

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

**1776 E. Washington Street
Urbana, IL 61801**

**DATE: September 27, 2018 PLACE: Lyle Shields Meeting Room
1776 East Washington Street
TIME: 6:30 p.m. Urbana, IL 61802**

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

MEMBERS ABSENT: Brad Passalacqua

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Peter Schneider, Stephanie Schneider, Tim Culver, Paul Meharry, Mark Meharry, Tim Osterbur, Dan Tietz, Abby Heckman, Bud Parkhill, Deena Costley, Dave Costley, Erin Soppet, Chris Soppet, Mike Borkowski, Tami Fruhling-Voges, Connie Habeck, Dale Habeck, Russell Blom, Susan Blom, Kelly Pfeifer, Bill Glithero, Wayne Wickboldt, Jim Peckmann, Charles White, Chris Fleming, Joyce Hurd

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, with one member absent.

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

3. Correspondence

None

4. Approval of Minutes

None

1
 2 Ms. Capel entertained a motion to re-arrange the docket and hear Cases 915-V-18 and 917-S-18 prior to
 3 Cases 894-S-17 and 897-S-18.
 4

5 **Ms. Griest moved, seconded by Mr. DiNovo, to re-arrange the docket and hear Cases 915-V-18 and**
 6 **917-S-18 prior to Cases 894-S-17 and 897-S-18. The motion carried by voice vote.**
 7

8 **5. Continued Public Hearing**
 9

10 **Case 894-S-17 Petitioner: Community Power Group, LLC, via agent Michael Borkowski,**
 11 **Owner of Community Power Group Request: Authorize a Community PV Solar Farm with a total**
 12 **nameplate capacity of 2 megawatts (MW), including access roads and wiring, in the AG-1 Agriculture**
 13 **Zoning District, and including the following waivers of standard conditions: Part A: A waiver for a**
 14 **distance of 465 feet, in lieu of one-half mile (2,640 feet) between a municipal boundary and a PV**
 15 **SOLAR FARM, per Section 6.1.5 B. (2) of the Zoning Ordinance; and Part B: A waiver for not**
 16 **providing a Decommissioning and Site Reclamation Plan that includes cost estimates prepared by an**
 17 **Illinois Licensed Professional Engineer prior to consideration of the Special Use Permit by the Board,**
 18 **per Section 6.1.1 A. 3.; and Part C: A waiver for not entering into a Roadway Upgrade and**
 19 **Maintenance Agreement or waiver therefrom with the relevant local highway authority prior to**
 20 **consideration of the Special Use Permit by the Board, per Section 6.1.5 G. Location: Part of a 57.84-**
 21 **acre tract in the West Half of the Northeast Quarter of Section 12 of Township 19 North, Range 10**
 22 **East of the Third Principal Meridian in St. Joseph Township, and commonly known as the property**
 23 **just north of the St. Joseph Sportsman Club.**
 24

25 Ms. Capel informed the audience that Case 894-S-17 is an Administrative Case and as such, the County
 26 allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will
 27 ask for a show of hands for those who would like to cross-examine, and each person will be called upon.
 28 She requested that anyone called to cross-examine go to the cross-examination microphone to ask any
 29 questions. She said that those who desire to cross-examine are not required to sign the witness register
 30 but are requested to clearly state their name before asking any questions. She noted that no new
 31 testimony is to be given during the cross-examination. She said that attorneys who have complied with
 32 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.
 33

34 Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign
 35 the witness register for that public hearing. She reminded the audience that when they sign the witness
 36 register they are signing an oath. She asked the audience if anyone desired to sign the witness register
 37 and there was no one.
 38

39 Ms. Capel asked John Hall, Zoning Administrator, to review Supplemental Memorandum #3 dated
 40 September 20, 2018, with the Board.

1
2 Mr. John Hall, Zoning Administrator, stated that Supplemental Memorandum #3 dated September 20,
3 2018, was included in the mailing packet for tonight's meeting. He said that the memorandum has
4 several attachments, which include a revised site plan that indicates the relocation of the inverter being
5 more centrally located so that no waiver is required. He said that Board member Frank DiNovo
6 provided an analysis of assessed values up to year 2025. He said that a revised annotated aerial that has
7 noise levels at the surrounding property lines to the south, inside the Village of St. Joseph, and the
8 estimated noise level, which is not the same as a noise impact study, from the inverters at the solar farm
9 to be at 21.3 decibels. He said that the noise levels on the farmland to the east are estimated to be 30.3
10 decibels. He said that the noise level on the small lot to the north is estimated to be 22.3 decibels, and
11 the noise level on the small lot to the west is estimated to be 26.5 decibels. He noted that all the
12 estimated noise levels are below the daytime maximums of the Illinois Pollution Control Board. He said
13 that new evidence has been added to the Summary of Evidence that summarizes those noise level
14 estimates and the summary for the assessed valuation ends as follows: "The average net increase in tax
15 revenue to St. Joseph Township will be \$12,208 per year for years 1-19." He said that special conditions
16 have been revised to reflect the new site plan, and staff corrected Special Condition G. to include the
17 minimum acceptable long term corporate debt (credit) rating in the letter of credit.
18

19 Ms. Burgstrom stated that on September 21, 2018, staff received a Resolution 2018-6 from the Village
20 of St. Joseph objecting to the proposed solar farm on the subject property, and the resolution will be
21 added as a Document of Record. She said that the resolution indicates that the proposed solar farm is
22 proposed to be erected approximately 465 feet, or less than one-tenth of a mile, from the Village of St.
23 Joseph's northern border and the Village Board of Trustees for the Village of St. Joseph believe that the
24 location of the proposed solar farm will adversely affect development to the north where there is already
25 significant development. She said that the resolution also indicates that at the Village of St. Joseph's
26 Board meeting on September 11, 2018, the Board believes that any special use permit should include a
27 restriction on any noise level at the property limits of the solar farm of no more than 30 decibels.
28

29 Ms. Capel asked the Board if there were any questions for Mr. Hall or Ms. Burgstrom, and there were
30 none.
31

32 Ms. Capel called Michael Borkowski to testify.
33

34 Mr. Borkowski, whose address is 318 West Adams, Chicago, stated that he provided testimony and
35 significant documentation at the last public hearing regarding this case; therefore, unless he is asked to
36 do so, he will not repeat that testimony. He said that, as noted in earlier comments, there have been
37 changes made to the plans and they are not asking for any waivers regarding property line, property noise
38 or the location of the inverters, as they have complied with all those items. He said that the only three
39 waivers being requested, two are primarily administrative in nature, and one is not necessarily a waiver
40 regarding decommissioning, but is a delay until the building permit is submitted with full plans so that

1 an appropriate decommissioning plan can be submitted with the exact site. He said that regarding the
2 waiver for the roadway upgrade and maintenance agreement, there is an agreement, but it has not been
3 signed yet. He said that a call was made today to confirm that an agreement has been made and
4 signatures are required so that the signed agreement can be submitted prior to issuance of the Zoning
5 Use Permit. He said that the only other necessary waiver is the one with the Village of St. Joseph. He
6 said that Community Power Group, LLC, has many sites throughout Illinois and he has sat through many
7 of these types of meetings, but this site is one of the best sites in the entire state due its location because
8 it is along an interstate highway, beside a cell tower and a substation, and is a neighbor to an established
9 shooting range. He said that there is not a better spot to locate a solar farm, and the established shooting
10 range is a hallmark to the community as it draws the community together. He said that the landowner is
11 an active participant at the shooting range and the landowner's uncle is an active member of the Board
12 for the shooting range. He said that one of the reasons why the solar facility is so beneficial is that it will
13 act to preserve the shooting range over the long-term, and they designed the solar farm specifically so
14 that it works with the shooting range. He said that the only way the subject parcel would be utilized for
15 residential or commercial development would likely compromise the longevity of the shooting range. He
16 said that if you look at the long-term growth plan for the Village of St. Joseph, by the time it made its
17 way to this facility, it would likely be past the lease term. He said that the decibels are below the Illinois
18 Pollution Control Board standards and the highway, shooting range, substation, and any other ambient
19 noises would well drown out any noise that the solar farm would create at this location. He said that this
20 does not require any incremental service requirement; it helps preserve the use of the land and the
21 surrounding area; there are no issues with drainage or prohibiting any other uses in the area, and they
22 feel that this is a fantastic site for a community solar garden.

23
24 Ms. Capel asked the Board if there were any questions for Mr. Borkowski, and there were none.

25
26 Ms. Capel asked staff if there were any questions for Mr. Borkowski, and there were none.

27
28 Mr. Hall noted that he received a phone call from Rod Maddock, St. Joseph Township Highway
29 Commissioner, indicating that there is a road use agreement but signatures from all parties are required.

30
31 Mr. Randol asked Mr. Hall if Part C. is still required.

32
33 Mr. Hall stated that Part C. is required because the signed road agreement has not been submitted yet.

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

36
37 Ms. Capel called Chris Soppet to testify.

38
39 Mr. Chris Soppet, who resides at 2330 CR 2200E, St. Joseph, stated that Mr. Borkowski addressed many
40 of the concerns of the public. He said that the increased tax revenue for St. Joseph Township would

1 approximately amount to \$20 million dollars over a 20-year lease period, which would greatly benefit
2 the school district that his children are involved in. He said that the subject property is outside of the
3 boundary of the Village of St. Joseph, and he and his wife have entered into an agreement to conduct a
4 business that is not only mandated, but is lawful with the State of Illinois and condoned by the
5 Champaign County Zoning Ordinance.

6
7 Ms. Capel asked the Board if there were any questions for Mr. Soppet, and there were none.

8
9 Ms. Capel asked staff if there were any questions for Mr. Soppet, and there were none.

10
11 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Soppet, and there was no one.

12
13 Ms. Capel called Dave Costley to testify.

14
15 Mr. Dave Costley, who resides at 2406 Slayback, Urbana, stated that he is the Vice-President of the St.
16 Joseph Sportsman Club. He said that the petitioner and the landowner spent a large of amount time with
17 the St. Joseph Sportsman Club Board so that the Club could continue. He said that they have done
18 everything that the St. Joseph Sportsman Club Board has asked them to do and more, and when the
19 twenty-year lease is up, the Club's lease is up as well. He said that the Sportsman Club is the longest
20 running skeet and trap range in central Illinois and it was originally started with doctors, lawyers and
21 farmers in the surrounding area. He said that the St. Joseph Sportsman Club Board is happy to have the
22 proposed solar farm as a neighbor to the north.

23
24 Ms. Capel asked the Board if there were any questions for Mr. Costley, and there were none.

25
26 Ms. Capel asked staff if there were any questions for Mr. Costley.

27
28 Mr. Hall asked Mr. Costley if, as the Vice-President of the St. Joseph Sportsman Club, is indicating that
29 the St. Joseph Sportsman Club is in full support of the proposed solar farm.

30
31 Mr. Costley stated yes.

32
33 Mr. Hall asked Mr. Costley if he could explain why there is opposition from the Village of St. Joseph for
34 the proposed solar farm. He asked Mr. Costley if he has had any discussion with the Village of St.
35 Joseph, because the concerns regarding the Sportsman Club do not seem to be aligned.

36
37 Mr. Costley stated that he attended the meeting when the Village of St. Joseph Board formed the
38 resolution, and there was more concern about growth of the village than anything else. He said that they
39 did make mention of noise and the decommissioning plan, but their biggest concern was about their
40 future growth. He said that he has been a member of the St. Joseph Sportsman Club for over twenty

1 years and he has heard about the future growth of St. Joseph north of Interstate 74 since he was in high
2 school in Urbana, but he hasn't seen it happen yet. He said that if a facility like the proposed solar farm
3 is approved, then the longevity of the Sportsman Club will continue. He said that he is only speaking on
4 behalf of the Sportsman Club and not the Village of St. Joseph or anyone else. He said that he would
5 like to opportunity to shoot at the Sportsman Club for another twenty years.

6
7 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Costley, and there was no one.

8
9 Ms. Capel asked the audience if anyone desired to sign the witness register and present testimony
10 regarding Case 894-S-17.

11
12 Ms. Capel called Tami Fruhling-Voges.

13
14 Ms. Tami Fruhling-Voges, who resides at 407 North 3rd St., St. Joseph, stated that she is speaking as the
15 Mayor of the Village of St. Joseph. She said that she would agree that the proposed solar farm may be in
16 one of the better spots than any of the other locations where solar facilities are being proposed. She said
17 that of the three that are being proposed north of St. Joseph, this facility is the one that they are least
18 concerned about in regards to the Village's growth, although it could be detrimental when the Village
19 does cross Interstate 74, as most of it would start directly north of the overpass and once that starts to
20 develop, it would naturally go to the east. She said that the solar farm may or may not be a negative for
21 growth around that area, so if the Village does continue to grow towards the east once it goes past the
22 interstate, which is a goal of the Village, commercial development is one aspect that they would look at.

23 She said that she has only been mayor for one and one-half years, but there are some things that she
24 plans to work on for the growth of the Village of St. Joseph and even though her goals may be
25 ambitious, they may or may not happen, she must try to accomplish them. She said that from being on
26 the Village of St. Joseph's Board since 2005 she knows that growth north of the interstate is a priority
27 for the Board. She said that the Village is somewhat landlocked by a railroad to the east, a river to the
28 west, the interstate to the north, and a farm to the south that she does not believe would develop for a
29 very long time. She said that there are concerns regarding sound because if the Village continues to
30 grow, they do not want that to be detrimental to any development to the east due to the sound. She said
31 that she would like the sound to be taken into consideration with this solar farm, although she
32 understands that Community Power Group has made provisions for it and she does appreciate their
33 cooperation. She said that of all three of the solar farms that are being proposed near St. Joseph,
34 Community Power Group, LLC, has been the best to work with and has taken the time to attend the
35 Board meetings and address the Village's concerns. She noted that the other two solar farms have not
36 contacted the Village of St. Joseph regarding their proposed projects.

37
38 Ms. Fruhling-Voges stated that the Village of St. Joseph's decommissioning concerns should be totally
39 addressed because if it is not a well-studied and vetted process, then whenever it is time to do something
40 with the solar farm, it could become a very negative obstacle for the Village's growth in that area. She

1 said that the Village of St. Joseph's biggest objection is that the solar farms were approved in the
2 Ordinance of Champaign County to be located within one- half mile of the Village of St. Joseph. She
3 said that it has always been the Village of St. Joseph's understanding, due to their adopted
4 comprehensive plan, that they had a say as to what occurs within their one and one-half mile jurisdiction.
5 She said that it would have been better if the petitioner would have come to the Village of St. Joseph
6 and requested to be within one-half mile of the Village of St. Joseph so that the Village Board could
7 decide if they agreed to have a solar farm with waivers in their extra-territorial jurisdiction, rather than
8 the County's Ordinance allowing it to only be one-half mile from a municipal boundary. She said that
9 by objecting to this proposed solar farm, even though compromises could be made, they needed to set a
10 precedent for the other two proposed solar farms that would be coming towards them.

11
12 Ms. Fruhling-Voges stated that there was a lot of discussion between the Village of St. Joseph and the
13 St. Joseph Sportsman Club, as she too is a member, and she appreciates the solar farm's considerations,
14 but she would be more comfortable if some of those considerations were indicated in writing. She said
15 that in working with the petitioner, she would like to see the Sportsman Club protected in case panels
16 were damaged due to activities at the Sportsman Club and the petitioner deciding that the lease is not
17 working out.

18
19 Ms. Capel asked the Board if there were any questions for Ms. Fruhling-Voges.

20
21 Ms. Griest asked Ms. Fruhling-Voges to indicate the points in this particular application where she could
22 have found lenience. She said that she understands the need for the Village Board to set a precedent by
23 one because it multiplies into multiples, but she does agree with Ms. Fruhling-Voges's statement that the
24 subject property is one of the better sites for the facility. She asked Ms. Fruhling-Voges to indicate what
25 it would take for the Village of St. Joseph to be on Board with this site.

26
27 Ms. Fruhling-Voges stated that she cannot speak for the entire Board, but it is her opinion that overall, in
28 the discussions regarding this facility, the biggest concern was noise because there was testimony
29 regarding the various degrees of sound level and how it could have a negative effect on the neighbors.
30 She said that one of the neighbors is far enough away that there may not be any noise concerns regarding
31 the proposed facility, but there is one neighbor who is directly north of the site who could be affected by
32 noise levels. She said that the Board did not have enough information at their meetings regarding the
33 sound level and decommissioning to satisfy their concerns and they wanted to be sure that those were
34 fully vetted. She said that the Board felt that they needed to set a precedent for the facility being within
35 one-half mile from the Village of St. Joseph boundary and within their extra-territorial jurisdiction,
36 because they really like their one and one-half mile jurisdiction.

37
38 Ms. Griest stated that, personally, she is not a huge fan of the one and one-half mile jurisdiction, but
39 professionally it is something that this Board must observe and in this case the County Board approved it
40 at one-half mile. She said that she would hate to see a site like this to move a couple of hundred feet or

1 even a couple of thousand feet and still be in the same location to eliminate that protest right. She said
2 that due to the size of the subject property, the facility could be placed on the other side and be outside of
3 the one-half mile, but it would not conducive to the Sportsman Club and would have a larger impact to
4 the neighborhood. She said that she presumes that the Village of St. Joseph's Board did not have
5 Attachment D. indicating the decibel rating assessments at the new property lines.
6

7 Ms. Fruhling-Voges stated that at the time when the petitioner was at their meeting discussing all the
8 sound concerns, all of the waivers were still intact. She said that a few members of their Board visited
9 the solar farm located on Windsor Road, but they had no idea if the inverters installed at the University
10 of Illinois solar farm were the same type that would be used for the proposed facility. She said that she
11 did some research on her own regarding solar farms so that she could learn more about them, and during
12 that research she found that certain inverters are louder than others. She said that a few of the Village's
13 Board members were concerned about the sound generated by the inverters, which is why sound was
14 included in their resolution. She said that they would be happier if some sort of canopy could be
15 installed to buffer some of the sound generated by the inverters so that if a subdivision was ever
16 developed near the solar farm, the residents would be protected from any noise intrusion and would
17 eliminate any deterrent for growth outside of the area for the solar farm.
18

19 Ms. Griest asked Ms. Fruhling-Voges to indicate how the Village of St. Joseph is boxed in to the east by
20 the railroad that is more restrictive than the interstate. She said that in order to provide municipal
21 services on either side of the railroad or the interstate would incur a significant cost. She said that it
22 appears that crossing the interstate would be costlier than crossing the railroad.
23

24 Ms. Fruhling-Voges stated that going north over the interstate, they have road access due to the overpass,
25 so running utilities would be less costly. She said that the railroad at Glover is very busy and there are
26 concerns regarding safety and the extension of utilities, unless they construct a bridge over the railroad.
27

28 Ms. Griest stated that she is not familiar with the area Ms. Fruhling-Voges refers to as Glover, but she
29 presumes that the overpass over US Route 150 provides a comparable access from a transportation
30 perspective. She said that she doesn't see how the railroad and the interstate negated development.
31

32 Ms. Fruhling-Voges stated that their biggest issue with those three directions is getting utilities to those
33 sites. She said that unfortunately, when public water was connected to St. Joseph, the Board did not
34 extend those services north of the interstate and she is not certain as to why, but the Village cannot go
35 backwards and must move forward.
36

37 Ms. Capel asked the Board and staff if there were any additional questions for Ms. Fruhling-Voges, and
38 there were none.
39

40 Ms. Capel asked the audience if anyone desired to cross-examine Ms. Fruhling-Voges.

1

2 Mr. Michael Borkowski stated that Ms. Fruhling-Voges has been wonderful to work with and he
3 commended her for being a strong advocate for her community. He asked Ms. Fruhling-Voges if she
4 was aware that inside the lease, the landowner is an active guardian of the long-term preservation of the
5 shooting range and decommissioning on the land. He said that inside the lease there are a series of
6 protective mechanisms already as it relates to decommissioning and the shooting range.

