the east west easement location in our current site
27 plan, she doesn't think it would take much longer to identify the rest and get the survey, so just
28 conservatively speaking, two months would probably be enough time. She said again, their ultimate ask
29 would be to have this be a condition of the building permit submittal, knowing we wouldn't be able to
30 build without having that drain tile survey completed.
31
32 Mr. Wood said it appeared September 14th would be the next date.
33
34 Ms. Reddington asked if that would be a re-hearing with the new site plan or is that a brand-new process
35 or application that's required.
36
37 Mr. Hall said it would just be a continuance of this hearing.
38
39 Ms. Reddington said okay.
40
41 Mr. Elwell said Ms. Reddington would just bring the Board an updated site plan with the tile, and
42 hopefully by that point if there is any further conversation from the drainage district commissioners or the
43 Village.
44
45 Mr. Herbert asked if there were two drainage districts involved in this project.
46
47 Ms. Burgstrom said yes, that's her understanding from the drainage district map.
48
49 Mr. Herbert said he would also recommend getting hold of both drainage district commissioners and

1 checking with them on the updated site plan prior to the next meeting if that's a doable thing.
2
3 Ms. Reddington said they're required to by their title insurance.
4
5 Mr. Herbert said to get them in agreeance first rather than finding out at the table here.
6
7 Mr. Elwell asked if September 14th would be a good date for us to continue to.
8
9 Ms. Reddington said she would be out on leave, but in the event she would have to extend it, would she
10 just reach out to Ms. Burgstrom or is it set in stone for September.
11
12 Ms. Burgstrom said we need a continuance date that is set in stone, but if it turns out for some reason that
13 things just won't come together, then we can work with Ms. Reddington to figure out another date after
14 that.
15
16 Ms. Reddington said okay, only because she's on leave, that's why she asked.
17
18 Mr. Hall said the next regularly scheduled meeting is October 12th. He asked Ms. Reddington if that would
19 work better for her since she's already scheduled to be out.
20
21 Ms. Reddington said for her leave, October is preferable.
22
23 Mr. Hall said that works fine with Staff.
24
25 **Mr. Herbert moved, seconded by Mr. Roberts, to continue cases 099-S-23 and 100-S-23 to October**
26 **12, 2023. The motion carried by voice vote.**
27
28 **8. Staff Report – None**
29
30 **9. Other Business**
31 **A. Review of Docket**
32
33 Mr. Elwell asked if there would be any absences coming up.
34
35 Mr. Wood and Mr. Roberts said they would not be at the August 31, 2023 meeting.
36
37 **10. Adjournment**
38
39 Mr. Elwell entertained a motion to Adjourn.
40
41 **Mr. Roberts moved, seconded by Mr. Herbert, to adjourn the meeting. The motion carried by voice**
42 **vote.**
43
44 The meeting adjourned at 7:45 pm.
45
46 Respectfully Submitted,
47
48
49 Secretary of the Zoning Board of Appeals