7

8 Ms. Fruhling-Voges stated that Mr. Soppet did mention that his family was very comfortable with their
9 lease agreement with Community Power Group, LLC.

10

11 Mr. Borkowski stated that as a result of the last meeting, they made adjustments to setbacks so that the
12 decibel rating at the property line was well below the 30-decibel threshold so that it should not detour
13 future development for the Village of St. Joseph.

14

15 Ms. Fruhling-Voges stated that the Board is aware of those adjustments now, but they did not have that
16 information at the time of adoption of their resolution. She said that all the waivers were still requested
17 during the last Village Board's discussion with Mr. Borkowski.

18

19 Mr. Borkowski stated that he appreciates Ms. Fruhling-Voges' and the Board's passion for pursuing
20 growth to the north of the Village, and he appreciates their desire to be protective of the Village's one
21 and one-half mile jurisdiction and the need to not set a precedence for future types of projects. He said
22 that the proposed solar farm may be different than future types of facilities, but the Village may want to
23 stay steadfast.

24

25 Ms. Capel asked the audience if anyone else would like to cross-examine Ms. Fruhling-Voges, and there
26 was no one.

27

28 Ms. Capel asked the audience if anyone would like to sign the witness register to present testimony
29 regarding this case, and there was no one.

30

31 Ms. Capel closed the witness register.

32

33 Mr. Randol stated that he was unable to attend the last public hearing regarding this case. He asked Mr.
34 Hall to indicate the reason for the waiver regarding the decommissioning plan.

35

36 Mr. Hall stated that this is a waiver on the time when the petitioner must provide the engineer's certified
37 cost, and is not indicating that they would not provide it but would prefer to provide it prior to the
38 Zoning Use Permit Application. He said that even if the Board has the engineer's cost now, staff has not
39 put together a decommissioning plan, which would be a considerable effort with the State's Attorney's
40 review making sure that it is complete. He said that at this point and time, when there are six proposed

1 community solar farms, the decommissioning plans are a big glut in our system and if six
2 decommissioning plans had to be completed right now it is unknown when they would be done. He said
3 that he looks at the waiver as a benefit to the County because the way the waiver works with the special
4 condition is that when they are closer to needing a Zoning Use Permit, the petitioner would submit a
5 decommissioning cost estimate and staff will work through a decommissioning and site reclamation plan
6 that will be forwarded to the Environment and Land Use Committee (ELUC). He said that ELUC only
7 meets once per month, but no docket space is necessary; staff would fit in the petitioner when he submits
8 his materials. He said that this is a great benefit for the County because it puts it off until the petitioner
9 is ready to do it, and at the last hearing the Board heard how this case and the case located in Ludlow
10 Township would be affected by a legal case that has to be resolved before either facility can move
11 forward. He said that because there is this glut in solar farms that are being requested and because there
12 is this legal question regarding whether or not they can connect to the service lines, it makes sense for
13 the waiver, given that they would have to obtain permission from ELUC, not the full Board, before they
14 could begin construction. He said that ELUC consists of members who are more knowledgeable about
15 land use issues, so he believes that the waiver is a win-win situation.

16
17 Mr. DiNovo asked Mr. Hall if he is indicating that the interconnection for the subject property is with
18 Eastern Illini Cooperative and not Ameren.

19
20 Mr. Hall stated that it is his understanding that this project and the project at Ludlow would both
21 interconnect with the cooperative.

22
23 Mr. Borkowski stated that the facility on the subject property for this case would interconnect with
24 Ameren.

25
26 Mr. Hall corrected his statement and noted that there is no legal issue with the proposed facility related
27 to this case, but there is a legal issue with the facility proposed in Ludlow Township. He said that the
28 glut of solar farm facilities is a tremendous workload for the County, and the new Assistant State's
29 Attorney who will be handling all of the work on the solar farms is not currently up to speed.

30
31 Ms. Griest stated that one other issue that came up during the last hearing was that the selective process
32 for which they would be eligible for the credits is a lottery process after they obtain all their local
33 approvals. She said that it is not economically feasible for the solar farm company to prepare the
34 reclamation plan at this point until they know that they have the necessary permits to be in line for the
35 credits that would enable constructing the facility. She said that not obtaining the credits could affect the
36 design of the facility, and in some cases the Board has not seen any design parameters, so this is a
37 condition that would be seen in all of the solar cases because it makes sense to have the condition
38 available to comply with all of the decommissioning requirements but allow them to submit the
39 information when it is available.

40

1 Ms. Lee stated that at the August 30th meeting, there was a waiver requesting a 24 feet wide area for all
2 necessary access lanes and driveway and any required new private accessways in lieu of the minimum
3 required 40 feet. She said that Part C. is still indicated on page 54 of the Summary of Evidence, so is it
4 necessary or not.

5
6 Mr. DiNovo stated that Part C. on page 54 of the Summary of Evidence should be deleted because the
7 waiver is no longer required.

8
9 Ms. Lee stated that 24 feet is still being requested and it doesn't make sense to just delete it.

10
11 Ms. Burgstrom stated that 40 feet is what is required to be shown in the special use permit area and not
12 the actual 24 feet wide path that they might have. She said that revised Exhibit E. indicates a 40 feet
13 wide area within the special use permit area and have remedied the requirement. She said that the
14 petitioner can show a 12 feet wide path as long as they provide a 40 feet wide area in the special use
15 permit area.

16
17 Ms. Lee stated that the terminology on page 54 should be changed because it does not agree with what
18 Ms. Burgstrom just said.

19
20 Mr. Hall stated that Part C. on page 54 should be deleted. He said that Part C. was written when there
21 was a waiver required, and then staff added language trying to explain why the waiver was no longer
22 required, which is why it is confusing. He said that Exhibit E., which is Attachment B. of the
23 Supplemental Memorandum, indicates that there is an absolute 40 feet wide area included in the special
24 use permit area. He said that Part C. should be deleted. He said that the way that staff does the
25 Summary of Evidence, staff tries to have them ready for final action in the beginning and as things
26 change staff has to go back and revise the language so that it reflects the changes, which is a challenge.

27
28 Ms. Capel asked the Board if there were any additional questions, and there were none.

29
30 Ms. Capel stated that there are additions to the Documents of Record.

31
32 Ms. Griest stated that she had a few questions for Mr. Hall prior to revising the Documents of Record.
33 She asked Mr. Hall that in light of the Village of St. Joseph's objection, what position does that
34 objection place on the Zoning Board of Appeals in moving forward. She asked Mr. Hall if this Board is
35 free to move forward recognizing the objection and not being bound by it.

36
37 Mr. Hall stated that what he heard tonight is that there is an objection, even though the proposed
38 development may not be objectionable, which goes back to not wanting to set a precedent of not
39 defending the extra-territorial jurisdiction. He said that as the County Zoning Administrator, he is here
40 to defend County zoning, which goes up to the municipal boundary. He said that the ZBA should pay

1 attention to what the petitioner said tonight and exercise their critical thinking. He said that the
2 petitioner had demonstrated that this is an ideal site for the proposed solar farm, but it doesn't change the
3 fact that, the Village will defend its extra-territorial jurisdiction and not set a precedent for this sort of
4 thing occurring. He said that the ZBA is free to make a recommendation that they would feel
5 comfortable with.
6

7 Mr. DiNovo stated that the State of Illinois created the extra-territorial jurisdiction for jurisdiction over
8 subdivisions and protest rights on zoning changes and not special use permits and variances. He said
9 that even if it wanted to, the County cannot assign its authority to a different realm of government. He
10 said that the ZBA cannot give the Village veto power on something like this even if the County Board
11 wanted to because it is not in the County's purview to assign its authority to another realm of
12 government. He said that the one-half mile is a highly generalized standard that was adopted assuming
13 that there were no barriers for growth around a village and that any municipality could grow in any
14 direction. He said that the reality is that when there is a barrier, the effects of that barrier must be
15 reviewed, and Interstate 74 is a serious barrier for the extension of sanitary sewer and water. He said
16 that no detailed study has been completed and it appears that the easiest place to extend sanitary sewer
17 would be somewhere in the vicinity of the interchange because the land is lower, and the sewer system
18 needs to drain by gravity as much as it can. He said that if we think about the axis of growth from that
19 location eastward, the interchange is more than one and one-half miles to the west of the proposed
20 facility. He said the meaningful distance in terms of an axis of growth is not the one-half mile that was
21 assumed for everyone, but in reality is more like one and one-half miles in terms of the growth vector.
22

23 Ms. Capel asked the Board if there were any additional questions or comments regarding this case, and
24 there were none.
25

26 Mr. Hall stated that Ms. Fruhling-Voges provided good testimony that should be included in the
27 Summary of Evidence. He said that Ms. Fruhling-Voges stated that the Village was determined to not set
28 a precedent of not contesting a solar farm within one-half mile of the Village of St. Joseph's boundaries,
29 and that even though this is a good location for a solar farm, it is the best location of the three solar
30 farms that are being proposed. He noted that he may not be quoting Ms. Fruhling-Voges's exact
31 testimony, but it crystalized for him why there is a protest on a location that seems to make perfect sense,
32 except that it is within one-half mile of the Village's boundary.
33

34 Ms. Griest stated that Ms. Fruhling-Voges was very careful to indicate that it was her opinion and that
35 she could not speak for the entire Board that this location was better than other alternatives that might
36 come before this Board in the future. She said that there is some valid concern that by endorsing one
37 actually infers an endorsement for all.
38

39 Mr. DiNovo stated that he does not want to put words in the Mayor's mouth, but he asked if this
40 discussion would be included under the discussion for Waiver A. in the Finding of Fact. He said that the

1 language could indicate the following: “The Mayor for the Village of St. Joseph testified at the
2 September 27, 2018, public hearing that at the time that the Village passed its resolution, it did not have
3 the sound information in hand that apart from some specific concerns being noise and decommissioning
4 and proximity to the Village, the protest resolution was intended to ensure that the Village not set a
5 precedent of not contesting locations within one-half mile of their boundary.”
6

7 Mr. Randol suggested that before any quotations from the Mayor were included in the Summary of
8 Evidence, the Mayor should confirm that what the Board believes she said is indeed what she said.
9

10 Ms. Capel asked Ms. Fruhling-Voges to return to the witness microphone to confirm her testimony.
11

12 Ms. Fruhling-Voges, who resides at 407 North 3rd St., St. Joseph, stated that when the Village Board had
13 their first discussion regarding what their resolution was going to be, the biggest factor was that the
14 proposed solar facility would be located within one-half mile of the Village’s boundary, which is
15 allowed by the adopted Champaign County Ordinance regarding solar farms. She said that the Village
16 Board was upset by the amount of the waivers to an ordinance that the County had just passed, and the
17 Village Board objected. She said that when the petitioner came to the second meeting, the night that the
18 Village Board signed the resolution, they were still in discussion with the petitioner regarding the sound
19 concerns and still objecting to the waivers overall. She said that one of the Village Board’s biggest
20 concerns was the fact that the proposed solar farm was not only one-half mile from the Village’s
21 boundary, but they were requesting less than one-half mile, and because there are two other solar farms
22 that are much more objectable to the Village of St. Joseph’s growth. and they could not set a precedent
23 of agreeing to this one. She said that her own opinion of what she saw discussed amongst the trustees is
24 that they had less concern about the location of this particular solar farm as long as they had written
25 agreements with the Sportsman Club, and as long as the Sportsman Club had it in writing, then the
26 Village would feel more comfortable. She said that with all those things, the Village recognized that the
27 substation, cell tower and Sportsman Club exist at the proposed location and that the subject parcel is
28 probably one of the last locations where the Village would grow towards. She said that the proposed
29 facility is less objectable because the Village Board had less concerns regarding that location, but the
30 Village Board felt that they needed to make a strong stand regarding their boundary protections. She said
31 that looking forward, the Village Board felt that they should protect the areas that they have.
32

33 Mr. Hall asked Ms. Fruhling-Voges if the following paragraph represents her testimony: “At the
34 September 27, 2018 ZBA meeting, Tami Fruhling-Voges testified that their biggest objection was the
35 waiver for developing within ½ mile of the Village limit, and that a waiver was requested to reduce the
36 distance to within 1/10 mile of the Village. Because there are 2 other proposed solar farms that are
37 much more objectionable to the Village, the Village Trustees felt they needed to set a precedent of
38 objecting to this distance despite this location being the least objectionable of the 3 proposed. The
39 Trustees felt that they need to protect that one-half mile area for the future.”
40

1 Ms. Fruhling-Voges stated yes.
2
3 Mr. Hall asked Ms. Burgstrom to revise item 12.A (4) to indicate the date of receipt of the resolution,
4 and a new item 12.A (5) will be added to reflect Ms. Fruhling-Voges’ testimony.
5
6 Ms. Griest asked Mr. Hall if item 7.D. should indicate Ameren and not CILCO.
7
8 Ms. Burgstrom stated that the Supervisor of Assessment’s record indicated CILCO, but she would
9 double check it to make sure that it isn’t actually Ameren.
10
11 Ms. Griest stated that it may be listed as CILCO because they were the predecessor to Ameren.
12
13 Mr. Hall stated that testimony from Mr. Dave Costley was also useful testimony which should be
14 summarized as new item 7.E (2) as follows: “At the September 27, 2018, ZBA meeting, Mr. Dave
15 Costley testified that he is the Vice-President of the Sportsman Club and the Club is more than happy to
16 have the solar farm develop at the proposed location.”
17
18 Ms. Griest stated that the following should be added: “Mr. Costley testified that the proposed solar farm
19 serves to protect the interests of the Club for the future.”
20
21 Mr. Hall agreed.
22
23 Ms. Capel stated that there are new Documents of Record.
24
25 Ms. Burgstrom stated that new Document of Record item 12 should read as follows: Resolution 2018-6
26 from the Village of St. Joseph dated September 11, 2018, received by staff on September 21, 2018.
27
28 Ms. Capel stated that the Board would now review the proposed Special Conditions with Mr.
29 Borkowski.
30
31 Ms. Capel read Special Condition A. as follows:
32
33 A. **The approved site plan consists of the following documents:**
34 • **Sheet T1.1: Permit Set Cover received August 13, 2018**
35 • **Sheet L1.1: Site Layout received September 18, 2018**
36 • **Sheet L2.1: Tracker System Detail received August 13, 2018**
37 • **Sheet L2.3: Fence-Gate Detail received January 25, 2018**
38 • **Sheet L2.3: Agricultural Fence Detail received August 13, 2018**
39 • **Sheet E1.1: Single Line Diagram received August 13, 2018**
40 • **Sheet E2.1: DC & AC Conductor Schedule received January 25, 2018**

- 1 • **Sheet E4.1: Grounding Details received January 25, 2018**
- 2 • **Sheet E9.1: Equipment Specification Sheets received August 13, 2018**
- 3

4 The above special condition is required to ensure that:

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

7
8 Ms. Capel asked Mr. Borkowski if he agreed to Special Condition A.

9
10 Mr. Borkowski stated that he agreed to Special Condition A.

11
12 Ms. Capel read Special Condition B. as follows:

13
14 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
15 **issue a Zoning Compliance Certificate on the subject property until the lighting**
16 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**

17
18 The special condition stated above is required to ensure the following:

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

21
22 Ms. Capel asked Mr. Borkowski if he agreed to Special Condition B.

23
24 Mr. Borkowski stated that he agreed to Special Condition B.

25
26 Ms. Capel read Special Condition C. as follows:

27
28 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
29 **proposed PV SOLAR FARM until the petitioner has demonstrated that the**
30 **proposed Special Use complies with the Illinois Accessibility Code, if necessary.**

31
32 The special condition stated above is necessary to ensure the following:

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

35
36 Ms. Capel asked Mr. Borkowski if he agreed to Special Condition C.

37
38 Mr. Borkowski stated that he agreed to Special Condition C.

39
40 Ms. Capel read Special Condition D. as follows:

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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.

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition D.

Mr. Borkowski stated that he agreed to Special Condition D.

Ms. Capel read Special Condition E. as follows:

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.

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition E.

Mr. Borkowski stated that he agreed to Special Condition E.

Ms. Capel read Special Condition F. as follows:

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

The above special condition is necessary to ensure the following:
To ensure full compliance with the intent of the Zoning Ordinance in a timely manner that meets the needs of the applicant.

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition F.

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Mr. Borkowski stated that he agreed to Special Condition F.

Ms. Capel read Special Condition G. as follows:

- 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 “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
 - 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. **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**
 - 7. **The telephone number for the complaint hotline required by 6.1.5 S.**
 - 8. **Any updates to the approved Site Plan from Case 894-S-17 per the Site Plan requirements provided in Section 6.1.5 U.1.c.**

The above special condition is required to ensure that:

The PV SOLAR FARM is constructed consistent with the Special Use Permit

1 **approval and in compliance with the Ordinance requirements.**

2
3 Ms. Capel asked Mr. Borkowski if he agreed to Special Condition G.

4
5 Mr. Borkowski stated that he agreed to Special Condition G.

6
7 Ms. Capel read Special Condition H. as follows:

- 8
- 9 **H. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior**
- 10 **to going into commercial production of energy. Approval of a Zoning Compliance**
- 11 **Certificate shall require the following:**
 - 12 1. **An as-built site plan of the PV SOLAR FARM including structures, property**
 - 13 **lines (including identification of adjoining properties), as-built separations,**
 - 14 **public access road and turnout locations, substation(s), electrical cabling**
 - 15 **from the PV SOLAR FARM to the substations(s), and layout of all structures**
 - 16 **within the geographical boundaries of any applicable setback.**
 - 17
 - 18 2. **As-built documentation of all permanent soil erosion and sedimentation**
 - 19 **improvements for all PV SOLAR FARM including any access road prepared**
 - 20 **by an Illinois Licensed Professional Engineer.**
 - 21
 - 22 3. **An executed interconnection agreement with the appropriate electric utility**
 - 23 **as required by Section 6.1.5 B.(3)b.**
 - 24

25 The above special condition is required to ensure that:

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

27 **approval and in compliance with the Ordinance requirements.**

28
29 Ms. Capel asked Mr. Borkowski if he agreed to Special Condition H.

30
31 Mr. Borkowski stated that he agreed to Special Condition H.

32
33 Ms. Capel read Special Condition I. as follows:

- 34
- 35
- 36 **I. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with**
- 37 **the following specific requirements that apply even after the PV SOLAR FARM**
- 38 **goes into commercial operation:**
 - 39 1. **Maintain the pollinator plantings in perpetuity.**
 - 40

- 1 2. **Cooperate with local Fire Protection District to develop the District’s**
- 2 **emergency response plan as required by 6.1.5 H.(2).**
- 3
- 4 3. **Cooperate fully with Champaign County and in resolving any noise**
- 5 **complaints including reimbursing Champaign County any costs for the**
- 6 **services of a qualified noise consultant pursuant to any proven violation of**
- 7 **the I.P.C.B. noise regulations as required by 6.1.5 I.(4).**
- 8
- 9 4. **Maintain a current general liability policy as required by 6.1.5 O.**
- 10
- 11 5. **Submit annual summary of operation and maintenance reports to the**
- 12 **Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
- 13
- 14 6. **Maintain compliance with the approved Decommissioning and Site**
- 15 **Reclamation Plan including financial assurances.**
- 16
- 17 7. **Submit to the Zoning Administrator copies of all complaints to the telephone**
- 18 **hotline on a monthly basis and take all necessary actions to resolve all**
- 19 **legitimate complaints as required by 6.1.5 S.**

The above special condition is required to ensure that:

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

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition I.

Mr. Borkowski stated that he agreed to Special Condition I.

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

Ms. Griest moved, seconded by Mr. Elwell, to approve the Special Conditions as read. The motion carried by voice vote.

FINDINGS OF FACT FOR CASE 894-S-17:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 894-S-17 held on August 30, 2018, and September 27, 2018, the Zoning Board of Appeals of Champaign County finds that:

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

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Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this location because this project will help the county achieve LRMP Objectives 8.8, 9.1, 9.5 and this particular site provides for necessary economical access to transmission lines and is otherwise well-suited for the use.

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

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

Mr. DiNovo stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility because after construction the use generates practically no traffic.

Mr. Elwell stated that testimony has been received indicated that during construction there is an estimated no more than 20 trucks per day.

b. Emergency services availability is ADEQUATE.

Mr. DiNovo stated that emergency services availability is ADEQUATE because the use poses no special hazards and is unoccupied.

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

Mr. DiNovo stated that the Special Use WILL be compatible with adjacent uses because the site is surrounded by agriculture; it is contiguous to a cell tower and near the interstate highway; it provides for preserving the shot fall area of the Sportsman Club; and creates a buffer for the Sportsman Club with respect to any future residential development in the area.

d. Surface and subsurface drainage will be ADEQUATE.

Mr. DiNovo stated that surface and subsurface drainage will be ADEQUATE because there will be a permanent vegetative cover below the panels, which will reduce runoff from the site, and the proposed solar farm itself occupies a minor drainage divide, so there is no surface water drainage across the site of the solar farm itself.

e. Public safety will be ADEQUATE.

1 Mr. Elwell stated that public safety will be ADEQUATE because the solar farm site will be fenced.

2

3 **f. The provisions for parking will be ADEQUATE.**

4

5 Mr. DiNovo stated that the provisions for parking will be ADEQUATE because during the operation of
6 the facility there will be no need to park more than 1 or 2 vehicles at a time.

7

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

9

10 Mr. Elwell stated that the property IS WELL SUITED OVERALL for the proposed improvements
11 because the adjacent lands are agriculture and the Sportsman Club is to the South.

12

13 Ms. Capel stated that I-74 separates the solar farm from the Village of St. Joseph even though it is less
14 than one-half mile from the municipal boundary,

15

16 Ms. Griest stated that the petitioner has made a concerted effort to minimize decibel levels at adjacent
17 property lines.

18

19 **h. Existing public services ARE available to support the proposed SPECIAL USE**
20 **without undue public expense.**

21

22 Mr. DiNovo stated that existing public services ARE available to support the proposed SPECIAL USE
23 without undue public expense because the use generates almost no public service demand.

24

25 **i. Existing public infrastructure together with the proposed development IS adequate**
26 **to support the proposed development effectively and safely without undue public**
27 **expense.**

28

29 Mr. Elwell stated that existing public infrastructure together with the proposed development IS adequate
30 to support the proposed development effectively and safely without undue public expense because the
31 solar farm does not generate any public service needs.

32

33 Ms. Griest stated that it is adjacent to a substation.

34

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

39

40 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**

1 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
2 **DISTRICT in which it is located.**

3
4 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
5 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in
6 which it is located.

7
8 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
9 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
10 **is located because:**

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

13
14 Ms. Griest stated that the Special Use will be designed to CONFORM to all relevant County ordinances
15 and codes.

16
17 **b. The Special Use WILL be compatible with adjacent uses.**

18
19 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

20
21 **c. Public safety will be ADEQUATE.**

22
23 Ms. Griest stated that public safety will be ADEQUATE.

24
25 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
26 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

27
28 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
29 **IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance**
30 **because:**

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

32
33 **b. The requested Special Use Permit IS necessary for the public convenience at this**
34 **location.**

35
36 Mr. Elwell stated that the requested Special Use Permit IS necessary for the public convenience at this
37 location.

38
39 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
40 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**

1 **WILL NOT be injurious to the district in which it shall be located or otherwise**
 2 **detrimental to the public health, safety, and welfare.**
 3

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

9 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
 10 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
 11 **which it is located.**
 12

13 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
 14 IMPOSED HEREIN, DOES preserves the essential character of the DISTRICT in which it is located.
 15

16 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
 17 IMPOSED HEREIN, IS in harmony with the general purpose and intent of the Ordinance.
 18

19 **5. The requested Special Use IS NOT an existing nonconforming use.**
 20

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

22 **A. Regarding Part A of the proposed waivers, for a distance of 465 feet in lieu of one-**
 23 **half mile (2,640 feet) between a municipal boundary and a PV SOLAR FARM:**
 24

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

29 Mr. Elwell stated that the waiver IS in accordance with the general purpose and intent of the Zoning
 30 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare
 31 because the solar farm is separated from the municipal boundary by I-74.
 32

33 Ms. Capel stated that it is probably 1.5 miles from the most likely future development of the Village; and
 34 it is located adjacent to a shooting range, substation and a cell tower.
 35

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

40 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or

1 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
2 the same district because of the proximity to I-74; the St. Joseph Sportsman Club and shooting range;
3 and the lack of municipal infrastructure for future Village growth currently at that location.
4

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

9 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
10 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
11 structure or construction because the site is well suited to the use in all other respects, and sites that
12 have the requisite access to utility infrastructure are limited.
13

- 14 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**
15 **NOT result from actions of the applicant.**
16

17 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO
18 NOT result from actions of the applicant because the standard at issue is generalized, and the interstate
19 creates an unusual condition.
20

- 21 **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**
22 **CONDITION, IS the minimum variation that will make possible the**
23 **reasonable use of the land/structure.**
24

25 Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION,
26 IS the minimum variation that will make possible the reasonable use of the land/structure because there
27 is no benefit to be gained by moving the site farther away.
28

29 Ms. Capel entertained a motion to extend the public hearing to 10:30 p.m.
30

31 **Ms. Griest moved, seconded by Mr. DiNovo, to extend the public hearing to 10:30 p.m. The**
32 **motion carried by voice vote.**
33

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

- 39 **(1) The waiver IS in accordance with the general purpose and intent of the**
40 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**

1 **the public health, safety, and welfare.**

2
3 Mr. DiNovo stated that the waiver IS in accordance with the general purposed and intent of the Zoning
4 Ordinance, and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare
5 because the extended time period allows for the development of complete, final and accurate
6 information necessary to make a good estimate.
7

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

11
12 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or
13 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
14 the same district because the requirement is made to apply only to solar farms and wind farms.
15

16 Ms. Griest stated that in the case of solar farms, the specifics of the development are not known at the
17 time of this approval and will be determined at a later date.
18

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

22
23 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
24 regulations south to be varied WILL prevent reasonable or otherwise permitted use of the land or
25 structure or construction because it would be a hardship to develop a decommissioning plan per the
26 standard without knowing if you were going to be eligible for the Renewable Energy Credits.
27

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

30
31 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
32 result from actions of the applicant because the applicant cannot control whether they will be eligible for
33 the energy credits until their name is drawn or excluded.
34

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

37
38 Mr. DiNovo stated that the requested waiver IS the minimum variation that will make possible the
39 reasonable use of the land or structure because providing this documentation is the only county control
40 point that accommodates the Illinois Power Authority’s approval of the Renewable Energy Credits.

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

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

Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare, because the petitioner has made a good faith effort to finalize an agreement, but because of the township board meeting schedule, has not been able to bring it forward rapidly enough for the case to be resolved in time for the State’s procedures to play out.

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

Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district, because these uses are unique in that they cannot go forward without the approval of the Renewable Energy Credits, which creates an artificial deadline for the process to be completed.

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

Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction, because they could delay the final consideration, effectively making the project impossible to complete.

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

Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant, because none of the timing factors are under the control of the petitioner - township meetings schedules, county meeting schedules, the Renewable Energy Credits distribution procedure – none of that is under their control.

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

Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION IS the minimum variation that will make possible the reasonable use of the land/structure, because providing this documentation is the only county control point that accommodates the Illinois Power Authority’s approval of the Renewable Energy Credits.

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:**
 - **Sheet T1.1: Permit Set Cover received August 13, 2018**
 - **Sheet L1.1: Site Layout received September 18, 2018**
 - **Sheet L2.1: Tracker System Detail received August 13, 2018**
 - **Sheet L2.3: Fence-Gate Detail received January 25, 2018**
 - **Sheet L2.3: Agricultural Fence Detail received August 13, 2018**
 - **Sheet E1.1: Single Line Diagram received August 13, 2018**
 - **Sheet E2.1: DC & AC Conductor Schedule received January 25, 2018**
 - **Sheet E4.1: Grounding Details received January 25, 2018**
 - **Sheet E9.1: Equipment Specification Sheets received August 13, 2018**

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.**

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

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

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

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

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

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

The above special conditions are required to ensure that:

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

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

The above special condition is necessary to ensure the following:

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

- G. **The following submittals are required prior to the approval of any Zoning Use Permit for a PV SOLAR FARM:**
 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**
 2. **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.**

- 1 3. **An irrevocable letter of credit to be drawn upon a federally insured financial**
- 2 **institution with a minimum acceptable long term corporate debt (credit)**
- 3 **rating of the proposed financial institution shall be a rating of “A” by S&P**
- 4 **or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable**
- 5 **anticipated travel costs shall be added to the amount of the letter of credit.**
- 6
- 7 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**
- 8 **including any access road that conforms to the relevant Natural Resources**
- 9 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
- 10 **Professional Engineer.**
- 11
- 12 5. **Documentation regarding the seed to be used for the pollinator planting, per**
- 13 **6.1.5 F.(9).**
- 14
- 15 6. **A Transportation Impact Analysis provided by the applicant that is mutually**
- 16 **acceptable to the Applicant and the County Engineer and State’s Attorney;**
- 17 **or Township Highway Commissioner; or municipality where relevant, as**
- 18 **required by 6.1.5 G. 2.**
- 19
- 20 7. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 21
- 22 8. **Any updates to the approved Site Plan from Case 894-S-17 per the Site Plan**
- 23 **requirements provided in Section 6.1.5 U.1.c.**
- 24

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.

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

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- 3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**

The above special condition is required to ensure that:

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

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

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

The above special condition is required to ensure that:

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

Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record and Findings of Fact for Case 894-S-17, as amended.

1 **Mr. Elwell moved, seconded by Ms. Griest, to adopt the Summary of Evidence, Documents of**
 2 **Record and Findings of Fact for Case 894-S-17, as amended. The motion carried by voice vote**
 3 **with two opposing votes.**

4
 5 Ms. Capel entertained a motion to move to the Final Determination for Case 894-S-17.

6
 7 **Mr. DiNovo moved, seconded by Ms. Griest, to move to the Final Determination for Case 894-S-**
 8 **17. The motion carried by voice vote.**

9
 10 Ms. Capel stated that currently the Board has one member absent; therefore, it is at the petitioner’s
 11 discretion to either continue Case 894-S-17 until a full Board is present or request that the present Board
 12 move to the Final Determination. She informed the petitioner that four affirmative votes are required for
 13 approval.

14
 15 Mr. Borkowski requested that the present Board move forward to the Final Determination for Case 894-
 16 S-17.

17
 18 **Final Determination for Case 894-S-17:**

19 **Mr. Elwell moved, seconded by Ms. Griest, that the Champaign County Zoning Board of Appeals**
 20 **finds that, based upon the application, testimony, and other evidence received in this case, that the**
 21 **requirements for approval of Section 9.1.11.B. HAVE been met, and pursuant to the authority**
 22 **granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, recommends that:**

23
 24 **The Special Use requested in Case 894-S-17 be GRANTED WITH SPECIAL**
 25 **CONDITIONS to the applicant, Community Power Group LLC, to authorize the following**
 26 **as a Special Use on land in the AG-1 Agriculture Zoning District:**

27
 28 **Authorize a Community PV Solar Farm with a total nameplate capacity of 2 megawatts**
 29 **(MW), including access roads and wiring, and subject to the following waivers of standard**
 30 **conditions:**

31
 32 **A. The approved site plan consists of the following documents:**

- 33 • **Sheet T1.1: Permit Set Cover received August 13, 2018**
- 34 • **Sheet L1.1: Site Layout received September 18, 2018**
- 35 • **Sheet L2.1: Tracker System Detail received August 13, 2018**
- 36 • **Sheet L2.3: Fence-Gate Detail received January 25, 2018**
- 37 • **Sheet L2.3: Agricultural Fence Detail received August 13, 2018**
- 38 • **Sheet E1.1: Single Line Diagram received August 13, 2018**
- 39 • **Sheet E2.1: DC & AC Conductor Schedule received January 25, 2018**
- 40 • **Sheet E4.1: Grounding Details received January 25, 2018**

- **Sheet E9.1: Equipment Specification Sheets received August 13, 2018**

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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.**

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

- 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)**

- 1 rating of the proposed financial institution shall be a rating of “A” by S&P
- 2 or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable
- 3 anticipated travel costs shall be added to the amount of the letter of credit.
- 4
- 5 4. A permanent soil erosion and sedimentation plan for the PV SOLAR FARM
- 6 including any access road that conforms to the relevant Natural Resources
- 7 Conservation Service guidelines and that is prepared by an Illinois Licensed
- 8 Professional Engineer.
- 9
- 10 5. Documentation regarding the seed to be used for the pollinator planting, per
- 11 6.1.5 F.(9).
- 12
- 13 6. A Transportation Impact Analysis provided by the applicant that is mutually
- 14 acceptable to the Applicant and the County Engineer and State’s Attorney;
- 15 or Township Highway Commissioner; or municipality where relevant, as
- 16 required by 6.1.5 G. 2.
- 17
- 18 7. The telephone number for the complaint hotline required by 6.1.5 S.
- 19
- 20 8. Any updates to the approved Site Plan from Case 894-S-17 per the Site Plan
- 21 requirements provided in Section 6.1.5 U.1.c.
- 22
- 23 H. A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to
- 24 going into commercial production of energy. Approval of a Zoning Compliance Certificate
- 25 shall require the following:
- 26 1. An as-built site plan of the PV SOLAR FARM including structures, property lines
- 27 (including identification of adjoining properties), as-built separations, public access
- 28 road and turnout locations, substation(s), electrical cabling from the PV SOLAR
- 29 FARM to the substations(s), and layout of all structures within the geographical
- 30 boundaries of any applicable setback.
- 31
- 32 2. As-built documentation of all permanent soil erosion and sedimentation
- 33 improvements for all PV SOLAR FARM including any access road prepared by an
- 34 Illinois Licensed Professional Engineer.
- 35
- 36 3. An executed interconnection agreement with the appropriate electric utility as
- 37 required by Section 6.1.5 B.(3)b.
- 38
- 39 I. The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the
- 40 following specific requirements that apply even after the PV SOLAR FARM goes into

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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 Applicant or Owner or Operator of the PV SOLAR FARM shall plant and maintain in perpetuity a visual screen on the north and west sides of the PV SOLAR FARM per Section 6.1.5 M. of the Zoning Ordinance.**

Ms. Capel requested a roll call vote.

The roll was called as follows:

Lee-no	Passalacqua-absent	Randol-no
Elwell-yes	DiNovo-yes	Griest-yes
Capel-yes		

Mr. Hall informed Mr. Borkowski that Case 894-S-17 has received a recommendation of approval and will be forwarded to the Environment and Land Use Committee which will meet in the Lyle Shields Meeting Room in one week.

1 **Case 897-S-18** Petitioner: **Community Power Group, LLC, via agent Michael Borkowski, Owner**
2 **of Community Power Group.** Request: **Authorize a Community PV Solar Farm with a total**
3 **nameplate capacity of 2 megawatts (MW), including access roads and wiring, in the AG-1**
4 **Agriculture Zoning District, and including the following waivers of standard conditions: Part A:**
5 **A waiver for not providing a Decommissioning and Site Reclamation Plan that include cost**
6 **estimates prepared by an Illinois Licensed Professional Engineer prior to consideration of the**
7 **Special Use Permit by the Board, per Section 6.1.1 A. 3.; and Part B. A waiver for not entering**
8 **into a Roadway Upgrade and Maintenance Agreement or waiver therefrom with the relevant local**
9 **highway authority prior to consideration of the Special Use Permit by the Board, per Section 6.1.5**
10 **G. Location: Part of a 36.77-acre tract in the West Half of the North Half of the Northwest**
11 **Quarter of Section 20 of Township 22 North, Range 9 East of the Third Principal Meridian in**
12 **Ludlow Township, and commonly known as the farmland adjacent to the electric substation on**
13 **the southwest corner of the intersection of CR 3300N and CR 1300E.**

14
15 Mr. DiNovo asked if the Board is expected to review this case tonight or continue it to a later date.

16
17 Ms. Capel stated that she anticipates continuing Case 897-S-18 to a later date.

18
19 Mr. Hall stated that the Board could finalize the case tonight if it so desires.

20
21 Ms. Capel asked the audience if anyone, other than Mr. Borkowski, was present to testify for Case 897-
22 S-18, and there was no one.

23
24 Ms. Capel asked Mr. Hall to indicate a continuance date for Case 897-S-18.

25
26 Mr. Hall stated that the next special meeting date available is October 18th, although Mr. Borkowski
27 would not attend due to the County Board meeting being held on that same night. He said that October
28 25th is the next available continuance date for Case 897-S-18.

29
30 Mr. DiNovo asked Mr. Hall if Case 897-S-18 could be heard on October 11th.

31
32 Mr. Hall stated no.

33
34 Mr. DiNovo stated that the Board has gone over a lot of the issues involving the Village of St. Joseph.

35
36 Ms. Capel stated that Case 897-S-18 is not near St. Joseph but located in Ludlow Township.

37
38 Mr. DiNovo stated that he is aware of the location for Case 897-S-18, but the other two cases involving
39 the Village of St. Joseph reviewed a lot of the Village's relevant concerns.

40

1 Mr. Hall stated no, because those cases have not been opened.

2

3 Mr. DiNovo stated that he believes that Case 897-S-18 could be finalized tonight.

4

5 Mr. Randol informed the Board that the meeting has been extended to 10:30 p.m. and he does not intend
6 to extend the time any further.

7

8 Mr. DiNovo stated that finalizing the case tonight within the available time period is worth a shot. He
9 said that the only two waivers are the procedural ones and the exact same findings could be made for
10 those two procedural waivers as were made for Case 897-S-18, because the issues are the same and the
11 location does not affect the waivers in any way.

12

13 Mr. Hall asked Mr. DiNovo if he is prepared to make a motion that the Board repeats the findings for
14 Case 894-S-17 in Case 897-S-18 where it is appropriate.

15

16 Mr. DiNovo stated that only in regards to the two waivers regarding the decommissioning and road
17 agreement.

18

19 Ms. Griest stated that doing so does seem reasonable because the waivers are identical.

20

21 Ms. Capel informed the audience that Case 897-S-18 is an Administrative Case and as such, the County
22 allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will
23 ask for a show of hands for those who would like to cross-examine, and each person will be called upon.
24 She requested that anyone called to cross-examine go to the cross-examination microphone to ask any
25 questions. She said that those who desire to cross-examine are not required to sign the witness register
26 but are requested to clearly state their name before asking any questions. She noted that no new
27 testimony is to be given during the cross-examination. She said that attorneys who have complied with
28 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

29

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

34

35 Ms. Capel closed the witness register for Case 897-S-18.

36

37 Ms. Capel stated that the Board will review the Special Conditions with the petitioners.

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39 Mr. Hall stated that the special conditions for Case 897-S-18 are the same special conditions for Case
40 894-S-18.

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Ms. Capel read Special Condition A. as follows:

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

- **Sheet T1.1: Permit Set Cover received August 13, 2018**
- **Sheet L1.1: Site Layout received September 18, 2018**
- **Sheet L2.1: Tracker System Detail received August 13, 2018**
- **Sheet L2.3: Fence-Gate Detail received January 25, 2018**
- **Sheet L2.3: Agricultural Fence Detail received August 13, 2018**
- **Sheet E1.1: Single Line Diagram received August 13, 2018**
- **Sheet E2.1: DC & AC Conductor Schedule received January 25, 2018**
- **Sheet E4.1: Grounding Details received January 25, 2018**
- **Sheet E9.1: Equipment Specification Sheets received August 13, 2018**

The above special condition is required to ensure that:

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

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition A.

Mr. Borkowski stated that he agreed to Special Condition A.

Ms. Capel read Special Condition B. as follows:

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.

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition B.

Mr. Borkowski stated that he agreed to Special Condition B.

Ms. Capel read Special Condition C. as follows:

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.**

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

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

Ms. Capel asked Mr. Borkowski if he agreed to Special Condition C.

Mr. Borkowski stated that he agreed to Special Condition C.

Ms. Capel read Special Condition D. as follows:

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.

Mr. DiNovo stated that the petitioner is familiar with the special conditions; therefore, the petitioner can agree to the special conditions *en masse*.

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

The above special conditions are required to ensure that:

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

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

The above special condition is necessary to ensure the following:

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

G. The following submittals are required prior to the approval of any Zoning Use

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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 “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
- 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. **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**
- 7. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 8. **Any updates to the approved Site Plan from Case 897-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1.c.**

The above special condition is required to ensure that:

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

- H. **A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to going into commercial production of energy. Approval of a Zoning Compliance Certificate shall require the following:**
 - 1. **An as-built site plan of the PV SOLAR FARM including structures, property lines (including identification of adjoining properties), as-built separations,**

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public access road and turnout locations, substation(s), electrical cabling from the PV SOLAR FARM to the substations(s), and layout of all structures within the geographical boundaries of any applicable setback.

- 2. **As-built documentation of all permanent soil erosion and sedimentation improvements for all PV SOLAR FARM including any access road prepared by an Illinois Licensed Professional Engineer.**
- 3. **An executed interconnection agreement with the appropriate electric utility as required by Section 6.1.5 B.(3)b.**

The above special condition is required to ensure that:

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

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

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The above special condition is required to ensure that:

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

J. The Applicant or Owner or Operator of the PV SOLAR FARM shall plant and maintain in perpetuity a visual screen on the north and west sides of the PV SOLAR FARM per Section 6.1.5 M. of the Zoning Ordinance.

The above special condition is required to ensure that:

Visual impacts of the PV SOLAR FARM are minimized for adjacent residents.

Ms. Capel asked Mr. Borkowski if he agreed to the totality of Special Conditions E, F, G, H, I, and J *en masse*.

Mr. Borkowski stated that he agreed to the totality of Special Conditions E, F, G, H, I, and J.

Ms. Capel entertained a motion to approve the Special Conditions.

Ms. Griest moved, seconded by Mr. Elwell, to approve the Special Conditions for Case 897-S-18. The motion carried by voice vote with two opposing votes.

Ms. Capel stated that there are no new Documents of Record for Case 897-S-18.

Finding of Fact for Case 897-S-18:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 897-S-18 held on August 30, 2018, and September 27, 2018, the Zoning Board of Appeals of Champaign County finds that:

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

Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this location, because this project will help the county achieve LRMP Objectives 8.8, 9.1, 9.5 and because it has the necessary proximity to an electrical substation for an economical connection to the electric grid.

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

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

Mr. DiNovo stated that the street has ADEQUATE traffic capacity and the entrance location has ADEQUATE visibility, because the use will generate no traffic after construction.

b. Emergency services availability is ADEQUATE

Mr. DiNovo stated that emergency serviced availability is ADEQUATE because the site will be unoccupied.

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

Mr. DiNovo stated that the Special Use WILL be compatible with adjacent uses because it will be below EPA noise level limits.

d. Surface and subsurface drainage will be ADEQUATE.

Mr. DiNovo stated that surface and subsurface drainage will be ADEQUATE, because there will be a permanent vegetative cover under the panels, which will reduce runoff from the site, and prevent erosion.

e. Public safety will be ADEQUATE.

Mr. DiNovo stated that public safety will be ADEQUATE because the use will not create any special hazards.

f. The provisions for parking will be ADEQUATE.

Mr. DiNovo stated that the provisions for parking will be ADQUATE because during the operation of the facility there will be no need to park more than 1 or 2 vehicles at a time.

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

Mr. DiNovo stated that the property IS WELL SUITED OVERALL for the proposed improvements because the site is in a rural area and it will not permanently destroy any significant amount of farmland.

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

1
 2 Mr. DiNovo stated that existing public services ARE available to support the proposed SPECIAL USE
 3 without undue public expense because the use generates no public service demand.
 4

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

9 Mr. DiNovo stated that existing public infrastructure together with the proposed development IS
 10 adequate to support the proposed development effectively and safely without undue public expense
 11 because the solar farm does not generate any additional demand for public infrastructure.
 12

13 Ms. Capel stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
 14 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
 15 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
 16 and welfare.
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19 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
 20 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
 21 **DISTRICT in which it is located.**
 22

23 Mr. DiNovo stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
 24 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in
 25 which it is located because the only waivers the use requires are procedural.
 26

27 **Mr. Elwell moved, seconded by Ms. Griest, to extend the meeting to 10:45 p.m. The motion**
 28 **carried with two opposing votes.**
 29

30 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
 31 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
 32 **is located because:**

33 **a. The Special Use will be designed to CONFORM to all relevant County ordinances**
 34 **and codes.**
 35

36 Mr. Elwell stated that the Special Use will be designed to CONFORM to all relevant County ordinances
 37 and codes.
 38

39 **b. The Special Use WILL be compatible with adjacent uses.**
 40

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

2

3 c. **Public safety will be ADEQUATE.**

4

5 Mr. Elwell stated that public safety will be ADEQUATE.

6

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

9

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

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

14

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

17

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

20

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

25

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

30

31 d. **The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
32 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
33 **which it is located.**

34

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

37

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

40

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

2
3 Ms. Capel stated that the requested Special Use IS NOT an existing nonconforming use.

4
5 **Mr. DiNovo moved, seconded by Mr. Elwell, to utilize the same findings for Parts 6.A. and 6.B.,**
6 **regarding the necessary waivers of standard conditions, as indicated in Parts 6.B and 6.C. in Case**
7 **894-S-17. The motion carried by voice vote, with two opposing votes.**

8
9 **6. Regarding necessary waivers of standard conditions:**

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

- 14
15 **(1) The waiver IS in accordance with the general purpose and intent of the**
16 **Zoning Ordinance and WILL NOT be injurious to the neighborhood or to**
17 **the public health, safety, and welfare.**

18
19 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning
20 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare
21 because the extended time period allows for the development of complete, final and accurate information
22 necessary to make a good estimate.

- 23
24 **(2) Special conditions and circumstances DO exist which are peculiar to the land**
25 **or structure involved, which are not applicable to other similarly situated**
26 **land and structures elsewhere in the same district.**

27
28 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or
29 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
30 the same district because the requirement is made to apply only to solar farms and wind farms.

31
32 Ms. Capel stated that in the case of solar farms, the specifics of the development are not known at the
33 time of this approval and will be determined at a later date.

- 34
35 **(3) Practical difficulties or hardships created by carrying out the strict letter of**
36 **the regulations sought to be varied WILL prevent reasonable or otherwise**
37 **permitted use of the land or structure or construction.**

38
39 Ms. Capel stated that practical difficulties or hardships created by carrying out the strict letter of the
40 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or

1 structure or construction because it would be a hardship to develop a decommissioning plan per the
2 standard without knowing if you were going to be eligible for the Renewable Energy Credits.

3
4 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**
5 **NOT result from actions of the applicant.**
6

7 Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT
8 result from actions of the applicant because the applicant cannot control whether they will be eligible for
9 the energy credits until their name is drawn or excluded.

10
11 **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**
12 **CONDITION, IS the minimum variation that will make possible the**
13 **reasonable use of the land or structure.**
14

15 Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION,
16 IS the minimum variation that will make possible the reasonable use of the land or structure because
17 providing this documentation is the only county control point that accommodates the Illinois Power
18 Authority’s approval of the Renewable Energy Credits.

19
20 **B. Regarding new Part B of the proposed waivers, for not entering into a Roadway**
21 **Upgrade and Maintenance Agreement or waiver therefrom with the relevant local**
22 **highway authority prior to consideration of the Special Use Permit by the Board:**
23

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

28 Mr. DiNovo stated that the waiver IS in accordance with the general purpose and intent of the Zoning
29 Ordinance and WILL NOT be injurious to the neighborhood or to the public health, safety, and welfare,
30 because the petitioner has made a good faith effort to finalize an agreement, but because of the township
31 board meeting schedule, has not been able to bring it forward rapidly enough for the case to be resolved
32 in time for the State’s procedures to play out.

33
34 **(2) Special conditions and circumstances DO exist which are peculiar to the land**
35 **or structure involved, which are not applicable to other similarly situated**
36 **land and structures elsewhere in the same district.**
37

38 Mr. DiNovo stated that special conditions and circumstances DO exist which are peculiar to the land or
39 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
40 the same district, because these uses are unique in that they cannot go forward without the approval of

1 the Renewable Energy Credits, which creates an artificial deadline for the process to be completed.

2
3 **(3) Practical difficulties or hardships created by carrying out the strict letter of**
4 **the regulations sought to be varied WILL prevent reasonable or otherwise**
5 **permitted use of the land or structure or construction.**
6

7 Mr. DiNovo stated that practical difficulties or hardships created by carrying out the strict letter of the
8 regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or
9 structure or construction, because they could delay the final consideration, effectively making the project
10 impossible to complete.

11
12 **(4) The special conditions, circumstances, hardships, or practical difficulties DO**
13 **NOT result from actions of the applicant.**
14

15 Mr. DiNovo stated that the special conditions, circumstances, hardships, or practical difficulties DO
16 NOT result from actions of the applicant, because none of the timing factors are under the control of the
17 petitioner - township meetings schedules, county meeting schedules, the Renewable Energy Credits
18 distribution procedure – none of that is under their control.

19
20 **(5) The requested waiver, SUBJECT TO THE PROPOSED SPECIAL**
21 **CONDITION, IS the minimum variation that will make possible the**
22 **reasonable use of the land/structure.**
23

24 Mr. DiNovo stated that the requested waiver, SUBJECT TO THE PROPOSED SPECIAL CONDITION
25 IS the minimum variation that will make possible the reasonable use of the land/structure, because
26 providing this documentation is the only county control point that accommodates the Illinois Power
27 Authority’s approval of the Renewable Energy Credits.
28

29
30 **7. THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE**
31 **COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE**
32 **PARTICULAR PURPOSES DESCRIBED BELOW:**
33

- 34 A. **The approved site plan consists of the following documents:**
35 • **Sheet T1.1: Permit Set Cover received August 13, 2018**
36 • **Sheet L1.1: Site Layout received September 18, 2018**
37 • **Sheet L2.1: Tracker System Detail received August 13, 2018**
38 • **Sheet L2.3: Fence-Gate Detail received January 25, 2018**
39 • **Sheet L2.3: Agricultural Fence Detail received August 13, 2018**
40 • **Sheet E1.1: Single Line Diagram received August 13, 2018**

- 1 • **Sheet E2.1: DC & AC Conductor Schedule received January 25, 2018**
- 2 • **Sheet E4.1: Grounding Details received January 25, 2018**
- 3 • **Sheet E9.1: Equipment Specification Sheets received August 13, 2018**
- 4

5 The above special condition is required to ensure that:

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

- 8
- 9 **B. The Zoning Administrator shall not authorize a Zoning Use Permit Application or**
10 **issue a Zoning Compliance Certificate on the subject property until the lighting**
11 **specifications in Paragraph 6.1.2.A. of the Zoning Ordinance have been met.**
- 12

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

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

- 16
- 17 **C. The Zoning Administrator shall not issue a Zoning Compliance Certificate for the**
18 **proposed PV SOLAR FARM until the petitioner has demonstrated that the**
19 **proposed Special Use complies with the Illinois Accessibility Code, if necessary.**
- 20

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

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

- 24
- 25 **D. The Zoning Administrator shall not authorize a Zoning Use Permit until the**
26 **petitioner submits a copy of an executed Agricultural Impact Mitigation Agreement**
27 **with the Illinois Department of Agriculture per the requirements established in**
28 **Paragraph 6.1.5 R. of the Zoning Ordinance.**
- 29

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

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

- 33
- 34 **E. A signed Decommissioning and Site Reclamation Plan that has been approved by**
35 **ELUC is required at the time of application for a Zoning Use Permit that complies**
36 **with Section 6.1.1 A. and Section 6.1.5 Q. of the Zoning Ordinance, including a**
37 **decommissioning cost estimate prepared by an Illinois Professional Engineer.**
- 38

39 The above special conditions are required to ensure that:

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

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

The above special condition is necessary to ensure the following:

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

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

- 9. **Documentation of the solar module’s unlimited 10-year warranty and the 25-year limited power warranty.**
- 10. **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.**
- 11. **An irrevocable letter of credit to be drawn upon a federally insured financial institution with a minimum acceptable long term corporate debt (credit) rating of the proposed financial institution shall be a rating of “A” by S&P or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable anticipated travel costs shall be added to the amount of the letter of credit.**
- 12. **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.**
- 13. **Documentation regarding the seed to be used for the pollinator planting, per 6.1.5 F.(9).**
- 14. **A Transportation Impact Analysis provided by the applicant that is mutually acceptable to the Applicant and the County Engineer and State’s Attorney; or Township Highway Commissioner; or municipality where relevant, as required by 6.1.5 G. 2.**
- 15. **The telephone number for the complaint hotline required by 6.1.5 S.**
- 16. **Any updates to the approved Site Plan from Case 897-S-18 per the Site Plan requirements provided in Section 6.1.5 U.1.c.**

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The above special condition is required to ensure that:

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

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

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

The above special condition is required to ensure that:

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

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

- 3. Maintain the pollinator plantings and required visual screening in perpetuity.**
- 4. 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.**

- 1 5. **Submit annual summary of operation and maintenance reports to the**
- 2 **Environment and Land Use Committee as required by 6.1.5 P.(1)a.**
- 3
- 4 6. **Maintain compliance with the approved Decommissioning and Site**
- 5 **Reclamation Plan including financial assurances.**
- 6
- 7 7. **Submit to the Zoning Administrator copies of all complaints to the telephone**
- 8 **hotline on a monthly basis and take all necessary actions to resolve all**
- 9 **legitimate complaints as required by 6.1.5 S.**

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

- 15 J. **The Applicant or Owner or Operator of the PV SOLAR FARM shall plant and**
- 16 **maintain in perpetuity a visual screen on the north and west sides of the PV SOLAR**
- 17 **FARM per Section 6.1.5 M. of the Zoning Ordinance.**

The above special condition is required to ensure that:
Visual impacts of the PV SOLAR FARM are minimized for adjacent residents.

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

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

30 Ms. Capel entertained a motion to move to the Final Determination for Case 897-S-18.

32 **Mr. Elwell moved, seconded by Ms. Griest, to move to the Final Determination for Case 897-S-18.**
33 **The motion carried by voice vote with one opposing vote.**

35 Ms. Capel stated that currently the Board has one member absent; therefore, it is at the petitioner’s
36 discretion to either continue Case 897-S-18 until a full Board is present or request that the present Board
37 move to the Final Determination. She informed the petitioner that four affirmative votes are required for
38 approval.

40 Mr. Borkowski requested that the present Board move forward to the Final Determination for Case 897-

1 S-18.

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3 **Final Determination for Case 897-S-18:**

4 **Mr. DiNovo moved, seconded by Ms. Griest, that the Champaign County Zoning Board of**
5 **Appeals finds that, based upon the application, testimony, and other evidence received in this case,**
6 **that the requirements for approval of Section 9.1.11.B. HAVE been met, and pursuant to the**
7 **authority granted by Section 9.1.6B. of the Champaign County Zoning Ordinance, recommends**
8 **that:**

9 **The Special Use requested in Case 897-S-18 is be GRANTED WITH SPECIAL**
10 **CONDITIONS to the applicant, Community Power Group LLC, to authorize the following**
11 **as a Special Use on land in the AG-1 Agriculture Zoning District:**

12

13 **Authorize a Community PV Solar Farm with a total nameplate capacity of 2 megawatts**
14 **(MW), including access roads and wiring, and subject to the following waivers of standard**
15 **conditions:**

16

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

18

- **Sheet T1.1: Permit Set Cover received August 13, 2018**
- **Sheet L1.1: Site Layout received September 18, 2018**
- **Sheet L2.1: Tracker System Detail received August 13, 2018**
- **Sheet L2.3: Fence-Gate Detail received January 25, 2018**
- **Sheet L2.3: Agricultural Fence Detail received August 13, 2018**
- **Sheet E1.1: Single Line Diagram received August 13, 2018**
- **Sheet E2.1: DC & AC Conductor Schedule received January 25, 2018**
- **Sheet E4.1: Grounding Details received January 25, 2018**
- **Sheet E9.1: Equipment Specification Sheets received August 13, 2018**

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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.

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.

- 1 E. **A signed Decommissioning and Site Reclamation Plan that has been approved by ELUC is**
2 **required at the time of application for a Zoning Use Permit that complies with Section 6.1.1**
3 **A. and Section 6.1.5 Q. of the Zoning Ordinance, including a decommissioning cost**
4 **estimate prepared by an Illinois Professional Engineer.**
5
- 6 F. **A Roadway Upgrade and Maintenance Agreement signed by the Highway Commissioner**
7 **and approved by the Environment and Land Use Committee shall be submitted at the time**
8 **of application for a Zoning Use Permit.**
9
- 10 G. **The following submittals are required prior to the approval of any Zoning Use Permit for a**
11 **PV SOLAR FARM:**
12
 - 13 1. **Documentation of the solar module’s unlimited 10-year warranty and the 25- year**
14 **limited power warranty.**
15
 - 16 2. **Certification by an Illinois Professional Engineer that any relocation of**
17 **drainage district tile conforms to the Champaign County Storm Water**
18 **Management and Erosion Control Ordinance.**
19
 - 20 3. **An irrevocable letter of credit to be drawn upon a federally insured financial**
21 **institution with a minimum acceptable long term corporate debt (credit)**
22 **rating of the proposed financial institution shall be a rating of “A” by S&P**
23 **or a rating of “A2” by Moody’s within 200 miles of Urbana or reasonable**
24 **anticipated travel costs shall be added to the amount of the letter of credit.**
25
 - 26 4. **A permanent soil erosion and sedimentation plan for the PV SOLAR FARM**
27 **including any access road that conforms to the relevant Natural Resources**
28 **Conservation Service guidelines and that is prepared by an Illinois Licensed**
29 **Professional Engineer.**
30
 - 31 5. **Documentation regarding the seed to be used for the pollinator planting, per**
32 **6.1.5 F.(9).**
33
 - 34 6. **A Transportation Impact Analysis provided by the applicant that is mutually**
35 **acceptable to the Applicant and the County Engineer and State’s Attorney;**
36 **or Township Highway Commissioner; or municipality where relevant, as**
37 **required by 6.1.5 G. 2.**
38
 - 39 7. **The telephone number for the complaint hotline required by 6.1.5 S.**
40

- 1 8. **Any updates to the approved Site Plan from Case 897-S-18 per the Site Plan**
- 2 **requirements provided in Section 6.1.5 U.1.c.**
- 3
- 4 H. **A Zoning Compliance Certificate shall be required for the PV SOLAR FARM prior to**
- 5 **going into commercial production of energy. Approval of a Zoning Compliance Certificate**
- 6 **shall require the following:**
- 7 1. **An as-built site plan of the PV SOLAR FARM including structures, property lines**
- 8 **(including identification of adjoining properties), as-built separations, public access**
- 9 **road and turnout locations, substation(s), electrical cabling from the PV SOLAR**
- 10 **FARM to the substations(s), and layout of all structures within the geographical**
- 11 **boundaries of any applicable setback.**
- 12
- 13 2. **As-built documentation of all permanent soil erosion and sedimentation**
- 14 **improvements for all PV SOLAR FARM including any access road prepared by an**
- 15 **Illinois Licensed Professional Engineer.**
- 16
- 17 3. **An executed interconnection agreement with the appropriate electric utility as**
- 18 **required by Section 6.1.5 B.(3)b.**
- 19
- 20 I. **The Applicant or Owner or Operator of the PV SOLAR FARM shall comply with the**
- 21 **following specific requirements that apply even after the PV SOLAR FARM goes into**
- 22 **commercial operation:**
- 23
- 24 1. **Maintain the pollinator plantings and required visual screening in perpetuity.**
- 25
- 26 2. **Cooperate with local Fire Protection District to develop the District’s emergency**
- 27 **response plan as required by 6.1.5 H.(2).**
- 28
- 29 3. **Cooperate fully with Champaign County and in resolving any noise complaints**
- 30 **including reimbursing Champaign County any costs for the services of a qualified**
- 31 **noise consultant pursuant to any proven violation of the I.P.C.B. noise regulations**
- 32 **as required by 6.1.5 I.(4).**
- 33
- 34 4. **Maintain a current general liability policy as required by 6.1.5 O.**
- 35
- 36 5. **Submit annual summary of operation and maintenance reports to the Environment**
- 37 **and Land Use Committee as required by 6.1.5 P.(1)a.**
- 38
- 39 6. **Maintain compliance with the approved Decommissioning and Site Reclamation**
- 40 **Plan including financial assurances.**

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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 Applicant or Owner or Operator of the PV SOLAR FARM shall plant and maintain in perpetuity a visual screen on the north and west sides of the PV SOLAR FARM per Section 6.1.5 M. of the Zoning Ordinance.**

Ms. Capel requested a roll call vote.

The roll was called as follows:

Lee- no	Passalacqua-absent	Randol-no
Elwell-yes	DiNovo-yes	Griest-yes
Capel-yes		

Mr. Hall informed the petitioner that he has also received an approval for Case 897-S-18 and it would be forwarded to the Environment and Land Use Committee at next week’s meeting.

6. New Public Hearings

Case 915-V-18 Petitioner: Mark and Paul Meharry Request: Authorize a variance for the addition of 0.57 acre to an existing 2.96-acre lot, for a total of 3.53 acres in area, in lieu of the maximum allowed 3 acres for lots with soils that are best prime farmland, per Section 5.3 of the Champaign County Zoning Ordinance. Location: A 2.96-acre lot plus part of a 317.04-acres tract of land located in the Northeast Quarter of Section 20, Township 18 North, Range 9 East of the Third Principal Meridian in Philo Township, with an address of 1385 CR 900N, Tolono.

Ms. Capel informed the audience that Case 915-V-18 is an Administrative Case and as such, the County allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will ask for a show of hands for those who would like to cross-examine, and each person will be called upon. She requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions. She said that those who desire to cross-examine are not required to sign the witness register but are requested to clearly state their name before asking any questions. She noted that no new testimony is to be given during the cross-examination. She said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are exempt from cross-examination.

Ms. Capel informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. She reminded the audience that when they sign the witness

1 register they are signing an oath. She asked the audience if anyone desired to sign the witness register
2 and there was no one.

3
4 Ms. Capel asked the petitioner if he would like to make a statement regarding his request.

5
6 Mr. Paul Meharry, who resides at 813 CR 1500E, Tolono, stated that he is seeking an approval to
7 enlarge the existing subject property by 0.57 acre, which would essentially square up the parcel by taking
8 two notches that they presently farm and adding them to the homesite. He said that this is the property
9 where he grew up on and he is working with his father to purchase the existing homesite, and he has
10 approval from the farmland owners to purchase the additional land, pending the approval of this request.

11
12 Ms. Capel asked staff if there were any comments.

13
14 Mr. John Hall, Zoning Administrator, stated that staff had no new information to add to the case.

15
16 Ms. Capel asked the Board if there were any questions for Mr. Meharry.

17
18 Mr. DiNovo stated that the memorandum indicated that Mr. Meharry intended to build a new house and
19 shed in the future. He asked Mr. Meharry if he intends to demolish the old home once the new home is
20 constructed.

21
22 Mr. Meharry stated yes, but those are future plans. He said that once they are prepared to construct the
23 new house, the old house will be demolished, although that will be a couple of years down the road.

24
25 Mr. DiNovo asked Mr. Meharry if a new shed will also be constructed.

26
27 Mr. Meharry stated that the new shed is also part of his future plans.

28
29 Ms. Griest asked Mr. Meharry if in squaring the boundaries provides him with a better opportunity to
30 reside in the existing house while constructing the new one, thus not requiring him to live offsite.

31
32 Mr. Meharry stated yes. He said that residing in the existing house until the new home is completed, and
33 then demolishing the existing home is all part of his future plans.

34
35 Ms. Griest asked Mr. Meharry if the current odd boundary configuration would prevent him from doing
36 that.

37
38 Mr. Meharry stated yes, there would be less usable space if the variance is not approved. He said that
39 squaring off the property will also make it easier to farm around, because the current configuration
40 requires them to plant end rows in a different direction. He said that squaring off the property would

1 allow them to plant rows from one end of the farm parcel to the other without any odd rows.

2
3 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Meharry, and there
4 were none.

5
6 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Meharry, and there was no one.

7
8 Ms. Capel called Mark Meharry to testify.

9
10 Mr. Mark Meharry declined to testify.

11
12 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony
13 regarding this case, and there was no one.

14
15 Ms. Capel closed the witness register.

16
17 Ms. Capel stated that the Board will now review the Findings of Fact for Case 915-V-18.

18
19 **Findings of Fact for Case 915-V-18:**

20
21 **From the documents of record and the testimony and exhibits received at the public hearing for**
22 **zoning case 915-V-18 held on September 27, 2018, the Zoning Board of Appeals of Champaign**
23 **County finds that:**

- 24
25 **1. Special conditions and circumstances DO exist which are peculiar to the land or structure**
26 **involved, which are not applicable to other similarly situated land and structures elsewhere**
27 **in the same district.**

28
29 Mr. Randol stated that special conditions and circumstances DO NOT exist which are peculiar to the
30 land or structure involved, which are not applicable to other similarly situated land and structures
31 elsewhere in the same district.

32
33 Ms. Griest stated that special conditions and circumstances DO exist which are peculiar to the land or
34 structure involved, which are not applicable to other similarly situated land and structures elsewhere in
35 the same district, because the subject property is a flag lot, and the access strip for the flag lot is 0.83
36 acres of the current lot, which is not buildable space.

- 37
38 **2. Practical difficulties or hardships created by carrying out the strict letter of the regulations**
39 **sought to be varied WILL prevent reasonable or otherwise permitted use of the land or**
40 **structure or construction.**

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Ms. Griest stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because this change will improve farming efficiency around the lot by eliminating the need for unnecessary end rows.

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

Ms. Griest stated that the special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant because the lot configuration was created by the previous owner.

4. The requested variance IS in harmony with the general purpose and intent of the Ordinance.

Mr. DiNovo stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because the variance is modest, and it affects about one-half mile of farmland, and there are advantages from an agricultural perspective of making these changes.

5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare.

Mr. DiNovo stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because there is very little change to the physical characteristics on the ground, and the variance will facilitate investment in a new house and a new shed.

6. The requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. DiNovo stated that the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because the change is the only feasible way to square up the parcel.

7. No special conditions are hereby imposed.

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

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

1 Ms. Capel entertained a motion to move to the Final Determination for Case 915-V-18.

2
3 **Ms. Griest moved, seconded by Ms. Lee, to move to the Final Determination for Case 915-V-18.**
4 **The motion carried by voice vote.**
5

6 Ms. Capel informed the petitioners that currently the Board has one member absent; therefore, it is at the
7 petitioners' discretion to either continue Case 915-V-18 until a full Board is present or request that the
8 present Board move to the Final Determination. She informed the petitioners that four affirmative votes are
9 required for approval.

10
11 Mr. Paul Meharry requested that the present Board move to the final determination.

12
13 **Final Determination for Case 915-V-18:**

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

20
21 **The Variance requested in Case 915-V-18 is hereby GRANTED to the petitioners, Mark**
22 **Meharry and Paul Meharry, to authorize the following variance in the AG-1 Agriculture**
23 **Zoning District:**

24
25 **Authorize a variance for the addition of 0.57 acre to an existing 2.96-acre lot, for a**
26 **total of 3.53 acres in area, in lieu of the maximum allowed 3 acres for lots with soils**
27 **that are best prime farmland, per Section 5.3 of the Champaign County Zoning**
28 **Ordinance.**

29
30 Ms. Capel requested a roll call vote.

31
32 The roll was called as follows:

33
34 **DiNovo-yes Griest-yes Lee-yes**
35 **Passalacqua-absent Randol-yes Elwell-yes**
36 **Capel-yes**

37
38 Mr. Hall informed the petitioners that they have received an approval for their request, and Ms.
39 Burgstrom will be in contact regarding the final paperwork.

1 **Case 917-S-18** Petitioner: **Tim Culver, d.b.a. Classic Plumbing Systems** Request to authorize a
2 **Contractor's Facility with or without Outdoor Storage and Outdoor Operations as a Special Use**
3 **in the AG-2 Agriculture Zoning District. Location: A 7-acre tract in the West Half of the**
4 **Northeast Quarter of the Northeast Quarter of Section 10, Township 20 North, Range 7 East of**
5 **the Third Principal Meridian in Mahomet Township with an address of 2278 CR 350E, Mahomet.**
6

7 Mr. Randol informed the Board that he knows Mr. Culver and he is an employee with the Sangamon
8 Valley Public Water District, although he does not feel that either one of these issues has any bearing on
9 Case 917-S-18, and the Board agreed.
10

11 Ms. Capel informed the audience that Case 917-S-18 is an Administrative Case and as such, the County
12 allows anyone the opportunity to cross-examine any witness. She said that at the proper time, she will
13 ask for a show of hands for those who would like to cross-examine, and each person will be called upon.
14 She requested that anyone called to cross-examine go to the cross-examination microphone to ask any
15 questions. She said that those who desire to cross-examine are not required to sign the witness register
16 but are requested to clearly state their name before asking any questions. She noted that no new
17 testimony is to be given during the cross-examination. She said that attorneys who have complied with
18 Article 7.6 of the ZBA By-Laws are exempt from cross-examination.
19

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

25 Ms. Capel asked the petitioner if he would like to make a statement regarding his request.
26

27 Mr. Tim Culver, who resides at 602 N. John Street, Farmer City, stated that he is requesting a special use
28 permit on said property and it is his desire to purchase the property from the Habeck family. He said that
29 currently, he and his family reside in Farmer City, but his business is located in Mahomet and purchasing
30 the subject property would eliminate the commute time. He said that in purchasing the property, it is his
31 desire to combine the use of the subject property by having the business and his home at the same
32 location. He said that approval of the special use permit will allow him more efficiency for his business
33 as well as more time with his family. He said that he moved to Mahomet in 2002, and nine years ago he
34 started a plumbing business with five employees in the field and they are extremely excited about this
35 opportunity.
36

37 Ms. Capel asked the Board and staff if there were any questions for Mr. Culver.
38

39 Mr. DiNovo stated that the petition includes outdoor storage and operations. He asked Mr. Culver to
40 indicate what operations will take place outdoors.

1

2 Mr. Culver stated that his proposed shop will be large enough to hold the majority of their equipment
3 and their vehicles will be parked inside of the building. He said that he has a small flatbed trailer that he
4 hopes to be allowed to park outside; therefore, he is asking for a small provision to allow a small amount
5 of equipment to be parked outside.

6

7 Ms. Lee asked Mr. Hall if a special condition regarding the *Right to Farm Act* should be included.

8

9 Mr. Hall stated that typically for small special use permits, staff does not include a special condition
10 regarding the *Right to Farm Act*, but it could be included if the Board so desires. He said that this
11 property is located in the AG-2 Agriculture Zoning District, although it is an urbanized area, so the *Right*
12 *to Farm Act* was not included.

13

14 Ms. Lee stated that the reason why she posed the question is because three sides of the property are
15 surrounded by the AG-1 Agriculture Zoning District.

16

17 Mr. Hall stated that it is actually AG-2 Agriculture but both districts are agriculture.

18

19 Ms. Lee stated that page 2 of the Preliminary Memorandum dated September 20, 2018, states that the
20 adjacent properties to the north, east and west are zoned Ag-1.

21

22 Mr. Hall stated that the information on page 2 conflicts with the zoning map. He said that the adjacent
23 properties to the north and east are zoned AG-2 and the adjacent property to the west is zoned AG-1.

24

25 Ms. Lee stated that there were no zoning case maps in the mailing packet.

26

27 Mr. Hall stated that zoning case maps were included in the Supplemental Memorandum.

28

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

30

31 Ms. Capel called Peter Schneider to testify.

32

33 Mr. Peter Schneider, whose address is PO Box 3176, Champaign, stated that he was a member of the
34 Champaign County Zoning Board of Appeals (CCZBA) from 1988 to 1991, when Lyle Shields was the
35 County Board Chair and Jerry Wallace was the CCZBA Chair. He said that he is one of the ministers
36 for the Living Word Omega Message Church and they own the property immediately to the east and
37 south, which consists of approximately 46 acres. He said that there are several people present tonight
38 who are in support of the approval for Mr. Culver's request and they do not object to the request's
39 totality as described in the documents. He said that he knows Mr. Culver well and he has known him for
40 a very long time. He said that Mr. Culver is a diligent businessman and a man of an upright reputation.

1 He said that the zoning was at the request of the church, as it used to be CR Conservation and was highly
2 erodible land. He said that the reason why they requested that the zoning be changed was because they
3 wanted to build on the land and in 1976 they had a subdivision plat on the 20 acres to the south, but the
4 Village of Mahomet disapproved. He said that they wanted to be able to plant a crop on the land without
5 any issues, so they have contracted with a farmer who has planted alfalfa and corn on it to prevent any
6 erosion issues. He said that there is a 15-acre piece of land by the woods and a one-acre piece that the
7 Sangamon Valley Public Water District owns to house their water tower and supply water and sewer to
8 the two adjacent subdivisions. He said that he read the objection of the Village of Mahomet and he
9 would suggest that the Board just move forward. He said that the church is not concerned with a six-
10 foot opaque fence or any such things, because they have one window that faces the west and it is into the
11 baptismal area where it is no big deal. He said that the Habeck family has been on the subject property as
12 long as the church has been at their property and they have never had any issues. He said that the church
13 sees no issue with Mr. Culver's business being located on the subject property or the business' trucks
14 being located there. He said that during the day there won't be much going on and in the evening his
15 trucks will be parked in the building. He said that the church is heartily in approval with the project, as
16 Mr. Culver has been involved with the church and the church business for a long time and he hopes that
17 this Board approves Mr. Culver's request. He said that the inclusion of Mr. Culver's business will
18 generate tax dollars for the County, which is important for governments to operate, and the less
19 constraints we put on business the better off we are.

20

21 Ms. Capel asked the Board if there were any questions for Mr. Schneider.

22

23 Ms. Griest asked Mr. Schneider if all the church property is located within the Village of Mahomet,
24 because the map that was included in the memorandum indicates such.

25

26 Mr. Schneider stated that he hopes not, and if it is they haven't been notified of such.

27

28 Ms. Griest stated that page 1 of 1 of Attachment G., Supplemental Memorandum #1, dated September
29 27, 2018, indicates that the church is surrounded by the Village of Mahomet's municipal boundary.

30

31 Mr. Schneider stated that perhaps Nick Taylor or Bud Parkhill could answer Ms. Griest's question, but
32 he cannot.

33

34 Ms. Griest asked Mr. Schneider if the church has actively annexed into the Village of Mahomet.

35

36 Mr. Schneider stated no, they love being in the unincorporated portion of Champaign County.

37

38 Ms. Griest stated that she understands Mr. Schneider's comment because she resides outside of the
39 City of Urbana.

40

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

2
3 Mr. DiNovo stated that if his measurement is accurate, upstream, there is about 45 acres of watershed
4 that drains through the swale. He asked Mr. Schneider if he had ever seen water back up behind the
5 driveway to the church.

6
7 Mr. Schneider stated that there is a six-foot culvert and the drainage comes down to the south and under
8 the road, but when there was a 100-year event there was water there because the ground on the other side
9 of IL-47 is tilted. He said that he has tried to talk to God about it to get it adjusted, but he hasn't paid
10 much attention to his request, so they do get water coming through there, but it hasn't made their road
11 impassable. He said that they maintain the road to assure that it is very stable.

12
13 Ms. Capel asked the Board if there were any additional questions for Mr. Schneider, and there were
14 none.

15
16 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Schneider, and there was no one.

17
18 Ms. Capel called Connie Habeck to testify.

19
20 Ms. Connie Habeck, who resides at 2278 CR 350E, Mahomet, stated that she and her husband have
21 lived at that address for more than 30 years. She said that she and her husband met Mr. Culver during a
22 unique situation and shortly thereafter Mr. Culver indicated an interest in the property. She said that
23 over the last four months she and her husband have grown to know Mr. Culver and his family very well
24 and they have witnessed Mr. Culver carefully looking over the property to determine where he may
25 construct a building. She said that Mr. Culver has had several people to the property to determine the
26 correct placement of the proposed building. She said that when they first met Mr. Culver it was after a
27 business situation and Mr. Culver was very professional and she would like to see that carried forward in
28 the Mahomet area. She said that if Mr. Culver chooses to reside in the Mahomet area, it will be nice to
29 see his family grow up there.

30
31 Ms. Capel asked the Board and staff if there were any questions for Ms. Habeck, and there were none.

32
33 Ms. Capel asked the audience if anyone desired to cross-examine Mr. Habeck, and there was no one.

34
35 Ms. Capel called Kelly Pfeifer to testify.

36
37 Ms. Kelly Pfeifer, who resides at 1313 N. Garwood, Mahomet, stated that she is the Planning and
38 Development Director for the Village of Mahomet. She said that the subject property is contiguous to
39 the Village of Mahomet, which is why they have an interest in this request. She said that they had
40 spoken with Mr. Culver over the past year knowing that his interest was in having his home and business

1 on the same property. She said that they searched a couple of different places for the intended use, but it
2 is very hard to do what he wants to do inside of the Village of Mahomet, and they respect that. She said
3 that this particular piece of property, with Mr. Culver's affiliation with the church, as well as there
4 already being an existing home on the property, and with it being very buffered from its current lack of
5 development, makes it a good fit for him to do this. She said that the Village of Mahomet is not opposed
6 to this type of development in this location. She said that if this piece of property would have required a
7 subdivision, the property would have been annexed in and the Village would have run a conditional use
8 for the proposed use on the same property as the residence. She said that ultimately, whether this
9 property is located in the County or in the Village of Mahomet, a similar process would have occurred
10 for the natural reasons to make sure that it fits with the area and with the intended growth of the area and
11 mixed with provisions for the extension of utilities and services.
12

13 Ms. Pfeifer stated that when they received the Preliminary Memorandum, it was the first time that they
14 saw locations, dimensions, etc., with what this use was going to be, as they had only known in concept
15 of an outbuilding with a house, which is what you would traditionally see on a farmstead type lot. She
16 said that the memorandum indicated a very large building which was very close to a significant drainage
17 swale, and it was very close to the property directly to the south, which is in the Village of Mahomet and
18 contains the driveway of the Living Word Omega Message Church. She noted that the church is not
19 located within the Village of Mahomet's corporate limits, but the driveway parcel is and is zoned R-1
20 Single Family Residential. She said that all the land area around there is included in the Village of
21 Mahomet's Comprehensive Plan and is planned for residential use and has been looked at as such. She
22 said that they are anticipating that residential development will likely be in this area.
23

24 Ms. Pfeifer stated that the Supplemental Memorandum that the Board received today indicating the
25 modifications to the site plan, after Mr. Culver talked to the Village of Mahomet, the movement of the
26 building from its first position, which was closer to IL-47 and the swale, to the west relieves the Village
27 of Mahomet of a significant number of their concerns. She said that their concerns included screening,
28 signage, etc., and especially the storm water. She said that for the future, if this property is likely to be
29 developed further, the natural location for detention and drainage is in the southwest corner, so for the
30 future development of the site it would have been incredibly difficult for them to locate on-site detention
31 if they would have been allowed to put a building too close to that swale. She said that the movement of
32 the building has alleviated a lot of concerns and if this had subdivided, the provisions in the covenants
33 would have made accommodations that would have required that parcel in the future to connect to
34 municipal water and sanitary, if requested. She said that the property is located in the area of service for
35 the Sangamon Valley Water District, but they have reviewed the request and have indicated that they
36 have no concerns, and they have gone on record to indicate such, and that document is included in the
37 Board's materials. She said that it was important for Mr. Culver to know that the Village of Mahomet
38 could not manage that for them, except during the subdivision process, so they have alleviated those
39 concerns and have taken care of them in the future.
40

1 Ms. Pfeifer stated that one of the Village of Mahomet's major concerns is the extension of sidewalks and
2 bike paths. She said that the area east of IL-47 is on the Champaign County Greenways and Trails Plan
3 as the route for a bike path. She said that a bike path has already been started at the Champaign County
4 Forest Preserve and extended to the entrance of the Briar Cliff Subdivision and when the property to the
5 north is developed, it will be required to extend the sidewalk and bike path northerly. She said that
6 Thornwood Subdivision, located north of the subject property, already has a sidewalk that at some point
7 will be reconfigured. She said that what the Village of Mahomet is trying to do is to make sure that there
8 isn't a gap in that all the rest of land all around there, before it is developed or built upon, will have to
9 subdivide with the Village of Mahomet. She said that this is the only parcel that legally exists and did
10 not need to be subdivided and was created prior to the adoption of the Village of Mahomet's Subdivision
11 Ordinance, and the rest of the parcels, when they are developed, will have to go through the subdivision
12 process. She said that from the north to the south, the Village of Mahomet will have provisions to take
13 the bike path north. She said that the extension of the bike path was a big concern for the Village of
14 Mahomet and Tim Culver has agreed to a self-imposed condition that he will indeed accommodate an
15 easement for the bike path when it reaches his property, whether from the north or south, and he will
16 construct it. She said that only a five-foot width is required for the sidewalk, even though we talk about
17 a bike path, and once it is constructed the Village of Mahomet would pay back Mr. Culver for that extra
18 width.

19
20 She said that as far as the other things that the Village of Mahomet had mentioned as to what they would
21 have considered in their conditional use were based on the first site plan submittal. She said that the
22 Village of Mahomet can now say that since the special use permit is for the entirety of the property,
23 would assure that there is only one dwelling on the property with the contractor's facility, and assures
24 that there will not be another special use somewhere else on the property, and is more reflective of Mr.
25 Culver's current intention. She said that moving the building farther to the east and making some
26 modifications to reflect some unique site conditions that are there takes care of the Village of Mahomet's
27 concerns that they had requested for time to review. She said that the Village of Mahomet's statement
28 was not an objection but were concerns that they had based upon the first site plan. She said that a lot
29 has been done and Supplemental Memorandum #1 satisfies the Village of Mahomet's concerns. She
30 said that the Village of Mahomet is in support of the special use permit, and it is a good situation for Mr.
31 Culver, who has appropriately taken care of Sangamon Valley Public Water District's future extension
32 of that area and has left room for future detention in case the rest of that area develops. She said that Mr.
33 Culver's home and proposed shed are far enough back on the property that it will appear to be a typical
34 farmstead, which isn't changing the character of the area. She said that if there is ever future
35 development in the area, the subject property will similarly blend in. She said that the Village of
36 Mahomet is rescinding their request for a 30-day extension because they feel that their concerns have
37 been satisfied with the current conditions that are indicated in Supplemental Memorandum #1.

38
39 Ms. Capel asked the Board if there were any questions for Ms. Pfeifer.

40

1 Mr. DiNovo stated that this case is similar to the Dolan court case regarding takings. He asked Ms.
2 Pfeifer in what way the proposed land use requires a sidewalk or has impacts that a sidewalk would
3 mitigate.

4
5 Ms. Pfeifer stated that in the Village of Mahomet, if someone wanted to have a home lot with a house
6 and business, they could subdivide. She said that Mr. Culver could subdivide the land to achieve his
7 goals of the business being located in the large building and the home remaining on the property, it
8 would require a subdivision. She said that the subdivision would require future accommodations for the
9 extension of sidewalks, roadway improvements, etc.

10
11 Mr. DiNovo stated that he is discussing the intrinsic nature of the land use. He asked Ms. Pfeifer why a
12 plumber's contracting facility requires a sidewalk.

13
14 Ms. Pfeifer stated that large arterial roads that are adjacent to current properties are also not solely for the
15 benefitting property but for the good of the entire area. She said that the sidewalk network is like the
16 road network, as Mr. Culver will use a road that is already there and at some point, new residential
17 development and that development will require a sidewalk and pathway, and with keeping in support
18 with the Champaign County Greenways and Trail Plan.

19
20 Mr. DiNovo stated that he is not seeing the argument why it is the current or new landowner's
21 responsibility to build it.

22
23 Ms. Pfeifer stated that the current landowner may not need to build it for a very long time and he may
24 sell the property, and then it is required. She said that Mr. Culver does not have to build it until the other
25 land around it develops, and it may not be Mr. Culver, which is why the condition, "running with the
26 land," not Mr. Culver's plumbing business, is what we are talking about. She said that the special use is
27 for a contractor's facility, but the special use runs with the land and not with Mr. Culver or the plumbing
28 business. She said the County would be allowing a contractor's facility to operate on a property that
29 already has a separate home on the lot, so in the future Mr. Culver may sell the property, and it may
30 never be developed, but in twenty years the property could be the gap. She said that there is no time
31 limit on it and if the landowners to the south of the subject property that are a large part of the
32 continuation do not develop, then there is nothing that Mr. Culver must do. She said that the Village of
33 Mahomet does not like to saddle landowners with something that they cannot control. She said that if
34 the Village of Mahomet had, in writing, an accommodation for the easement and the sidewalk
35 construction, they could pursue grants and contracts for cost shares to fulfill the sidewalk and bike path
36 requirement prior to development in the other two areas, but without that accommodation the Village of
37 Mahomet cannot say they can do it. She said that it is possible that Mr. Culver will never need to install
38 the sidewalk. She said that the Village of Mahomet and the Champaign County Forest Preserve paid for
39 the sidewalk along IL Route 47 from I-74 to the north. She said that because this is a bike path along a
40 significant route, it is under the Village of Mahomet's plans to seek other grants as they have done for

1 other bike paths, but if there is a gap with no accommodations to secure installation of the sidewalk and
2 bike path in the future, the Village of Mahomet cannot apply for those grants because the Village of
3 Mahomet has to be able to prove that section or link of connectivity truly exists. She said that the longer
4 the section of service, the greater likelihood of obtaining the grants, so the Village of Mahomet cannot
5 afford to have that gap. She said that since Mr. Culver wants to use the land differently than for just a
6 home, a contractor's facility, this is the Village of Mahomet's opportunity to get the sidewalk and bike
7 path accommodation secured. She said that Mr. Culver may not build the sidewalk and bike path, and
8 the Village of Mahomet may not build them, but getting the land secured for that easement, in writing, as
9 well as documenting the obligation that it would be constructed, will allow the Village of Mahomet to
10 seek the grants that they have received for the other pathways that people see along state routes. She
11 said that it isn't due to the particular use that is being requested, but the fact that he wants to run a
12 commercial entity, and if he were within the Village limits of Mahomet he would be required to install
13 the sidewalk and bike path.

14
15 Ms. Griest asked Mr. Hall if requesting a deed restriction as part of a special use is within the ZBA's
16 purview or is it something that the landowner would grant by will and would not be subject to the special
17 use approval because the special use permit could be abandoned, relinquished, voided, etc. She said that
18 she does not remember this Board ever placing a deed restriction on a special use permit approval.

19
20 Mr. Hall stated that it is his understanding that the restriction would apply as long as there is a special
21 use being operated as a special use. He said that if there is no special use on the subject property, then
22 he does not see how the agreement would apply.

23
24 Ms. Griest agreed. She said that the way that it was being described is that, "it would run with the land"
25 but the special use doesn't necessarily run with the land if it is surrendered or the use changes, such as
26 returning the land to agriculture.

27
28 Mr. Hall stated that the special use does run with the land until it is no longer a special use. He said that
29 the Board has no way to exterminate a special use.

30
31 Ms. Griest stated that she had issue with the request of tying a deed restriction with a special use, but she
32 had no problem with placing a requirement that if they are using the special use when they are
33 contiguous to the sidewalk or bike path that the landowner is in agreement to install the extension of that
34 sidewalk and bike path, thus removing the gap. She said that she does not agree with tying a deed
35 restriction with a special use.

36
37 Ms. Pfeifer stated that a deed restriction is one methodology, but the Village of Mahomet has not
38 specifically requested a deed restriction. She said that the Village of Mahomet acknowledges the
39 limitations of the Champaign County Zoning Board of Appeals (CCZBA) and what this Board has
40 jurisdiction over, which is why the Village provided a lengthy list of things that it does. She said that the

1 CCZBA cannot address all those things because the CCZBA does not have that authority in their
2 purview. She said that she did not request a deed restriction but did request that while this special use is
3 occurring, and Mr. Culver has agreed to accommodate it, that the provision be included in the special
4 use. She said that the method of a deed restriction is not something that has been asked for.
5

6 Ms. Griest stated that she must have been mistaken because that is the exact language that she thought
7 she heard when Ms. Pfeifer stated, "runs with the land," because the special use may not last into
8 perpetuity.
9

10 Ms. Pfeifer stated yes, the special use runs with the land and not Tim Culver's plumbing business. She
11 said that the request is for a special use on a piece of property, and they aren't requesting that he puts a
12 deed restriction on, and the CCZBA is applying a special zoning on it, and as part of that zoning there
13 are some conditions that if Mr. Culver decides to use the property in an urban developed like manner,
14 that he will develop and extend available services in a development manner. She said that if the use
15 goes back to a farm and it is just a house and a shed, then the Village understands that and the provision
16 is gone, but if it continues to be used in this developed manner and it comes time to put the sidewalk and
17 bike path in, then that is where the Village would say for him to continue operating. She said that the
18 Village is not requesting that there be a restriction in Mr. Culver's deed, but during a subdivision they
19 would record a set of covenants that would include that. She said that the only method here is an
20 acknowledgement that if he continues to the special use when he is contiguous to the Village of
21 Mahomet, then he agrees to install the sidewalk and bike path, and Mr. Culver has agreed. She said that
22 the CCZBA and the Village of Mahomet do not have the authority to put a deed restriction on his
23 property.
24

25 Mr. Randol stated that this is something that is between the Village of Mahomet and Tim Culver, and it
26 is not part of the CCZBA's approval.
27

28 Ms. Capel stated that the provision is included in proposed Special Condition G.
29

30 Mr. DiNovo stated that he is concerned that Special Condition G. is unconstitutional, because there is no
31 evidence to support that there is any impact by the land use that would be mitigated by construction of a
32 sidewalk. He said that this is not like building a turn lane for a use that generates a lot of traffic but is
33 something that is being tacked on for the benefit of the Village and the County due to their plans to have
34 a sidewalk and bike pathway along IL-47. He said that this Board cannot impose special conditions on
35 special use permits for our own convenience so that public entities can avoid paying for easements just
36 because the CCZBA has the power to approve or withhold an approval. He said that there is a case from
37 Oregon, the Dolan case, where the facts are almost the same, where the municipality was asking for a
38 plumbing supply business to provide an easement for a sidewalk and bike path and there was no way that
39 the plumbing supply business generated the need for that path, but it was part of a larger plan. He said
40 that the courts said clearly that a government entity cannot use discretion over an approval to get what

1 things you want from the landowner that it would otherwise have to pay for. He said that he believes
2 that Special Condition G. is unconstitutional, and it should be deleted in its entirety. He said that if the
3 petitioner is willing to voluntarily enter into an agreement with the Village of Mahomet then that is
4 great, and he should be commended for it, but the CCZBA does not have the authority to make Mr.
5 Culver donate something that is not a mitigation of his land use itself and that is not what special
6 conditions are for, and the special use permit process is not a gift card that the State gave to Champaign
7 County.

8
9 Mr. Hall stated that the Board has a precedent for something like this, at least one time, with the
10 Windsor Road Christian Church. He said that admittedly a church has a greater interest in providing
11 sidewalk access to its facilities than a plumbing contractor, and he agrees that there is a big difference
12 between the two.

13
14 Mr. DiNovo stated that there has to be an essential nexus and a proportionality for requiring such a
15 special condition, and he does not see either of those here.

16
17 Mr. Hall stated that earlier staff was going to refer this question to the State's Attorney, but when staff
18 remembered the Windsor Road Christian Church, staff decided to bring it to the Board without State's
19 Attorney review.

20
21 Mr. Pfeifer stated that the Village of Mahomet also wanted to review with their attorney regarding what
22 was reasonable and what they could and could not do. She said that the Village of Mahomet understands
23 that Mr. Culver would like to get the building constructed and close on the property as soon as possible,
24 before winter. She said that the Village could still have questions but attend the meeting to support the
25 request if these things were done. She said that if the CCZBA is having reservations regarding the
26 legality of their request, then she would like the same opportunity to have the Village of Mahomet's
27 attorney review. She said that every subdivision within the Village of Mahomet's extra-territorial
28 jurisdiction (ETJ) is required to make provisions for extension of sidewalks, roadways, water/sewer and
29 storm water. She said that every residential lot, when it is subdivided, must agree that it will extend
30 those services at the point and time when it comes in, which is why we have an ETJ. She said that if this
31 was not right next to the Village of Mahomet, then that would be something entirely different.

32
33 Ms. Capel asked Ms. Pfeifer if the Village of Mahomet would withhold their support for this case until
34 they receive review comments from their attorney.

35
36 Ms. Pfeifer said that due to the Village of Mahomet's concern regarding the bike path and serviceability
37 with the extension, if Special Condition G. is one that this Board does not believe that it can impose,
38 then the Village of Mahomet would have to stand by their request for a continuance of one month so that
39 they can discuss this with the Village of Mahomet.

40

1 Ms. Burgstrom asked Ms. Pfeifer if it would be possible for the petitioner to have a Memorandum of
2 Understanding with the Village of Mahomet regarding the extension of the bike path, since Mr. Culver
3 has indicated that he is in agreement to do it.

4
5 Ms. Pfeifer stated yes, that is probably something that could be done, but the Village of Mahomet has
6 not had time to do that with the information that they currently have. She said that the Village of
7 Mahomet agrees that most of their concerns have been taken care of due to the site modifications and
8 they could look into a Memorandum of Understanding, but their Board does not meet until the second
9 Tuesday of October. She said that a Memorandum of Understanding is a tool that could be used if
10 necessary, and the Mayor of the Village of Mahomet could approve it. She said that at this point, Mr.
11 Culver appears willing to install the extension of the bike path; therefore, the Village of Mahomet came
12 to the meeting tonight in support of his request.

13
14 Mr. DiNovo stated that, if Mr. Culver agrees, he had no objection in moving forward with Special
15 Condition G. He said that if Mr. Culver is interested in agreeing to the condition in order to get this
16 resolved, then that is fine with him.

17
18 Ms. Griest stated that it is important for this Board to have on record, on audio, and in the minutes, that
19 Mr. Culver requests Special Condition G. She said that this would take the ZBA off the hook for acting
20 outside of their authority.

21
22 Mr. Elwell asked Ms. Pfeifer if there was an agreement for screening.

23
24 Ms. Pfeifer stated that they were originally concerned about screening due to the proximity of the use to
25 IL-47, but Mr. Culver is moving the shed back on the property, and since the church has voiced no
26 concerns, compliance with the County's requirements are completely acceptable.

27
28 Ms. Capel asked the Board and staff if there were any additional questions for Ms. Pfeifer, and there
29 were none.

30
31 Ms. Capel asked the audience if anyone desired to cross-examine Ms. Pfeifer. She reminded the
32 audience that during cross-examination they can only ask Ms. Pfeifer questions about her testimony.
33 She said that if new testimony is to be provided then they can sign the witness register to provide it.

34
35 Ms. Capel called Peter Schneider to testify.

36
37 Mr. Peter Schneider stated that Ms. Pfeifer has used the pronoun "we" several times during her
38 testimony. He asked Ms. Pfeifer to indicate who "we" is factually.

39
40 Ms. Pfeifer stated that she is present tonight to represent the Village of Mahomet, and their

1 Comprehensive Plan Policies are plans that are in place to assure service, extension, capability with
2 future land uses, and the potential for future development.

3
4 Mr. Schneider asked Ms. Pfeifer to indicate the name of the Village of Mahomet's Mayor.

5
6 Ms. Pfeifer stated that the Mayor of the Village of Mahomet is Sean Widener.

7
8 Mr. Schneider asked Ms. Pfeifer if Patrick Brown was the former Mayor.

9
10 Ms. Pfeifer stated yes but is currently the Village Administrator and is familiar with the proposed
11 project.

12
13 Mr. Schneider stated that Ms. Pfeifer indicated in her testimony the following statement, "if the subject
14 property was in the Village of Mahomet." He asked Ms. Pfeifer if the subject property is located in the
15 Village of Mahomet.

16
17 Ms. Pfeifer stated no.

18
19 Mr. Schneider asked Ms. Pfeifer if Mr. Culver could construe what the Village of Mahomet is trying to
20 do as overreach.

21
22 Ms. Pfeifer stated that she does not believe so, because they filed their statement.

23
24 Mr. Schneider stated that the 30-day continuance tactic on the table referencing that the Village of
25 Mahomet's attorney may need to weigh in on what Mr. DiNovo proposed is overreaching because to
26 him, it sounds like it is.

27
28 Ms. Pfeifer stated no. She said that if they had more time, they could see if there was another
29 mechanism by which they could address the concerns that they had and what Mr. Culver wanted to do.
30 She said that whether it is overreaching or not, she is not questioning Mr. DiNovo on that. She said that
31 they received the mailing packet on a Thursday and they tried very quickly to work on everything, but
32 they did not have time, but could have within two weeks although this Board did not meet again.

33
34 Mr. DiNovo stated that enough time has been spent on this, and what the Village of Mahomet is asking
35 for is not dilatory or destructive, and what they have asked for procedurally is reasonable and
36 appropriate. He said that whether Special Condition G. is lawful or not is a question, but he does not
37 think there is any reason to criticize the Village of Mahomet.

38
39 Mr. Schneider stated that he does think that a governmental body outreaching is not appropriate.
40

1 Ms. Capel stated that the witness did not testify to that, and thanked Mr. Schneider for his comments.

2

3 Ms. Capel called Tim Culver to the witness microphone.

4

5 Mr. Tim Culver stated that it is his upmost desire to move forward with this process of the special use
6 permit due to the weather and their contract to purchase with the Habecks. He said that regarding the
7 sidewalk, he feels that it is reasonable for an agreement to be reached between himself and the Village of
8 Mahomet and he is happy to enter into such an agreement. He said that he would like to appeal to the
9 Board to allow them to reach their own agreement outside of this forum. He said that he is happy to
10 install a sidewalk, but he does not want to risk a delay on this procedure by this Board.

11

12 Ms. Capel stated that Mr. DiNovo proposed a compromise for Special Condition G. indicating that if
13 Mr. Culver indicated that he agreed with Special Condition G., then Mr. DiNovo would agree to proceed
14 with the review of the case.

15

16 Mr. Hall stated that the best way to not delay the approval for this project, if Mr. Culver believes that
17 having the sidewalk is a good thing, is for Mr. Culver to make the request to this Board so that the Board
18 could complete this case tonight without creating any ill will with the Village, and would meet Mr.
19 Culver's and the Board's goal in moving forward. Mr. Hall stated that Mr. Culver should only make this
20 request if he is comfortable with that approach.

21

22 Mr. Culver stated that in the spirit of moving forward and because the Village of Mahomet has indicated
23 that if there is no agreement at this time they will seek a continuance, he believes that the most practical
24 option is to accept Special Condition G. so that this Board may proceed.

25

26 Ms. Griest stated that Mr. Culver's statement did not do it for her. She said that she must hear Mr.
27 Culver indicate that he is requesting that Special Condition G., as written, be included in the special use.
28 She said that Mr. Culver previously indicated that he would like to enter into his own agreement with the
29 Village of Mahomet and have that flexibility. She informed Mr. Culver that Special Condition G. does
30 not provide him the flexibility to enter into his own agreement with his own terms with the Village of
31 Mahomet regarding the installation of the sidewalk. She said that Special Condition G. indicates the
32 terms and Mr. Culver must comply.

33

34 Mr. Culver requested that Special Condition G. remain in the special use permit agreement as stated in
35 Supplemental Memorandum #1 dated September 27, 2018.

36

37 Ms. Griest agreed with Mr. Culver's statement.

38

39 Ms. Capel asked the Board and staff if there were any additional questions for Mr. Culver, and there
40 were none.

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

3
4 Ms. Capel asked the audience if anyone desired to sign the witness register to present testimony
5 regarding this case, and there was no one.

6
7 Mr. Elwell stated that, to him, Special Condition G. (1) indicates that the construction of the sidewalk is
8 at Mr. Culver's expense and the Village of Mahomet would pay him back for the construction. He asked
9 if he is misunderstanding Special Condition G.

10
11 Mr. Hall stated that Mr. Culver is obligated to construct the sidewalk at five feet, but if the Village of
12 Mahomet requires it to be wider, then they will reimburse Mr. Culver for that additional width.

13
14 Mr. Elwell stated that he did not hear that during testimony.

15
16 Ms. Griest noted that Special Condition G. (3) indicates that should the Village of Mahomet choose to
17 widen the 5-foot wide sidewalk to create a bike path, the Village of Mahomet shall be responsible for the
18 cost and expense beyond what a standard 5-foot wide sidewalk costs.

19
20 Ms. Capel stated that Ms. Pfeifer's testimony indicated the same language that is included in Special
21 Condition G. (3).

22
23 Mr. Elwell stated that he did hear that language during her testimony.

24
25 Ms. Lee stated that the Natural Resource Report indicates that the LE Score is 98, but item 8.F. on page
26 11 of 25 of the Preliminary Draft Summary of Evidence indicates an LE Score of 92. She asked if the
27 LE Score is 98 or 92, which is it.

28
29 Ms. Burgstrom stated that she does a soil evaluation on her own to go along with the evidence. She said
30 that when she received the Natural Resource Report last Thursday, she had already completed her soil
31 evaluation for the entire 7-acre parcel, and the result was an LE of 92. She said that often the
32 Champaign County Soil and Water Conservation District (CCSWCD) will use a different area when
33 calculating the LE Score.

34
35 Mr. Hall stated that throughout the report they identified what was originally as proposed as the special
36 use permit area, which is less than one acre of the total 7-acres. He said that almost all that land is
37 Drummer Soil with a higher LE, but the entire 7 acres has a variety of soils, which totals a lower LE
38 Score of 92, which is what Ms. Burgstrom indicated in item 8.F in the Summary of Evidence.

39

1 Mr. DiNovo stated that with a tract this small, the percentage of soil types must be taken with a grain of
2 salt, because the soil maps are not that accurate. He said that you could take the land evaluation number
3 and add plus or minus 20%, because it is an approximation and not an exact number.

4
5 Mr. Hall stated that percentage is not part of the standard procedure.

6
7 Ms. Lee asked again, if the LE Score is 92 or 98.

8
9 Mr. Hall stated that it is his view that the LE Score should be 92.

10
11 Ms. Capel stated that she will read the proposed Special Conditions and Mr. Culver must indicate
12 whether he agrees or disagrees with each one.

13
14 Ms. Capel read Special Condition A. as follows:

15 A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case**
16 **917-S-18 by the Zoning Board of Appeals.**

17
18 The above special condition is required to ensure the following:

19 **The establishment of the proposed use shall be properly documented as**
20 **required by the Zoning Ordinance.**

21
22 Ms. Capel asked Mr. Culver if he agreed with Special Condition A.

23
24 Mr. Culver stated that he agreed with Special Condition A.

25
26 Ms. Capel read Special Condition B. as follows:

27
28 B. **The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning**
29 **Compliance Certificate for the proposed Contractor’s Facility with Outdoor Storage**
30 **and Operations until the petitioner has demonstrated that the proposed Special Use**
31 **complies with the Illinois Accessibility Code.**

32
33 The special condition stated above is necessary to ensure the following:

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

36
37 Ms. Capel asked Mr. Culver if he agreed with Special Condition B.

38
39 Mr. Culver stated that he agreed with Special Condition B.

40

1 Ms. Capel read Special Condition C. as follows:

2

3 C. **Certification from the County Health Department that the proposed septic system**
4 **on the subject property has sufficient capacity for the proposed uses is a**
5 **requirement for approval of the Zoning Use Permit.**

6

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

8 **That the solid waste system conforms to the requirements of the Zoning**
9 **Ordinance and any applicable health regulations.**

10

11 Ms. Capel asked Mr. Culver if he agreed with Special Condition C.

12

13 Mr. Culver stated that he agreed with Special Condition C.

14

15 Ms. Capel read Special Condition D. as follows:

16

17 D. **The Zoning Administrator shall not authorize a Zoning Use Permit or a Zoning**
18 **Compliance Certificate until the petitioner has demonstrated that any new or**
19 **proposed exterior lighting on the subject property will comply with the lighting**
20 **requirements of Section 6.1.2.**

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

22 **That the proposed uses are in compliance with the Zoning Ordinance.**

23

24 Ms. Capel asked Mr. Culver if he agreed with Special Condition D.

25

26 Mr. Culver stated that he agreed with Special Condition d.

27

28 Ms. Capel read Special Condition E. as follows:

29

30 E. **The petitioners must plant evergreen screening along the south and west lot lines to**
31 **screen the proposed facility from the neighboring church, as indicated on the**
32 **approved Site Plan. As per standard Department practice, a Norway Spruce**
33 **vegetative screen must be four to six feet high at the time of planting and will be**
34 **planted in staggered rows and must be planted as part of the Zoning Use Permit**
35 **authorizing construction of the new building.**

36

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

38 **To promote public health, safety, and general welfare that is a purpose of the**
39 **Zoning Ordinance.**

1
2 Ms. Griest asked Mr. Hall if there is a caveat that should be added to this special condition due to the
3 testimony from Mr. Schneider, Pastor with the Living Word Omega Message Church, regarding waiving
4 the screening between the subject property and the church. She said that it doesn't make sense to require
5 a special condition when the Board received testimony indicating that no screening is necessary, because
6 such testimony, in the past, has carried some weight.

7
8 Mr. Hall stated that this requirement is not a special use permit standard condition subject to waiver, but
9 it is a requirement of the Zoning Ordinance. He said that, in the past, during the permitting process,
10 staff has accepted a letter from the neighbor waiving the requirement for screening. He said that in light
11 of the testimony received at tonight's hearing, Special Condition E. could be deleted, because even if it
12 is deleted from this special use permit, the Zoning Ordinance still requires it to be done, but it appears
13 likely that staff will receive a letter from the neighbor waiving it. He said that the Board could delete
14 Special Condition E, and even if the Board didn't delete it, staff would not require it if a letter was
15 received from the neighbor waiving the screening.

16
17 Ms. Griest stated that she does not have a preference either way.

18
19 Ms. Capel asked the Board if they desired to delete Special Condition E.

20
21 Mr. Culver stated that the mailing packet includes a letter from the church regarding the screening.

22
23 Ms. Capel stated that she would be more comfortable if Special Condition E. was deleted, and the Board
24 agreed.

25
26 Ms. Capel read new Special Condition E., as follows:

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28
29 **E. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
30 **authorizing occupancy of the proposed building until the Zoning Administrator has**
31 **received a certification of inspection from an Illinois Licensed Architect or other**
32 **qualified inspector certifying that the new building comply with the following codes:**
33 **(A) the 2006 or later edition of the International Building Code; (B) the 2008 or**
34 **later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing**
35 **Code.**

36 The special condition stated above is required to ensure the following:
37 **New buildings shall be in conformance with Public Act 96-704.**

38
39 Ms. Capel asked Mr. Culver if he agreed with Special Condition E.

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Mr. Culver stated that he agreed with Special Condition E.

Ms. Capel read new Special Condition F. as follows:

- F. **The owner or owners of the subject property shall be responsible for installing a 5 foot wide sidewalk along the frontage of the subject property when a sidewalk reaches either the north or south subject property line and the Village of Mahomet officials request it, subject to the following conditions:**
 - (1) **The construction of the sidewalk shall be in accordance with the Village of Mahomet Infrastructure Design Manual and shall be completed within 6 months of the date of receipt by the owner of the request from Village of Mahomet officials.**
 - (2) **The construction of the 5-foot wide sidewalk shall be at the sole cost and expense of the owner or owners of the property adjacent to which said sidewalk is constructed.**
 - (3) **Should the Village of Mahomet choose to widen the 5-foot wide sidewalk to create a bike path, the Village of Mahomet shall be responsible for the cost and expense beyond what a standard 5-foot sidewalk costs.**
 - (4) **The owner or owners of the subject property reserve the right to hire the concrete contractor of their choice to build the sidewalk/bike path to standard specifications.**
 - (5) **The owner or owners of the subject property must provide an easement or dedication of right-of-way to accommodate installation of the sidewalk/bike path prior to installation of the required infrastructure.**
 - (6) **The owner or owners of the subject property reserve the right to construct the sidewalk/bike path such that it avoids existing trees.**

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

That there are no gaps in pedestrian/bicycle infrastructure planned for the Village of Mahomet.

Ms. Capel asked Mr. Culver if he agreed with Special Condition F.

1 Mr. Culver stated that he agreed with Special Condition F.

2

3 Ms. Capel read new Special Condition G. as follows:

4

5 G. **Within 30 days of Final Action of Case 917-S-18, the petitioner shall file a**
6 **miscellaneous document with the Champaign County Recorder of Deeds that**
7 **documents the following:**

8 (1) **Approved special conditions for this case; and**

9

10 (2) **The Memorandum of Understanding between the Sangamon Valley Public**
11 **Water District and Petitioner Tim Culver dated September 26, 2018.**

12

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

14 **That potential future owners will be aware of the requirements established via**
15 **the Special Use Permit approved in Case 917-S-18.**

16

17 Ms. Capel asked Mr. Culver if he agreed with Special Condition G.

18

19 Mr. Culver stated that he agreed with Special Condition G.

20

21 Ms. Capel entertained a motion to approve the special conditions as amended.

22

23 **Ms. Griest moved, seconded by Mr. Randol, to approve the special conditions, as amended. The**
24 **motion carried by voice vote.**

25

26 Ms. Capel asked staff if there were any new Documents of Record.

27

28 Mr. Hall stated that a new Item #7 should be added to the Documents of Record as follows:
29 Supplemental Memorandum #1 dated September 27, 2018, with attachments.

30

31 Ms. Capel stated that the Board will now review the Findings of Fact for Case 917-S-18.

32

33 **Findings of Fact for Case 917-S-18:**

34

35 **From the documents of record and the testimony and exhibits received at the public hearing for**
36 **zoning case 917-S-18 held on September 27, 2018, the Zoning Board of Appeals of Champaign**
37 **County finds that:**

38

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

40

1 Mr. DiNovo stated that the requested Special Use Permit IS necessary for the public convenience at this
 2 location because it is an established business with an established customer base. There is testimony
 3 from the Village of Mahomet Community Development Director that it would be difficult to
 4 accommodate this configuration within the village, and so it is convenient for this location.
 5

6 Ms. Capel stated that it is also convenient for the petitioner to locate his business with his home at this
 7 location.
 8

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

12 **a. The street has ADEQUATE traffic capacity and the entrance location has**
 13 **ADEQUATE visibility.**
 14

15 Mr. Randol stated that the street has ADEQUATE traffic capacity and the entrance location has
 16 ADEQUATE visibility.
 17

18 **b. Emergency services availability is ADEQUATE.**
 19

20 Mr. Elwell stated that emergency services availability is ADEQUATE.
 21

22 **c. The Special Use WILL be compatible with adjacent uses.**
 23

24 Mr. Randol stated that the Special Use WILL be compatible with adjacent uses.
 25

26 Mr. DiNovo stated that the site will be used for residential purposes along with the business.
 27

28 **d. Surface and subsurface drainage will be ADEQUATE.**
 29

30 Ms. Capel stated that surface and subsurface drainage will be ADEQUATE because the Village of
 31 Mahomet Community Development Director testified that moving the building back will help with
 32 drainage if further development occurs.
 33

34 **e. Public safety will be ADEQUATE.**
 35

36 Mr. DiNovo stated that public safety will be ADEQUATE because there are no special hazards and no
 37 sensitive populations involved in the business.
 38

39 **f. The provisions for parking will be ADEQUATE.**
 40

1 Mr. Randol stated that the provisions for parking will be ADEQUATE because the size of the business
2 structure will allow for inside parking.

3

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

5

6 Mr. Elwell stated that the property IS WELL SUITED OVERALL for the proposed improvements
7 because due to the acreage and the ability to construct the commercial building away from IL-47, and if
8 there is a future development in the area, there is enough room to build a retention pond.

9

10 **h. Existing public services ARE available to support the proposed SPECIAL USE**
11 **without undue public expense.**

12

13 Mr. DiNovo stated that existing public services ARE available to support the proposed SPECIAL USE
14 without undue public expense because there are no special public service demands.

15

16 **i. Existing public infrastructure together with the proposed development IS adequate**
17 **to support the proposed development effectively and safely without undue public**
18 **expense.**

19

20 Mr. Elwell stated that existing public infrastructure together with the proposed development IS adequate
21 to support the proposed development effectively and safely without undue public expense.

22

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

27

28 **3a. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
29 **IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the**
30 **DISTRICT in which it is located.**

31

32 Mr. Randol stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
33 IMPOSED HEREIN, DOES conform to the applicable regulations and standards of the DISTRICT in
34 which it is located.

35

36 **3b. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
37 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it**
38 **is located because:**

39

40 **a. The Special Use will be designed to CONFORM to all relevant County ordinances**

1 **and codes.**

2
3 Ms. Griest stated that the Special Use will be designed to CONFORM to all relevant County ordinances
4 and codes.

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

7
8 Ms. Griest stated that the Special Use WILL be compatible with adjacent uses.

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

11
12 Ms. Griest stated that public safety will be ADEQUATE.

13
14 Ms. Griest stated that the requested Special Use Permit, SUBJECT TO HE SPECIAL CONDTIONS
15 IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in which it is located.

16
17 **4. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
18 **IMPOSED HEREIN IS in harmony with the general purpose and intent of the Ordinance**
19 **because:**

20
21 **a. The Special Use is authorized in the District.**

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

24
25 Mr. Elwell stated that the requested Special Use Permit IS necessary for the public convenience at this
26 location.

27
28 **c. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
29 **IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it**
30 **WILL NOT be injurious to the district in which it shall be located or otherwise**
31 **detrimental to the public health, safety, and welfare.**

32
33 Mr. Elwell stated that the requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS
34 IMPOSED HEREIN, is so designed, located, and proposed to be operated so that it WILL NOT be
35 injurious to the district in which it shall be located or otherwise detrimental to the public health, safety,
36 and welfare.

37
38 **d. The requested Special Use Permit, SUBJECT TO THE SPECIAL CONDITIONS**
39 **IMPOSED HEREIN, DOES preserve the essential character of the DISTRICT in**
40 **which it is located.**

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

- 5. **The requested Special Use IS NOT an existing nonconforming use.**
- 6. **The special conditions imposed herein are required to ensure compliance with the criteria for special use permits and for the particular purposed described below:**

- A. **A Change of Use Permit shall be applied for within 30 days of the approval of Case 917-S-18 by the Zoning Board of Appeals.**

The above special condition is required to ensure the following:

The establishment of the proposed use shall be properly documented as required by the Zoning Ordinance.

- B. **The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning Compliance Certificate for the proposed Contractor’s Facility with Outdoor Storage and Operations until the petitioner has demonstrated that the proposed Special Use complies with the Illinois Accessibility Code.**

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

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

- C. **Certification from the County Health Department that the proposed septic system on the subject property has sufficient capacity for the proposed uses is a requirement for approval of the Zoning Use Permit.**

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

That the solid waste system conforms to the requirements of the Zoning Ordinance and any applicable health regulations.

- D. **The Zoning Administrator shall not authorize a Zoning Use Permit or 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 uses are in compliance with the Zoning Ordinance.

1 E. **The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
 2 **authorizing occupancy of the proposed building until the Zoning Administrator has**
 3 **received a certification of inspection from an Illinois Licensed Architect or other**
 4 **qualified inspector certifying that the new building comply with the following codes:**
 5 **(A) the 2006 or later edition of the International Building Code; (B) the 2008 or**
 6 **later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing**
 7 **Code.**

8 The special condition stated above is required to ensure the following:
 9 **New buildings shall be in conformance with Public Act 96-704.**

- 10
- 11 F. **The owner or owners of the subject property shall be responsible for installing a 5**
 12 **feet wide sidewalk along the frontage of the subject property when a sidewalk**
 13 **reaches either the north or south subject property line and the Village of Mahomet**
 14 **officials request it, subject to the following conditions:**
- 15 (1) **The construction of the sidewalk shall be in accordance with the Village of**
 16 **Mahomet Infrastructure Design Manual and shall be completed within 6**
 17 **months of the date of receipt by the owner of the request from Village of**
 18 **Mahomet officials.**
 - 19
 - 20 (2) **The construction of the 5-feet wide sidewalk shall be at the sole cost and**
 21 **expense of the owner or owners of the property adjacent to which said**
 22 **sidewalk is constructed.**
 - 23
 - 24 (3) **Should the Village of Mahomet choose to widen the 5-feet wide sidewalk to**
 25 **create a bike path, the Village of Mahomet shall be responsible for the cost**
 26 **and expense beyond what a standard 5-feet sidewalk costs.**
 - 27
 - 28 (4) **The owner or owners of the subject property reserve the right to hire the**
 29 **concrete contractor of their choice to build the sidewalk/bike path to**
 30 **standard specifications.**
 - 31
 - 32 (5) **The owner or owners of the subject property must provide an easement or**
 33 **dedication of right-of-way to accommodate installation of the sidewalk/bike**
 34 **path prior to installation of the required infrastructure.**
 - 35
 - 36 (6) **The owner or owners of the subject property reserve the right to construct**
 37 **the sidewalk/bike path such that it avoids existing trees.**

38

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

1 **That there are no gaps in pedestrian/bicycle infrastructure planned for the**
2 **Village of Mahomet.**

3
4 G. **Within 30 days of Final Action of Case 917-S-18, the petitioner shall file a**
5 **miscellaneous document with the Champaign County Recorder of Deeds that**
6 **documents the following:**

7 **(1) Approved special conditions for this case; and**

8
9 **(2) The Memorandum of Understanding between the Sangamon Valley Public**
10 **Water District and Petitioner Tim Culver dated September 26, 2018.**

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

13 **That potential future owners will be aware of the requirements established via**
14 **the Special Use Permit approved in Case 917-S-18.**

15
16 Ms. Capel entertained a motion to adopt the Summary of Evidence, Documents of Record, and Findings
17 of Fact, as amended.

18
19 **Mr. Elwell moved, seconded by Ms. Lee, to adopt the Summary of Evidence, Documents of**
20 **Record, and Findings of Fact, as amended. The motion carried by voice vote.**

21
22 Ms. Capel entertained a motion to move to the Final Determination for Case 917-S-18.

23
24 **Mr. Elwell moved, seconded by Ms. Griest, to move to the Final Determination for Case 917-S-18.**
25 **The motion carried by voice vote.**

26
27 Ms. Capel informed the petitioners that currently the Board has one member absent; therefore, it is at the
28 petitioners’ discretion to either continue Case 917-S-18 until a full Board is present or request that the
29 present Board move to the Final Determination. She informed the petitioners that four affirmative votes are
30 required for approval.

31
32 Mr. Tim Culver requested that the present Board move to the final determination.

33
34 **Final Determination for Case 917-S-8:**

35
36 **Mr. Randol moved, seconded by Ms. Lee, that the Champaign County Zoning Board of Appeals**
37 **finds that, based upon the application, testimony, and other evidence received in this case, the**
38 **requirements of Section 9.1.11.B. for approval HAVE been met, and pursuant to the authority**
39 **granted by Section 9.1.6 B. of the Champaign County Zoning Ordinance, determines that:**

1 **The Special Use requested in Case 917-S-18 is hereby GRANTED WITH SPECIAL**
 2 **CONDITIONS to the applicant, Tim Culver d.b.a. Classic Plumbing Systems Inc, to**
 3 **authorize the following as a Special Use on land in the AG-2 Agriculture Zoning District:**

4
 5 **Authorize a Special Use Permit for a Contractor’s Facility with outdoor storage and**
 6 **outdoor operations in addition to an existing single-family dwelling in the AG-2**
 7 **Agriculture Zoning District.**

8
 9 **SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:**

- 10
 11 **A. A Change of Use Permit shall be applied for within 30 days of the approval of Case**
 12 **917-S-18 by the Zoning Board of Appeals.**
- 13
 14 **B. The Zoning Administrator shall not issue a Zoning Use Permit or a Zoning**
 15 **Compliance Certificate for the proposed Contractor’s Facility with Outdoor Storage**
 16 **and Operations until the petitioner has demonstrated that the proposed Special Use**
 17 **complies with the Illinois Accessibility Code.**
- 18
 19 **C. Certification from the County Health Department that the proposed septic system**
 20 **on the subject property has sufficient capacity for the proposed uses is a**
 21 **requirement for approval of the Zoning Use Permit.**
- 22
 23 **D. The Zoning Administrator shall not authorize a Zoning Use Permit or a Zoning**
 24 **Compliance Certificate until the petitioner has demonstrated that any new or**
 25 **proposed exterior lighting on the subject property will comply with the lighting**
 26 **requirements of Section 6.1.2.**
- 27 **E. The Zoning Administrator shall not authorize a Zoning Compliance Certificate**
 28 **authorizing occupancy of the proposed building until the Zoning Administrator has**
 29 **received a certification of inspection from an Illinois Licensed Architect or other**
 30 **qualified inspector certifying that the new building comply with the following codes:**
 31 **(A) the 2006 or later edition of the International Building Code; (B) the 2008 or**
 32 **later edition of the National Electrical Code NFPA 70; and (C) the Illinois Plumbing**
 33 **Code.**
- 34 **F. The owner or owners of the subject property shall be responsible for installing a 5**
 35 **feet wide sidewalk along the frontage of the subject property when a sidewalk**
 36 **reaches either the north or south subject property line and the Village of Mahomet**
 37 **officials request it, subject to the following conditions:**
 38 **(1) The construction of the sidewalk shall be in accordance with the Village of**

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Mahomet Infrastructure Design Manual and shall be completed within 6 months of the date of receipt by the owner of the request from Village of Mahomet officials.

- (2) The construction of the 5-foot wide sidewalk shall be at the sole cost and expense of the owner or owners of the property adjacent to which said sidewalk is constructed.**
- (3) Should the Village of Mahomet choose to widen the 5-foot wide sidewalk to create a bike path, the Village of Mahomet shall be responsible for the cost and expense beyond what a standard 5-foot sidewalk costs.**
- (4) The owner or owners of the subject property reserve the right to hire the concrete contractor of their choice to build the sidewalk/bike path to standard specifications.**
- (5) The owner or owners of the subject property must provide an easement or dedication of right-of-way to accommodate installation of the sidewalk/bike path prior to installation of the required infrastructure.**
- (6) The owner or owners of the subject property reserve the right to construct the sidewalk/bike path such that it avoids existing trees.**

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

That there are no gaps in pedestrian/bicycle infrastructure planned for the Village of Mahomet.

G. Within 30 days of Final Action of Case 917-S-18, the petitioner shall file a miscellaneous document with the Champaign County Recorder of Deeds that documents the following:

- (1) Approved special conditions for this case; and**
- (2) The Memorandum of Understanding between the Sangamon Valley Public Water District and Petitioner Tim Culver dated September 26, 2018.**

Ms. Capel requested a roll call vote.

The roll was called as follows:

Elwell-yes	Passalacqua-absent	Randol-yes
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1 **Lee-yes** **Griest-yes** **DiNovo-yes**
 2 **Capel-yes**

3
 4 Mr. Hall informed Mr. Culver that he has received an approval and Ms. Burgstrom will be in contact
 5 regarding the final paperwork.

6
 7 Ms. Capel requested a five-minute recess.

8
 9 **The Board recessed at 8:15 p.m.**
 10 **The Board resumed at 8:22 p.m.**

11
 12 Ms. Capel stated that the Board will now hear cases 894-S-17 and 897-S-18.

13
 14 **7. Staff Report**

15
 16 None

17
 18 **8. Other Business**
 19 **A. Review of Docket**

20
 21 Mr. DiNovo stated that the two solar farm cases tonight will be before ELUC at their October meeting, but
 22 the County Board will have four solar farm cases at their meeting in November. He asked Mr. Hall if the
 23 County Board agrees to having four solar farm cases for the November meeting.

24
 25 Mr. Hall stated that there would be three solar farm cases at the November County Board meeting, and he
 26 has not asked the County Board if they agreed to having them on the agenda or not because he was not
 27 aware that they get to choose.

28
 29 Mr. DiNovo stated that the ZBA is making an effort to get the solar farm cases through and he would like to
 30 be assured that the County Board is prepared to make the same effort. He said that it would be nice if all the
 31 Committee members attended the meeting.

32
 33 Mr. Hall stated that is almost guaranteed to not happen due to all the appointments, but he has no doubt
 34 that there will be enough members there to take action on anything that is front of them.

35
 36 Mr. DiNovo stated that he wished that he had Mr. Hall’s confidence.

37
 38 Mr. Randol reminded the Board that he will be absent from the November 15th meeting.

39
 40 Ms. Capel asked the Board if they desired to schedule any additional special meetings.

1

2 Mr. Hall stated that the only way the Board would have time to work through these cases is to have the
3 special meeting on October 18th. He said that he would not be in attendance to that meeting because he will
4 be attending the County Board meeting, but the John Dimit Room has been reserved for a ZBA Special
5 Meeting. He said that based on what happened tonight, he would assume that Cases 906-S-18 and 907-S-18
6 could be worked through and perhaps finalized. He said the Board needs to decide if they want to leave Case
7 903-S-18 on the November 1st meeting date or move it to the October 25th special meeting.

8

9 Ms. Capel stated that the Board tends to have a lot of witnesses or audience members from the Sidney area.

10

11 Mr. Hall stated that every time a case is rescheduled after a meeting is continued to a certain date there is
12 some backlash, and perhaps there is enough time during the November 1st special meeting. He said that he
13 was thinking that if one of the cases from the October 25th meeting was not finalized it could be continued to
14 the November 1st special meeting.

15

16 Mr. DiNovo asked why Case 901-S-18 is on the December 13th meeting date.

17

18 Ms. Burgstrom stated that Wallace Solar, petitioner for Case 901-S-18, requested to be heard at the
19 December 13th meeting because they would not have enough time to be prepared at an earlier date.

20

21 Mr. DiNovo asked if it would be possible to move Case 916-V-18 to the November 1st meeting.

22

23 Ms. Capel stated that Case 903-S-18 could be moved to the October 25th meeting and if there is not enough
24 time to finalize it the case could be continued to the November 1st special meeting.

25

26 Ms. Griest stated that the October 18th meeting will not have Mr. Hall, but it will have Ms. Burgstrom
27 present; therefore Case 903-S-18 could be moved to the October 18th meeting and continued to the October
28 25th meeting if there is not enough time to finalize it.

29

30 Mr. DiNovo stated that the logic of moving Case 903-S-18 is there and he is in favor of having more than
31 one case per meeting to justify the per diem paid out to the Board.

32

33 Ms. Griest asked if Case 903-S-18 is typically a case that could be completed within one meeting.

34

35 Ms. Burgstrom stated that it depends on the amount of new information and witness testimony that is
36 received.

37

38 Ms. Capel stated that a case can always be continued to a later date and Case 903-S-18 could be the first
39 case heard.

40

1 **Ms. Griest moved, seconded by Mr. Elwell, to move Case 903-S-18 to the October 25th meeting. The**
2 **motion carried by voice vote.**

3
4 Ms. Capel asked if the October 18th meeting was necessary.

5
6 Mr. Hall stated yes.

7
8 **Ms. Griest moved, seconded by Mr. DiNovo to schedule a special meeting of the Zoning Board of**
9 **Appeals on October 18, 2018, to be held in the John Dimit Meeting Room. The motion carried.**

10
11 Mr. Randol noted that he would be absent from the October 18th special meeting.

12
13 Ms. Lee asked Mr. Hall to indicate what time the October 18th meeting will begin.

14
15 Mr. Hall stated that the meetings on October 18th, October 25th, and November 1st meetings would begin at
16 6:30 p.m.

17
18 Ms. Capel stated that due to Daylight Savings Time ending, the ZBA meetings are scheduled to begin at
19 6:30 p.m. on November 15th anyway.

20
21
22 Ms. Griest stated that she has received her application to renew her appointment to the Zoning Board of
23 Appeals because her term ends on November 30, 2018. She informed the Board and staff that she is
24 choosing not to submit her application to renew.

25
26 Mr. Elwell objected to Ms. Griest's decision.

27
28 Ms. Capel stated that she would object as well but her term is also ending on November 30th and she has no
29 option for renewal.

30
31 Ms. Lee stated that she has not decided whether she would submit her application to renew her
32 appointment on the Board.

33
34 Ms. Griest stated that she has enjoyed her time on the Board, but there are too many conflicts regarding the
35 Scheduling, and she would like to take the time to attend her other commitments.

36
37 **9. Audience participation with respect to matters other than cases pending before the Board**

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39 None

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1 **10. Adjournment**

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Ms. Capel entertained a motion to adjourn the meeting.

Mr. Randol moved, seconded by Mr. Elwell, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 10:45 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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